



NSW POLICE FORCE HANDBOOK

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Aboriginal Issues

Following the Royal Commission into Aboriginal Deaths in Custody, NSW Police committed to develop and implement strategies to address the causes of tension in its relationship with Aboriginal communities across NSW. This approach has taken the form of a series of three year strategic plans.

The Aboriginal Strategic Direction is an important part of broader government policy initiatives aimed at requiring all service providers to foster more consultative, outcome driven approaches to engaging local communities and involving all government agencies in Aboriginal justice initiatives.

Interpretation

According to LEPRA Part 1 section 3, an Aboriginal person means a person who:

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person.

Do not use terms such as part Aboriginal, half-caste, quarter-caste and the like - these are offensive to Aboriginal people. When addressing or speaking to Aboriginal persons, you should do so as you would any member of the community. You should never use names, words or terms which may be considered derogatory or which may be taken as offensive.

Aboriginal Strategic Direction 2012 - 2017

Commanders

For strategic and local objectives and strategies which you need to address in relation to Aboriginal issues refer to the [Aboriginal Strategic Direction 2012 - 2017](#). This policy document can be found on the Intranet through the Aboriginal Issues Knowledge Map.

Aboriginal Community Liaison Officers (ACLOs)

Local Area Commander

Maintain open communication with Aboriginal groups within your command to resolve or minimise differences.

Seek ACLOs help in resolving contentious issues. Give them access to Aboriginal persons in custody. Determine the degree of the access, as applicable.

Utilise ACLOs to contribute to local project management as it relates to crime prevention and participate in community consultation.

See Aboriginal Issues Knowledge Map (NSWPF Intranet) for further information under ACLO Role.

Entering Aboriginal land

Consult the local Aboriginal Land Council which is responsible for negotiating access by police. To help effective policing methods within such areas, the Local Area Commander enters into a written agreement with the Council following negotiations. Keep a copy of the agreement at the local command and region office.

Once right of access has been negotiated and authorised, it may be revoked only by that Land Council at a further meeting properly convened.

A Deed of Access may be entered into between a Land Council and the Commissioner (signed by the Local Area Commander).

If you enter Aboriginal lands without authority, you are trespassing. The relevant Land Council can act accordingly.

Aboriginal skeletal remains

See section on 'Suspected human remains' in this chapter or '[Deceased Persons](#)' in this Handbook.

Aboriginal Legal Aid Officers

Please refer to the section on 'Aboriginal Issues - Custody' of this Handbook and the *Code of Practice for CRIME* contained on the NSWPF Intranet.

Aboriginals in custody

Please refer to the *Code of Practice for CRIME* contained on the NSWPF Intranet.

Aboriginal death in custody

See section on 'Deaths in Correctional Centres - Death of an Aboriginal while in Custody' in the chapter on '[Deceased Persons](#)' in this Handbook.

Alcohol

Policing Alcohol Related Crime

A high proportion of police work involves alcohol-related incidents.

The impact of alcohol misuse on assaults including domestic violence, street offences and property offences are a major concern for the police and the community. Alcohol misuse also leads to serious injuries and deaths through drink driving and road accidents.

NSW Police Force is committed to working in partnership with the community, other government departments, non government agencies and industry to promote a safer community, minimising alcohol-related crime and associated harm. NSW Police Force supports the harm minimisation approach to alcohol-related incidents and is committed to ethical and respectful policing.

NSW Police Force will work closely with the industry to develop strategies to reduce alcohol-related incidents and associated harm including the promotion of responsible serving practices, restriction of extended trading and prevention of sales to underage people.

Confiscation and Disposal of Alcohol Seized in Council Designated Areas

The Local Government Act provides power to Police and Local Government law enforcement officers to confiscate alcohol from persons drinking in Alcohol Free Zones and Alcohol Prohibited Areas.

See the Knowledge Maps section on Alcohol on the NSW Police Intranet or consult the Alcohol Licensing Enforcement Command (ALEC) for advice and guidance.

Confiscation

Police should follow the following five steps in these incidents:

1. Identify the act - Ensure the zone/area is current and signposted.
2. Confiscate the alcohol - Police no longer have to first give a warning, other than the LEPR requirements. Police may still use their discretion to give a warning. Any alcohol in the immediate possession of a person in an Alcohol Free Zone or Alcohol Prohibited Area can be confiscated by police and enforcement officers.
3. Disposal of the alcohol – consideration as to the most appropriate method of disposal is described below.
4. Record the incident – Make an entry in your official police notebook. Create a COPS incident under 'Street Offence', sub category "Consume Alcohol in an Alcohol Free Zone" regardless of the fact whether the person/s do not have legal action taken against them.
5. Obstruction – Where a person does not co-operate with police proceedings can be taken against them for the offence of wilfully obstructing a police officer whilst exercising any

function under Section 646C of the *Local Government Act*, or hindering police under the *Crimes Act 1900*.

Disposal

Liquor (alcohol) seized by police in relation to Alcohol Free Zones and Alcohol Prohibited Areas should be disposed of using the following guidance:

- Section 632A of the Local Government Act 1993 that states:
 - (3) Any alcohol seized under this section may:
 - (a) be disposed of immediately by tipping it out of the bottle, can, receptacle or package in which it is contained, or
 - (b) be otherwise disposed of in accordance with directions given by the Commissioner of Police or the Council (as the case requires).
- The preferred method of disposal of alcohol confiscated in an Alcohol Free Zone or Alcohol Prohibited Area is to pour it out on the spot, particularly opened containers, (whether or not they can be resealed). However, police may use their discretion when determining an appropriate method of disposal for the alcohol seized. Considerations include:
 - the amount of alcohol seized;
 - the place of seizure;
 - the disposition of the persons from whom it was seized;
 - the mood of the crowd in the area;
 - the immediate ability to safely store the seized alcohol or transport it to an appropriate police station; and
 - the need of the confiscating police's continued presence in the area
- Seized liquor that is not poured out must be taken to an appropriate police station and entered as miscellaneous property. It should be kept for at least 24 hours. An appropriate police station is the one to which the person from whom the liquor was seized was informed the liquor would be taken.
- Seized liquor may be claimed by a person, and if claimed, must be returned to the person from whom it was seized if:
 - The person establishes that the person was at least 18 years of age at the time of the offence; or
 - The person establishes that the person had a reasonable excuse for possessing the liquor; or
 - The police officer to whom the claim is made is satisfied that in all the circumstances of the case, the return of the liquor is justified.

- If the liquor remains unclaimed, or if in all the circumstances the police decide not to return it:
 - liquor which is not fit for human consumption must be disposed of; or
 - In the case of all other liquor, arrangements must be made for collection by the Metropolitan Exhibit and Property Centre, or in country areas, arrangements must be made for the liquor to be sold at auction.

Remember that these instructions do not pertain to alcohol confiscated in relation to an offence under the *Summary Offences Act 1988* or other licensing offence.

Disposal of Alcohol Seized Under Other Powers

Licensing Legislation

Liquor seized in after hours trading offences is the property of those from whom it was taken. Record seized liquor as an exhibit in EFIMS. After court proceedings, return the liquor to the owner. Record the disposal details in EFIMS.

Summary Offences Act

Liquor seized in relation to minors in possession of alcohol in a public place should be forfeited to the Crown unless a person 18 years of age or older can prove the minor had a reasonable excuse for possessing the liquor.

Arrests

Refer to section 99 of LEPR for your statutory powers to arrest without a warrant. See also the Code of Practice for CRIME for arrest, investigation and detention requirements.

You may arrest a person for an offence, without a warrant, if:

- you suspect on reasonable grounds that the person is committing or has committed an offence, and
- you are satisfied that the arrest is reasonably necessary for any one or more of the following reasons:
 - to stop the person committing or repeating the offence or committing another offence
 - to stop the person fleeing from a police officer or from the location of the offence
 - to enable enquiries to be made to establish the person's identity if it cannot be readily established or if the police officer suspects on reasonable grounds that identity information provided is false
 - to ensure that the person appears before a court in relation to the offence
 - to obtain property in the possession of the person that is connected with the offence
 - to preserve evidence of the offence or prevent the fabrication of evidence
 - to prevent the harassment of, or interference with, any person who may give evidence in relation to the offence
 - to protect the safety or welfare of any person (including the person arrested)
 - because of the nature and seriousness of the offence

You may also arrest a person without a warrant if directed to do so by another police officer. The other police officer is not to give such a direction unless the other officer has the authority to lawfully arrest the person without a warrant.

As soon as is reasonably practicable, you must take a person arrested under section 99 before an authorised officer to be dealt with according to law.

However, you may discontinue the arrest at any time and without taking the arrested person before an authorised officer - see section 105 of LEPR.

A person who has been lawfully arrested under section 99 may be detained by any police officer under Part 9 for the purpose of the investigating whether the person committed the offence for which the person has been arrested and for any other purpose authorised by Part 9.

Always record the reason for the arrest in your notebook, any statement you prepare for court, and the relevant COPS entry.

If you cannot satisfy one of the reasons for the arrest, you must consider alternatives to arrest, which include the following:

- warning
- caution
- penalty notice
- Field or Future CAN, or
- in the case of a child, dealing with the matter under the Young Offenders Act 1997.

When exercising a power to arrest, you must comply with section 201 of LEPR (safeguards). Among other things, this will require you to tell the person the reason for the arrest.

When an arrested person is also the subject of a police circulation, immediately inform the officer who initiated the circulation.

If you execute an Arrest Warrant, immediately notify the officer who took it out. If you cannot contact them, immediately notify their commander.

Arrest on parole

When you arrest someone on parole, contact the New South Wales State Parole Authority and supply the name and date of birth of the person arrested, details of the offence committed, as well as the name of the officer in charge of the case and the command to which they are attached.

When preparing a fact sheet for the matter, include in the offender's antecedents the fact that they were on parole at the time.

Establishing identity of suspect

When arresting a suspect by warrant or otherwise, be certain of identity. Do a search of all available information and intelligence systems.

If a person arrested pursuant to a warrant denies they are the person named in the warrant, make every attempt to establish the identity of the person.

If the warrant has been issued in respect of an offence, you have a power under section 133 of LEPR to take the person's finger-prints and palm-prints to establish their identity.

No such power exists where the person has been arrested pursuant to a warrant that does not relate to an offence. Examples include warrants issued in respect of a revocation of parole or to bring a witness before the court. However, you may take the person's fingerprints and palm-prints with their consent.

Arresting Members of Parliament (MPs)

Generally

You should always confer with the Presiding Officers before exercising any police function within the Parliamentary Precincts or the Parliamentary Zone. A Presiding Officer is the President of the Legislative Council and the Speaker of the Legislative Assembly acting together or individually.

During a 'call out' by the Presiding Officers or their delegates

You may only pursue a person into the Parliamentary Precincts to effect an arrest if that person has fled into the Parliamentary Precincts whilst trying to avoid being arrested.

You are not to enter the Parliamentary Precincts for the purpose of carrying out any police function unless requested ('called out') by the Presiding Officers or their delegates.

During a call out, the senior police officer will receive direction from the Presiding Officers or their delegates as to the needs of Parliament. They will then, by all lawful means, assist the Presiding Officers or the delegates to maintain operational control of any situation. This includes, but is not limited to, directing a person to leave or not enter the Parliamentary Precincts, arresting (or removing) a person in (or from) the Parliamentary Precincts, and preventing a person from entering the Parliamentary Precincts.

However, during your attendance in the Parliamentary Precincts or the Parliamentary Zone, you will not, without prior authorisation from the Presiding Officers:

- a) conduct any investigation
- b) execute any process (e.g. search warrants),
- c) interview, hold in custody or arrest any Member of Parliament or any Parliamentary employee.

This does not prevent you from carrying out an investigation, within the limited confines of the Parliamentary Zone, with respect to any accident or incident that does not involve a Member of Parliament or the Parliamentary buildings or structures.

Parliamentary Precincts and Parliamentary Zones are defined in the Memorandum of Understanding (MOU) between the Presiding Officers and the Commissioner of Police, which can be found on the intranet under 'LAW'.

If possible, report to your Region Commander beforehand.

If an MP is arrested (in either case), notify the Region Commander, and the following people, as soon as possible:

Federal

- a member of the Senate - Office of the President of the Senate, Canberra
- a member of the House of Representatives - Office of the Speaker, Canberra.

State

- a member of the NSW Legislative Assembly - Office of the Speaker, Sydney
- a member of the NSW Legislative Council - Office of the President, Sydney.

Supply the following information:

- name of the member
- type of action
- details of the circumstances giving rise to the arrest.

The Region Commander will then provide formal written notification.

Arrest by warrant

Try to arrest a person named in a warrant as soon as practicable after the warrant has been issued. A person who is arrested under a warrant must be brought before a Judge, a Magistrate or an authorised officer as soon as practicable.

When executing the warrant, state your authority and, if requested to do so, produce a copy of the warrant when it is available.

For further information, see the chapter on '[Warrants](#)' in the Police Handbook.

Power to stop, search and detain

See the [Code of Practice for CRIME](#) for requirements with respect to stop, search and detain powers.

Multiple charges

Do not lay multiple charges against an offender when it is unlikely the lesser charges will be pursued. While secondary charges are often desirable as an alternative to a major charge, before laying them you should consider whether they are appropriate and can be established to a prima facie degree.

Interstate offences and arrests

See the section on '[Extraditions](#)' for the arrest of offenders outside NSW.

Reference should also be made to section 104 of LEPPRA that provides for a power to arrest for interstate offences, and *section 82 of the Service and Execution of Process Act 1992* (Commonwealth) that provides for a person named in a warrant issued in a State to be apprehended in another State.

Care when stopping/ arresting motorists

When stopping and arresting motorists do not put the public, other police or yourself at unnecessary risk. Call for help to reduce the risks, particularly when a dangerous criminal is involved.

Arrest teams

A police officer may arrest a person without a warrant if directed to do so by another police officer. The other police officer is not to give such a direction unless they may lawfully arrest the person without warrant. Briefing notes and operational orders may contain such directions. The officer making the direction must be satisfied that the arrest is reasonably necessary for one or more of the reasons set out in section 99 (1) (b) (listed above).

Operations commander

When you use arrest teams put in place a system that will:

- ensure a common informant for charges, who is not part of the arrest team (to allow charges to be processed without delay)
 - enable the common informant to identify which police officers witnessed the offence and which officers made the arrest, and establish the brief facts of the offence (consider using a field arrest form and photographing the offender with the arrest team before transporting to the station).
-

Detained Persons' Property - bulky items

When taken into custody, a person may have property of substantial bulk (e.g. a vehicle, television, radio or animals) in their immediate charge.

Where practicable, help the person make reasonable arrangements for security, safekeeping or disposal of the property. This may include, for example, locking vehicles, engaging security systems or allowing the person to contact a third party to arrange safekeeping. Record these actions in your notebook.

Assistance Animals

Assistance animal

An 'assistance animal' is a dog or other animal that has been:

- accredited under a law of a State or Territory that provides for the accreditation of animals trained to assist a person with a disability to alleviate the effect of the disability; or
- accredited by a prescribed animal training organisation; or
- trained:
 - to assist a person with a disability to alleviate the effect of the disability; and
 - to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.

Assistance animals are not the same as 'companion animals' or pets. The animals must have been specifically trained to alleviate the effects of the disability (for example, guide dogs or hearing dogs). Under Commonwealth and NSW discrimination law, the term 'disability' is inclusive of mental illness. Any kind of animal is able to be an assistance animal. The term 'animal' is not limited to dogs.

Public space

Commonwealth and NSW laws allow people with a disability to be accompanied by an assistance animal on public transport and in any public space, including buildings. Public space means any building or place open to or used by the public, and any public transport. This includes all NSWPF buildings, police stations, office buildings, restaurants, shopping centres, the airport, airplanes, trains, buses, ferries and taxis.

Assistance animals do not have to be allowed to access public places if:

- it is reasonably suspected that the animal has an infectious disease and may be a danger to public health;
- the animal is considered to be aggressive and dangerous;
- no evidence can be produced to show that the animal is an assistance animal (see NSWPF Assistance Animals procedures, below).

Police may be called to disputes concerning assistance animals in public spaces, particularly relating to assistance animals not being allowed on public transport or in restaurants. It is an offence for a person to deny an assistance animal entry to a public place, building or public transport. It is also unlawful to aid and abet another person in discriminatory conduct against a person with an assistance animal. Police must also be careful to avoid engaging in such conduct.

If you are called to a dispute involving access for a person accompanied by an assistance animal, you should be clear about the reasons given for the assistance animal being denied

entry. If it appears the reasons are not based on the permitted exclusions (see above), this may amount to discrimination on the part of the person refusing access. In such circumstances you should inform the person refusing access that a person with a disability is entitled to be accompanied by an assistance animal in a public space.

Police cannot force the person to allow access to the companion animal, however police are authorised officers under the *Companion Animals Act 1998* and are able to issue a penalty notice to a person for refusing entry to an assistance animal. Penalty notices, in the usual form, can be issued if police are of a view that there is no reasonable basis to exclude the assistance animal.

Detailed guidance on interacting with people accompanied by assistance animals can be found in the *NSWPF Assistance Animals Procedures*, including:

- Identifying an assistance animal
- Assistance animals in police stations
- Searching a person with an assistance animal
- Assistance animals in custody
- Transport of assistance animals
- Assistance animals in public places

Aviation Support

Aviation Support assistance

The purpose of the Aviation Support Branch (ASB) is to provide a proactive and responsive aviation service throughout NSW to support crime reduction and detection, operations, emergencies, investigation of aviation fatalities and counter terrorism for the NSW Police Force. Whilst we are a strategic resource, we encourage you to contact us if you believe we can provide beneficial support, or advice and guidance, to your operation.

Costs

There is no cost to the requesting Command for the provision of Aviation Support Branch services in general. However, in exceptional circumstances where the ASB cannot arrange a suitably secure hangar during country deployments, the requesting command will need to assist with ensuring the security of the aircraft, which is a multi-million dollar, strategic NSWPF asset. These arrangements may include provision of a police officer or private security guard to ensure the security of the aircraft. Security needs to be organised from the time the ASB crew cease duty until they resume the following shift. Costs for these arrangements are to be met by the command requesting ASB services.

Contact

For aviation support during business hours, contact the Aviation Support Branch Shift Supervisor or Operations Manager. After hours requests can be made via the Duty Operations Inspector (DOI). Further information can be obtained from the Aviation Support Branch intranet site.

Helicopter safety procedures

A secured landing area 30m x 30m is required clear of powerlines, trees and other obstacles.

- Do not approach a helicopter until signalled by the pilot. Prior to approach, remove any headgear, clip on ties, handkerchiefs, etc.
- Tasers or OC spray are **NOT** to be taken on board the aircraft.
- Stand to the front of the helicopter, in full view of pilot and crew, between a 10 o'clock to 2 o'clock position.
- Give a 'thumbs up' signal to the pilot and wait for same from them before approaching the aircraft.
- At night, stand in the same position and flash a torch/light on and off once. The pilot approves approach by giving an on/off flash of the landing light.
- Slowly approach from the front (never from the rear) in a crouching position, at all times in full view of the pilot and crew. If the ground is uneven, approach from the down slope side. If blinded by dust etc, sit on the ground and wait for help. If carrying any items, ensure they are carried parallel to the ground.
- Generally, a crew member will help you to and from the helicopter.

Civil Aviation Act, Regulations and orders

See the section on '[Miscellaneous matters](#)'.

Bail Act

Bail Act Matters

Refer to the *Bail Act* for:

- your powers to grant bail
- entitlement to bail - s8 of the Act
- presumption against bail for certain drug offences - s8A
- presumption in favour of bail for certain offences - s9
- exemption from presumption in favour of bail for domestic violence offences - s9A.

For domestic violence related matters see also the section on '[Domestic Violence](#)'.

Bail Determinations

Record your bail determination on a Form 7, either electronic or manual. The Form 7 will show the information and reasoning used in making your decision, including any request made by the accused in relation to bail.

Treat each bail determination on its own merits e.g. in the case of two people charged with stealing:

- one may be granted unconditional bail
- the second may have bail refused due to their history (eg: failing to appear at court).

Consider issuing a No Bail court attendance notice for those matters in which unconditional bail would be approved. See also the section on '[Court attendance notice system \(CANS\)](#)'.

Criteria to be considered

Familiarise yourself with the criteria to be considered in bail applications (s32).

When making a determination, take the following into account:

- Probability of persons appearance or non appearance at court, having regard only to:
 - background and community ties (if Aboriginal or Torres Strait Islander, ties to extended family/kinship, traditional ties to place) prior criminal history
 - previous failures to appear
 - circumstances of the offence such as the nature, seriousness, strength of evidence, severity of probably penalty
 - any specific evidence as to whether or not the person is likely to appear in court.
- The interests of the person, in regard only to:
 - period in custody if bail refused and conditions in which he/she would be held
 - need to be free to prepare for appearance in court/obtain legal advice

- need to be free for any lawful purpose
 - whether or not incapacitated by intoxication, injury or is danger of physical injury or in need of physical protection
 - whether he/she is under 18yrs or Aboriginal or Torres Strait Islander, has intellectual disability or is mentally ill and any special needs arising from that
 - if Section 9B (3) applies (charged with indictable offence and previously convicted of indictable offence/s), criminal history, nature and seriousness of any indictable offences, number and length of time between those offences.
- The protection of:
 - victims
 - victim's relatives
 - any other person considered to be in need of protection due to the circumstances.
- Protection and welfare of the community, having regard only to:
 - nature and seriousness of the offence, in particular if of a sexual or violent nature or involves the possession or use of an offensive weapon or instrument
 - whether the person has failed, or anticipated failure to observe a reasonable bail condition previously imposed in respect of the offence
 - likelihood of interfering with evidence, witness or jurors, and
 - likely will commit any serious offence, but authorised officer only to have regard to this if permitted under subsection 2
 - if offence is a serious offence, whether at the time of committing the offence the accused was subject of a previous bailment or on parole in connection with any serious offence, and,
 - if the offence involves the possession or use of an offensive weapon or instrument and the person has a prior criminal record for similar offences involving possession or use of offensive weapon or instrument.
- If believed likely will commit one or more serious offences if satisfied that:
 - likely will commit the offences, and,
 - that likelihood with the likely consequences outweighs the right to be at liberty.
- The matters in considering a serious offence are, but not limited by:
 - whether is of a sexual or violent nature or involves the use of an offensive weapon or instrument
 - likely effect on any victim and the community
 - number of offences likely to be committed or which the person has been granted bail or released on parole.

- Authorised officer not bound by rules of law governing admission of evidence and may take into account any evidence/information considered credible or trustworthy in the circumstances. (Section 59 satisfied on balance of probabilities).
- Regarding details of residence:
 - if accused under 18yrs the fact does not reside with the parent/guardian shall be ignored
 - reference to residence, includes an address at which the person may generally be found.
- An offence to which section 8A, 8B, 8C of the Bail Act applies does not prevent consideration of any matter as relevant to whether bail should not be refused.
- A bailment which section 9C or 9D of the Bail Act applies does not prevent consideration by an authorised officer of any matter relevant to the question of whether bail should be granted under that section.

NB: The person charged has a right to be heard on all criteria on which the decision is made. Include their legal representative, if present.

When you make determinations, tell accused of their right to communicate with a lawyer or someone of their choice in connection with bail.

If a request is made, provide reasonable facilities to do so.

Notifying bail decisions

Domestic violence offences

If you grant or refuse bail in domestic violence cases, advise the informant (if not a police officer) of the decision.

The notice will contain information pursuant to the *Regulations* (clause 9).

Personal violence cases

Informant officer

Notify the victim of the court's bail decision. If the victim died as a result of the offence, notify the close relatives of the court's bail decision (clause 10).

Conditional bail – school attendance

Schools & NSW Police Information Exchange MoU 2003

This MoU permits Police to provide details of the charges and bail conditions, relating to a named offender, to that offender's School Principal, particularly when a bail condition is that the offenders continue to attend School.

Granting bail

When someone is granted bail, the authorised officer completes a Form 5-*Bail Undertaking* in either paper based or electronic format.

Bail people three weeks ahead to the next court list day. For domestic violence matters bail to the AVO return date.

Unconditional bail

This is where there are no conditions imposed, other than a requirement to appear in court on the date shown on the bail form. Prepare the form in triplicate. You and the accused person sign it. The form is not valid unless signed. Ensure the charge case reference number appears on the form, if not, place it on the top right corner.

Conditional bail

When you consider unconditional bail not sufficient to ensure someone attends court, impose appropriate conditions. Remember, conditions are primarily for ensuring appearance and are not to be oppressive.

The circumstances of the offence and of the accused person help determine what conditions are necessary e.g. you may impose a condition that someone charged with an assault not approach the victim or their home. Take all reasonable steps to ensure the person giving the bail undertaking is aware of their obligations under the bail agreement and the consequences which may follow if the accused does not comply with the bail undertaking.

The conditions are printed on forms 5 and 7. (s36 and 37). Prepare:

- form 7 in triplicate immediately after determining the bail
- form 5 before releasing the accused. You, the accused and the acceptable person, where applicable, sign it.

The number of copies depends on the conditions imposed.

Refusing bail

When you refuse bail complete a Form 7 and take the accused before court as soon as possible.

If commitment warrants exist for adults in custody, and it is expected bail will not be granted, do not accept payment for them until you make a bail determination.

Consider not granting bail for people arrested on 80AA, 100AG or First Instance Warrants from the District or Supreme Courts.

Split bail

This is used when someone in custody has been granted bail and a person goes to a distant station wanting to bail them.

A message is usually received from the distant station that someone wishes to bail an offender. Tell that station of the bail conditions.

If appropriate fax a copy of the Remand Warrant to the distant station or inform them of the Charge No. if the bail is contained within the Charge Management System on COPs.

Distant station

On receiving the conditions of bail:

- inform the person wishing to bail and ensure all conditions are fulfilled i.e. they are an acceptable person, cash deposit etc
- enter that part of bail with the person on the relevant form, usually form 5
- endorse on top of the form 'split bail with (station name)'
- in the case of cash deposit, issue a general cash receipt
- determine the acceptable person's suitability. Everyone offering themselves as an acceptable person for a bail determination is to complete and sign an *Acceptable Persons' Application* (P509) form. Use the information on the form to determine suitability
- bail officer and acceptable person lodging cash or surety sign the form 5
- contact the custody station and inform the authorised officer that bail has been entered and supply the general cash receipt number issued, if applicable
- fax the bail form, general cash receipt and P509 to the custody station
- file a copy of the bail form and attach a copy of the P509 where applicable
- where cash has been lodged, take it and the original bail form and P509 (where applicable) to your local court.

Authorised officers

When you determine the person is not an acceptable person:

- indicate non acceptance on the P509
- notify the custody station immediately
- fax a copy of the P509 form to the custody station and mail that copy to the custody station
- file a copy of the form with the filed bail forms
- forward the original to your local court.

Custody station

Authorised Officer

On receipt of the faxed bail form and general cash receipt or message from distant station:

- complete a bail form
- clearly mark on the bail form 'split bail with (station name)'
- you, and the offender, sign the form
- send the original to local court

- hand the duplicate to the offender
- file the triplicate at the station
- file the copy of the faxed bail form with the triplicate copy until you receive the copy of the bail form by mail. When you receive this copy, replace the filed faxed copy
- write the general cash receipt number on the bail form if cash was lodged at the distant station
- release the offender.

Where necessary, confirm any matters and make an entry on the general station pad.

Review of bail decisions

Informant

You may apply for a review, affirmation or variation of a court's bail determination. You are the only one who can make the application.

If unhappy with a determination or you believe it was not in the public interest for bail to be granted, promptly consult your prosecutor.

When a victim or anyone else expresses genuine fear for safety, always consult Police Prosecutions Command. Record details of your discussions.

If the Operational Legal Advice decides to proceed, responsibility to provide information and documentation rests with you.

When someone is unable or fails to meet a bail condition, use form 13 to notify the relevant court. Remember, you must give the notice within eight days of the person coming into custody.

Request by accused (S43A)

The accused has a right to request a review of their bail decisions by a Senior Officer (an officer more senior than the officer who made the original bail determination).

The Senior Officer is to make a further bail determination taking into account all factors and requests made by the accused.

The power to review a decision under this section is a power:

- to affirm the decision to refuse bail, or
- to grant bail unconditionally or
- to alter/remove conditions included in the bail, in accordance with this Act.

Without limiting the grounds on which an authorised officer conducting a review of a decision under this section may grant bail, the authorised officer may grant bail if the authorised officer is of the opinion that:

- the accused person is no longer incapacitated by intoxication, injury or use of a drug or is no longer in danger of physical injury or in need of physical protection, or
- there has been a significant change in circumstances since the decision was made, or
- exceptional circumstances exist that justify a grant of bail.

This review is not to be undertaken if it delays the appearance of the accused before the Court.

Non Compliance with Bail Undertakings/Conditions

When you reasonably believe someone has failed, or is about to fail, to comply with bail undertakings or conditions, you may arrest them without warrant, and bring them before a court as soon as practicable.

If a breach of bail undertakings/conditions is detected, create a COPS event with an incident of JUDICIAL OFFENCE – BREACH BAIL CONDITIONS. Ensure that the POI is listed as SUSPECT and that the event narrative describes the nature of the breach. Process the person through COPS Charge Management as a No Bail Court Attendance Notice to be placed before a court to redetermine bail.

Police have no power to grant bail in 'Breach of Bail' matters.

Arrest may be discontinued

If you come into possession of evidence that causes you to believe that the person arrested has not failed to comply with their bail undertakings or conditions (i.e. the person supplies a bona fide reason), discontinue the arrest and release the person.

In these circumstances, create a COPS event with an incident of JUDICIAL OFFENCE – BREACH BAIL CONDITIONS. Ensure that the POI is listed as NO FORMAL ACTION and that the reason for no formal action is INSUFFICIENT EVIDENCE (PROOF). Ensure that the event narrative justifies the reason/s for no formal action.

Acceptable Persons

Refuse to make a bail determination until a P509 *Acceptable Person - Application* has been completed and signed, and you are satisfied of identity and address.

If an acceptable person is unknown to you and you are suspicious, make inquiries with the Criminal Records Unit.

Exercise the greatest care when certifying people as acceptable for bail or when providing reports on intending acceptable people. Do not take the word of anyone, offering themselves as acceptable, as to their assets. Satisfy yourself on this point.

Do not accept solicitors' clerks as acceptable people for bail for their employer's clients.

Reporting Professional Acceptable Persons

If you become aware of people repeatedly offering themselves as acceptable persons, possibly for financial benefit, send a report to your commander.

Acceptable Persons Unable to Write

When acceptable people are unable to write and sign their names, they may make their mark on the bail form and you witness it. Endorse the form in the following terms:

"The contents of the attached document have been read over to ...who fully understands its nature and contents".

Accepting Security

Do not accept vehicles, jewellery or real estate as security for bail purposes. Refer people wishing to lodge title deeds as security to the nearest local court.

Arrest of offenders without warrant

Police generally

When you exercise your powers of arrest without warrant under Part 8 of the Law Enforcement (Powers and Responsibilities) Act 2002, and you suspect on reasonable grounds that the person may not appear before a court in respect of the offence, consider the need for imposing bail with appropriate conditions. For example, conditions may be appropriate if offender resides overseas and/or is in possession of a foreign passport and/or an Australian passport and is suspected to be a flight risk.

Record the details of any passport surrendered to police as Miscellaneous Property in EFIMS and issue a receipt. Secure the passport(s) with other valuable miscellaneous property. Investigating police should not retain possession of any surrendered passport.

Authorising police officer

If bail is determined to be appropriate by the authorising police officer (Sergeant or above) consideration should also be given as a condition of bail, in consultation with the OIC of the case, that the offender is to surrender their passport to police. If the person is not in possession of their passport at the time of their arrest, the offender may need to make arrangements with another person to deliver the passport to police before the person is released on bail.

Further conditions of bail may include, amongst other things, that the offender is not to apply for another passport, not to leave Australia and not to approach any point of overseas departure. Also inquire from the offender as to whether he or she has dual citizenship in Australia or another country. If so, a further condition of bail may be imposed to surrender any other specified passport to police.

Refer to "Passports surrendered as bail condition" guideline in this section of the Police Handbook regarding further police action.

Offences involving death (S37A(1))

Bail is not to be granted to a person who is accused of an offence occasioning death UNLESS subject to a condition requiring the surrender of any passport.

Passports surrendered as bail condition

When an offender has surrendered their Australian passport to police or to the court and/or the offender is not to apply for an Australian passport, as a condition of bail as imposed by police or the court, complete the [Australian Passport Refusal Request](#) (Annex 18) and fax or e-mail the request to the Sydney Passport Office, Department of Foreign Affairs and Trade (DFAT) or the Passport Fraud Section, DFAT, Canberra. Include details of any foreign passports, if the offender has dual citizenship in Australia and another country. Enclose a copy of the bail conditions with your request. Contact details of DFAT in Canberra are on the request form, if urgent assistance is required in processing the request. In urgent cases, after hours, telephone the DFAT's Watch Office.

In rare cases, an [Australian Passport Cancellation Request](#) (Annex 19) may be made in connection with the conditions of bail. These requests are personally considered by the Minister for Foreign Affairs and DFAT has requested they will need to be signed by the Commissioner of Police or a Deputy Commissioner. Be aware that information supplied to DFAT in connection with requests to refuse or cancel an Australian passport may be made available to the offender. Do not use the Passport Surrender Information form P.555 for the purpose of notifying DFAT.

If the offender has surrendered their foreign passport and/or the offender is not to apply for another passport as a bail condition and has dual citizenship in one or more foreign countries, complete the Passport Surrender Information form P.555 with a copy of the bail conditions and fax the documents to each relevant consulate in Sydney, or if none exist, the relevant embassy in Canberra. If there is no embassy seek telephone advice from the Passport Fraud Section, DFAT, Canberra.

Police generally

Record the details of any passport surrendered to police as Miscellaneous Property in EFIMS and issue a receipt. Secure the passport(s) with other valuable miscellaneous property. Investigating police should not retain possession of any surrendered passport.

NB: If there is a change in bail conditions affecting police retention of the passport(s), immediately e-mail the DFAT office to which the original request form was sent and/or the relevant consulate or embassy. If and when appropriate, arrange for the return of the passport(s) to the offender and obtain a receipt.

Immediate notification to DFAT and/or the relevant consulate or embassy is important particularly if there are fears that the offender may flee Australia, as the person may obtain a passport relatively quickly after surrender. If there is any delay including obtaining a copy of the bail conditions imposed by the court, contact the Passport Fraud Section, DFAT, Canberra.

If you suspect the offender is a flight risk, refer to the Passenger Analysis, Clearance and Evaluation (PACE) alert system and request forms on the Police intranet Operational Systems under iASK, External Agency Information Request System. A request form for information from the Australian Passport Office, DFAT or the Department of Immigration and Multicultural

Affairs (DIMA) is also available on the same intranet site. The Immigration Status Services (ISS), DIMA, also provides a service for checking the status of offenders and persons of interest. Urgent telephone inquiries may be made (24 / 7) on 1800 58 414 and need to be supported by a formal request.

The Australian Passport Surrender and Cancellation Request forms [Annex 18 and 19 as prescribed in the *Australian Passports Act 2005* (Commonwealth)] and the Passport Surrender Information form P.555 may be downloaded on the Law intranet site under "Bail forms". These forms and the PACE alert may also be used in regard to arrest warrants for an indictable offence by offenders who are believed to be a flight risk.

NB: If appropriate, take the same actions if similar bail conditions are imposed or lifted by the court, as the Local, District and Supreme Courts will NOT make these requests to DFAT or notify any relevant consulate or embassy.

Releasing People from Custody

Take the utmost care when releasing people from custody, especially those on bail. In these circumstances, and to prevent someone impersonating another, take these precautions:

- do not rush the bail or release
- ask questions which are not of a leading nature eg: full name, age, description of person, property etc
- if you are in any doubt, refuse to bail or release until certain of identity.

People Reporting on Bail

Completing the notification form

Officer in charge of the case

You are responsible for immediately completing parts one and two of the *Notification of accused to report on bail form* (P64B) after the court hearing. When you cannot go to court for any reason, arrange for another officer to carry out this duty. When this is not possible, promptly after the proceedings/determination or review, speak to the registrar or clerk of the court to find out the accused's bail and/or reporting conditions.

It is emphasised, the responsibility for ensuring the proper notification of reporting conditions (including when they have finished) is always with you.

NB: If the person is to report to a small country station, check its hours. Provide these details to the prosecutor so bail conditions are appropriate.

People released from court offices

Officer in charge of the case

When a bail undertaking is entered and the accused is released, immediately send a message to the station or branch commander where the person is to report, and complete part three of the notification form.

Accused still in police custody

If the accused does not enter a bail undertaking at the court office, complete parts one and two of the notification form, which accompanies them and is handed to the station/custody officer.

Station officer

If the bail undertaking is entered before the accused is transferred to gaol:

- immediately notify the station of report, supplying details of parts one and two of the form
- complete part three, showing (in the space provided) the accused has been admitted to bail.

Accused transferred to gaol

If the accused is transferred to gaol:

- immediately notify the station of report, supplying details from parts one and two of the form, clearly advising the transfer
- complete part three of the form and indicate the transfer clearly
- send a completed *Notification of person on bail* form (P21) with the accused when transferred.

Photo of Accused

Officer in charge of the case

ABRS interfaces with Phototrac to display the charge photograph within the Bailee screen. If you believe that someone charged with an offence is likely to have to report to police as a bail condition, ensure a photo is taken at the time of arrest so that it will display in ABRS.

Responsibility of Station Police

Station officer

Monitor ABRS to ensure the system is being utilised correctly to manage bail reporting.

If it is determined that bail conditions have been incorrectly recorded in COPS, liaise with the Court Process Officer (or officer with the equivalent COPS profile to amend bail records) to ensure action is taken to correct those records to prevent the likelihood of bailees being incorrectly detained.

Validate that the correct person is reporting prior to recording that attendance in ABRS.

Maintain a bail reporting folder in the station to assist in the management of any bailee who fails to attend (report) in accordance with their conditions.

In the event of a medical certificate being presented by a bailee as a reason for failing to report; ensure the certificate is authentic, take a photocopy of the document and place the photocopy in the FTA folder (attached to the associated FTA report). Return the original document to the bailee for his/her records.

If notification is received of an upcoming system outage:

- print the Daily Attendance Schedule (landscape orientation) so that a manual list of bailees is available
- bailees are to sign next to their name (after reporting times are validated as correct)
- the officer accepting the attendance is to ensure the time is recorded correctly and sign their name to validate the accuracy of the attendance
- when the system is restored, update ABRS (using Manually Enter Attendance link) to ensure the time is adjusted correctly
- the name of the officer whose name appears to validate the bailee signature is to be recorded in the comments field
- the paper record becomes the original document and is to be retained and filed in the Bail Folder.

Check List of People Reporting on Bail

Station officer

Each fortnight, prepare a check list of people reporting on bail. Keep it on a clipboard next to the general station pad.

Include the following:

- name of the accused
- time of report
- remand date
- 14 separate columns for day and date.

Divide the list into shift times, with people reporting during each shift included under it in alphabetical order.

Highlight the day/s of report, and once a report has been completed, mark those days.

Include people reporting on a day, with no particular time ordered, under the last shift for the day.

Failure of Accused to Report

Station officer

Print a 'Fail to Attend' (FTA) report (landscape orientation) each day and place that report within the FTA folder and record, in writing, what action is taken in relation to any FTA that remains outstanding. The FTA report should be produced after midnight, but no later than the next change of shift.

Record, in the 'changeover' entry on the general station pad, that the FTA report has been produced.

Immediately bring to the notice of your supervisor the details of any person failing to report.

Follow up any FTAs that have not been actioned.

Court Process Officers (or equivalent)

Ensure bail reporting information is correctly entered into COPS by the end of the day on which that bail condition was imposed.

Take immediate action to correct bail information that is in COPS, but is incorrect.

Supervisors

Check and supervise that ABRS is being used correctly to manage bail reporting.

Endorse the 'Fail to Attend Report' and ensure follow-up action is appropriate and has been completed.

Bring to the notice of your Commander any person who has failed to report.

When an accused person's remand date has been reached and notification of the end of a reporting requirement has not been received, immediately find out the current status.

Custody Officers

When imposing a bail condition for an accused person to report to police, create a 'Bail Reporting' condition to ensure that the requirement is automatically transferred to ABRS.

Commander

When told an accused has failed to report, ensure the officer in charge is notified as soon as possible. If they are absent, their commander assumes their duties.

Note the action within the FTA report and general station pad.

Within four days of the failure to report, inform the Court where the person is to appear and the DPP (indictable matters) or prosecutor (if a summary matter and, if applicable) what action in terms of Section 50 of the Bail Act you have taken.

End of Reporting Conditions

When you are notified a bail reporting condition has ended, remove the card. File it separately as a concluded matter.

Automated Bail Reporting System (ABRS)

ABRS is a web-based application accessible from the NSW Police Force Intranet: Systems page. The system interfaces with COPS to display a daily list of persons required to report on bail at a police station. It provides police personnel statewide with a centralised database in which to record and manage bailee reporting information.

Children

Caring for a child where the parent/guardian has been hospitalised, arrested or deceased

Where police are caring for a child as a result of the parent/guardian being hospitalised, arrested or deceased, police must make all reasonable attempts to transfer the child into the custody of another parent, guardian, relative, or other approved person. In the absence of another caregiver, police are to contact the Department of Family and Community Services to take custody of the child.

Whilst awaiting the arrival of alternative care, police are responsible for the child's safety and wellbeing. To ensure the safety of the child, police should supervise the child at all times and take the following into consideration:

- does the child require medical attention (if medical attention is required seek permission from parent or medical practitioner)
- does the child require special attention (i.e., mental health, medications, allergies, asthma)
- are there protective orders or custody orders in place restricting a parent/guardian from having custody of the child
- does the child require basic needs, i.e., food, clothing, water
- does the child require the services of another agency (.e., counselling, in the event of witnessing a traumatic event)
- Provide reasonable safe facilitates for the child to use the toilet

Commonwealth Offences

Commonwealth Office of the Director of Public Prosecutions

The Commonwealth DPP prosecutes Commonwealth Offences under various Commonwealth Acts including the Financial Transactions Reports Act 1988, The Trades Marks Act 1995 and the Copyright Act 1968. The Commonwealth DPP will usually not be involved in the prosecution of relatively minor Commonwealth Offences such as Telecommunication Offences under the Criminal Code Act 1995, for example, offences under Section 474.15, Using a carriage service to make a threat.

The Commonwealth DPP will not appear in an appeal to the District or Supreme Courts in circumstances where it did not have carriage of the prosecution in the Local Court or in circumstances where the Commonwealth DPP was not consulted before the proceedings were commenced. In such circumstances, Police Prosecutions Command has the responsibility of arranging the appearance in the appeal matter. Generally, a legally qualified member of the Police Prosecutions Command senior advocates group, a legally qualified member of the Office of the General Counsel or external private legal representation may be arranged to appear in the appeal matter. The NSW State DPP will not appear in these matters.

When investigating serious Commonwealth Offences, investigators should consider consulting with the Commonwealth DPP both during the investigation phase and prior to commencing proceedings to ensure both the sufficiency of the evidence and the appropriateness of the charges.

The prosecution of Commonwealth offences can be complicated and difficult to prosecute and may involve lengthy overseas enquiries with expert witnesses who may be required to give evidence in a prosecution concerning copyright or trademark issues associated with the manufacture of goods.

Some company representatives or agents acting on behalf of the company may claim to have conclusive and irrefutable evidence to warrant the immediate seizure of certain goods that are in breach of the Trade Marks Act and the prosecution of the alleged offenders. Do not rely on such claims alone without firstly gathering all available evidence to establish the offence.

OIC of the case

If in any doubt, investigators should seek advice from the Sydney Office of the Commonwealth DPP during the investigation. Unless it is in the 'public interest' to commence proceedings immediately, having regard to the need for imposing conditions of bail (i.e. the likelihood that the alleged offender may commit further offences, interfere with prosecution witnesses or may flee from prosecution etc.) consider seeking advice before proceeding. Send a copy of the brief of evidence containing all relevant inculpatory and exculpatory evidence through the Brief Manager to the Sydney Office of the Commonwealth DPP. The brief should be accompanied by a request for advice as to the sufficiency of the evidence and/or whether the charges are appropriate. If required, the Commonwealth DPP will consult with you before any prosecutorial decision.

Drugs in domestic mail

If Australia Post contacts you about a domestic postal article suspected of containing a prescribed narcotic substance:

- satisfy yourself there are reasonable grounds for suspecting a prescribed narcotic substance
- investigate if you find a suspected illegal substance
- return the article to Australia Post if it does not contain an illegal substance.

When investigating a Commonwealth offence, use the ERISP system.

If practicable, tape or video the giving of information (required under the Commonwealth Crimes Act) together with the person's responses, if any.

Information you have to give includes:

- the giving of a caution
- advising a person of the right to talk with a friend or relative, who might attend the police station
- advising a person of the right to talk with, and have present, a legal practitioner
- the right to an interpreter
- the right to talk with a consular office in the case of foreign nationals
- informing the person, if an Aboriginal or Torres Strait Islander, that a representative of an Aboriginal Legal Aid organisation will be notified.

You have to prove whether it was practicable to tape record the giving of that information and the person's responses.

NB: The investigation period must end within a reasonable time, but does not extend beyond four hours except if the person is an Aborigine or Torres Strait Islander or under 18, when the maximum time does not extend beyond two hours.

You may request a person whose name and/or address you do not know to supply the same if you reasonably believe the person is able to assist you with inquiries in relation to an indictable offence you reasonably believe has (or may have) been committed. It is an offence not to comply.

Identify yourself if requested to do so by the person.

For more information about your powers for Commonwealth offences eg: interviewing, detention periods, identification procedures etc, refer to the Commonwealth Crimes Act or contact the Operational Legal Advice Unit, Police Prosecutions Command.

Communications

PoliceLink Command

The PoliceLink Command services a number of business streams including:

- Triple Zero (000)
- Police Assistance Line (131 444)
- Crime Stoppers (1800 333 000)
- Child Wellbeing Unit (02 4352 0500, EN 31500)
- Customer Assistance Unit (1800 622 571)
- Corruption Hotline (Police Only) - (1800 060 205)
- Alarm monitoring Direct Access Service
- ATM Robbery Hotline
- Injury Management Hotline (1800 996 336)
- Missing Persons Unit After Hours
- NSW Police Switchboard
- NSWPF TTY services (02 9211 3776)

Police and members of the public are encouraged to utilise the services of the PoliceLink Command to assist them in their duties. Located at Lithgow and Tuggerah, the functions of the various business streams are as follows.

Triple Zero (000)

PoliceLink Command is the primary point of presentation for all Police Emergency Triple Zero (000) calls in NSW.

When a caller phones Triple Zero (000) and requests NSW Police, the Telstra 'Emergency Service Answer Point Operator' will transfer the caller to the PoliceLink Command at Lithgow or Tuggerah, based on the postcode of the caller's location.

As a redundancy process, calls can be overflowed to Communications Group Centres.

More information about 'When do I call Triple Zero (000)?' can be found on the NSWPF Internet site (www.police.nsw.gov.au), by clicking on Triple Zero (000) under the main menu.

The Communications Group provide dispatch and radio communications of Triple Zero (000) calls to Police.

Police Assistance Line (131444)

The Police Assistance Line (PAL) is a 24 hour a day, 7 days a week option for NSWPF customers to report non urgent crime, seek directory assistance and referral for general NSWPF enquiries.

PAL can assist customers by:

- Creating reports for the following incidents of crime, where: the customer consents; the crime is not occurring now; and, the crime is not of a serious, unusual or newsworthy nature:
 - Break and Enter
 - Fraud - Fail to Pay for Fuel
 - Fire (for miscellaneous property, e.g. bins, signs, letterboxes, play equipment. Scorching only for buildings and vehicles)
 - Located Vehicle/Vessels (from Police and SOCO's only)
 - Lost property
 - Motor Vehicle/Vessel Theft
 - Malicious Damage (including Graffiti)
 - Minor Motor Vehicle Crashes *
 - Stealing
 - Transport Offence (Taxi Fare Evasion only)

*Police should not refer members of the community to 131444 unless they have first confirmed that the crash is minor; i.e. where no vehicle has been towed, no person/s have been killed or injured, no driver was under the influence of drugs or alcohol and particulars have been exchanged (name and address or name and drivers licence number).

- Facilitating Police response to other incidents using PoliceCAD
- Directory Assistance and General NSWPF Enquiries

Customers can contact PAL by phone or through a number of multimedia options including fax, email and government websites.

Crime Stoppers (1800 333 000)

Crime Stoppers is a community based program which encourages the public to share information about:

- People wanted by police
- Unsolved crimes and future crime that is being planned
- People known to have committed criminal offences where they have not been arrested
- Suspicious or unusual activity

Crime Stoppers collects information which may help police solve a crime. Some people prefer not to become involved in a police investigation and therefore may not share what they know about a crime directly with Police. Crime Stoppers welcomes that crime information, and the person providing it does not need to give his or her name. Callers to Crime Stoppers are provided with a unique Code number, which can be used when providing further information or to enquire about a reward.

Crime Stoppers can be contacted 24 hours a day, 7 days a week either by phone, by email at csu@police.nsw.gov.au or by logging an online report at www.nsw.crimestoppers.com.au

Customer Assistance Unit (1800 622 571)

The Customer Assistance Unit operates Monday to Friday 8am to 4pm (there is voicemail service outside business hours) and provides assistance to the public and police with compliments, complaints, concerns and referrals. The Customer Assistance Unit also responds to all general enquiries lodged on the NSWPF Internet 'contact us' at http://www.police.nsw.gov.au/contact_us and forwards all party notifications lodged at www.mynite.com.au to the relevant LAC.

Corruption Hotline (1800 060 205)

The corruption hotline is a police only service and enables NSW Police Force employees to report any corruption issues confidentially. The Corruption Hotline is situated within the Customer Assistance Unit and is staffed Monday to Friday, 8am to 4pm. There is a voicemail facility available to leave return messages.

Police Switch (131 444)

The switchboard is tasked with fielding calls from internal and external customers who require connection to a specific station, unit or employee.

The switch gains its contact information from the NSW Police Force 'phonebook' located on the NSWPF Intranet. The phonebook draws information about individuals from SAP and there are facilities for units to add or update via the phonebook. It is essential that individuals ensure their SAP details are correct and units within the NSW Police Force ensure their details are accurate in order to provide professional customer service.

IDD or STD Calls

NSW Police Force Switch is responsible for the actioning of STD and IDD (International Direct Dial) requests from NSW Police Force staff. The majority of these requests will come from LAC staff or support areas within the NSW Police Force that do not have direct access via their PABX telephone system. The switch operator is simply setting up the STD or IDD call and then transferring the customer to their requested STD or overseas destination. To make one of these calls contact the Police Switch on 54444. You will be required to provide the phone number and destination of the call, authorising officer and cost centre number.

Contacts

For the general public

Triple Zero (000) – in an emergency - 24 hours

Police Assistance Line (131444) - for non emergencies - 24 hours

Email: palnet@police.nsw.gov.au

Fax: 02 4353 4948

Mail: PO Box 3427, TUGGERAH NSW 2261

Crime Stoppers (1800 333 000) - report crime anonymously- 24 hours

Email: csu@police.nsw.gov.au

Mail: PO Box 3427, TUGGERAH NSW 2261

Report Online: https://www1.police.nsw.gov.au/crime_report

Customer Assistance Unit (1800 622 571) – compliments, concerns, complaints (Monday-Friday 8am-4pm)

email: customerassistance@police.nsw.gov.au

Fax (02) 4353 4948

Mail: PO Box 3427, Tuggerah NSW 2259

Accuracy

Always check the accuracy of information you are circulating and ensure that messages are as informative, clear and concise as possible.

Take care to furnish names correctly, using the phonetic alphabet, especially when persons have similar sounding names, such as Stewart and Stuart or names of foreign origin.

Descriptions of people and stolen vehicles follow a standard pattern. Immediately circulate descriptions of suspects disturbed, escaping criminals and vehicles involved in serious occurrences, however meagre the details might be. Circulate further information as it becomes available.

Always obtain a vehicle's description before an offender's, in case the vehicle leaves the scene hurriedly.

Descriptions of people

The following information on Descriptions of people is taken directly from Section 8 of the NSWPF Media Policy.

Guiding Principles

Words used to describe crime victims, witnesses, suspects and offenders can be highly contentious – especially when they refer to ethnic or racial origin.

When misused or misunderstood, descriptions can damage community harmony, police relations with various communities and hinder investigations, which often heavily depend on community support and information.

Criminal and anti-social behaviour should not be associated with any particular group or community.

There are three categories of approved descriptive terms available to build a useful overall description:

- Physical Descriptors
- Ethnicity Based Descriptors
- Nationality.

Make descriptions as precise as possible, emphasising physical features and avoiding discriminatory or offensive terms. The descriptive terms listed in this section are approved for use. All other descriptive terms must be avoided.

Physical descriptors

The list of physical descriptors is set out below. If you require further assistance with physical descriptors, please consult the Police Media Unit:

- Build – large, athletic, obese
- Height – estimate in centimetres
- Complexion – fair or pale, olive, tanned
- Hair colour – blonde, ginger, white, grey, brown, black
- Hair length – shaved, short, medium, long
- Hair style – straight, wavy, curly, spiky
- Face shape – round, chiselled, heart shaped
- Eye colour – brown, hazel, black, blue
- Eye type – sleepy, bloodshot, crossed
- Eyebrows – fine, bushy, plucked
- Glasses – sunglasses, plastic, half frame, bifocals
- Mouth – full, wide, hare lip
- Facial hair – moustache, beard, sideburns, goatee
- Nose shape – thin, broad, flared
- Scars, tattoos, physical impairments.

Ethnicity based descriptors

Great care must be taken when using ethnicity based descriptors. The effectiveness of ethnicity based descriptors is limited as they can be the result of emotional or prejudice driven responses from witnesses that may be wrong. Ethnicity based descriptors can also lead other members of a given community to feel they are unfairly under suspicion, creating hostility to police from community groups.

However, ethnicity based descriptors can be valid and useful *if part of* an overall description that could lead to the arrest of an offender. The decision to use an ethnicity based descriptor must be justified on the basis that its inclusion will increase the likelihood of identifying the person of interest.

Ethnicity based descriptors can be legitimately used as long as the following guiding principles are observed:

- Ethnicity based descriptors can be used in the pre-arrest phase, when combined with a physical description
- Ethnicity based descriptors must not be used once a person has been apprehended
- Ethnicity based descriptors must only be used to describe people whose ethnicity is not known.

Use **only**: "The person is of..."

- Aboriginal/Torres Strait Islander appearance
- African appearance
- Asian appearance
- Caucasian appearance
- Indian Sub-Continental appearance
- Mediterranean/Middle Eastern appearance
- Pacific Islander/Maori appearance, or
- South American appearance."

Examples:

Pre arrest phase: "Police wish to interview a person who may be able to assist with inquiries into an incident at (location). The person is described as being (male/female) of (build), (height), (complexion), (hair colour), etc perceived as being of (ethnicity based descriptor), last seen in (street name or other location)".

Post arrest phase: "Police today arrested and charged a (age) year old (suburb if appropriate) man/woman in relation to an incident at (location) on (date). The person is due to appear in (location) Court on (date)".

Nationality

A person's nationality has no bearing on their appearance, so it is irrelevant in a physical description. However, in situations where a person's nationality is relevant, the information can be released.

Reasons where it is acceptable to release a person's nationality include:

- When fears are held for the safety of a foreign national travelling in Australia
- When information about an offender, crime victim or missing person is needed from other people of the same nationality or language group.

Telephones

Use police telephones exclusively for official business and then, only when necessary. Personal telephone calls, both in and out, by persons utilising departmental telephone facilities, are permitted only out of necessity

Recording messages

Decide which messages, both incoming and outgoing, are to be recorded by considering whether the message

- Requires police attention/action/inquiry
- Warrants a formal record to be made, e.g., "Death messages"
- Is of a particular nature which your commander has directed should be recorded.

All such messages will be accurately recorded on the general station message pad. They will include the date, time and name of sender or receiver and the action taken in respect of the message.

Any requirement in the message will be dealt with promptly.

Administrative and personal messages may be forwarded to individual Police officers utilising the police Memo system. (All usage of NSWPF email functions is to comply with the NSW Police Force Electronic Mail (Email) Policy, the NSWPF Code of Conduct and Ethics, applicable Local, State and Federal Laws, and other NSWPF policies and Procedures).

Requests for assistance

Police generally

When contacted by a member of the public requesting assistance ask if they wish to be advised that police have attended to the request.

Officer in charge of case

Notify the person requesting assistance that police have attended to the request. Do not give information which the person is not entitled to receive, which may prejudice an investigation or which is otherwise confidential.

The job is not complete until a person who wishes to be advised that police have attended is so advised.

Answering telephones

Be courteous and professional when answering telephone calls. Announce the name of your station, your rank and the name e.g., "Good Morning, Liverpool Police Station, Senior Constable Jones speaking".

When answering the telephone at any other location announce your name, office and establishment e.g., "Good Morning, Penrith Crime Scene Section, Senior Constable Lee speaking".

Local directions, affecting the manner of answering telephone calls, may apply in specialised areas or covert locations as directed by the respective Commander/Manager.

Promptly ascertain nature of telephone calls

If you are engaged in attending to a non-urgent call and receive a further incoming call, suspend the conversation until you determine whether the second call is urgent.

Non-local calls via police/public phone networks

Police Network

Use the Police Telephone Network (Eaglenet), when possible.

Public Network

When it is necessary for you to make an official non-local call through the public telephone network, use the subscriber trunk dialling (STD) facility if available. However, such calls, including international calls, are not made without first obtaining permission from your commander. Keep such calls as brief as practicable. At major police establishments, arrange international calls through the Police Assistance Line (PAL).

Supervisors

Ensure there is no excessive or unnecessary use of this network.

Nuisance telephone calls

Police generally

If you receive such a complaint, inform the complainant to contact the nearest branch of their Telecommunications Service provider e.g. Telstra/Optus. If the complaint is serious, contact the DOI, VKG Communications Centre, Sydney.

Incorrect Dialling

Ensure that you do not cause offence, particularly during late hours, by dialling incorrect telephone numbers.

Refer incorrect numbers listed on documents to the originator of that document.

Radio

Communications Commanders are responsible for the provision and operation of radio communication services which includes:

- Allocation of radio channels for operational emergencies and planned events
- Approval of allocated channels and callsigns for operational emergencies and planned events
- Approval of the mode of operation for channels such as the level of security and the requirement for a dispatcher
- Receipt and approval of "Notification of an Operation" forms

Communications Commanders are to be contacted to assist in planning of communications services for major operations and notified of local operations to assess the impact on radio communication services.

The NSWPF radio network operates under two systems - Digital and Analogue. Digital radio coverage extends generally to the greater metropolitan areas of Sydney/Penrith, Newcastle and the Central Coast and Wollongong.

Analogue radio covers the remainder of the State.

A mobile unit includes any departmental vehicle, vessel or aircraft equipped with a police

radio, and foot patrol, bicycle and mounted officers carrying portable radios.

DOI means the Duty Operations Inspector located at the VKG Communications Centre, Sydney. The DOI provides operational and management support for the police throughout the State in the maintenance of operational policing. The DOI reports to the Commander, Sydney Communications Centre.

Mobile units

Police in mobile units

When you commence your patrol and unless circumstances dictate otherwise, ensure your police radio is turned to the appropriate working channel you are performing duties in.

Patrol with the radio transceiver switched on, adjusted to an audible level and the appropriate encryption mode set.

Inform the VKG dispatcher when:

- Going off at your location and the reason why
- Calling back from your location
- Commencing a pursuit of an offender or vehicle
- Operational assistance is required
- Anything serious, unusual or newsworthy occurs

At the commencement of transmissions:

- Push the 'push to talk' (PTT) button and pause for 1 second before speaking to avoid the first word of your transmission being cut off
- Transmit messages in concise sentences of six to eight seconds duration
- Release the PTT for approximately two seconds at the end of each portion to allow a response from the VKG dispatcher, or another vehicle to call 'urgent' if necessary
- Allow one half second after pressing the transmit button before you commence your transmission
- Transmissions should be operationally relevant and as brief as possible
- Press the transmit button only when you are talking to the VKG dispatcher.

If you need to call **Urgent** on the radio, in a digital coverage area, go straight to override mode by pushing the PTT, quickly release, then press it again, commencing your transmission. This will ensure your message is transmitted, even if it is distorted, because you are overriding another car. The Communications Officer at VKG can then take control of the call to determine which vehicle is calling.

Do not broadcast the name and address of an informant unless the complaint directly concerns the person and is minor in nature.

Do not broadcast the name of an officer unless absolutely necessary AND unless the radio channel is protected by encryption.

When you are engaged in a search or assigned to a special patrol, do not disengage from the search, or alter your assigned patrol without the approval of the senior officer in charge. The latter will ensure VKG is advised of any such direction.

Immediately inform VKG when circumstances prevent you complying with a direction.

When you have a **Non - Urgent** message to transmit, simply broadcast your call sign to VKG and wait for a response: e.g., "Surry Hills 15".

Generally, if you cannot contact VKG after three calls or you do not hear other transmissions on the channel for a period no longer than 30 minutes -

- Try changing location for better reception (communications are best from high or open locations, free from buildings or trees)
- If contact cannot be made from a vehicle, vessel or aircraft radio, use a portable
- If contact cannot be made from a portable, try another portable or use a vehicle, vessel or aircraft radio
- Try to establish two-way contact with other mobiles

If contact still cannot be established, it is probable that either the equipment is defective or conditions are unsuitable for radio communications. In this case use alternative means of contact such as mobile phone or landline. Initiate radio repair/service.

When you have an **Urgent** message to transmit use the following advance warning and wait for a response from VKG: e.g., "Bankstown 15...Urgent" VKG will give you a priority response.

Generally, in an **Urgent** situation, contact with VKG is by radio, however, in the event that radio contact cannot be established use whatever means available. This may involve:

- If contact cannot be made from a vehicle, vessel or aircraft radio, use a portable
- If contact cannot be made from a portable, try another portable or use a vehicle, vessel or aircraft radio
- Change location (Communications are best from high or open locations, free from buildings or trees)
- Use other Police mobiles to relay information to and from VKG
- Use a mobile phone or landline
- Use PoliceCAD

Do not use the radio transmitter incessantly when endeavouring to contact VKG. In non-urgent situations, VKG will generally be aware of your transmission but may have other matters to deal with "behind the scenes" and will respond as soon as practicable. If after a reasonable period of time has elapsed, e.g., no longer than a minute, and if no response is forthcoming from VKG, transmit your call sign again.

You must obtain approval from your VKG Communications Centre before transmitting from mobile to mobile or mobile to portable etc.

Recording of Radio Messages

VKG Communication Centres record transmissions to and from mobiles on PoliceCAD. In the event of a police pursuit, or for system outages, transmissions are logged manually utilising a radio log book to record time and date sequence transmissions to and from mobiles.

PoliceCAD is the primary means of notifying Communications of:

- Incidents
- Resource movements
- Planned operational attendances

PoliceCAD is to be used for:

- Resource Management
- Incident Management
- Sharing incident information with an external agency
- Corporate reporting

Care and security of equipment

Take care to prevent damage to radio equipment and cables installed in mobile units. Ensure the equipment does not come in contact with corrosive material, water, sharp or heavy articles and those recovered from salt water, etc.

When police vehicles with radio equipment are parked and unattended, where possible they should be left in a secure area with the vehicle locked and portable equipment properly secured.

Lost, Stolen or Misplaced radio equipment

Police radio equipment is valuable and accountable. If lost, stolen or misplaced, report the incident to your supervisor and the DOI at VKG immediately. In Digital areas, take steps to disable the radio remotely before it falls into the wrong hands.

In any instance refer to the Standard Operating Procedures for lost, misplaced, stolen and located radios, and follow the guidelines as set in that document

Radio Repairs

Arrange servicing and repairs to radio equipment through your nearest Radio Network Services section. Such work is not to be undertaken by unqualified police or civilian personnel. Further, police or civilians must not modify or interfere with radio equipment, including aerials, speakers, microphone mountings, etc., without the prior permission of Communications Commanders.

Requirements at Stations

Ensure radio receivers are switched on and the volume is audible. If you do not hear a broadcast for approximately 30 minutes or you believe the equipment is faulty, contact VKG by telephone and arrange for tests.

Message circulation

Police generally

When you circulate a memo, that is, a description from the scene of an incident direct to the VKG dispatcher for further circulation, confirm circulation as soon as possible by the entry of event details into the Computerised Operational Policing System (COPS).

Radio Security

Commanders/Managers

Ensure that SOP's for Lost, Stolen and Misplaced Radios are strictly adhered to and that all movement of portable radios within the Command are monitored by registers that include officer sign out/in, supervisor endorsement, etc. Ensure that the portable radio register aligns to the Command's Control list of portable equipment, including descriptions and serial numbers.

Supervisors will account for portable radios at the start and finish of each shift with immediate follow up on items unaccounted for with the results endorsed on the register or Station Pad.

Portable radios must be stored in a secure area when not in use. This includes locking police vehicles when they are not in use.

All instances of lost and stolen radios will be referred to the Complaints Management Team to review the circumstances of the loss.

Vehicles fitted with police radios should not be parked outside police premises when suitable off-street police parking is available and the vehicle is not rostered for use at that time. Officers garaging vehicles at home will take all reasonable steps to ensure the security of the vehicles.

When vehicles are left at a place for repair or service:

- *Digital Radio Areas* – Ensure vehicle radios are remotely disabled by VKG when vehicles are left for repair or service. The handset should also be removed and secured if it is accessible.
- *Analogue Radio Areas* – Ensure police vehicle radios and handsets are removed and secured when vehicles are left overnight

Ensure portable radios are inspected for damage on issue and return. If damaged, have it repaired and take appropriate action.

Equipment on loan

When electronic equipment, obtained on loan from the Communications Group and signed for, is returned or handed to another officer, obtain a receipt in your notebook. Include the date, description and serial number of the article.

Ensure that all equipment on loan is returned to the correct Radio Network Services Section/Workshop, by the agreed return date.

Radio communication equipment – approval to purchase

Approval must be obtained from the Commander, Communications Group prior to the purchase of radio communications equipment, to ensure it is technically and operationally compatible with existing communications systems.

Using Police Computer Aided Dispatch (PoliceCAD)

PoliceCAD enables VKG and Commands to electronically communicate information about an incident, event or planned operational attendance. Due to the benefits in data and statistical information storage, PoliceCAD is to be used in preference to the telephone.

Preparing a Message for Transmission

Take care when entering information into each field, so the information can be accurately disseminated to mobile units. In addition to the informants details, ensure all relevant information regarding firearms, threats of violence, and warnings are entered on the PoliceCAD Incident.

An integral part of the system is the 'Audit Trail' which keeps track of the PoliceCAD Incident, from creation through to the closing. Each action is logged to PoliceCAD Incident Narrative. This enables the full sequence of information to be reproduced in hard copy for later inquiries or production at court.

Shift supervisor

At Local Area Command (LAC) you are responsible for monitoring messages allocated to mobile resources attached to your command. Carry out such monitoring at regular intervals and in line with the objectives of differential response. VKG will provide assistance to help with the timely response to requests for assistance; however, you are responsible for ensuring appropriate service delivery.

VKG Communications Centre shift supervisors are responsible for monitoring the timely dissemination of information to mobile resources and ensuring that information contained within the message conforms to the required standard.

Acquitting the incident

The Officer attending the incident must action the relevant PoliceCAD Incident in Computerised Operational Policing System (COPS) after attending the incident.

Team Leaders

Team Leaders must ensure PoliceCAD Incidents are actioned and acquit completed entries in the Computerised Operational Policing System (COPS)

Prioritising PoliceCAD Incidents

All PoliceCAD Incidents will be prioritised using the following categories:

Priority one – urgent response

- Respond immediately.
- The matter is life threatening and the actual danger still present. There is a genuine belief that any person will suffer grievous bodily harm or death.
- Note: These messages should be preceded with a “2 tone alert by the dispatcher”.
- This priority includes a SIGNAL ONE SITUATION. Note: A Signal One is preceded with a “3 tone alert” by the dispatcher
- Not to be confused with a call for urgent assistance.

Priority two – immediate response

- Respond immediately unless responding to a Priority 1.
- There is a serious threat to life or property occurring now, requiring an immediate Police response, e.g., armed robbery, violent domestic, serious assaults, persons trapped in motor vehicle etc.
- Urgent action is required to apprehend offenders.
- Note: These messages should be preceded with a “2 tone alert by the dispatcher”.

Priority three – Non urgent response

- Respond when there are no Priority 1 or 2 matters outstanding
- Incidents that Police are required to attend, that generally involve a member of the public requiring police to attend as soon as possible, e.g., break and enter, noise complaints, motor vehicle accidents, non violent domestics, animal complaints, shoplifters, etc.

Priority four – Routine response

- The incident is routine and generally does not involve a member of the public, e.g., a car crew to return to their station, pick up prisoner meals, attend court and advise ETA for tow trucks and Government Contractors, etc.

Priority five – No police response required

- Incidents that require no police attendance and not requiring broadcast via VKG, but are not recorded for file or information, e.g., a P5 accident that does not require police attendance will be recorded as a priority 5.

NB: Irrespective of access to PoliceCAD, all calls for police assistance should be prioritised.

Some calls for police assistance, because of their urgency or threat to a person's life or safety, require an immediate response. Officers are to respond to the most urgent call, provided such a decision is based on a full and objective assessment of all information available at the time.

Coded System of Driving (CSD)

The CSD uses a colour coded system to manage police driver responses to calls for service. It has been designed to provide substantial safety and operational benefits to the NSW Police Force and the broader community. It provides clear parameters for police responding to urgent duty and at the same time reinforces the requirements of the Safe Driving Policy.

The CSD comprises a colour coded response system; Code BLUE and Code RED. The framework for each Code is summarised below:

Code Blue:

- Routine response.
- All driving classifications.
- All vehicle categories (1-4).
- No warning devices used.
- Cannot escalate without contacting VKG.

Examples: break, enter and steal, shoplifting, motor vehicle accident (where no injuries), noise complaint.

Code Red:

- Urgent duty response.
- Gold and Silver driver classification.
- Category 1 and 2 vehicles.

- Category 3 and 4 vehicles in life threatening situations or in an emergency where such response is appropriate.
- Warning devices activated.
- Advise VKG and give an ETA.

Examples; armed hold up (e.g. in progress or shots fired), siege, violent domestic, MTC with persons trapped or injured.

Obligations under the Coded System of Driving:

Officers must first advise VKG of the response code and give an ETA.

- By advising VKG of the response, an officer is also informing other car crews, duty officer and supervisors of the capacity to respond. This will assist in managing the overall police response to an incident.

Officer's obligations when an incident de-escalates:

- When a situation de-escalates, or when directed by a Duty Officer, Supervisor or VKG, officers must acknowledge the reduction in code red to blue.

Traffic Stops

It is permissible for police to perform traffic stops (including Bronze drivers), or reduce the distance to an offending vehicle without informing VKG of a response code or activating warning devices.

However, police must take reasonable care and it must be reasonable that warning devices are not used. (N.B. Bronze drivers cannot breach road rules in the execution of a traffic stop).

Should the driver of the other vehicle attempt to avoid apprehension or appears to be ignoring requests to stop and a decision has been made to pursue the vehicle, then a pursuit has commenced and the Safe Driving Policy pursuit guidelines must be adhered to.

Complaints Against Police

Mandatory notifications

This document replaces Commissioners Instruction 12/01. Police are advised of the following amendment to the list of mandatory notifications that must be sent to the Internal Review Panel (IRP) / Commissioner's Advisory Panel (CAP).

Members of the IRP/CAP include:

- Assistant Commissioner, Professional Standards Command (Chair)
- Director, Management Action & Workplace Services, PSC
- Commander, Human Resources
- Region Commander, Field Operations
- Assistant Commissioner, Specialist Operations

Prior to taking any type of reviewable management action, it is mandatory that commanders notify Management Action & Workplace Services, Professional Standards Command (PSC) for advice.

The matter may then be scheduled before the IRP/CAP for consideration of appropriate reviewable action or, after consultation with the officer's commander, the Commander PSC may support the commander's recommendation to implement non-reviewable action.

A notification MUST be submitted via the chain of command, including the Region office or equivalent, to Panel Operations, Management Action & Workplace Services when:

- The Police Integrity Commission makes a recommendation for any type of reviewable management action
- An officer has been suspended, whether with or without pay
- An officer has had some form of reviewable action taken against them in the past five years (i.e. from the date of previous final order to date of sustained finding of current complaint)
- An officer has been issued with a warning notice from a Region Commander, Deputy Commissioner or the Commissioner within the past five years (i.e. from the date of previous final notice to date of sustained finding of current complaint)
- An officer has entered the criminal justice system including being charged or having received a summons, court attendance notice or any process alleging apprehended violence (whether under Commonwealth, state or territory legislation)
- A P-file investigation with sustained findings has been made in relation to the safekeeping of firearms
- A sustained finding of a breach of the Standing Direction – Commander, Education and Training Command
- A commander believes, having regard to an officer's conduct or performance following a sustained finding, there are sufficient grounds for taking reviewable action under section

173 or removal action under section 181D of the Police Act 1990. This may include but is not limited to:

- Serious corruption or misconduct
- Pattern of untruthfulness
- Improper association
- Unauthorised access, use or disclosure of confidential information
- Failed conduct or performance program
- Positive drug test
- Sexual harassment or sexual misconduct issues
- Ongoing victimisation
- The Office of the Director of Public Prosecutions has found a prima facie case in a criminal matter and exercises discretion not to prosecute, but the officer's commander considers the matter to be of a type that ought to be considered by the IRP/CAP

In the case of probationary constables, refer notifications to the Office of Professional Standards, Corporate services.

The Professional Standards Commander will make the determination as to whether a matter will proceed to the IRP/CAP or whether the recommendation of the commander to take non-reviewable action will be supported without the need to be considered by the IRP.

Despite an IRP/CAP recommendation for management action not incorporating section 181D removal, the chair of the IRP/CAP, after having regard to the individual circumstances of a matter, may refer such a matter to the Commissioner for consideration under section 181D.

If a commander or their delegated decision maker (under section 173) disagrees with IRP/CAP recommendations relating to proposed action under section 173, they are required to notify the Director, Management Action & Workplace Services in writing. The IRP/CAP will consider the matter further, having regard to the commander's reasons for deviating from the original recommendation.

Where a divergence of opinion continues between the commander and the IRP/CAP, the commander will be required to consult the local commander at assistant commissioner level, in respect to the appropriate action to be implemented.

Conduct

All NSW Police Force employees are expected to always act honestly, in accordance with the Oath of Office (police officers), the Code of Conduct and Ethics and the Statement of Values.

Conflicts of interest

- *Conflicts of Interest Policy*
- *Procedures for Managing Conflicts of Interest*
- *Declarable Associations Policy*
- *Procedures to Manage Declarable Associations – Individual responsibilities*
- *Procedures to Manage Declarable Associations – Commander’s responsibilities*

Declarable associations

- *Conflicts of Interest Policy*
- *Procedures for Managing Conflicts of Interest*
- *Declarable Associations Policy*
- *Procedures to Manage Declarable Associations – Individual responsibilities*
- *Procedures to Manage Declarable Associations – Commander’s responsibilities*

Ethical decision making

Refer to the Professional Standards Intranet site, Misconduct Prevention page for a range of Integrity Guides, Duty Risk Guides and other related information.

Gifts and benefits

Refer to the NSW Police Force *Receipt of Gifts and Benefits Policy and Guidelines*.

Management action

- Applying of hardship payments information package
- Conduct Management Plan Guidelines
- Interim Risk Management Guidelines for police
- Management Action Guidelines
- Remedial Performance Programs – Guidelines for RPPs
- Suspension of a police officer policy statement
- Suspension procedures for police officers

Off duty conduct

Refer to the Misconduct Prevention page for Integrity Guides, Duty Risk Guides and other related information on the PSC Intranet site.

Reporting misconduct

Refer to:

- Police Act 1990
- Public Interest Disclosures Act
- Code of Conduct and Ethics
- Internal Witness Support Policy
- Internal Witness Support Guidelines.

Use of (police) resources

Refer to the *Use of Resources Policy*.

Consorting

If you see someone consorting, warn them their associate has been convicted of an indictable offence. Do not, however, tell anyone that a juvenile has been convicted of an offence.

Record the following in your notebook:

- date, time and place of consorting
- name, date of birth and address of each person seen, including their driver's licence number if practical
- photo or other criminal reference
- particulars of the warning given and the response of each person
- details of any vehicle involved and any other relevant matter.

If other NSW Police Force members are with you at the time, have them certify the entry as true and correct with the date and time.

Enter details as an information report on the COPS.

Consorting notices

If you charge someone with consorting, promptly serve them with a notice setting out the dates on which it occurred and the names of the alleged associate. Get notice forms through your Region Commander.

Corrupt Conduct of Public Officials - Reporting

Reports of Suspected Corruption under the Independent Commission Against Corruption Act 1988

All NSW Police Force employees have an obligation to report suspected corrupt conduct of any person where the conduct adversely affects, or could adversely affect the honest or impartial exercise of official functions of:

- A public official;
- A group or body of public officials; or
- A public authority.

Reports must be made to the External Liaison Unit of the Professional Standards Command who will facilitate reporting to the Independent Commission Against Corruption (ICAC) by the Commissioner of Police.

Public officials have specific powers, functions and knowledge because of the positions they hold. According to the Independent Commission Against Corruption Act 1988, corrupt conduct occurs when a public official uses or attempts to use that position for personal advantage. Corrupt conduct can also occur when a member of the public influences or attempts to influence a public official to use his/her position for an improper purpose. This can occur without the public official knowing they are being corrupted.

The ICAC can only act on matters:

- Involving or affecting a NSW public official or NSW public sector authority
- Concerning conduct which amounts to the dishonest or partial exercise of public official functions, or could adversely affect the exercise of official functions
- Concerning conduct so serious that criminal charges, disciplinary action or dismissal would be likely if the complaint was substantiated.

As stated in Section 11 (2A) of the Independent Commission Against Corruption Act 1988, the NSW Police Force is not under duty to report to ICAC any matter that concerns, or may concern, corrupt conduct of a NSW Police Force police officer or administrative officer, unless it is suspected on reasonable grounds that the matter concerns, or may concern, corrupt conduct of another public official, in a position other than within the NSW Police Force. Current legislation exists for reporting the corruption, or suspected corruption, of police officers and administrative officers to the Police Integrity Commission or NSW Ombudsman.

If employees have concerns about their protection because of making a "protected disclosure" to the ICAC, they should contact the Internal Witness Support Unit within the Professional Standards Command for advice.

See also:

“Complaints Against Police” chapter in this Handbook

“Public Interest Disclosures Act 1994” chapter of this Handbook

Court Matters

Affidavits of assistance

Comply with this practice where a defendant in a criminal prosecution has helped you with your duties or has provided valuable information and you wish to advise the court before sentencing, under section 23 of the *Crimes (Sentencing Procedure) Act*.

Refer to the NSWPF Human Source Management Policy (2010) and the related Standard Operating Procedures (SOPs) for procedures for Human Sources.

OIC of case

Prepare and sign a comprehensive report, numbering each page and paragraph, setting out accurate details of the help provided, its worth and consequences, and any recognition provided by the NSW Police Force. Attach all relevant documents (court transcripts, copies of charge sheets and court results etc). Have your supervisor countersign your report.

Send your report to your local area commander or equivalent who is a line commander of superintendent or above.

If your commander provides you with a sworn *Affidavit of Assistance* attach it to your report and:

- advise the DPP or police prosecutor as appropriate
- deliver all the material in a sealed envelope to the DPP or police prosecutor seven working days before sentencing
- contact the DPP or police prosecutor three working days before sentencing to find out if any inquiries need to be made about the affidavit or your report
- be present when the affidavit is tendered to the court. Do not provide a copy of these documents to the defendant, their legal counsel or anyone else.

If your commander does not give you an affidavit, you may have the matter reviewed by your region commander or equivalent.

If you have provided a prosecution witness (refer also to 'Witness Informer Report' in this guideline) with an Affidavit of Assistance, tell the police prosecutor of its existence. If the affidavit does not contain sensitive information that would be subject to a bona fide claim of public interest immunity provide a copy to the police prosecutor. If the existence of the affidavit and/or its content may be the subject of a bona fide claim of public interest immunity, follow the 'Sensitive material' guideline herein and the 'Witness - Subpoena to produce documents' guideline in the Police Handbook. Advise the police prosecutor of the action you have taken regarding your application for public interest immunity and the outcome of the subsequent action taken by the Office of the General Counsel. Tell the police prosecutor if you have promised or offered to provide a prosecution witness with an affidavit. In appropriate circumstances, ask the police prosecutor to seek a suppression order from the court to prohibit the publication of any specific sensitive information or material.

If you have provided a Crown witness (refer also to 'Witness Informer Report' in this guideline) with an Affidavit of Assistance, disclose its existence to the DPP when completing the Disclosure Certificate. If the affidavit does not contain sensitive material (material that is the subject of a bona fide claim of public interest immunity), send a copy to the DPP with the Disclosure Certificate and list it in the Schedule. If the affidavit contains sensitive material or disclosing its existence may be the subject of a bona fide claim for public interest immunity, complete the Disclosure Certificate and submit your application for public interest immunity through your Commander to the Office of the General Counsel. Comply with any legal advice regarding disclosure to the DPP.

Also disclose to the DPP if you have promised or offered to provide a Crown witness with an Affidavit of Assistance at a later date, as it is relevant to the prosecution and the defence.

Your duty of disclosure to the prosecution (police prosecutor or DPP lawyer) regarding the existence of an affidavit is a continuing duty until the accused is found guilty, is acquitted or the prosecution is terminated. It equally applies when you are seeking advice from the DPP as to the sufficiency of evidence to prefer charges and/or whether the charges are appropriate in matters prosecuted by the DPP.

Commander

Confirm the information in the report is accurate. Examine supporting documents. If satisfied it is appropriate to provide an *Affidavit of Assistance*, having regard to the seriousness of the offence(s) and the level of assistance provided, prepare the affidavit by:

- stating you are the case officer's senior supervisor
- including a paragraph with words to the effect, "Annexed to this affidavit and marked with the letter 'A' is a report by (case officer's name), dated (date signed). I have conducted appropriate inquiries and I am satisfied the contents of the annexure(s) are true and accurate"
- marking the case officer's report with 'A', fastening it to the affidavit and signing it as the senior supervisor
- swearing and signing the affidavit before a JP who is not associated with the investigation.

File a copy of the report and affidavit. Hand the originals to the case officer. If you refuse to provide an affidavit and the case officer requests the matter be reviewed, make the necessary arrangements with your commander.

Support for court duties

Local area commander

If you have a Local Court in your command, ensure adequate and trained staff is rostered for ancillary court duties including:-

- deployment and appointment of staff with demonstrated skills as Court Process Officers including relieving arrangements when those officers are unavailable;

- deployment and appointment of an officer with the demonstrated skills and expertise to efficiently perform the duties of Brief Manager including relieving arrangements when that officer is unavailable;
- where necessary, escorting prisoners to and from court and the office the Local Court when the accused enters on bail or recognizance, and
- court security, on request by the local magistrate, where Sheriff's Officers are unavailable.

Also that:

- reasonable facilities (office, furniture, computer and other telecommunication equipment) and sufficient stores are provided to Court Process Officers, Brief Manager and police prosecutors to allow them to perform their tasks.

Court security

The Sheriff of NSW is responsible for the overall co-ordination of court security and in providing effective security services for the protection of judicial officers, court users and staff within the court including first response by Sheriff officers, if available, to all security incidents. The Sheriff will work co-operatively with all participants within the criminal justice system to deliver a safer environment in which the court can conduct its business. All participants have an obligation to alert the Sheriff, the prosecuting authority (police prosecutor/ODPP lawyers), NSW Police and the custodial services (Department of Corrective Services or Department of Juvenile Justice), as appropriate, of any potential high risk cases or disruptions within the court to minimise the risks of harm or violence, including escapes by persons in custody or attempts by any person to compromise the judicial process and security within the court complex.

OIC of the case

Alert the prosecuting authority (police prosecutor/ODPP lawyer) of any known high risk cases or persons at risk during the proceedings as well as the NSW Sheriff to ensure that appropriate security arrangements are in place to minimise that risk or any attempt to compromise the proceedings including special arrangements for prosecution witnesses. If the risk involves the transporting and escorting of an accused in custody at a correctional centre contact the Court Escort Unit, Department of Corrective Services (92895135, Fax 92895452). In the case of juveniles in custody contact the Department of Juvenile Justice.

Contact the relevant custodial service if special safeguard arrangements to and from the court as well as at court are required. For example, separate transport and escorting of the accused and a prosecution witness, both in custody and who are appear at court in the same matter. Also contact the Deputy Governor of the correctional centre where the prosecution witness is being held the day prior to the escort takes place to ensure that the relevant correctional centre is aware of the special escorting requirements for that inmate.

Police prosecutors

Refer to the Operational Security Protocol for NSW Police Prosecutors on the Law Intranet site between the Chief Magistrate of the Local Court, Commissioner of Police and the Sheriff of NSW.

Managerial responsibility regarding briefs of evidence

Local Area Commanders and equivalent within specialist commands

You have a responsibility through your Crime Manager to ensure that all briefs of evidence (summary, indictable and coronial) within your command:-

- display a high standard of professionalism to reflect the integrity of police investigations and brief preparation;
- are complete and timely within the time standards of the court;
- are handled under the quality assurance and continuous improvement process; and that appropriate:-
 - supervision and support for the management of this function is in place,
 - systems, and processes are in place to maintain these standards,
 - educative action (see Failed Prosecution Guidelines), managerial and/or disciplinary action is taken when a matter is dismissed due to non-compliance, poor performance and/or a system failure, and
 - security, storage and archiving of briefs of evidence in accordance with the Archives and Disposal Manual and Schedule.

Crime Manager

Ensure that appropriate managerial support, training and sufficient resources are provided to the Brief Manager to perform that duty and that accountable brief management systems are operating effectively as part of an ongoing audit within the Command Management Framework. (Refer to CMF on NSW Police intranet).

Notification of prosecution

Court Process Officer (CPOs)

Upon receipt of the prosecution papers on a plea of NOT guilty or as ordered by the magistrate under section 265 of the Criminal Procedure Act, when the accused first appears before the Local Court charged with an indictable offence (Table 1), notify the Officer in Charge (OIC) of the case by COPS Charge Management - Brief Disseminations, within 24 hours or immediately after a weekend or public holiday, of the following:

- mention/adjournment/hearing date and court;
- date the brief of evidence is to be served, and
- details for the service of the brief on the accused or legal representative including any arranged method of service, where applicable.

- endorse the prosecution papers of that action (Refer to Brief Management Knowledge Map on the NSW Police internet and Standing Operating Procedures (SOPs) for CPOs).

Responsibility for court proceedings

Arresting police

If you are the victim of a crime, for example 'assault police', 'resist police', 'malicious injury' or 'larceny' you should not be the investigating officer or the informant prosecutor of any subsequent court action against the alleged offender. Where ever possible, the investigation and charging process should be carried out by another officer who is independent of the events that lead to the proposed charges. You should also be mindful of the limitations imposed by section 99(3) of the Law Enforcement (Powers and Responsibilities) Act [LEPRA] relating to NOT arresting a person unless you reasonably suspect that it is necessary to achieve the specific purposes of ensuring the appearance of the person before the court in respect of the offence, or to prevent a repetition or continuation of the offence or the commission of another offence, or to prevent the concealment, loss or destruction of evidence relating to the offence, or to prevent harassment of, or interference with, a person who may be required to give evidence in proceedings in respect of the offence, or to prevent the fabrication of evidence in respect of the offence, or to preserve the safety or welfare of the person. Consider whether the commencement of court proceedings can be delayed until an independent officer is available to investigate the crime.

Only in those circumstances where an independent officer is not available, for example in smaller stations, and it is reasonably necessary to arrest and commence court proceedings immediately, should you as the victim also become the informant/prosecutor for that charge.

Whilst an informant/prosecutor is not required to believe that the accused is guilty of the offence charged, you must however, honestly and reasonably believe that, upon the available evidence there is a proper case to lay before the court. All allegations must be subject to a full and proper investigation so that you are in the best position to consider all the available and admissible evidence before proceeding to charge.

Proceedings, which you initiate, are solely your responsibility. Promptly attend to your court matters and follow through to completion. Be in court for all defended hearings unless excused.

Immediately notify the prosecuting authority (DPP lawyer or police prosecutor) handling the matter through the Brief Manager of any change in your location, unavailability dates and the reason(s) why.

Provide the prosecuting authority with full and proper instructions. Where the matter is being dealt with at the Local Court by a police prosecutor, report to the prosecutor's office one hour before the start of the court sitting.

Shift Supervisors or equivalent

Ensure supervision and guidance are given concerning police compliance with the 'Court matters' guideline and SOPs and that all police are aware of their duty to timely fulfil their obligations and commitments during the prosecution process and that they are available to give their evidence at court in a professional manner. Ensure that no police officer becomes the informant/prosecutor of any court proceedings in which they are also the victim, unless it cannot be avoided. It may be appropriate to release the offender and proceed by a Future CAN, thereby allowing time for an independent officer to fully investigate the matter and commence proceedings if appropriate.

Preparing a brief

OIC of case

Start preparing the evidence as an investigative brief during the initial stage of your investigation of a summary or indictable offence or a coronial matter and in particular strictly indictable offences.

When the court orders the service of a brief of evidence, arrange it into the original brief of evidence, known as the 'master brief' and prepare three copies.

Format of a brief for summary or indictable offence

As a general guide only, the model format order of a brief is outlined below:-

- Completed Indictable or Summary Brief Covering Sheet) containing particulars of the accused, informant details, Court Attendance Notice, Fact Sheet, court details, witnesses for the prosecution, copy of Form 1 if applicable, details of any co-offenders and court details and/or any other documents listed in the Brief Covering Sheet;
- Index of documents;
- List of exhibits and notice specifying a reasonable time and place where they may be examined, if impossible or impracticable to copy and provide with the brief;
- Statement of the police informant (OIC of the case);
- Statements of other police, if any, involved in the arrest and/or investigation;
- Statement, record of interview, ERISP (certified transcript or synopsis of the ERISP interview with the accused) or any other lawful electronic recording and certified transcript of a relevant conversation with the accused containing any inculpatory or exculpatory evidence eg, hand held tape recorder, audio and video recording of the execution of a search warrant, crime scene walk through etc. Any hand written statement made by the accused with a typed copy exactly as the written statement appears including corrections and/or spelling errors;
- Criminal/traffic history of the accused and identification if the accused is a recidivist/repeat offender including any local criminal and/or financial profile, where appropriate,
- Statement of the corroborating police officer;
- Statements of victim(s) and any other relevant witnesses **WITHOUT** personal particulars eg, address and phone numbers;

- Statements and reports from expert witnesses including Certificate of Expert Evidence, if appropriate;
- Certificate of Analysis; if appropriate;
- Any relevant documents, maps and photographs relevant to the evidence and proof of the alleged offence;
- ** DPP Disclosure Certificate and if appropriate, the Schedule (only in matters prosecuted by the DPP);
- ** List of all witnesses with private, business or official addresses, phone numbers, availability dates for court including all police six months ahead and reasons, if known, together with any special needs or requirements which may affect the giving of their evidence at court eg, confidentiality, security, interpreter or physically/intellectually impaired, etc and whether they have been given a copy of any statement made to police.

**** Denotes that this document is NOT to be supplied in the copy of the brief that is served on the accused or legal representative. This includes the Witness Informer Report (WIR) if requested by the ODPP.**

The format of the brief may be varied in complex indictable matters to prove each element of the offence. Note that the ODPP will reassemble the brief with all statements in chronological order of events usually starting with the victim and as the evidence is led at trial.

Other comprehensive brief preparation aids available on the Police intranet under the Brief Improvement Project on the Law intranet site including the Brief of Evidence Checklist on the Brief Management Knowledge Map for summary, indictable and coronial briefs. As outlined in the checklist, additional material is required by the DPP eg, custody management records, co-offender details, bail information and conditions etc. Model briefs of evidence, Brief Management SOPs and relevant Law Notes may also be found on the Law intranet site.

Briefs of evidence for Commonwealth offences prosecuted by the Commonwealth DPP

Separate guidelines for the preparation of briefs of evidence for Commonwealth offences prosecuted by the Commonwealth DPP including the Prosecution Policy of the Commonwealth DPP and completion of a different Disclosure Certificate are on the Law intranet site under Law News and Law Notes for investigators and under the heading "Commonwealth Offence".

Also refer to Law Notes 03/24 concerning statements from witnesses and the accused in their own language when an interpreter is used and an English translation annexed to it in the brief of evidence.

Confidentiality of witness particulars

OIC of case

Personal particulars of witnesses (victims and witnesses) are confidential. DO NOT include the private, business or official address or phone number (residential or work) of a witness/victim

on any statement in the brief that is served on the accused or legal representative unless it is materially relevant evidence, or a justice order that it be disclosed.

Only release these particulars to the ODPP, a member of NSW Police who has a legitimate police purpose or at the direction of your LAC or a court. With the exception of the ODPP, the court or for a lawful police purpose, consider whether consent from that witness is required for any other purpose having regard to the Privacy and Personal Protection Information Act 1998.

Refer to the '[Witness Informer Report](#)' in the Court matters guideline regarding the giving of evidence by a 'witness informer' including a registered Human source or any other witness concerning best practice to protect their identity eg, use of pseudonyms by witnesses during proceedings and applications for orders by the court to suppress the publication of their identity in appropriate circumstances. NSWPF will maintain confidentiality regarding the identity of a Human Source unless lawfully directed otherwise. The unauthorised release of confidential information about a Human Source's identity could potentially jeopardise the safety of the Human Source. All enquiries regarding the release of SOURCE related information must be directed to the Source Management Unit. (Refer the [NSWPF Human Source Management Policy \(2010\)](#) and the related [Standard Operating Procedures \(SOPs\)](#)).

Order by the court to suppress or prohibit the publication of proceedings

It is your responsibility to instruct the prosecuting authority (police prosecutor or ODPP lawyer) to apply for an order by the court to suppress or prohibit the publication of such proceedings before they are heard.

Police prosecutor

Where an order is made by the court, ask the presiding magistrate to arrange for a Sheriff's officer or officer of the court to sign post the entrance to the court during that part of the proceedings, which are subject of the suppression order to ensure persons and in particular the media who enter during those proceedings, are aware of that order. If those proceedings are part heard, endorse your papers and on the next hearing date, seek a continuation of that suppression order from the magistrate. Seek similar sign posting when proceedings are conducted in closed court.

Access to briefs of evidence and Facts Sheets by the media

Section 4.2.5 of the Media Policy deals with the release of briefs of evidence and fact sheets to the media. Fact sheets are supplied to defendants and when tendered to the court, they can be accessed by the media. You must, therefore, be careful that they do not contain victim and witness details such as dates of birth, addresses, phone numbers, email addresses or other identifying particulars, confidential information about police methodology or an ongoing investigation, or any other information that would be subject to a claim of public interest immunity. If there is other information relevant to bail that is not appropriate to record in a fact sheet, you should consult with the prosecutor as to whether that information can be used.

Election of matters to be prosecuted by the DPP

OIC of case

For Table 1 and Table 2 offences (indictable offences dealt with summarily unless an election is made by the DPP or in a Table 1 offence by the defendant), consider and make your recommendation on the facts you provide to the police prosecutor where the matter is to be heard, if the case should be dealt with as an indictable matter in the District Court. Generally consider on the merits of each matter, the following features with relevant documentation to support your view in each individual:

- (1) The accused person's criminality and seriousness of the offence could not be adequately addressed within the sentencing limits available in a summary hearing of the Local Court;
- (2) Criminal antecedents of the accused;
- (3) For some other reason, consistent with the DPP Prosecution Guidelines, it is not in the interests of justice that the matter not be dealt with summarily eg, a co-offender is to be dealt with on indictment; the accused is also charged with a strictly indictable offence arising from the same criminal enterprise, though not where the Table offence is only a backup or there are specific aspects of the particular case justifying an election.

For Table 1 and Table 2 offences under the Firearms Act 1996 and the Weapons Prohibition Act 1998 and Table 2 offences in the Crimes Act 1900, consider the following additional features to support your view on the facts provided to the police prosecutor where the matter is to be heard:

- (1) Previous convictions of the accused for firearms and/or weapon offences;
- (2) Evidence of intent to use the firearm in the commission of a crime;
- (3) Circumstances of the possession eg, did the offence occur in a public place;
- (4) Number and type of firearm(s) in the possession of the accused;
- (5) Whether the accused was the subject of a restraining order at the time of the alleged offence;
- (6) Any previous convictions of the accused for offences of violence, and/or
- (7) Any other relevant prior convictions.

For Table 1 and Table 2 arson offences under the Crimes Act 1900 and the Rural Fires Act 1997, respectively, consider the following features in each case to support your view on the facts provided using ERIC to the police prosecutor where the matter is to be heard:-

s.203E of the Crimes Act.

- (1) Evidence of intent to cause the spread of the fire, and

(2) Criminality of the accused cannot be adequately addressed within the sentencing limits available on summary hearing.

s.100(1) of the Rural Fires Act.

(1) Evidence of lawful authority having been sought but denied or having been explicitly revoked.

For either offence under the Crimes Act and the Rural Fires Act consider the following features:-

(1) Previous convictions by the accused for relevant offences, especially any involving fires;

(2) Any aggravating circumstances surrounding the commission of the offence, including adverse weather conditions or any relevant total fire ban or official fire weather warning;

(3) Evidence of intention to cause the spread of the fire towards particular property, land or vegetation, taking into account prevailing weather and wind conditions;

(4) Occasioning any of the following:-

(a) injury to or death of persons;

(b) damage to stock or property, including commercial forests and other vegetation or land of significant commercial, ecological or other value;

(c) significant levels of death or injury to wildlife or significant damage to wildlife habitats;

(d) deployment of significant amounts of fire fighting resources, and

(e) significant risk that any of the matters referred to in (4) might occur, taking into account prevailing weather conditions.

(Refer to 'Resources' on the Law intranet site concerning Schedule 1 of the Criminal Procedure Act that lists all Table 1 and Table 2 offences)

Police prosecutor

Assess the facts and features of each case and if appropriate, recommend an election to the ODPP using the Electronic Referral of Indictable Charges (ERIC) Election Notification in the Charge Management System in COPS. The ultimate decision rests with the ODPP. If not supported, consult with the OIC of the case and if no further supporting information is available, proceed with the matter summarily. You may resubmit a matter to the ODPP using the ERIC Election Notification in the COPS Charge Management System if there are any additional facts and features that have not been considered previously. (Refer to the ERIC guide to police prosecutors on the Police intranet).

Check all briefs and send them (completed or not) to the relevant prosecuting authority.

Strictly Indictable matters

On charging a person with a strictly indictable offence, COPS will electronically notify the DPP and provide details of the charge(s), facts sheet, antecedents of the accused, custody management summary and bail forms. (Refer to ERIC Phase 1 - Electronic Notifications in COPS).

OIC of the case

Immediately commence to arrange your investigative brief into a brief of evidence and commence to gather all other proofs of evidence to complete the brief. Refer to the Book of Proofs on the Law intranet site. Don't leave it until close to the deadline to serve the brief to gather this evidence. You must immediately arrange to obtain all of the evidence especially transcripts of conversations recorded electronically, Certificates of Analysis or any other relevant statements that may take some time to prepare.

Upon charging the accused, the COPS Charge Management System will automatically notify you that it is a strictly indictable offence and a brief of evidence is required.

Without exception and prior to service of the brief on the accused or the accused's lawyer, send the master brief and three copies through your supervisor to the Brief Manager Retain a copy if your investigations are still ongoing. Do this **at least five (5) days prior to the due date of service of the brief or preferably sooner**, to facilitate delivery of the brief to the prosecuting authority (police prosecutor or ODPP lawyer) and service of the brief by the due date.

If for any reason you cannot submit the brief within that time frame, send a memo to the shared mailbox of your Brief Manager or report advising why there will be a delay and when the brief will be complete and available for review and service.

Time limits and restrictions regarding indictments

Police generally

The DPP must present an indictment within four weeks after the committal for trial in all matters in the District and Supreme Courts, and not just complex criminal trials.

This time frame may only be extended by the regulations and rules of the relevant court or by order of the court. However, an indictment may not be amended by the DPP after it has been presented except with the leave of the court or the consent of the accused.

The time frame requirements on the DPP subsequently impact on police during the investigative and evidentiary gathering stages, preparation and transmission of the brief to the ODPP and prompt response to all ODPP requisitions. Failure to comply could result in the exclusion of vital evidence, failed prosecution and even managerial action through the LAC Complaints Management Team.

Brief Managers and Supervisors

Monitor all ODPP requisitions and ensure they are actioned within the required timeframes. The Brief Manager is the NSW Police conduit for all ODPP requisitions within each command

and must ensure that they are complied with eg, allocating ODPP requisitions to an assisting police officer in the matter when the OIC of the case is unavailable etc.

Timing the commencement of summary and indictable proceedings

OIC of case

Consider gathering all available evidence and completing all other relevant investigations prior to interviewing the accused concerning a summary or indictable offence and then determine whether proceedings should be commenced. This may help in compiling the brief, the preferment of the appropriate charge(s) and in indictable matters, assist the DPP in the laying of the indictment(s) within the strict time frames imposed by the court. However, you will need to consider this tactic in the public interest where the alleged offender is a potential risk to the community eg, might commit further offences and in particular acts of violence, interfere with potential witnesses, take steps to conceal or destroy evidence, fabricate false evidence or there are concerns that the alleged accused may flee from future prosecution or be of danger to themselves. In such matters where sufficient evidence exists, the accused should be charged without delay and put before the court, subject to whatever bail is appropriate. (Refer to Law Notes 02/40).

Partially completed master brief

OIC of the case

If you are encountering a delay in obtaining a statement, an analyst certificate or any other evidentiary material to complete the full brief of evidence and the delay may affect the service of that brief on or before the service date ordered by the court, prepare a partially completed master brief, three copies, together with your report outlining the delay and anticipated completion date and send them to the Brief Manager. Immediately send the remaining evidentiary material when available to the Brief Manager.

Promptly attend to any deficiencies in the brief of evidence that are identified by the Brief Manager or police prosecutor as well as any ODPP requisitions by the due date. (Refer to Law Notes 03/22 - DPP Requisitions).

Collect the master brief from the Brief Manager when it is required for court and monitor all your court matters through until they are concluded. Return the master brief and any copies after all proceedings are finalised, including matters that are adjourned or part heard for any long period to the Brief Manager for filing. Do so after informing the victim of all court results and action the 'investigation case' in COPS with the court outcome and change the status of the case eg, 'finalised'. You may after these proceedings, personally secure a brief and relevant documents (**copies only**) that were acquired during the investigation for future reference. However, you must surrender, without exception, all of these copies when no longer required to the Brief Manager and before your last day of service when leaving NSW Police.

Police prosecutors

If you have made notes on your brief return the annotated brief to the Brief Manager for archiving after the proceedings are finalised. Refer to SOPs on the Law intranet site.

Brief management systems

Brief Manager

Maintain systems that ensure-

- **ALL** matters (summary, indictable and coronial) for which a brief of evidence is required are identified including a separate system for 'not guilty' infringement notices and AVO briefs that do not have a charge number or event number;
- the master brief or partially completed master brief and three (3) copies are sent to you to conduct a quality review and allowing adequate time to comply with the brief service requirements;
- the OIC of the case is aware of the brief service obligations and that follow-up action is promptly taken regarding outstanding briefs and requisitions;
- the security, restricted access and recorded movement of the master briefs in 'brief monitoring (BRFMON)' in 'comments' on the COPS Charge Management System and copies; and
- the archiving, culling of all master briefs and copies (including all relevant electronic recordings of police interviews and conversations and any relevant notes made by the police prosecutor on the brief or other document) and transfer of them to the Corporate Archives Records Repository for secondary storage, pending final archiving or disposal in accordance with the approved Police Investigation Case Files Disposal Authority.

Act as the liaison officer between the OIC of the case and the prosecuting authority (police prosecutor or ODPP lawyer). Liaise between the OIC of the case and the Coroners Support Section. Also refer to your responsibilities in the Guide to ERIC (Electronic Referral of Indictable Charges) Phase II regarding ODPP requisitions and the Brief Management Knowledge Map on the Law intranet site.

Quality review

Brief Manager

On receipt of the master brief and copies, conduct a 'quality review' to ensure the brief: -

- contains sufficient admissible evidence to prove each element of the offence and addresses every critical evidentiary issue,
- capsulates the evidence in an admissible form,
- is complete, complies with the disclosure requirements and the appropriate charge(s)/proceedings were preferred.
- has been prepared for service in accordance with legislative and procedural requirements, and

- discloses that the investigation was conducted ethically and there are no integrity issues. (If not, you must bring the matter to the immediate notice of your commander).

NB: Refer to the Brief Quality Assurance - Best Practice Lesson Note -10 Step Model Process in the Brief Management Knowledge Map on the Law intranet site.

Use the 'Brief Monitoring (BRFMON)' in comments on COPS charge case. If satisfied the brief meets all of the above, endorse the front page of the master brief and copies (except the copy to the accused) with the words, "QUALITY ASSURED", sign and date. Notify the OIC of the case that the brief is ready for service on the accused and in summary prosecutions, file the master brief preferably in a security (lockable) cabinet or if these cabinets are unavailable, in a secured storage area and send two copies to the police prosecutor and the remaining copy to the OIC of the case for service on the accused or legal representative.

In all matters to be prosecuted by the DPP, file the master brief in a similar manner and send two copies to the ODPP and the remaining copy to the OIC of the case for service on the accused or legal representative.

Consider if a partially completed master brief of evidence reasonably meets most of the quality review requirements and standards as outlined above for processing except for the missing evidentiary material. Ensure the prosecuting authority (police prosecutor or DPP) is given advice from the OIC of the case, identifying the evidentiary material that is yet to be obtained, the reason(s) why and an indication as to when it should be available. Process the partially completed master brief and copies and later the remaining evidentiary material and copies when provided to you by the OIC of the case in the same manner as a full brief of evidence.

If not satisfied with the quality standards and requirements of the master brief or partially completed brief, advise the OIC of the case using the "BRIEFMON" system in COPS of the deficiency(s) and request that it be addressed without delay. Tell the prosecuting authority (police prosecutor or ODPP lawyer) of your actions. If you require legal advice or guidance on a complex matter, follow the "Legal advice" guideline in the Police Handbook without delay having regard to the due date of service of the brief.

Do not delay sending the brief or partially completed brief of evidence to the prosecuting authority (police prosecutor or ODPP) and service of the brief on the accused or legal representative by the due date, in order to thoroughly complete your quality review.

Consult with the NSW Police Archivist, as required, regarding corporate storage issues associated with the archiving and disposal of briefs in accordance with the approved Police Investigation Case Files Disposal Schedule and the approved Archives & Disposal Manual.

Access to secured briefs

Brief Manager

Exercise control regarding the security and access to all master briefs, copies and all relevant documents that have been archived preferably in lockable security cabinets or in a secured storage area. Access to these documents is restricted to:-

- The OIC of the case or any police officer involved in the matter for production of the master brief, as ordered by the court, or the for purpose of photocopying the brief or statements in compliance with a subpoena or claim by the victim to the Victims Compensation Tribunal etc.
- The LAC, Crime Manager, Investigations Coordinator or any other officer as authorised by the Commander.

Record all movements of the master brief in `Brief Monitoring (BRFMON)' on COPS when it leaves your control.

Service of the brief of evidence in summary and indictable matters

Police prosecutor

When the magistrate orders that the brief of evidence be served on the accused after entering a plea of `not guilty' or as ordered by the magistrate under section 265 of the Criminal Procedure Act when the accused first appears before the Local Court charged with an indictable offence (Table 1); seek to have the matter adjourned to allow sufficient time for the OIC of the case to prepare and serve the brief. If you are made aware of any unavailable dates by the OIC of the case or any key prosecution witness, negotiate a convenient time frame to all parties for service of the brief. Seek a preferred mention date for the accused to confirm the plea and hearing. You may negotiate for the service of brief on the nominated legal representative for the accused.

Endorse your papers with details of the service requirements by the due date, court date for mention or hearing, name and contact particulars of the legal representative for the accused (phone and fax numbers and/or e-mail address) and any change of address of the accused. Promptly provide this information to the CPO for the purpose of notifying the Brief Manager and the OIC of the case in the brief disseminations on the COPS Charge Management System.

OIC of the case

You are responsible for serving the copy of the brief of evidence on the accused or the legal representative on behalf of the accused under the Local Court Rules (Criminal and Applications Procedure) Act, regardless of any local arrangements, and you will be held accountable. DO NOT serve the brief on the defence, until you are authorised by the Brief Manager. If for any reason, you are unable to obtain that authorisation, consult with the

police prosecutor in summary prosecutions and in all other cases your immediate supervisor for appropriate guidance and direction.

Strictly comply with the timetable for the service of briefs, as outlined in this guideline, in every matter. Failure to comply, unless the court is satisfied that you made all reasonable efforts to serve the brief, may result in the prosecution case being dismissed and costs may be awarded against you or the Crown by the court.

Where a **plea of NOT guilty is entered in summary offences including proceedings for indictable offences that are being dealt with summarily**, you must serve the brief on the accused or his/her legal representative by the date as ordered by the Local Court. That date shall be not less than 3 weeks from the date of making the service order, unless otherwise considered by the court under section 265 of the Criminal Procedure Act 1986. Be aware of Local Court Practice Note 8 issued by the Chief Magistrate of the Local Court on 13 August, 2003, regarding service of briefs in summary matters which is on the Law intranet site.

In all strictly indictable or Table 1 offences the Local Court after the first appearance of the accused, will adjourn the matter for not less 8 weeks, allowing 6 weeks for service of the brief of evidence and 2 weeks for reply by the mention date and the hearing of contested matters under section 91 of the Criminal Procedure Act. Where service of the brief involves DNA testing, drug analysis, ERISP, telephone intercepts or listing device transcriptions directions will be given by the magistrate on the first appearance of the accused and particular where the defendant is in custody to avoid delays regarding service of the brief. Be aware of Local Court Practice Note No. 9 issued by the Chief Magistrate of the Local Court on 13 August, 2003, regarding procedures and best practice for committal hearings and the expeditious completion of these hearings and referral to the District or Supreme Courts. Practice Note No 9 is also on the Law intranet site.

Ensure the brief (full or part and unsigned copy by the Brief Manager) in summary or indictable matters is served in accordance with the Local Courts (Criminal and Applications Procedure) Rule 2003 and the relevant Local Court Practice Note by:-

- Handing it to the accused or sending it by Australia post or facsimile to the accused person's residential address, or
- Sending it by electronic communication to the accused person's email address, or
- Handing it to the OIC of a correctional centre if the accused is an inmate of that centre or by sending it by Australia post, facsimile or other electronic communication to the OIC of that centre, or
- With consent of the relevant legal practitioner, by leaving it at the relevant legal practitioner's address for service or sending it by Australia post, facsimile, or e-mail to that legal practitioner.

If, on tender of the brief to a person and that person refuses to accept the brief, it may be served by putting it down in the person's presence after the person has been told of the nature of the document.

Take all reasonable steps to serve the brief and complete the 'WORKOFF' action on COPS to acquit service of the brief. If hand delivered obtain a receipt in your notebook and use the Summary Brief of Evidence Notice on the Police intranet as a receipt of service. Keep any receipt, fax or e-mail confirming service of the brief by post or electronic transmission.

In addition the OIC in the 'Brief Service' action in COPS must complete the 'Status' field which has three options;

1. Complete (The brief has been served)
2. Cancel (Unable to serve brief)
3. Incomplete (Default status of the brief until the informant serves the brief);

and the 'Date Completed' field with the actual date the brief was served. In the absence of the police informant this information can be completed by the brief manager [See 'COPS Tips and Tricks Newsletter March 2003']. Include a printed copy of these brief service details and any brief service receipt information in the prosecutors papers.

In the case of serving a partially completed brief, advise the prosecutor, the accused or the legal representative on behalf of the accused of the evidentiary material that is yet to be obtained, the reason(s) for the delay and an indication as to when it will be available.

The ODPP would prefer that the brief (full or partial) be sent to that office 14 days before service on the accused or legal representative. However, this may not always be possible regarding service of the brief on the accused or legal representative by the due date as ordered by the court.

Service of briefs to children and young people

When an order for a Brief of Evidence is made in court and the defendant is represented by a qualified practicing solicitor, you are to serve the Brief of Evidence on the defendant's legal representative in the first instance. This is particularly important in relation to juvenile defendants. Service of the Brief of Evidence directly on the juvenile defendant is to be avoided where the juvenile defendant is legally represented.

The details of the qualified legal practitioner should be captured by the prosecutor in court and relayed to the Court Process Officer. When the order for the Brief of Evidence is entered into WebCOPS, the solicitor's details should be contained within. If not, or in doubt, check with your local prosecutor and confirm that the defendant (adult or juvenile) is legally represented and the solicitor's details.

This direction does not override your legal obligation to serve a Brief of Evidence within the time frames ordered by the court. If you are unable to serve the Brief of Evidence on the defendant's legal representative within the ordered time frames, then the Brief of Evidence is to be served on the defendant to comply with the court's orders.

Non-service of brief

OIC of the case

If for any reason, you are unable to serve the brief or partially completed brief upon the accused within the prescribed time, immediately notify the Brief Manager, and the prosecuting authority (police prosecutor or ODPP lawyer) of the difficulties and keep them informed of your efforts to effect service. Record all `reasonable' efforts to serve the brief in your notebook (methods, dates, times, place, persons spoken to and keep any electronic transmissions) to justify your obligation. Use TRIM or log the job on Case Management to account for movements of the brief. Complete the `WORKOFF' action on COPS to acquit non-service of the brief. Your failure by not making all reasonable attempts could result in the matter being dismissed, costs awarded against you and possible managerial action for non-compliance.

Brief Manager

Immediately bring to the notice of the LAC where the OIC of the case is attached, if the service of the brief cannot be confirmed to ascertain the status and to ensure that all reasonable efforts have been made by the OIC of the case to serve the brief before the due date.

Police prosecutor

Make appropriate applications to the Local Court for orders under s.187 of the Criminal Procedure Act when the brief has not been reasonably served on the accused. Refer to SOPs on the Law intranet site.

Time standards in Local Court in summary matters

Generally, the following time standards in pleas of not guilty may be used as a guide, unless varied by a magistrate in a matter:-

- Arrest to first appearance - 21 days.
- An adjournment will be allowed for a decision on plea - up to 21 days (total 42 days).
- Plea entered and hearing date set - up to 63 days (total 105 days) - brief to be served not less than 14 days before hearing date and not less than 21 days if the brief includes a "Notice to Tender a Certificate" concerning expert evidence.

To reduce the loss of court sitting times occasioned by pleas of guilty being entered by the accused on the date of hearing of a defended matter and the impact the lateness of such please might have on the application of section 22 of the Crimes (Sentencing Procedure) Act 1999, Local Court Practice Note No 8 was issued by the Chief Magistrate of the Local Court to address these concerns.

Police prosecutor

If a magistrate orders the service of a brief of evidence and the accused or legal representative has not entered a plea of `not guilty' contrary to Local Court Practice Note No

8, excluding matters under section 265 of the Criminal Procedure Act, promptly bring the matter to the notice of the Commander, Police Prosecutions Command, through the relevant Metropolitan or Country Manager, Court Unit.

Time standards in the District Court in indictable matters

The Chief Judge of the District Court issued Practice Note No 54 relating to time standards for criminal prosecutions in the District Court. It has been implemented in the metropolitan area and progressively in the country area. Trials will be listed for hearing 3 months (112 days) from the committal date in the Local Court. To facilitate the trial dates, the Local Court will adjourn the matter for mention on the Friday of the second week after committal for sentence, when a sentence date will be set. The District Court Registry will list 'all grounds' (not guilty) appeals and sentence appeals in accordance with the same time standards.

OIC of the case

You or another police officer involved in the matter should attend the committal hearing in order to instruct the ODPP advocate on matters such as requisitions, outstanding evidence (when available), case disposition and that the ODPP advocate is fully aware of these issues.

These time standards are outlined below:-

Committal for trial - 3 months - Trial

All ground (not guilty) appeals - 3 months - Trial

Committal for Sentence - 60 days - Sentence

Sentence appeals - 60 days - Sentence

Be aware that the date given to the District Court matter is the date for the hearing of the matter and not a date for mention.

If you are unavailable on any specific dates within the above time standard for the listing of the trial, immediately notify the ODPP of the unavailable dates and reason(s) in order that an application can be made by the ODPP to the District Court not to fix the matter for hearing on those dates or to vacate any such listing.

Defendant's statement

If the defendant's statement is in their own handwriting, type it word for word, using the exact spelling and punctuation. Include the handwritten statement and one typed copy in the brief containing the original statements. Include a second copy in the duplicate brief.

Preparing police statements

The preparation of statements is assisted greatly by accurate, objective records made in your police notebook.

You should make your own detailed notes at the time of, or shortly after an incident. The sooner this occurs the more accurate the notes are likely to be, because the event is fresh in your memory.

You are permitted to adopt another officer's notebook entry while the matter is still fresh in your memory. But remember that if you adopt the notes of another officer, you make those notes on your own.

You must never adopt a notebook entry that you do not witness yourself and that does not accurately accord with your own memory.

For example, if you did not hear an entire conversation between the other officer and a suspect, clearly indicate in the margin which parts of the conversation you are adopting. You should make an entry in your own notebook if you disagree with what the other officer has recorded, or there are further details which you remember.

If you had no memory of something, but during discussions with another officer you recollect something you had forgotten, you should record the details in your own notebook and disclose that you remembered the details following a conversation with the other officer.

When you are asked to prepare a statement for court, the information contained in your statement is expected to be your own independent account of the evidence you can give. The expectation that a police officer's statement is their own account of the events is no different to the expectation of statements obtained from any witness. You may encounter significant difficulties in court if you have accessed your partner's statement before writing your own. It may be suggested that you have no independent recollection of events and are only repeating your partner's statement. The weight given to your evidence will be minimal if the court accepts that you are simply repeating someone else's evidence.

You should prepare your statement from your own notes or from the notes you adopted in another officer's notebook.

In the unfortunate situation where you did not make notes, or your notes are limited, resulting in you having little or no memory of the matter, it is appropriate to discuss the matter with the other officers to refresh your memory. You can then record what you personally recall, but you must disclose that you recalled the details following discussions with other officers and that refreshed your memory. You must not include a fact in your statement if you do not independently recollect it.

Hearsay in statements

Hearsay is a complex and frequently misunderstood area of the law. In very simple terms, hearsay is evidence of a fact which a witness did not personally see, hear or otherwise perceive. For example, if you see 'A' punch 'B', you may give evidence that you saw 'A' punch 'B'. However, if someone tells you that they saw 'A' punch 'B', you cannot give evidence to prove that 'A' punched 'B' because you did not see it. You can only give evidence to prove that a person told you that 'A' punched 'B'.

There are many exceptions to the rule which excludes hearsay, most of which are explained in "Procedures for the Evidence Act" on the Law intranet site. You should refer to this and if still in doubt, consult a police prosecutor before you decide to exclude material from a statement because it may be hearsay. Failure to include relevant conversation that is wrongly

thought to be hearsay can lead to the loss of important evidence. However, you should not include material that is clearly inadmissible in your statement or in preparing a statement from a witness. You should consider each component carefully and only include that evidence which is likely to fall within one of the exceptions to the hearsay rule.

If in doubt, it is better to include evidence that may be hearsay so that the prosecutor (police prosecutor or DPP lawyer) or the court has the opportunity to consider the admissibility of that evidence. It could be admitted under one of the exceptions to the hearsay rule, but if the evidence is not included in your statement and is not contained in any other statement from a witness, there is no chance of it being considered by the prosecuting authority and the court.

Do not put material you think may be hearsay in brackets. It looks unprofessional and can create confusion. Simply put all of the evidence which you consider to be admissible in your statement. If appropriate, you may highlight or otherwise mark the copies of the brief for the prosecutor (police or DPP) with a short covering report, to assist the prosecutor in identifying the material that you think might be hearsay. **Do NOT make any markings on the master brief, on the copy for the defence or one of two copies to the prosecuting authority (police or DPP) which is to be tendered in court.**

Refer to the April 1996 edition of the Policing Issues & Practice Journal concerning "Hearsay and Opinion Evidence" and the Procedures for the Evidence Act on the Law intranet site.

Reading police statements in court

In criminal proceedings against a person for a summary or indictable offence, the magistrate may give you permission to read or be led through a written statement which you made previously, provided:

- you made the statement at the time of, or soon after, the event
- you signed the statement at the time you made it
- a copy of the statements has been given to the person charged, or their legal representative, within a reasonable time not less than seven days before the hearing.

If you are allowed to read your statement in the District or Supreme Court, provide a copy to the court reporter.

Be in a position, however, to give your evidence without the use of your statements, notwithstanding the above.

Certificate of Expert Statement

S.177 of the Evidence Act provides for the use of these certificates to avoid, where possible, the unnecessary attendance of expert witnesses at court where their evidence is not contested by the defence. The OIC of the case, should assist the expert in preparing the certificate in the required format. The Certificate and a notice that it is to be tendered in evidence must be served by police on the accused or legal representative at least 21 days before the court hearing.

If however, the defence serves written notice that the expert is required to give evidence at that hearing, the prepared certificate is then inadmissible as evidence and the expert is required to attend court.. If the expert witness is reluctant to attend there may be no alternative other than to subpoena the expert and any relevant documentary evidence. If in the opinion of the court the expert was called by the defence without reasonable cause, the court may make an order for costs to be awarded against the accused.

There is no legal obligation upon an expert to provide the certificate and generally, NSW Police does not pay for the preparation of the certificate as it is in the interest of the expert to provide it and possibly avoid attending court. However, there may be an occasion where an expert witness declines to provide a Certificate of Expert Statement or statement, without being paid for that service, and the evidence is crucial to the investigation as to whether any charge should or should not be preferred and/or whether the charge is appropriate. In such circumstances and if no other expert witness is available to provide that evidence, it may be necessary to negotiate a reasonable fee for that service. The fee is a charge against investigative expenses, subject to prior approval by an officer who is authorised to incur that expenditure. Refer also to the "Evidence from Experts" in the Procedures for the Evidence Act on the Law intranet site or the April, 1999 Edition of the Policing Issues & Practice Journal.

Special service requirements apply to Certificates of Expert Statements, hearsay, tendency and coincidence, affidavit evidence etc. You may be required to serve the evidence, in some cases, at least 28 days prior to the hearing. Consult your Brief Manager for advice. Refer to the 'Evidence from Experts' in the Procedures for the Evidence Act on the Police intranet and Tendency & Coincidence Evidence Lecture Note and Law Notes 02/34 to investigators on Law intranet site.

Expert witness report or Certificate of Expert Evidence in District and Supreme Court prosecutions

If you propose to obtain a report or a Certificate of Expert Evidence from an expert in a particular field of expertise which states his/her opinion, give that person a copy of the Expert Witness Code of Conduct in Schedule 7 of the NSW Uniform Civil Procedure Rule 2006 to read and retain. A copy of the Code may be down loaded from the Law intranet site under Procedures for the Evidence Act and under the heading "Evidence from experts" as Annexure C.

If the expert agrees to be bound by the Code, the report or Certificate of Expert Evidence must contain the following acknowledgment:

I acknowledge that I:

- (i) have read the Expert Witness Code of Conduct in Schedule 7 of the NSW Uniform Procedure Rules 2005, and
- (ii) agree to be bound by the Code.

Failure to include this acknowledgment in expert reports or Certificates of Expert Statement in matters heard by the District or Supreme Court may result in the report or certificate being

ruled inadmissible and the court refusing to receive oral opinion evidence from the proposed expert witness.

There is no legislative requirement regarding the Code in similar reports and Certificate of Expert Statements in summary matters finalised in the Local Court. However, all expert witnesses have a general overriding duty to assist the court impartially on matters relevant to the expert's area of expertise, as set out in the Expert Witness Code of Conduct.

The matter of any fee or charge for a report from an expert is the same as outlined above regarding a Certificate of Expert Statement or statement from an expert witness.

Victim Impact Statements

In appropriate matters pursuant to the Crimes (Sentencing Procedure) Act 1999 and Regulation, refer the victim or family member/representative to the Victims of Crime Bureau, if assistance is required in the preparation of the statement. Do not assist in the actual preparation of the statement. Refer to the NSW Police Victims Support Policy and Procedures on the Police intranet, Law Notes 1/2003 and New Law 25 on the Law intranet site concerning assisting victims of crime and the various services available to them. Be aware of the Charter of Victims Rights in the Victims Rights Act 1996.

Coronial briefs

File at the Coroner's office.

First Instance Warrants

File the original at the court.

Advice and information which police should not offer

Police generally

Do not advise or suggest how a person should plead.

Do not recommend the services of any particular legal representatives.

Do not predict a court's determination to an offender.

Calling witnesses

Officer in charge of case

Arrange for all witnesses to give evidence in hearings at a Local Court unless otherwise instructed by the prosecuting authority or in accordance with the *Justices Legislation Repeal and Amendment Act 2001*.

Keep a record of notifications. If witnesses are reluctant or unwilling to go to court, get a suitable process eg: subpoena, summons or warrant. However, seek advice from the prosecuting authority before acting. Ensure timely warning

Give timely warning to police and civilian witnesses to attend court hearings.

If you are going on leave or will be absent from your duties and you have court matters which require attention, inform your commander so matters can be dealt with.

See also the section on '[Witnesses](#)' and the Brief Preparation Guide.

Disclosing relevant material

OIC of the case

You have a duty to tell the police prosecutor or DPP about any relevant information, documents or other things obtained during an investigation, or which come into your possession, that are not contained in the brief of evidence and that might reasonably be expected to assist the case for the prosecution or the case for the accused ('relevant material').

The duty applies whenever you send a brief of evidence to the DPP for prosecution or advice, whether the matter is summary or indictable.

Your duty of disclosure continues until the DPP decides not to prosecute, the accused is found guilty or is acquitted, or the prosecution is terminated.

Indictable matters

You must complete a P516 disclosure certificate. There are two parts to the disclosure certificate. The first part requires you to acknowledge your duty of disclosure, certify the accuracy of what you are disclosing, and undertake to disclose any additional relevant material you become aware of.

The second part of the form contains 3 Schedules. In the Schedules you are required to list any relevant material not included in the brief of evidence and describe what the material actually is.

If the material is subject to a claim of privilege or immunity, you must also identify the nature of the privilege or immunity. Be aware that special rules and procedures apply to documents and material that are subject to a claim of privilege or immunity.

The following are examples of things that may be subject to a claim of privilege or immunity:

- Material that reveals, or may tend to reveal, either directly or indirectly, the identity of an undercover police officer, the existence or identity of a human source, or police methodology (Public Interest Immunity)
- Legal advice obtained from the Office of the General Counsel or Police Prosecutions (Legal Professional Privilege)
- Material that reveals communication between a sexual assault victim and their doctor, psychologist or counsellor (Statutory Immunity)

(Refer to the Subpoena section of the NSWPF Handbook for further examples.)

You must also disclose any relevant material that is not subject to a claim of privilege or immunity, nor the subject of a statutory publication restriction. For example, you may have information relevant to the reliability or credibility of any material witness (such as a criminal history).

List the relevant information on the Schedule and attach that information to the Schedule (this may include a full computer printout of the relevant criminal history including convictions and non-convictions, excluding 'spent convictions').

Send the brief of evidence and the certificate to the DPP, through the Brief Manager.

Do not serve a copy of the certificate or the material on the accused or their legal representative. (Be aware that the DPP is likely to reveal the completed disclosure certificate (P516) to the defence.)

Notify the DPP (in writing) as soon as you become aware of any new relevant material that has not been previously disclosed.

Summary matters

Although you have a duty to disclose in summary matters, you do not have to complete the P516. Otherwise, the procedure is the same as if you were dealing with an indictable offence.

Brief Managers

The disclosure certificate (P516) is to be attached to the brief of evidence. Ensure that it has been completed, signed and dated by the relevant officer.

You are also required to sign and date the disclosure certificate before forwarding the brief of evidence to the DPP.

Immune material

Immune material is any material that is subject to a claim of

- privilege,
- public interest immunity, or
- statutory immunity.

It also includes material that is the subject of a statutory publication restriction.

OIC of the case

You must comply with any request from the DPP for material that is subject to a claim of privilege or immunity. However, seek advice from your Crime Manager and/or Investigations Coordinator before you do so. (You must also allow the DPP access to all non-sensitive information, documents or other things, if it was not practical to send copies of those things with the disclosure certificate.)

If asked to provide material to the DPP, provide copies. In the case of material that is subject to a claim of privilege or immunity, make a record in your notebook of what you have

provided, when you provided it, and the person to whom it was provided. Make sure you get a receipt from the relevant DPP lawyer. You should also record the return of the copies in your notebook. Shred the copies when they are no longer required.

The DPP may reveal the disclosure certificate (P516) to the defence. If you disagree with the disclosure of immune material to the defence, advise the relevant lawyer that you will seek legal advice urgently. For example, you may have concerns about disclosure because you think that the information or material could be the subject of a bona fide claim of privilege, public interest immunity or statutory immunity. Seek advice by urgently submitting a confidential report to your commander.

You should also seek advice if you are claiming legal professional privilege over immune material that contains legal advice given to you by a lawyer from the Office of the General Counsel or Police Prosecutions.

The DPP will allow you time to seek advice (refer to the ODPP Prosecution Policy and Guidelines *Consultation with police prior to disclosure*).

Even if the immune material does not attract a claim of public interest immunity or legal professional privilege, you may still have concerns about it being disclosed to the defence. If that is the case, you can request to have the matter determined at a higher level within the DPP.

If you have concerns about document security within the DPP, refer to the ODPP Prosecution Policy and Guidelines *Security of documents and other material*.

Commanders

Urgently refer any confidential reports regarding bona fide claims of privilege or immunity to the Coordinator, Subpoena Unit, Information Access and Subpoena Unit, Public Affairs Branch.

Witness Informer Report (WIR)

A 'witness informer' means:

- a person who is proposed to be called as a prosecution witness; and
- has given assistance to law enforcement authorities as a consequence of some knowledge that has come into the possession of this person through intimate or direct contact with one or more of the accused persons; and
- is a co-offender, fellow prisoner, co-conspirator, civilian undercover police operative, or person bargaining their intimate knowledge for their own or another's advantage.

If requested by DPP requisition, complete the WIR (three copies with each page signed in pen other than black) for each 'witness informer'. Highlight any sensitive information in the WIR and do not provide material that might be the subject of a bona fide claim of privilege, public interest immunity or statutory immunity. You may elect in the WIR to a conference with the

DPP lawyer rather than providing the sensitive material in the WIR. Observe the 'Sensitive material' section in the 'Court matters' guideline.

Ensure the WIR is delivered by secure means under confidential cover to the nominated DPP lawyer. Do not fax it. Although the WIR will be not be provided to the defence by the DPP, exercise care when completing the ODPP form as some relevant information might be disclosed to the defence (eg, information relevant to reliability or credibility of the witness informer including the informer's criminal history).

Refer to '[Confidentiality of witness particulars](#)' guideline in the Handbook and best practice regarding the use of pseudonyms by witnesses during proceedings and applications for orders by the court to suppress the publication of the identity of witnesses in appropriate circumstances.

Claims of public interest immunity or privilege

OIC of the case

Refer to the 'Witnesses - Subpoena to produce documents' guideline in the Handbook for guidance on claims of public interest immunity. If you are still in doubt contact the coordinator, Subpoena Unit, Office of the General Counsel.

When you consider the disclosure of the relevant material in a prosecution would attract a bona fide claim of public interest immunity or privilege, promptly submit an application with that confidential material through your commander to the Office of the General Counsel, marked to the attention of the coordinator, Subpoena Unit.

Do not provide or disclose the material which is the subject of a claim to the DPP, unless otherwise directed by the Office of the General Counsel. You cannot substantiate such a claim to the DPP without making a formal application.

Brief folders

Local area commanders

Ensure availability of coloured brief folders.

Cream - local court charges and CANs

Green - local court summons

Blue - children's court matters

Red - matters to be prosecuted by the DPP.

Accepting officer

Satisfy yourself that the police informant's facts sheet contains a complete narrative of the circumstances which gave rise to the charges, and they are capable of substantiating each charge laid.

Ensure all relevant documentation is enclosed in the brief folder before sending it to the prosecutor.

OIC of the case

Your brief folder must contain:

- court documents
- bench and prosecutors covering sheets
- bench charge sheets
- police charge sheets
- bail forms or CAN acknowledgments
- **facts sheets** - in triplicate, substantiating each offence and including:
 - co-offenders name, remand date and court, where appropriate
 - weight of any drug seized, where appropriate
 - compensation amount and claimant's details, where appropriate
 - defendant's personal antecedents and other matters relevant to bail
- **up to date** criminal and traffic records
- **unavailable dates** (for police and civilian witnesses, explaining any extended periods of absence)
- **drug exhibit destruction forms** (accompanies every drug charge and includes the exhibit number)
- **exhibit disposal forms** (accompanies property).

Get your fact sheets checked by your supervisor.

Have the fact sheets signed by the case OIC and your supervisor before delivery to the prosecutor.

Supply a copy of the fact sheets to the person charged, at the time of charging, unless:

- such action might be prejudicial to an ongoing investigation or arrest of associated offenders
- for some unforeseen reason (eg: computer malfunction) a copy cannot be supplied at the time. In this case, provide a copy at a suitably convenient time and location, or at the first court appearance.

Do not:

- post fact sheets
- leave them at the offender's address
- give them to a third party.

Statements

Refer to the *Code of Practice for CRIME* on the Police intranet concerning relevant guidelines in regard to the questioning/interviewing and statements from suspects (adult or child).

Induced statements from witnesses or potential witnesses

Refer and comply with the guidelines in the *Code of Practice for CRIME* under the heading "Inducements" regarding an application and authorisation if you intend to take an induced statement from a witness or potential witness.

Induced Statements

Refer to the Code of Practice for CRIME under "Statements" concerning relevant guidelines for the taking of an induced statement from a witness or potential witness.

Signing and witnessing

When you sign or witness a statement, include under this your name, rank, station, date and time you witnessed it.

NEVER sign a statement, witness a statement or any other document on behalf of any other person including another police officer.

Only show the institutional address for statements from a prison or Community Services' officer for a work related matter.

Have the person making the statement initial any alterations.

Endorsement by a witness who is an adult

A statement which may lead to summary or indictable proceedings must begin with the following endorsement:

"This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false or do not believe to be true.

I am (age) ."

Endorsement by a witness who is a child under 18 years of age or an adult who suffers from appreciably below average general intelligence

A statement which may lead to summary or indictable proceedings is to be a form that includes words to the effect that the statement is true or that the statement contains no lies. There is no prescribed wording and the endorsement is flexible. For example, the child or an adult who suffers from appreciably below average general intelligence may understand the difference between truth and a lie but may not be familiar with those words. In that case the endorsement could perhaps be along these lines, "Everything I have said in this statement really did happen". It may be appropriate to use the witness' own words that convey the same effect.

Also specify the age of the person who made the statement.

For further reference material regarding statements from witnesses in accordance with the Criminal Procedure Act 1986 and the Local Courts (Criminal and Applications Procedure) Rule 2003 refer to "Brief Preparation - Statements" in the January, 2005 edition of the Policing Issues & Practice Journal.

Multiple offences

If a defendant is to plead guilty to multiple offences, the brief or facts sheet should cover a cross section of the offences, including the most serious. Others can be taken into account under the *Criminal Procedure Act* (Form 1).

Arresting officer

Prepare the Form 1 and distribute as follows:

- the original (white) to the defendant
- the duplicate (pink) to the magistrate
- the triplicate (blue) to the prosecuting officer.

Evidence ownership

Ensure the correct owners' particulars are recorded on the charge sheets and other relevant documents.

Confirming court attendance

On completion of your court matter, give the prosecutor a completed *Court attendance form* (P120A) and get it signed.

Once your duties at court are completed, contact your duty officer and get direction about completing your shift.

If you have to go to court while on annual/extended leave, advise your supervisor who will have the duty roster endorsed.

Shift supervisor

Record court attendance particulars on the station records and keep the P120A. Endorse notebook entries and record the details in station records.

Ensure:

- duty rosters show the court and name of the defendant
- the roster is endorsed with the time an officer returns and duties are arranged for the balance of the shift
- spot checks are made of the court attendance diary in keeping with normal supervision procedures.

Confidentiality of briefs

Indictable briefs

Justices Legislation Repeal and Amendment Act 2001 authorises the release of an indictable brief which has been checked and approved according to policy.

Coroner's briefs

All enquiries from outside the NSW Police Force, for information, statements or other material relating to a matter before the coroner is to be referred to that coroner.

Other summary briefs

The proper authority for the release of other summary briefs of evidence is the police prosecutor conducting those proceedings, or the Commander, Police Prosecutions Command.

Before releasing any brief of evidence, check to ensure no witnesses address or phone number is included. Refer to *Justices Legislation Repeal and Amendment Act 2001*.

Retraction statements

For all matters (except sexual assault), once a person has been charged or summonsed, do not obtain a retraction statement. If the victim, requests proceedings be discontinued, advise them to write a letter of representation to the Commander, Police Prosecutions Command.

In the case of sexual assault, obtain a retraction statement and try to respect the victim's wishes. Consult the Commander, Police Prosecutions Command.

Withdrawing proceedings prosecuted by police prosecutors

OIC of the case

When you want to make an application, or you receive representations for the withdrawal of matters prosecuted by police prosecutors:

- consider the matters raised in the correspondence, the proofs for the offence, the sufficiency of evidence for a prima facie case, the public interest and all other relevant factors
- consult the victims and find out if there is additional material or other issues they want taken into account in accordance with the *Charter of Victims' Rights* under the *Victims Rights Act*
- prepare a report addressing the issues raised in the representations, your subsequent inquiries, the matters listed above and your reasons for withdrawing or continuing the proceedings. Highlight the court and next date of proceedings
- attach a copy of the brief of evidence, including fact, charge and CAN sheets, and defendant's criminal history
- Send your report to your commander as a matter of priority.

Local area commander/equivalent

If you receive representation from a solicitor or from the defendant to withdraw a matter to be prosecuted by a police prosecutor, acknowledge receipt using the appropriate format letter found on the Law intranet site.

Record the correspondence and send it to the OIC of the case for urgent report. If the officer has moved, redirect the file to the officer's new command.

On receipt of the officer's report assess the matter and consider the discretionary factors in the *DPP's Prosecution Policy & Guidelines*. You may delegate this function to your crime manager. Make a determination about the withdrawal representations.

Advise the OIC of the case and the head of court (Senior Police prosecutor) where the case is listed and if appropriate, the solicitor or defendant. Use the appropriate format reply from the Law intranet site.

[NSW Police Prosecution Command Withdrawal Policy 2012](#)

Head of court

Refer to the Police Prosecution Command's SOPs on the intranet for guidance on how to deal with withdrawal applications.

Withdrawing traffic and parking infringements

To withdraw traffic and parking infringements (before an election has been made for court action) send your report and associated documents through your commander to the Infringement Processing Bureau.

Withdrawing proceedings prosecuted by the DPP

OIC of the case

If you receive representations from the defence, fax a copy to the Office of the DPP which has carriage of the prosecution. Send a reply to the defence using the appropriate form letter from the Law intranet site.

Local area commander/equivalent

Send the representations from the defence to the OIC of the case.

Personal representations to and by police

Do not make personal representations on traffic matters for family members, the public or other officers.

If you receive a written personal representation, report the matter to your local area commander, including all available information which might help determine the matter.

Request for particulars

Refer requests by solicitors for particulars of pending court matters together with the brief of evidence to the relevant prosecutor authorised to release that information.

Mentally ill defendants

When someone charged appears to be mentally ill, make a notation within the fact sheet.

Exhibits

OIC of the case

When a documentary exhibit can be copied, do so and retain the original on the master brief. Record the document as an exhibit in EFIMS and store. Include evidentiary copies in the brief for service on the defence and the prosecuting authority (police or DPP). If you cannot copy the exhibit, serve a notice on the accused specifying a convenient date, time and place where the exhibit(s) may be inspected by arrangement. Refer to other police guidelines under trial at selected police stations concerning the photographing of exhibits and the supply of the photographs in the brief for service on the accused or legal representative to avoid any unnecessary inspection or production of these exhibits at court and early pleas of guilty.

If required to produce exhibits at court, take all appropriate precautions to avoid occupational health and safety issues in the handling of these exhibits. Refer to any OHS warning for the exhibit in EFIMS. Ensure firearms and other weapons are rendered safe. Firearms are to be unloaded and knives or any other sharp or pointed exhibits are packaged with appropriate warning labels to avoid accidental injury and/or unnecessary handling that may jeopardise its evidentiary integrity. Documents or any other items that have been treated with chemicals for forensic examination including latent fingerprints etc, that may cause skin irritation when handled without protective gloves should be sealed in clear plastic and labelled with similar appropriate warnings.

Record the exhibit movement (check out) in EFIMS.

Use exhibit bags issued by Sheriff's officers or security officers on entry to the court premises where full perimeter security is operational to carry a 'restricted item' i.e. weapon, firearm or knife, while in the court premises.

Refer to the '[Exhibits](#)' guideline in the Police Handbook regarding the retention and disposal of exhibits.

Dismissed summary proceedings

Police prosecutor

Comply with the Police Prosecutors COPS User Guide under the heading "Failed Prosecutions" on the Law intranet site when a matter is dismissed or withdrawn.

Local Area Commander or equivalent within specialist commands

Upon electronic notification, assess whether the matter is a complaint under the Police Act and initiate an investigation through your Complaints Management Team having regard to:-

- Reason(s) for non-compliance;
- Police informant's role/contribution;

- Any system failure or weakness which may have contributed;
- Any managerial or supervisory shortfalls or other related issues,
- Any other causative or contributory factors including managerial action to avoid any reoccurrence, and
- Any educational and training needs

Local Court outcomes

Police prosecutor

Complete the covering sheet on the outcome of the summary matter eg, adjournment or brief, and send it to the CPO to update the matter in the Charge Management System on COPS.

Upon finalisation, return your brief copy together with any relevant notes you made during the proceedings to the CPO for filing.

At courts that do not have the General Local Courts system (GLC), complete the court outcomes sheet with the court result and return it the CPO for transmission to the Criminal Records Section.

OIC of case

Before archiving a finalised investigative brief or at the conclusion of court proceedings, update the COPS Case Management System after advising the victims(s) of the outcome of the investigation or court proceedings. Refer to the Charter of Victims Rights and Law Notes 03/1 on the Law intranet site.

Appeals

Appeals by a convicted person

If you are served with documents relating to an appeal by a convicted person by way of a 'stated case', urgently forward all papers, together with the brief of evidence and a comprehensive report to the Commander, Police Prosecutions Command.

When you receive a copy of the draft 'case' send it immediately to the Commander, Police Prosecutions Command.

Appeals against inadequate sentences and applications for a stated case OIC of case

If you believe the penalty or sentence imposed by a magistrate is manifestly inadequate, or that they have erred at law in determining the matter, consult the case prosecutor. All applications must go to the prosecutor.

Prosecutor

If you receive a request for a 'severity appeal' or a 'stated case', or if you believe such an appeal or stated case is appropriate, submit a comprehensive report to the Commander, Police Prosecutions Command, within seven days.

Include details of court, the date, magistrate's name, the charges, the conduct of the case, the penalty and any reasons given by the magistrate or reasons why you consider they erred, together with copies of all material tendered to the court (including: pre sentence reports, criminal histories, copies of the 'Bench' sheets, a brief of evidence and facts sheet).

Commander, Police Prosecutions Command

Evaluate all applications for 'severity appeals' and 'stated cases' and where appropriate refer them to the DPP.

Severity only appeal

When you receive notice that a 'severity only' appeal has been lodged, send a signed statement of the facts, checked by your supervisor, to the Solicitor for Public Prosecutions (SPP).

Send it through the Police Liaison Officer (PLO) attached to that office and include details of annual leave and other dates you are unavailable.

You do not have to send the statement if it was tendered in a guilty plea before the lower court.

Do not attend an appeal lodged on severity only, unless specifically requested by the SPP.

All grounds appeal

In the case of an 'all grounds' appeal send to the SPP a copy of the police brief (including statements of witnesses who did not give evidence at the lower court, and dates you are unavailable).

Attend an 'all grounds' appeal. The SPP advises whether other witnesses are required. Advise the roster clerk of the officer and date of appeal. Ensure the officer is given enough notice to attend.

If the officer is absent when the notice is received and is not resuming duty within two weeks, notify the SPP, through the PLO. Also ensure any notices or subpoenas are served. If the officer has been transferred or seconded, redirect the notice.

Criminal record

When an appeal is lodged following conviction at a lower court, supply the criminal record to the SPP within three to seven days of the hearing.

Breach reports and infringement notices

At the appeal, produce any breach reports or parts B of traffic infringement notices used at the lower court, or copies if unavailable.

When the appeal ends, report the result to your commander.

Filing

Court Process officer

At the end of proceedings, return the breach report or infringement notice to the brief handling manager.

In the case of traffic matters, photocopy and keep that copy for collection by the RTA.

Brief handling manager

File returned breach reports and infringement notices as per 'Filing briefs of evidence' this section.

Annulment of convictions - traffic matters

When an application for annulment of conviction is received, send it immediately to the Principal Manager, IPB.

Appeals under the Liquor Act

On receipt of a notice of appeal against adjudications under the *Liquor Act*, observe the following if the appeal is to the:

- District Court - follow the procedures set out in 'Notice of appeal', this section
- Licensing Court - send the notice to the Superintendent of Licences
- Supreme Court - by way of prohibition or stated case, follow the procedure outlined below.

Appeals to the Supreme Court

If you receive process for Supreme Court relief, treat it as urgent. Send it and any accompanying correspondence with a brief report to Police Prosecutions.

Officer unable to go to court

Local Area Commander/equivalent

If one of your staff involved in a court case is unable to attend due to illness, immediately contact the relevant prosecuting authority.

If, the prosecutor believes the matter should be adjourned and if time allows advise the clerk of the court, the defendant and police witnesses in writing that an adjournment will be sought.

If time does not allow the clerk and the defendant to be advised in writing, inform them by phone or in person and record your actions.

Follow this by writing to the defendant and their legal representative, if known, as soon as possible.

Tell other prosecution witnesses of the proposed adjournment.

When granted, send a further notification to the police concerned.

Arresting police

If you are unavailable due to other reasons (eg: annual leave, courses, conflicting court commitments etc) contact the prosecuting authority and seek advice.

If an adjournment is recommended, advise the parties in writing and apply to the court for a fresh court date.

Warning witnesses of adjournments

If you must go to court and are aware the case is to be further adjourned, warn witnesses not to attend.

Advise your witnesses of the new court date.

Notification of hearing and adjourned dates

Arresting police

Obtain adjourned dates and status of court matters through the COPS charge management system.

If the person was not charged under COPS charge management or you do not have access to the system, complete a P399 or P379 form in duplicate for each defendant. Include your name and station, name of defendant and charge book reference number/OLC number. Send the form, to the court process, with the facts sheet and attach it to the police copy of the charge sheet.

Court process officer

Where necessary fill in the adjournment date on the P399 or P379 and send it to the arresting police.

Arresting officer

When you receive the amended P399 or P379 form from court process, give it to your roster officer and advise them of the new court date and your need to attend.

Roster officer

When given a P399 or P379, roster accordingly and note and return the P399 or P379 form to court process.

Commanders

Ensure:

- all P399 or P379 forms are sent to the location where the officer is stationed/transferred
- the duplicate is filed with a notation verifying dispatch of the original to the appropriate location
- finalised charge sheets are sent to the station where the accused was charged
- results (not on COPS charge management) are recorded in the charge book, or in the case of on line charging, on the computer.

Downing Centre - notification in traffic summons cases

IPB is responsible for advising officers of the dates they are required at Downing Centre for traffic matters. The previous directions do not apply in these cases.

Section 257 certificates - Road Transport Act 2013

OIC of case

Obtain the appropriate certificate for all defended matters involving licence and registration offences and place the certificate with the brief of evidence.

Court commitments of dead officers, witnesses or defendants

Local area commander or equivalent

If an officer dies with court commitments outstanding, reassign those matters to other officers, who will assume responsibility for the carriage of the case/s.

Arresting officer

If you are told a defendant or prosecution witness has died, verify the information, and where possible, get documentary evidence.

Talk to the relevant prosecuting authority as to the future disposal of the matter.

Retired, suspended or discharged officers

Local area commanders or equivalent

If you have a retired, suspended or discharged police officer with court commitments outstanding, reassign those matters to another officer who will assume responsibility for the carriage of the case/s. Remind suspended officers they are still obliged to attend court even though they are suspended.

The retired, suspended or discharged officer will assume the status of a witness in the proceedings.

Commonwealth statutes

Arresting police

Advise the senior legal duty officer at the Sydney office of the Commonwealth DPP in cases where proceedings under Commonwealth legislation are initiated.

Where someone is prosecuted for a Commonwealth offence and a Commonwealth DPP representative does not conduct the proceedings, inform the office of the Director in writing of any sentence imposed.

Include in the report:

- name of the defendant
- court and date of conviction

- particulars of charge(s)
- full details of sentence.

Compensation

In cases of assault, whether on police or not, or damage to property, find out the nature and extent of the victim's injuries or the value of the damage. This is needed to lay the appropriate charge and allow the court to consider compensation in the event of a conviction. Compensation can be awarded for loss or injury.

Depositions and transcripts

Court transcripts

NSW Police is liable for the payment of a fee, as outlined in Schedule 3 of Part 1 of the Criminal Procedure Regulation 2005, for court transcripts in all criminal matters

If you require a court transcript of a criminal matter seek approval from your commander/manager who has the financial delegated authority to incur that expenditure. If approved, make application on the prescribed form and follow the guidelines as outlined in the Lawlink website under "Court Transcripts" on the Law intranet site to the registrar of the court where the matter was heard.

SOPs have been issued separately regarding applications by police prosecutors.

Standard abbreviations

Prosecutors/court process officers

Use the following standard abbreviations on court related documents.

NRS no return of service -
followed by the date the matter was listed.

SNS summons not served -
followed by the date the matter was listed.

FSTI fresh summons to issue -
followed by the date the matter was listed.

Adj adjourned -
followed by the date to which the case has been adjourned.

PNG plea of 'not guilty'.

FMO for mention only.

F/sent or Sent for sentence.

DOH date of hearing.

PG plea of 'guilty'.

XP ex parte hearing.

CR constable required.

CNR constable not required.

WR witness required.

WNR witness not required.

NR not reached.

PH part heard hearing.

Supreme and district courts

Police witnesses in civil cases

For procedures when attending the Supreme or District Courts as witnesses in civil cases or to produce documents on subpoena, see also the section on 'Witnesses'.

Listing of criminal trials

Contact the DPP solicitor in charge of your case for information regarding priority.

Call overs

The DPP sends you a notice advising the date of a call over. For trial, sentence or appeal matters, keep the original, acknowledge receipt on the duplicate and return it to the DPP through your commander.

Information needed for call over hearings

Send the following information to the DPP at least 7 days before the call over. You need not attend provided all the required information has been received and you have been excused.

Advise the following:

- whether all witnesses are available during the sittings
- whether there are any pre trial issues to be resolved
- number of Crown witnesses - expert and otherwise
- details of any sailors, interstate, overseas or other witnesses where travel, availability or time in jurisdiction might be a problem
- any interpreter requirements
- any information which might help the court set a trial date and estimate trial duration.

Advice of trial matters

Local area commanders or equivalent

Promptly record the receipt of trial hearing notices and subpoenas and direct them to the officer/s concerned.

OIC of the case

Advise the DPP of officers who have resigned, by endorsing the back and returning both copies.

Acknowledge receipt of the notice by endorsing the duplicate and returning it to the DPP through your commander.

Promptly advise all witnesses of the hearing date. Additionally, check whether the witnesses have received a subpoena in the post from the DPP. If not, arrange for a subpoena to be served. Advise the DPP officer in charge of the case.

Serve subpoenas without delay and complete a P460. Return subpoenas and affidavit of service to the DPP through your commander.

If you cannot find a witness and you are not the OIC of the case, contact that officer to determine the witness' whereabouts. Return any unserved subpoenas to the DPP.

Police liaison officer at DPP

Send facts and extra statements to the advocate handling the committal proceedings or the police liaison officer, Office of the DPP, Sydney, within 14 days of completion.

Police responsibilities for witnesses

When the DPP dispenses with the attendance of Crown witnesses before the trial, advise them in writing.

When, in the opinion of the Crown Prosecutor, Crown witnesses are no longer needed at court, immediately tell them. Collect their notices, fill in the necessary particulars and see their expenses are paid without delay.

DPP requisitions

Local area commanders or equivalent

Acknowledge and record receipt of all DPP requisitions and send them to the investigating officer through that officer's supervisor. If you receive information about overdue requisitions, start immediate follow up action, as you are responsible for ensuring compliance.

Supervisors

If the investigator is absent from duty, ensure another officer attends to the requisition immediately.

OIC of case

Communicate with DPP officers whenever difficulties arise with your brief of evidence.

The DPP's managing lawyer will provide the police liaison officer with a weekly list of overdue briefs and a list of overdue requisitions at least monthly.

The police liaison officer will attempt to make personal contact with you to resolve the overdue matter. If contact or a resolution is not achieved, a report will be forwarded to your local area or branch commander.

Police liaison officer

When notified by the DPP of an overdue brief or requisition, attempt to personally contact the investigating officer and arrange for immediate production of the outstanding material.

If you cannot contact the investigating officer and/or resolve the matter send a report to their local area commander or equivalent.

Monthly, (at least) provide a written report to the solicitor for public prosecutions in relation to any outstanding briefs and requisitions.

Antecedent reports

In all matters involving traffic offences, send the DPP a copy of the accused's traffic history

Trial and sentence matters

Do not submit a P395 (*Notification of committal*) nor complete a P16 (*Antecedent report*) for trial or sentence matters in the District or Supreme Courts (Criminal Histories Unit will send them).

Seven days before the court date, check with the DPP to confirm if the criminal record has been supplied. Advise the Supreme and District Court Sections, Criminal Histories Unit (CHU) if not received.

Supply a certified copy of the accused's driving record to the DPP in cases of traffic offences.

Appeal matters

OIC of the case

When you are notified of an appeal, complete a P395 in duplicate. Send the original to the Supreme and District Court Section, CHU. Keep the duplicate.

Seven days before the court date, check with the DPP to confirm if the criminal record has been supplied.

Advise the Supreme and District Court Sections, Criminal Histories Unit (CHU) if not received.

Criminal Histories Unit

When you receive a P395 in relation to an appeal matter in the District or Supreme court, prepare and send criminal record to the DPP (in a manner similar to that used for trial and sentence matters).

Content of P16 antecedent reports

If you need to complete a P16, do not include charges which were marked 'withdrawn', 'dismissed', 'discharged' 'no evidence' or 'not before court' etc.

Endorse with 'Not all interstate criminal histories are on record at the NSW Police Criminal Histories Unit'.

Extra information in trials

If you have a matter awaiting trial, submit a report through your commander, advising the DPP when:

- you become aware of extra facts before or during the trial (advise Crown prosecutor)
- material or information comes to hand about the innocence or otherwise of the accused (advise Crown prosecutor)
- you get the criminal record of likely defence witnesses
- you learn someone who has been committed for trial is in gaol on another charge (submit a separate report to Corrective Services)
- police are required as a witness in more than one case on the same day, so suitable arrangements may be made
- when the existence of a witness becomes known after a defendant has been committed for trial. Get a signed statement from the witness and send it to the DPP.

Security of prisoners and courts

Liaise and cooperate with Sheriff's officers, advising them of any special security needs before a court sitting. Securing Supreme and District Court buildings, and protecting and escorting judges and jurors are Sheriff's responsibilities. Comply with any reasonable direction from these officers including:

- placing appointments in security lockers
- entering buildings through metal detectors.

Firearms' exhibits at Court of Criminal Appeal

When firearms are to be produced as exhibits at this court, contact the Sheriff's Office (at least one day before if possible) on 9230 8051 or 9230 8049 to arrange lodgement. If the office is unattended, leave a message on the answering service.

Arrangements will be made for you to attend to lodge the exhibit. Complete the *Security Lodgement Register* and get a receipt. After the appeal, retrieve the exhibit and sign the register.

Contact with jurors

Do not speak to jurors about any aspect of a trial, before, during or after the trial.

If you realise you have had a conversation with a juror, regardless of its subject or timing, immediately report the circumstances and text to the commander of the area in which the court is sitting. Include the identity of the juror and nature of the trial.

Commander

Ensure the incident is immediately brought to the attention of the appropriate instructing officer.

Perjury prosecutions

When seeking permission to prosecute for perjury, ensure all papers are in order and the following documents are attached to the application before sending it to your region commander:

- a copy of the depositions or transcript of the hearing if the complaint relates to evidence given in court proceedings
- a copy of the affidavit if the complaint relates to a statement contained in it
- statements from people who have information suggesting the evidence is false. NB: except by admission, no one can be convicted unless falsity of evidence is proved by two witnesses or by one with corroboration
- in the case of an alleged false affidavit, a statement from the JP, whose signature appears on the document, to establish the testimony was lawfully sworn.

Estreats Court

Promptly respond to requests from the Registrar of the Estreats Court about matters before that court. If unable to, advise your commander.

Court clerks recommending police help

If someone exhibits information and process is issued for a criminal offence, the clerk could suggest police help in placing the facts properly before the court.

If this occurs, send a report promptly to your region commander. If necessary, phone them and report the facts. Your region commander decides whether police help is warranted.

Region Commander

When process is issued against a NSW Police Force member over actions in the course of duty, as a rule, do not instruct another officer to help the informant by investigating the allegations for court proceedings.

If you consider circumstances warrant a departure from this procedure, report the matter to the Commander, IA for a direction.

Prosecution liaison groups

These groups, which generally follow region boundaries, comprise representatives of the region, each local area command in the region and senior DPP staff and are to improve service delivery between the NSW Police Force and the DPP.

Local Area Commanders

You or senior members of your command are to remain a constant member, and attend each meeting, of the group for your area.

Region Commanders

Attend at least one meeting of your group annually.

Complaints about Crown Prosecutors or DPP officers

If you have concerns about the actions or procedures adopted by a Crown Prosecutor or an officer from the Office of the Director of Public Prosecutions, which you cannot resolve locally through consultation (or that course is inappropriate), consult the Police-DPP coordinator (Office of the General Counsel) to determine an appropriate course of action.

If you have a formal complaint refer it under confidential cover to the Office of the General Counsel (through your commander and your region commander or equivalent). Do not use defamatory remarks in your report or make any public criticism.

Police Access to Court security CCTV footage

All requests by police for access to particular court security CCTV footage and if required, the down loading of the relevant material for collection, must be for a law enforcement purpose or a related court security issue.

All requests should be authorised by a police officer of or above the rank of inspector before formal request is directed to the Sheriff of NSW, Level 2, Downing Centre, 141 - 143 Liverpool Street, Sydney 2000 or fax (02) 9287 7033. Allowance should be made for the time consuming task of scanning all court security CCTV footage by Sheriff's officers.

The Sheriff will consider each request based on the reason provided and all relevant information should be supplied to assist in the identification of the specific footage.

Customer Service

For further information on Customer Service please refer to The Customer Service Charter & Guidelines.

Our Commitment

All employees of the NSW Police Force comply with the Customer Service Policy, Charter and Guidelines.

- All employees will be accessible.
- All employees will be professional and helpful.
- All employees will take appropriate action.
- All employees will keep customers informed.

Who our Customers are

Our customers are victims, witnesses, the community and our internal colleagues.

Arrested persons and suspects for crimes will not be considered to be customers as they will be dealt with under the *Law Enforcement (Powers and Responsibilities) Act 2002* and other NSW Police Force policies and procedures.

Key actions

Key Actions relating to telephone and message enquiries, front-counter enquiries, attending an incident enquiry, victim follow up and dealing with a difficult customer, refer to the NSWPF Customer Service Guidelines.

See: [Customer Service Guidelines](#)

Crime Scene Cleaning

Police generally

Under the *Victim Rights and Support Act 2013*, the family of a person who has died as a result of a violent act may be eligible to seek compensation for the cost of cleaning up the crime scene. You should direct victim's families to the NSW Attorney General's Department Victims Services Branch for further information and assistance in lodging a claim, Phone (02) 8688 5511 Freecall (outside metropolitan area) 1800 633 063 or the Victims' Services website: www.lawlink.nsw.gov.au/vs

Damage to Property by Police - Claims for Compensation

Claims for compensation

Refer requests for compensation to your local area commander. Do not agree to pay compensation or make any promise or comment in relation to the possible outcome of a claim.

Local Area Commander

Step 1 – Receive the claim

Have the claimant document the details of their claim and provide a minimum of 2 quotes for repairs. Inform the claimant to obtain a 3rd quote if the amount is greater than \$30,000 (consistent with NSWPF's own procurement practices). Examine all documents to ensure they reflect the owner's claim. Advise the claimant that the claim will be referred to the Office of the General Counsel (OGC) but do not make any promise or comment in relation to the possible outcome. Do not pay or agree to pay any compensation without OGC approval.

Step 2 – Substantiate the claim

Have the involved officers complete a brief report on the circumstances including any justification for the causing of the damage and cause any other relevant material to be gathered.

Step 3 – Commence processing the claim

Cause a TMF Liability Claim/Notification form and an Office of the General Counsel Instruction Sheet to be completed. Attach the relevant documentation and refer the matter to the OGC via #OGCOFFICE.

Step 4 – Paying the claim

The OGC will contact you in due course regarding the action that has been taken or that is recommended in this regard. Do not pay or agree to pay any compensation without OGC approval.

The OGC will assess the claim and:

- where the NSWPF is legally liable, the NSW Treasury Managed Fund (TMF) will cover claims greater than \$300 + GST;
- If the NSWPF is not legally liable (or if the claim is for \$300 + GST or less), the OGC may either deny the claim, recommend an ex gratia payment or recommend payment out of the Command's budget. The Command will be notified of this.

OGC will correspond directly with the claimant on their claim.

Deceased Persons

On discovering an apparent death, or someone at risk of dying

- **Immediately check if the person is dead. If there is any possibility of life remaining apply appropriate resuscitation or first aid;**
 - **Take all possible steps to preserve life;**
 - **Immediately get medical attention and continue resuscitation until help arrives;**
 - **Adhere strictly to the guidelines on infection control.**
-

Responsibility to Investigate

When an incident occurs within your Command resulting in a person being transported to another location (eg hospital) and that person dies as a result of the original incident, the responsibility for any investigation into the circumstances surrounding the death will rest with your Command.

Powers of the Coroner

A Coroner oversees coronial matters generally and may give directions to police concerning investigations to be carried out for the purpose of an inquest or inquiry.

(See chapter 'Coroner's Matters' for further information on the Coroner)

Reporting deaths to Coroner

Promptly inform the Coroner, by submitting a P79A electronically (email) to your relevant Coroner; Glebe (#CORONERSYDNEY), Newcastle (#CORONERNEWCASTL) or email to the appropriate local Coroner (or fax / hand deliver as per current local SOPS in regional locations if the body is conveyed to the local Hospital or Coroner). The P79A must be saved in the P79A folder on your LAC's P drive, of the death of any person whose body is lying within NSW and who died:

- a violent or unnatural death
- a sudden death, the cause of which is unknown
- under suspicious or unusual circumstances
- and a medical practitioner has not given a certificate as to cause of death
- not having been attended by a medical practitioner within the period of six months immediately before death
- the person died in circumstances where the person's death was not the reasonably expected outcome of a health-related procedure carried out in relation to the person ("health-related procedure" means a medical, surgical, dental or other health-related procedure (including the administration of an anaesthetic, sedative or other drug), but

does not include any procedure of a kind prescribed by the regulations as being an excluded procedure).

- In all circumstances where the accident is a motor vehicle crash, Police will advise the Traffic Research and Intelligence Unit, Traffic Services Branch of the Coroner's determination.
- while in the custody of a police officer or other lawful custody, or while escaping or attempting to escape from a police officer or other lawful custody
- as a result or in the course of police operations
- while in, or temporarily absent from, one of the following, while an inmate:
 - an admission centre or mental hospital, within the meaning of the Mental Health Act 2007
 - a residential child care centre licensed under the Children (Care and Protection) Act, 1987
 - a facility within the meaning of the Community Welfare Act, 1987
 - a detention centre within the meaning of the Children (Detention Centres) Act, 1987
 - a prison within the meaning of the Prisons Act, 1952 or a lockup
 - a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973.

- Further, S.35 (1)

A person who has reasonable grounds to believe that a death or suspected death would be examinable by a Coroner under Division 2 of Part 3.2, and has reasonable grounds to believe that the death or suspected death has not been reported in accordance with this subsection, must report the death or suspected death to a police officer, or to a Coroner or assistant Coroner, as soon as possible after becoming aware of those grounds.

A police officer to whom a death or suspected death is reported as provided by subsection (1), or by section 35 (3), is required to report the death or suspected death to a Coroner or assistant Coroner as soon as possible.

Preparing P79A form

Complete the P79A form on the intranet, and then forward it by email to your supervisor for review. The supervisor will review the P79A ensuring all the required information is included, the supervisor will then forward the P79A to the appropriate Coroner's email address;

Local Hospital/Coroner: Fax to the appropriate local Coroner (regional locations only).

Send P79A forms without delay and within 24 hours. Do not withhold or delay the P79A for unidentified bodies, update and send further information when the body is identified.

Spelling deceased's name

Pay attention to the right spelling of names and closely question people identifying bodies about the correctness of names given.

Refer to official documents, if possible. Include date and place of birth, if known.

Report to Coroner – person charged with an indictable offence

Inform the Coroner as soon as possible, when a person is charged with an indictable offence, eg. Murder or manslaughter, etc., in respect to a death, or a person is charged with an indictable offence, eg. Arson, regarding a fire.

Enter the details on the P79A and the Computerised Operational Policing System (COPS). A copy of the Charge sheets and Facts sheets for the relevant charges are to be forwarded to the Coroner's Office as soon as possible.

Advice to relatives

When a death is reported to Police, investigations should commence immediately, to ascertain the next of kin of the deceased. Where the deceased is under the care of and/or residing with a person who is not related to the deceased, every effort should be made by investigating Police to locate the next of kin.

Ensure next of kin are advised personally of a death at the first opportunity. Police should only phone next of kin to inform them of the death in exceptional circumstances and with the approval of the senior officer on duty.

Additionally, a death should only be notified to the next of kin upon confirmation of identification of the deceased. Where the deceased identity is unconfirmed, police should contact the potential next of kin and explain why they think the deceased is related to them and that there is a requirement to establish the identity of the deceased.

Police should consider the next of kin emotional state during the 'death message' and enquire as to immediate support, (e.g. a family member, neighbour, church member, etc). They should also provide the next of kin with a Victim's Card (preferably in the person's primary language) with contact details of the police in charge. Also inform them of the availability of counselling and other services detailed on the Victims Services pages of the Attorney General and Justice Lawlink Internet site. See the following site for details:

http://www.victimsservices.lawlink.nsw.gov.au/vss/vs_index.html

Notification of the death of a foreign national

Notification of the death of a foreign national

The authority which is registering the death, whether it be police, a coroner or other authority should inform the relevant foreign consulate of the death without delay.

Death of a Chinese, Vietnamese or Indonesian national

Australian authorities are required to inform Chinese, Vietnamese and Indonesian consular officials of the death of their nationals without delay and provide a copy of the death certificate upon request.

Coroner's Court brochure

When you attend a death reportable to the Coroner, hand the next of kin a copy of the Coroner's Court brochure. Endorse on the P79A, the name, address and relationship to the deceased of the person to whom you handed the brochure.

Coroners Investigations

Commanders

When possible, ensure an experienced officer investigates a death or fire (never a probationary constable). Ensure a member of the Homicide Squad (State Crime Command) is notified where child abuse is suspected.

Pursuant to Police Service Notice 01/20; in circumstances where death is not known to be from natural causes, and a death certificate (not a "Life pronounced Extinct" certificate) has not been issued by a medical practitioner it is a standing direction that local Detectives and Forensic Services investigators be called to attend.

Detectives should always be notified of the death and attend the scene where appropriate. Crime Scene investigators will attend death scenes in accordance with Forensic Services Group call-out procedures. Ensure a crime scene attendance job is created in EFIMS to track the forensic process.

Bodies to be examined on site by Forensic Pathologist

Have the scene examined/recorded by Crime Scene Section investigators. Ensure a crime scene attendance job is created in EFIMS to track the forensic process.

Do not remove bodies of people, who die under the following circumstances, until a Forensic Pathologist or GMO examines them:

- aviation deaths
- deaths in custody (police or gaol)
- decomposed bodies and skeletal remains
- homicides
- multiple deaths
- suspicious deaths
- unusual, controversial or high profile cases.

Seek advice from the duty Forensic Pathologist, Glebe or Newcastle.

In other situations, where you want an onsite examination, seek advice from the respective Coroner/duty pathologist.

As time is critical, contact the Coroner through the DOI, the Senior Deputy State Coroner or the Newcastle Coroner through Penrith or Newcastle Police Radio Operations.

Where a death happens in the country, act in consultation with the local Coroner.

Specialist autopsy

Anyone who dies under the following circumstances is to undergo a post mortem examination at the Department of Forensic Medicine, Glebe or Newcastle:

- aviation deaths
- homicides
- in custody
- under the age of five
- women during pregnancy, while giving birth or within one year of being pregnant
- suspicious circumstances
- diving
- any other case as the Coroner directs (eg: conflict of interest between the local GMO and the deceased; unusual, controversial or high profile cases etc).

Costs for transportation and return are met by the Local Courts Administration. Do not transport by plane until you have approval of the local or State Coroner.

Deal with such deaths urgently, particularly if the body needs transportation from a country location.

After life has been pronounced extinct by a doctor, attach a yellow police body tag to the body. The tags must show the full name and date of death and bear the name, registered number and signature of the officer who identified the body.

When investigating a country homicide (or suspicious death), the body is to be sealed inside a body bag and a yellow police body tag attached to it. The body will be conveyed by Government Contractors to either Newcastle or Glebe Morgue - DoFM. The body bag will not be opened until the time of post-mortem in the presence of investigating Police.

In all other cases, do not accompany the body unless asked to by the duty pathologist. Seal unescorted bodies in the body bag and record the seal number.

Ensure any medical reports or hospital notes accompanying the body are full and original notes, placed in a sealed, secure and signed envelope. Photocopies will be rejected by the Forensic Pathologist.

If medical institutions are reluctant to release such records, advise them the Health Department has directed so.

Should you have any problems, get an order from the Coroner, requiring their release, under the Coroner's Act. For assistance in obtaining an order for documents, please contact your local Coroner and/or the Coronial Law Unit.

Ensure the body is returned to the area from where it came.

A death stays under the jurisdiction of the Coroner for the area where it happened. Direct all inquiries to that Coroner.

Take an active role to communicate with parents/relatives of the deceased.

Police assisting Coroners

Commanders

Do not appoint officers to assist the Coroner, if they have been actively involved in the investigation.

Have the Commander, Police Prosecutions Command arrange qualified personnel where appropriate.

Medical certificates

A Cause of Death certificate states the cause - do not confuse it with a Life Pronounced Extinct certificate, which simply certifies life is extinct.

Make every effort to get a Cause of Death certificate in appropriate cases. Record inquiries made on a P79A. The deceased must have been treated by a doctor in the past six months and the cause must stem from a condition the doctor had been treating. A certificate cannot be issued where the death must be reported to a Coroner (eg: violent or unnatural, sudden where cause is not known etc)

Even if a death certificate has been issued, attending police are still able to report the death to the Coroner if there is some doubt about the accuracy of the death certificate – advice may be sought about this from your local Coroner or the Police Advocates at Glebe.

A doctor will sometimes issue a Notice of Intention to Sign a Cause of Death Certificate. This does not constitute a death certificate.

Where the body is admitted to the Glebe Morgue - DoFM, advise relatives and their representatives that if a Cause of Death certificate is not received within 48 hours, a post mortem examination may be performed.

If a Cause of Death certificate is not issued, continue your inquiries.

Statements

When you report a death, you are subject to the directions of the Coroner and responsible for collecting evidence, getting statements, warning witnesses to be at the inquest and attending

yourself. When the Coroner directs you to supply the statements of all witnesses, comply quickly.

When possible, provide medical history, including illnesses, if treated by a doctor, when and by whom, name of hospital etc. Include a reference to any medication recently taken or prescribed. Get a note from any doctor who saw the person within six months before death and attach it to your report.

If the cause of death arises outside your area, get statements to establish identity and place of death. The Commander of the area where the cause of death occurred is responsible for other necessary statements.

Scene preservation – death not due to natural causes

The State Coroner has requested, in all cases where death is not due to natural causes, a crime scene investigator must attend. A crime scene attendance job should be created in EFIMS to track the forensic process.

Pursuant to Police Service Notice 01/20; in circumstances where death is not known to be from natural causes, and a death certificate (not a "Life pronounced Extinct" certificate) has not been issued by a medical practitioner it is a standing direction that local Detectives and Forensic Services investigators be called to attend.

Detective should always be notified of the death and attend the scene where appropriate. Crime Scene investigators will attend death scenes in accordance with Forensic Services Group call-out procedures.

When you find a body or a death reported to you appears to not be due to natural causes, or there are suspicious circumstances, carefully record the position and appearance of the body. Preserve the scene, use police crime scene tape, until the body and area have been examined by a Crime Scene investigator.

Body not recovered/ Missing Persons

When evidence suggests a death, and a body is not recovered, carefully investigate and forward a detailed P79B to the Coroner. When the police officer in charge of a missing person investigation, once satisfied that no further inquiries can be made as to whether a missing person is living or not, must report the matter to the Coroner by forwarding the P79B to your supervisor for review. The supervisor will review the P79B and forward to #CORONER P79B. This should occur as soon as the investigator is of the belief that the missing person is now deceased.

When completing a P79B, be sure to include all known information in the narrative regarding the missing person's mental state preceding their disappearance, any medications they may have been taking, and where appropriate, next of kin thoughts regarding the possibility of self-harm.

Note: if an Inquest is held into the circumstances surrounding a missing person's disappearance, and the Coroner returns an open finding (i.e. they are not satisfied that the evidence establishes that the missing person is deceased) then it is the responsibility of the officer in charge of the investigation to ensure the investigation is not closed, but rather, that inquiries continue at a local level.

Crime scene investigators

Attend the scene of any suspected death. A crime scene attendance job should be created in EFIMS to track the forensic process.

Suspicious circumstances surrounding death

Immediately advise your Local Area Commander. Ensure the crime scene investigator is promptly told. The body should be moved or disturbed only after release by the investigator (who will liaise with the Forensic Pathologist or GMO, or if unavailable, a doctor).

Searching body and scene

Police generally

Where a death is not suspicious, search the body at the scene of the death.

Where the death is suspicious, secure the scene and leave any property in position until Forensic Services Group personnel have completed an examination of the scene.

In disaster situations, secure the scene and leave any property in position until processed by disaster victim identification personnel.

When considering whether to take possession of property, have regard to the need to preserve evidence, particularly where a felony is suspected or the identity of the deceased is an issue. If in doubt about the appropriate action to be taken, consult your supervisor or duty officer.

Conduct the search of the body and the scene in the presence of a family member or some other reliable, independent witness (eg Ambulance officer) or if they are unavailable, the most senior supervisor available. Do not allow the contractor to participate in the search. The function of the contractor is restricted to removal of the body only.

Remove the deceased's property and valuables. Look in the vicinity for other obvious valuables but do not undertake a search unless you are looking for evidence. Take possession of any wallet or article which contains money, jewellery or other valuable property which you believe belonged to the deceased and would not be safe to leave.

Record a detailed description of the property, including anything you cannot remove from the body, in your notebook and on the Certification of Search of a Deceased Body Form, ensuring the witness signs the form. Hand the form to the Government Contractors instructing them to hand it to Mortuary/DoFM staff upon reaching the Morgue - DoFM. If property was removed from the body before you arrived, examine it in front of the person who gave it to you, record

it and their name and address in your notebook, and have them sign the entry. Have all property entries verified by the independent person or supervisor.

If the property is not required as evidence:

- Obtain instructions from the next of kin as to their requirements for clothing worn by the deceased and, at the earliest possible opportunity; convey those requests to the appropriate hospital authority. When the property is requested to be returned give the property to a relative or other appropriate person and have them sign for it in your official Police notebook.
- If there is no appropriate person present, take it back to your station and enter it into EFIMS and contact the deceased's family to collect the property. If you have any doubts about releasing property, consult the coroner.

Admitting the body to the mortuary

Refer to the SOPS available on the intranet 'Reporting of deaths to State Coroner or Local Coroner'. In circumstances where there are no suspicious circumstances police must conduct a thorough search of the body (unless Police are not prepared to carry out a search where the body is decomposed or has severe injuries). A yellow police body tag is to be attached to the body and all details completed. Police are to complete a Certification of Search of a Deceased Body Form and have a witness sign it. This form must be provided to the Government Contractor. Crime Scene (FSG) officers who undertake a search of the body can complete the Certification of Search of a Deceased Body Form, this includes un-sworn FSG staff.

If the death is considered a homicide, death in custody (police or corrective services), death in police custody or other suspicious death, Police are required to attend the Morgue - DoFM to admit the body. In these circumstances inform the government contractor/ambulance officer taking the body to the Mortuary to wait outside until you arrive.

If the death is not considered a homicide, death in custody (police or corrective services), death in police custody or other suspicious death, police are not required to attend the Morgue - DoFM unless they do not undertake a search of the body at the scene.

If police are not prepared to search the body they must attend the Mortuary/DoFM to be present as Mortuary/DoFM staff undertake a search of the body and police will take possession of any property located.

If a body is admitted to the Morgue - DoFM and Mortuary staff find there is no yellow police body tag attached to the body, property is located that is not listed on the Certification of Search of a Deceased Body Form or it is not completed correctly, Police will be requested to attend the Morgue - DoFM.

Make yourself familiar with, and adhere to, local requirements and where necessary, consult with the local or senior Coroner regarding transferral of a body from rural locations in regards to suspicious deaths or SIDS deaths and comply with their instructions.

Body identification tags

After initial inquiries at the scene place a completed body identification tag on the deceased (on the wrist if possible). If you do not know the identification of the deceased write 'unknown' in the relevant space. When completing the P79A include the body identification tag number.

If your local procedures require the body bag to be sealed before removal to the Morgue - DoFM, use a separate body identification tag.

Infection Control Policy

When searching bodies, adhere to the procedures and precautions contained in the NSW Police Force Infection Control Policy.

Searching for exhibits

Make a thorough search of the body and the place where found for any article possibly linked with the death. If a doctor is not present, note particularly the size, description and position of any wounds, and do not let the body or any items be removed or altered until a full investigation is completed.

When a post mortem examination is held, produce for the information of the medical officer, any weapons, bottles, packets or other items thought to be linked with the cause of death, together with any clothing showing bullet or knife holes.

Bullets and other items

Obtain bullets or items removed during an autopsy from the GMO (with their permission) and record the details in EFIMS. Have them examined and kept by Physical Evidence for production at court. Ensure an analysis job is created in EFIMS to track the forensic process. Do not leave such items at the Morgue/DoFM (excluding specimens and items for analysis). This section may require updating by Forensic Services Group.

After the inquest or one is dispensed with, dispose of the exhibit in accordance with the section on 'Exhibits'. Record the disposal details in EFIMS.

Non prohibited drugs

When you receive a notice from DAL requesting collection or destruction of a non prohibited drug in a coroner's matter, consider the need to keep the exhibit. If retained, collect the substance from DAL within four weeks. On collection record the non prohibited drug as an exhibit in EFIMS. If you have doubts, contact the coroner.

If you want to destroy the exhibit, send the original notice with your commander's approval to DAL. Record the disposal details in EFIMS.

Witnesses identifying bodies

Before asking someone to travel a long distance to identify a body, consult your commander.

Commander

Ensure the cheapest means are used. Satisfy yourself no other means are available locally, before allowing someone to travel a long way. Make sure the person is not travelling for another purpose, i.e. funeral or collecting property.

When the death is the subject of an inquest and the person making the identification is called as a witness, any claim for reimbursement is made when seeking expenses for going to the Coroner's Court.

If someone, who is asked to identify a body, needs the NSW Police Force to pay fares, arrange this in accordance with the procedures laid down for Crown witnesses. Any order or requisition issued for this is endorsed 'recoverable' from the Attorney General's Department.

When the Coroner dispenses with an inquest, or where the claimant is not called as a witness, or wants payment before it, detail all expenses sought and send the report through your commander to the region commander for consideration by Attorney General's.

Transporting bodies

Ambulance officers will transport bodies when:

- they believe resuscitation procedures should continue
- they become aware the deceased has agreed to donate organs or other body tissues
- sudden death has occurred and the body is in public view.

Unless there are special circumstances, ambulance officers will not transport someone dead more than 24 hours.

While preserving the scene, do not prevent removal of the body unless you doubt the manner of death or vital evidence would be lost. When there is a need to record the position of the body on the roadway, chalk it before removal.

Contract undertakers

When an ambulance officer does not remove a body, seek the services of a contractor.

Do not call a contractor to the scene if you establish the person is an organ donor or there are other reasons for using the Ambulance Service.

Where possible, find out the identity of the deceased person's medical practitioner and ask them if they will issue a life pronounced extinct form and a certificate of death.

If the doctor will not issue them, or be there in a reasonable time, arrange for the Government contractor to attend and take the body to the nearest hospital to have life pronounced extinct.

After this, have the contractor take the body to the Morgue - DoFM – not a private Morgue. Arrange for the contractor to be informed when they may attend, if circumstances preclude immediate removal (eg: crime scene examiner to attend scene). If a cause of death

certificate is later issued, tell the relatives their undertakers can collect the body from the Morgue - DoFM.

If a certificate as to the cause of death is issued at the scene and the body is not otherwise required to be conveyed to the Morgue - DoFM, relatives or friends should arrange for the body to be transported by the funeral director of their choice. The cost of this is to be borne by the relatives or friends. Occasionally, however, circumstances might arise (eg: relatives unable to be contacted, so body would remain in place for some time) where you should have the contractor take the body to the local government mortuary until other arrangements can be made.

Remember, sergeants or above or OICs of the scene have authority to direct a body's removal by government contractor. If their services are unsatisfactory, immediately notify the State Contracts Control Board, Government Supply Office.

Direction to contractors/ambulance officer re body removal

Clearly instruct the contractor/ambulance driver:

- to take the body directly to the hospital or GMO (nominated) and then to the mortuary
- not to undertake any other body removal or transportation which would delay their arrival at the mortuary.

Next of kin making arrangements

If the next of kin or legal representative seeks permission for a particular funeral director to remove the body to the Morgue - DoFM, approve it unless you have a valid reason. Accordingly, do not arrange the Government contractor until you visit the scene.

Advise the applicant police will supervise removal but the Government nor NSW Police Force will meet the cost.

Deceased Destitute People

There are two instances when you have to arrange burial for deceased destitute people:

- when the death falls within the Coroner's jurisdiction, and the State is responsible for the burial, the Coroner may authorise it;
- when a medical certificate as to the cause of death is issued. The only exception is if the death was in a public hospital, in which case the hospital is responsible for organising burial.

In any event, make thorough inquiries to locate and inform any next of kin and find out if any person or organisation is willing to pay for the burial/cremation.

Community organisations may have had contact with a deceased destitute person, especially if they are homeless. A community organisation may be listed as next of kin for a deceased

destitute person, providing no living relatives are able to be located, and may be able to assist with funeral arrangements.

You should also investigate whether the deceased themselves had sufficient finances available to cover the cost of the burial (if they do, and you are unable to locate any beneficiaries of the deceased's Estate, you will need to contact the NSW Trustee and Guardian about the deceased's Estate). If this is the case, a NSW Trustee and Guardian referral form should be completed and submitted. This form can be located on the NSWPF intranet.

If the deceased person was a foreign national, you should contact the relevant consulate to see if they can assist with locating a next of kin overseas.

Report this information on a 'Burial/Cremation of a Deceased Destitute Person' form (P372) to your Local Area Commander.

Local Area Commanders

Ensure thorough inquiries have been completed and send the forms to:

- The Coroner – when the death is a Coroner's case
- Relevant Public Health Unit for the area – when the death is not a coronial case in a rural area. The Public Health Unit will make the necessary arrangements for burial or cremation
- Sergeant Assisting the State Coroner, Glebe – when the death is not a coronial case in the metropolitan area.

For any enquiries relating to destitute burial or cremation procedures, contact the Sergeant Assisting the State Coroner at Glebe.

Post mortem examinations

See the Forensic Pathologist (GMO in the country) to identify the body. For routine cases, you do not have to stay at the post mortem examination. It is a matter of discretion as to whether you remain to further your coronial/investigatory knowledge.

For other deaths (homicide, manslaughter, culpable driving, criminal negligence, in police custody, police pursuit or operation, or suspicious deaths) ensure you and other designated officers (eg: Crime Scene Section investigators, Ballistics, Fingerprints) are at the examination if directed by the Coroner.

Do not take part in the conduct of an examination.

Specimens

On receiving sealed post mortem examination specimens and documentation from the doctor, arrange for transportation to the DAL, Lidcombe or other laboratory as appropriate under 'Coroner's exhibits generally' and 'Exhibits, Post mortem examinations'.

Post mortem examination at hospital

When the Coroner approves an examination at a teaching hospital, immediately have the body identified to you by a relative or other acceptable person. Doctors or hospital staff are not acceptable in these circumstances.

Identify the body to the hospital pathologist authorised to conduct the examination.

Requirements when murder charge likely

See also the section on 'Exhibits' for requirements when a post mortem examination is scheduled in the country where someone has been, or is likely to be, charged with murder.

Inquests

Advise next of kin and witnesses, required to give evidence, of the time/date of the inquest and any subsequent adjournment. Have next of kin personally informed, in ample time before the inquest.

Be sensitive and discreet when dealing with relatives of deceased people. For advice, see also 'Sudden Infant Death Syndrome (SIDS)'.

Sudden Infant Death Syndrome (SIDS)

Sudden Unexpected Deaths in Infancy (SUDI)

Attend urgently to suspected SIDS/SUDI cases. An experienced investigator should be assigned, keeping in mind any directions given by the local coroner. The investigator should become involved early in the matter (ie: before the body is moved) to exclude all other possible causes of death.

The parents and family will be under stress and emotionally upset and might have feelings of personal guilt or failure. Approach the matter with sensitivity; however, get detailed information for the Coroner and Forensic Pathologist. Be aware of the local Coroner's needs.

Minimise police presence at the scene. This also applies to other people who do not have relevant reasons to be present.

Even though you might feel compelled to speed up the inquiry to remove yourself from emotional circumstances, be patient when interviewing parents, carers and witnesses.

Do not enter into a counselling session with them – expressing your sympathy and a considerate approach is sufficient.

Preface questioning of parents and witnesses with a clear explanation that the information is needed to help confirm the medical cause of death and consider the surrounding circumstances.

In SIDS cases, do not undress the body. It is not necessary for bedding, blankets or wrap to accompany the body unless you feel they are needed to help in the medical examination or investigation.

If parents ask for final contact with the deceased baby, allow it under strict supervision after all inquiries have been completed. However, do not allow interference such as the changing of clothes, hand/foot prints or cutting locks of hair without first getting permission from the on call Forensic Pathologist.

Transfer of country SIDS/SUDI cases for specialist autopsy

SIDS/SUDI cases in the country must be examined by a specialist Forensic Pathologist at the Institute of Forensic Medicine, Glebe.

Counselling for police

If you experience emotional problems while investigating SIDS/SUDI cases, seek help from the Workforce Safety Command.

Commanders

Initiate counselling yourself if you think it is needed.

SIDS/SUDI death scene investigation checklist

Complete a P79A and have it forwarded electronically by your supervisor to the Coroner. A separate P534 form is not required to be completed as these questions are incorporated in the P79A form under the Unexpected Infant Death (SIDS) section. Important: When conducting an interview, refer to the infant by name.

In relation to the infant:

- check for signs of life. If ambulance officers or medical personnel are present, ask them to check for signs or confirm they have
- if the infant is being nursed or has been moved, find out where it was found and ask for the infant to be placed back in that position. (Do not express urgency for this)
- carefully examine the infant and where found
- do not disturb, interfere or move the infant unless satisfied the circumstances are not suspicious.

Interviewing and questioning

Carefully explain to the parents, family or carer the need to fully explore the circumstances to try to find the cause of death. Do not hurry the interview.

Find out:

- whether and when the infant was checked after being put to bed. If anything was done ie: nappy change, dummy, bottle, medicine, pat, readjust position etc
- if anything unusual was noticed
- whether the infant was settled or restless when put to bed, and if so, for how long
- if anything was found in the cot or bed

- if the baby was moved, picked up or otherwise interfered with when or after being found (bathed, groomed, shaken, cuddled etc)
- if the clothing, bedding or anything else was changed after the discovery
- when medical authorities/police were called and time taken to arrive
- if anything was done between this time
- if there have been any previous instances of infant trauma or abuse.

SIDS/SUDI exhibits

Take and produce to the pathologist anything you consider significant to the cause of death ie: medications, food etc. Explain to the parents or carer these items are needed by the medical officer to help inquiries. Further explain the articles will be returned after the Coroner has had the opportunity to consider the matter fully.

Suicides

On attending a scene where there is an apparent death, or someone at risk of dying:

- immediately check if the person is dead. If there is any possibility of life remaining, apply appropriate resuscitation or first aid;
- take all possible steps to preserve life;
- immediately get medical attention and continue resuscitation until help arrives; and
- adhere strictly to the guidelines on infection control and accident prevention.

Note: if you attend a scene where a person is found hanging, immediately:

- Cut Down
- Lay Down
- Remove Ligature
- If there is any possibility of life remaining, apply appropriate resuscitation or first aid
 - take all possible steps to preserve life;
 - immediately get medical attention and continue resuscitation until help arrives; and
 - adhere strictly to the guidelines on infection control and accident prevention.

Do not presume suicide and bear in mind evidence presented to the Coroner must be sufficient to conclusively prove it.

When investigating, seek to establish evidence which proves or disproves suicide. Arrange attendance by a Crime scene investigator. Ensure a crime scene attendance job is created in EFIMS to track the forensic process.

In the case of hangings and asphyxiations, ensure the ligature and/or plastic bag accompany the body to the mortuary.

Ask relatives and friends about the deceased's mental condition before death.

Inquire at hospitals and mental institutions. Find out if the deceased had any treatment, psychiatric or otherwise, and general state of health.

Ask the former employer and associates at work about the dead person's general outlook.

Make any other inquiries to bring evidence before the Coroner to help determine the reason for death, bearing in mind the circumstances at the time.

Get a statement from anyone you consider can give relevant evidence and send it to the Coroner.

Arrange for any helpful document not in your possession to be produced at the inquest by having process issued on the custodian. For assistance in obtaining an order for documents, please contact your local Coroner and/or the Coronial Law Unit.

Use the utmost tact and discretion to not cause undue distress to relatives when making such inquiries.

Suicide Notes

Search and/or seize any suicide note or correspondence, and if necessary include any Computer or computer storage device (external hard drive, USB, or other storage device), mobile phone device, which might indicate an intention. Remember, this might not be at the scene.

If you find a suicide note, handle it carefully as it might need to be fingerprinted. Have the note and any signature verified as that of the deceased. Family members or close friends are appropriate.

Take the original suicide note to the Coroner.

Once police seize a suicide note, it should not be released it (or even a copy of it), without the authority of the Coroner. In these situations, if the family wish to see the note they should be advised to contact the Coroner to request a copy of the note.

If the family or an interested party wants the original, advise them to make a written application to the Coroner involved. If you have concerns about return, advise the Coroner. If the Coroner directs the original be returned, keep a copy for inclusion in the brief of evidence.

Overdoses

Do not presume that an overdose is accidental; you must fully investigate the circumstances of the matter and discount all other possibilities before reaching such a conclusion

Commander

Nominate a detective, or officer performing full time criminal investigation duties, to go to a death when evidence indicates it might be drug related.

Investigator

Arrange for a thorough crime scene/forensic examination to be carried out, including the attendance of a crime scene investigator, to determine whether death was intentional or accidental. Crime scene attendance jobs and forensic analysis jobs must be created in EFIMS to track the forensic process.

You are responsible for determining whether the death is suspicious. If you are satisfied it is not, endorse the relevant record and provide a statement for inclusion in the brief to the Coroner.

Commander

If there is no extra evidence to question the detective's determination, have inquiries completed by an experienced general duty officer.

Officer continuing investigation

Gather evidence about:

- circumstances leading to death
- circumstances under which body was found
- associates of deceased
- places visited by deceased
- Any other important matters.

Interview parents, spouse, defacto, friends and witnesses. Examine personal documents and records to try to find the source of the drug, identity of the supplier and perhaps provide a link to a death elsewhere. Send a copy of the above information to the prosecutor helping the Coroner.

Ensure the dead person's criminal history relating to drug matters is included in the P79A at the time of the original report to the Coroner.

Drownings

At the end of a drowning inquest, provide a report in duplicate to your commander setting out:

- where it happened
- brief facts
- cause, if known
- if the drowning happened in a pool, include whether above or below ground, surrounded by a fence or only fenced from the street, and if the deceased was a resident or visitor
- in the case of someone fishing from rocks, whether they were alone
- if the drowning was in a private dam, the type and depth

- if a NSW Police Force member tried resuscitation, the type used, length of time and whether the deceased, at any time, showed signs of recovery
- the Coroner's finding.

Reports are not needed in a suicide by drowning, but are in a drowning in a submerged vehicle. Send reports, via your commander, to:

- The Royal Life Saving Society of Australia (NSW Branch) – the original

Deceased wearing diving equipment

When investigating the death of someone wearing a compressed air apparatus and weight belt, take them as exhibits and record the details in EFIMS. At the same time, seal and conserve any compressed gas in the apparatus. Take particular notice of its condition and how it was attached to the body. Have photos taken of the apparatus in its original condition, if possible.

Send the apparatus and belt, with a covering report, to the Diving Unit. Coordinator Diving Unit

The Diving Unit will arrange for a Government Analyst to test a sample of the gas and a qualified Diving Unit member to carry out a physical test of the equipment.

Ensure statements, certificates and photos are prepared and sent to the investigating officer for presentation to the Coroner.

Suspected poisoning

When investigating death by poisoning, find out the source of supply and whether the package, bottle etc bore the label of the manufacturer and distributor, also whether it was labelled in accordance with the Poisons and Therapeutic Goods Act.

Electrocutions, gassings, other deaths or serious accidents in the workplace

When there is such a death or serious accident, contact the local WorkCover Authority or the 24 hour emergency number.

When reporting the death to the WorkCover Authority do not offer an opinion as to the cause of death, only inform the Authority of the factual circumstances preceding the death

When electricity, gas or water is involved, notify the supplying authority.

Give WorkCover's representative reasonable opportunity to inspect the scene and evidence, and preserve them for a reasonable time. Generally, do not wait for the WorkCover inspector to arrive before removing the body. The body does not have to stay at the scene after the crime scene investigator has finished. If, however, you are of the opinion the position or location of the body, or the deceased's interaction with plant or equipment might be important in determining the cause of the fatal accident, or if you are not sure, consult with

WorkCover about the need to have a WorkCover inspector attend before the body is removed.

Ensure security of equipment and exhibits seized. Allow WorkCover access to them.

Advise the Coroner of WorkCover's involvement and any problems which arise.

Mine deaths

If a death or serious injury occurs in a mining workplace, promptly advise the Mines Inspector appointed under the relevant mine health and safety legislation by the NSW Department of Trade and Investment. The mine is likely to know the contact details of their assigned inspector.

www.trade.nsw.gov.au is a link to contact details.

These officers will need to know the time, date and location of the inquest.

Mining workplaces are defined and include places like quarries, dredges, processing plants, large waste ponds and waste dumps, petroleum and coal seam gas drill sites and boreholes.

Under the *Coroner's Act*, you must investigate mine deaths and immediately notify the Coroner.

Give priority to the rescue of survivors.

Mines inspectorate

Under the Work Health and Safety laws, the Mines Inspector has a statutory obligation to attend and begin an immediate investigation. The Coroner uses the technical expertise of the Inspector in any subsequent proceedings. Work in close liaison with the Mine Safety Operations Branch and mining company officials. Adopt team investigative approach.

Investigation

Notwithstanding the role of the Mines Inspector, you are responsible for comprehensive initial inquiries to ensure there has been no foul play or suspicious circumstances.

Collect evidence and get statements from witnesses. You may speak to witnesses previously interviewed by the Inspectorate, but this is usually unnecessary.

Safety considerations

Mine management is responsible for general site safety.

The Mines Inspector should be able to assist in determining when the site is safe and provide technical advice that would assist in understanding cause and circumstance. The Mines Inspector can accompany police at the mine to help ensure their safety.

Scene preservation

Leave bodies in place to allow investigating police, the Coroner and the Inspectorate to conduct a site inspection.

Preserve the scene and arrange for Physical Evidence staff to attend. Ensure a crime scene attendance job is created in EFIMS to track the forensic process. Initiate Disaster Victim Identification Procedures see *IESOP*.

Body security and identification

Once a body has been brought to the surface, you are responsible for its security, pending a post mortem examination.

Arrange for the identification of bodies. You may use a mine officer to help.

The family should be directed to view the body at the mortuary and not the scene.

Multiple deaths

Aircraft or public transport incident

Immediately notify the Coroner and the Department of Transport of a fatal air crash.

Advise the Sergeant Assisting the Coroner, when multiple deaths result from an aircraft or public transport accident. Specialist pathologists from Glebe to undertake autopsies in these circumstances.

Fatal or serious train accidents

First officer on the scene

In the event of a death or serious accident involving trains within the Sydney metropolitan area, notify the Commander, Police Communications Section.

Commander, Police Communications Section

Arrange attendance of:

- Ambulance Service
- rescue units, where necessary
- Fire Brigade
- senior railway operations staff (Network Operations Superintendent)
- relevant transit police supervisor
- Crime Scene Section Investigators, where necessary
- Other services as necessary.

Notify the duty officer of the Directorate of Rail Safety.

Other responsibilities

First officer on the scene

When appropriate, have the driver and guard breath tested by an authorised officer or, if not available, a NSWPF member

If positive, conduct (or arrange to be conducted) a breath analysis.

Ensure, wherever possible, the driver and other witnesses stay at the scene for interview.

Investigating officer

Ensure no more police than necessary are allowed onto the tracks and only with a SRA member experienced in safe working procedures.

Make a preliminary assessment of whether criminal proceedings are likely, and where possible, use transit police to help your investigation. When indictable charges are likely, preserve the scene until all police and forensic services have been engaged.

When a driver has tested positive, or appears to have been seriously negligent, ask the SRA to remove the train from service immediately and secure it for scientific examination. Forensic analysis jobs must be created in EFIMS to track the forensic process. In other cases, allow it to proceed as soon as practical after an injured person or body has been removed from the line etc, on the understanding the train might be examined later.

In all cases, adhere to the Incident Management Protocol between the SRA and NSW Police.

Maintain consultation with the SRA Network Superintendent throughout the investigation.

Delays to SRA operations

Delay SRA operations, only in the most exceptional cases, to photograph the train and/or body. Inform the station master of the likely delay in resuming services so commuters can be advised.

Mark important features at the scene with lumber crayon.

Interviewing train driver and witnesses

In the absence of any medical reason, interview the driver and/or other SRA witnesses at the scene.

Do not object to SRA representatives being present. Do not delay an interview if representatives are not there.

Releasing evidence

Subject to any direction by the Coroner, there is no objection to:

- informing the SRA district traffic superintendent of the nature and importance of onsite interviews conducted by police
- supplying the SRA with copies of photos taken by Crime Scene Section investigators.

- SRA officers interviewing the driver and other witnesses.

Investigating officer

When you need to take detailed, formal statements from the driver and witnesses, you may, in the absence of a Coroner's direction, conduct this jointly with the SRA Superintendent.

Should problems arise, report the matter through normal channels.

Train deaths or injuries in country areas

Procedures for train deaths/injuries outside the Sydney metropolitan area are the same, except the train is allowed to proceed as soon as practical. Arrange any Forensic Service examination at its destination. Forensic analysis jobs must be created in EFIMS to track the forensic process.

See also the Incident Emergency Standing Operating Procedures (IESOP).

Boating Deaths

When you investigate an incident resulting in death, notify the Roads and Maritime Services Supervisor for the area.

When conducting coronial investigations or investigating collisions where the injuries amount to grievous bodily harm and indictable charges are likely to be laid; create a job analysis request on EFIMS for the attendance of the Forensic Services Group Engineering Investigation Section to examine the offending vessel.

Ensure close shared communication between you and Roads and Maritime Services Investigator in coronial and other serious matters. In such cases, the Roads and Maritime Services Investigator will update the Roads and Maritime Services on the progress of the court case/ investigation.

Complete a Vessel incident report if you investigate an accident or incident involving a vessel. Fax the completed form to the Roads and Maritime Services.

For further information, call Roads and Maritime Services on 13 12 56 (a 24 hour service).

Refer to MIESOPS Manual, 'Incidents and Emergencies, including Search and Rescue' for additional information.

Identifying bodies with possible altered features

Please see '[Chapter I - Identification of deceased bodies and skeletal remains](#)'.

Unidentified bodies

Where unidentified deceased, skeletal or other suspected human remains matters are located, ensure that the crime scene is immediately established and secured to preserve evidence. Where necessary a Crime Scene Warrant is to be obtained in line with LEPR. Arrange for an officer from the Forensic Services Group to attend and examine the scene.

Ensure a crime scene attendance job is created in EFIMS to track the forensic process. Police MUST ensure that all evidence that may assist in determining identity and cause of death is preserved and collected.

Please see '[Chapter I - Identification of deceased bodies and skeletal remains](#)'.

Suspected human remains

Submit a P79A when skeletal material, suspected of being human, is brought to your attention. Conduct the investigation in the same way as for a dead person.

Skeletal remains (Aboriginal)

Officer in charge of case

If apparent ancient Aboriginal remains are uncovered:

- secure the site
- contact the regional office of the National Parks and Wildlife Service and advise the location, features of the site, your name and phone number
- arrange for an archaeological expert to examine the site
- advise the ACLO, attached to the LAC in which the remains were found.

If the expert certifies the remains are of ancient Aboriginal origin (by issuing a certificate):

- enter details as an occurrence only event on COPS. Include details on station summary
- complete a P79A form
- attach the certificate
- send all documents to the Coroner, filing a copy at your station.

Do not send the ancient remains to the Division of Forensic Medicine.

If the remains are not of ancient origin, investigate in the usual way.

Involvement of Professional Standards Command (PSC)

If it appears a NSW Police Force member is implicated in a death or fire, immediately report in writing to the Commander, PSC.

PSC is responsible for the proper investigation of the alleged breach of discipline but will not, unless otherwise directed, take over the investigation.

Deaths in Custody

A Coroner holds an inquest when someone has died as a result of or during a police operation, or in lawful custody in a lockup, cell, police vehicle or other place. See also the section on 'Arms and appointments' for shootings.

Refer also to the Guidelines for the Management and Investigation of Critical Incidents.

Police discovering death

On discovering an apparent death, or someone at risk of dying in police custody:

- immediately check if the person is dead. If there is any possibility of life remaining, apply appropriate resuscitation or first aid
- take all possible steps to preserve life
- immediately get medical attention and continue resuscitation until help arrives
- adhere strictly to the guidelines on infection control.

If you find a prisoner hanging in a cell:

- immediately cut them down, protecting the head and neck as much as possible
- one officer holds them up while the other cuts or removes the noose (leave the knot/bar attachment in place)
- get them down as soon as possible
- remove or cut the noose while leaving the knot intact and follow the above procedure
- make a record of where the knot was positioned on the neck area
- notify the duty officer and request their immediate attendance
- subject to life saving attempts, do not alter anything
- secure and preserve a scene of death - promptly arrange for a crime scene investigator, Government Forensic Pathologist (metropolitan area), GMO (country area), Coronial Investigation Unit and other medical assistants. These are the only people allowed in a cell until the senior investigating officer SIO) otherwise directs
- make a complete and accurate record of the event in your notebook, including a sketch plan, at the first available opportunity.

Further duties will be subject to the directions of the duty officer, Local Area Commander or SIO.

Duty officer

Refer to the Guidelines for the Management and Investigation of Critical Incidents.

DOI

Refer to the *Guidelines for the Management and Investigation of Critical Incidents*.

Commander

Refer to the *Guidelines for the Management and Investigation of Critical Incidents*.

Region Commander

Refer to the *Guidelines for the Management and Investigation of Critical Incidents*.

Senior investigating officer (SIO)

- if there is likely to be some delay in getting there, the crime scene officer may arrange removal, preferably after phone consultation with you and the GMO
- ensure the officer who accompanies the body to the mortuary is not connected with the circumstances of, or leading up to, the death
- contact the State Coroner's Office about post mortem arrangements
- take command of the investigation team
- begin a running sheet
- confer with the Professional Standards Manager
- confer with the Commander, Coronial Investigation Team (at its office or through the DOI)
- secure all relevant exhibits and clothing for examination and retention by the crime scene investigator (clothing to be produced to pathologist at post mortem examination)
- prepare the P79A form for the State Coroner
- enter details onto COPS and include it on the station summary and reports of Statewide significance
- ensure proper identification in front of a member of the investigation team and attendance of one at the examination
- begin a full investigation including the reason for apprehension and activities immediately before arrest
- promptly advise the NSWPF Solicitor of the victim's name, date and place of death and brief circumstances. Also supply your name and location and those of the review officers.

When conducting the investigation, ensure you:

- include consideration of the lawfulness of the custody and the general care, treatment and supervision of the prisoner before death
- approach with an open mind, without excluding any possibility
- do not presume suicide, and if indicated, it must be proved to the satisfaction of the Coroner
- begin a thorough search for witnesses, including family where suicide is suggested, to establish possible tendencies or prior attempts/threats
- prepare a written chronology of events and investigations; include this in the brief of evidence and make it available to the inquest, if needed
- you or your delegate are the only one authorised to release information to the media
- before any release of information, confer with the Local Area Commander
- begin preparing a full brief of evidence for the Coroner, following the correct coronial procedures, as set out in the section on 'Coroners' matters'.
- maintain regular contact with the Professional Standards Manager and the Commander, Coronial Investigation Team
- attend the initial debriefing arranged by the Local Area Commander
- confer with the Coroner, State Crown Solicitor and counsel appointed to help the investigation and prepare the brief and presentation of evidence at the inquest

- send a full copy to the Commander, Coronial Investigation Team, for transmission to the State Coroner, and comply with all directions of that office
- provide a full copy to the Professional Standards Manager before the original brief is sent to the Commander, Coronial Investigation Team
- brief the region commander at the end of the investigation
- attend the inquest and, immediately after, provide a copy of the findings and recommendations to the region and Local Area Commanders
- attend the region commander's final debriefing.

PSC reviewing officer

You have an independent function and should ensure a competent investigation is carried out by the team. Make sure it is conducted in accordance with this practice and also includes identifying and reporting on deficiencies in established practices and procedures.

Go to the scene at the first opportunity and ensure the:

- death scene has been preserved and all witnesses identified
- local and region commanders have been told
- composition of the investigation team is in accordance with instructions
- if the circumstances clearly indicate a single investigator will suffice (natural causes), immediately inform Professional Standards Command which will advise the region commander.

You must then:

- begin a running sheet recording all action taken by you
- as soon as possible, make yourself known to the family and inform them of your role so a liaison can be created
- this role will include answering, as far as possible, any concerns the family might have about the circumstances of death or procedures after it. Maintain this until the end of the inquest
- as far as possible, ensure contact with the family is in consultation and cooperation with the Local Area Commander
- attend the post mortem examination as an observer unless it is not reasonably practical
- regularly confer with your commander
- as soon as possible, send a report with a copy of the running sheets to the commander for transmission to the Commander, Professional Standards Command. Follow this with status reports
- help the Coroner and perform duties as needed
- after the inquest, send a final report through the same channels; this report includes comments on all aspects of the incident and investigation and your recommendations, if any

- attend the Local Area Commander's initial debriefing, region commander's briefing at the end of the investigation, the inquest and the region commander's final debriefing on findings and recommendations.

Deaths in Correctional Centres

Refer to the guidelines found on the Intranet > Policy & Procedures > Operational Policies > Guidelines For The Investigation Of Deaths In Custody - Correctional Centres

Deaths in police custody, from police shootings or pursuits

Follow the Guidelines for the Investigation and Management of Critical Incidents.

Investigate such deaths in line with the practices in the sections 'Deaths in Custody' and 'Arms and Appointments'.

Death of an Aboriginal while in custody

Local Area Commander

If an Aboriginal person dies in police custody, secure and preserve the scene and notify your region commander.

Professional Standards Command maintains a comprehensive review role in the investigation and liaises with the family.

Use the ACLO, if available, to maintain a relationship with all relatives particularly about the movement of the body etc.

Organ and Tissue Donation

DonateLife - NSW Organ and Tissue Donation Services

DonateLife NSW is a network of specialist nurses and doctors who oversee the organ and tissue donation process. This includes nurses and doctors based at hospitals (Donation Specialist Nurse (DSN) and Donation Specialist Medical (DSM)) and nurses providing state-wide support and coordination (Donation Specialist Coordinator (DSC)).

For any issues arising during the donation process, the DSC can be contacted on 9963 2801.

Organ and Tissue Donation After Death

In cases where a report of death to the Coroner is necessary, any removal of organs and tissues requires prior authorisation from the Coroner. It is the responsibility of the Donation Specialist Coordinator (DSC) from the DonateLife - NSW Organ and Tissue Donation Service to obtain authorisation from the Coroner.

The process of seeking authorisation from the Coroner may, in the first instance, require contact with police involved in investigating the circumstances of events. The purpose of this contact is to clarify the circumstances of death and if any criminal charges are to be laid. Information is most frequently requested via telephone. If required to confirm identity of the

caller, the on-call DSC can be contacted via pager on 9963 2801. The DSC then contacts the Forensic Pathologist. Finally, the Coroner will be contacted and given information obtained from the investigating police and Forensic Pathologist. Authorisation from the Coroner may then be given to proceed with the organ and tissue donation.

Formal Identification of the Deceased

The hospital staff will contact the local police station and request their attendance to take a report of the death and complete coronial requirements. The process of formal identification of the deceased is dependant on how the death has been certified as per the *NSW Human Tissue Act 1983*.

Donation After Brain Death (DBD)

Brain death is a legal definition of death as per the Human Tissue Act 1983. It occurs when there is irreversible loss of all functions of a person's brain, usually following severe head injuries, stroke or lack of oxygen to the brain.

Two doctors will conduct a number of tests to determine that there is no brain function and death has occurred. The legal time of death is documented as the time the second doctor completed the second set of tests. The deceased will remain on a ventilator for the purpose of organ retrieval and will be monitored in the Intensive Care Unit. When testing has been completed and the patient confirmed deceased, formal identification of the deceased is to occur and a yellow ID tag placed on the deceased. This occurs prior to organ retrieval surgery.

Donation After Circulatory Death (DCD)

Circulatory death occurs when a person's heart has stopped and all blood circulation ceases. When a person has suffered an unsurvivable injury, but is not brain dead, a decision can be made by Intensive Care doctors to discontinue treatment. Organ and tissue donation may be pursued. This process involves ceasing all treatment, including disconnection from the ventilator. Once the heart stops beating/blood stops circulating the patient will be certified dead. The deceased is then immediately transferred to the operating theatre for organ retrieval in order to minimise damage to the organs. Formal identification is to be completed after organ retrieval surgery and the yellow ID tag will be placed on the deceased.

Defence force deaths

If the deceased is a defence force member, advise the appropriate authority without delay.

Death of Employees

Promptly report the death of any NSW Police Force employee (serving or retired) to the Commander, Welfare Section, who will notify all appropriate agencies.

Refer to the Protocol Manual for requirements and procedures.

Fatal/serious accidents involving police vehicles

This includes, but not limited to, motor cycles, helicopters and water borne vessels.

A review officer is to be nominated in accordance with the Guidelines for the Investigation and Review of Deaths/Serious Injuries in Custody. The investigation is to be conducted by the Crash Investigation Unit.

This also applies to fatal/serious injury collisions arising from a pursuit, irrespective of whether the vehicle used by police is actually involved.

Crash Investigation Unit officer

Your commander immediately notifies the region commander and Commander, PSC for all fatal/ serious injury collisions involving police on duty.

Prepare all necessary reports and brief of evidence where appropriate. Have them oversighted by the appointed PSC officer, who is responsible for any further action. Endorse the officer's driving record on the SDS where appropriate.

Whenever damage is caused to private property, immediately complete a NSW Treasury Incident Report/Claim form and send to Risk Management.

Coroner Related Deaths in NSW Health Hospital Facility

In correlation with the NSW Health 'Coroners Cases and the Coroners Act 2009' Policy Directive the following will occur when a Coronial related death is reported to Police:-

1. The Hospital Manager or their representative will immediately notify the respective Local Area Command (Duty Officer/Supervisor) to provide details of a death that may be reportable to the Coroner. The Duty Officer/Supervisor will immediately dispatch police to attend the hospital facility to undertake an investigation.
2. The Hospital Manager will ensure preservation of the crime scene or securing of physical location (where appropriate) for forensic analysis by Forensic Services Group personnel.
3. The Hospital Manager will provide investigating Police with an original copy of the relevant medical records of the deceased person. These records are then to be provided with the deceased person for information of the Forensic Pathologist upon commencement of the post mortem examination.
4. The Hospital Manager will provide details of all medical staff who attended to the deceased, in order to manage obtaining their respective statements in a timely manner.

Diplomatic Agents and Consular Representatives

Rights, Privileges and Immunities

"The purpose of privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States".

(Preamble to the Vienna Convention on Diplomatic Relations, 1961)

Police generally

Australian Commonwealth legislation in relation to diplomatic and consular officials includes:

- Diplomatic Privileges and Immunities Act
- Consular Privileges and Immunities Act
- Public Order (Protection of Persons and Property) Act
- Crimes (International Protected Persons) Act
- International Organisations (Privileges and Immunities) Act
- Foreign States Immunities Act 1985.

These Acts give force of law in Australia to the provisions of the Vienna Convention on Diplomatic Relations, 1961, and the Vienna Convention on Consular Relations, 1963.

In the execution of your duties always be polite and courteous when you come into contact with a foreign dignitary, head of State or Minister of a foreign government, diplomat or consular official, foreign government officials, a member of an international organisation or overseas mission including their staff and members of their family. You should also exercise the utmost diplomacy, respect, tact and discretion particularly if you are unsure of the rights, privileges and immunities that shall be afforded them and their office. If in doubt seek advice before taking enforcement action.

Be aware that immunities may vary depending on the status of each office or individual representative. Some representatives have complete immunity from the criminal jurisdiction and almost complete immunity in civil and administrative jurisdictions (essentially, they can only be brought to a court for matters relating to private commercial and financial transactions). It is the responsibility of the court to assess and determine immunity from the proceedings, on case by case basis, given the nature of the proceedings. Other categories of representatives may have more limited ("functional") immunity. This means that their immunity applies only in respect of their official duties.

Accredited foreign officials should carry a coloured coded ID card, issued by the Department of Foreign Affairs and Trade (DFAT) that will indicate the status of each individual office bearer. The reverse of the card has a general statement regarding the privileges and immunities which shall be afforded to them in Australia under international and Australian laws. Some officials for example a member of an international organisation temporarily in Australia on official mission are not issued with a DFAT ID card but may still be entitled to

some privileges and immunities. A DFAT pamphlet and matrix summary, dated March, 2005, regarding these privileges and immunities is available by a general search on the Police intranet

If a person claims immunity and is unable to produce their ID card and it is necessary at the time to establish the status and immunities that should be afforded to that person, **ask** that person to attend the nearest police station voluntarily for the purpose of further inquiries. Clearly explain to the person that he or she is **not under arrest or is being detained**. Other avenues to establish their status during or after business hours may include requesting a staff or family member to bring their ID card to the police station or contacting the Commander, Protection Operations Unit (POU), Counter Terrorism & Special Tactics Command (CT & STC), or the DOI for the purpose of contacting DFAT. Police generally, should not contact DFAT directly. Choose the most convenient and expedient avenue of inquiry to all parties involved.

All foreign dignitaries, heads of State and foreign representatives etc, irrespective of the office status and immunities are obliged to respect and comply with the laws and regulations in Australia. The privileges and immunities are extended by the Australian government to foreign representatives to enable them to carry out their proper functions. They are **not** however, a blanket authority to disregard the law or lawful directions of a police officer or a means to deliberately avoid liability.

Head of a foreign State, minister for foreign affairs of a foreign State, minister of a foreign government etc and their spouses

The Diplomatic Privileges and Immunities Act provides full immunity to the head of a foreign State and includes a President, Prime Minister or a minister for foreign affairs of a foreign State who is the "head of a diplomatic mission" whilst in Australia. Full immunity also applies to their spouse. Ministers of an executive government and heads of a political sub State may have immunity in certain circumstances under the Foreign States Immunities Act. A foreign State means a country the territory of which is outside Australia being a country that is an independent sovereign state or a separate territory (whether or not is self-governing) that is not part of an independent sovereign state. Reference to a foreign State in the Foreign States Immunities Act includes:

- (a) a province, state, self-governing territory or other political subdivision (by whatever name known) of a foreign State;
- (b) the head of foreign State, or of a political subdivision of a foreign State, in his or her public capacity; and
- (c) the executive government of a foreign State or of a political subdivision of a foreign State, including a department or organ of the executive government of a foreign State or subdivision; but does not include a reference to a separate entity of a foreign State.

A minister of a foreign government, executive head of a foreign government/department or agency, the governor or mayor of a foreign city, their spouse or staff do not have personal or individual immunity under the Foreign States Immunities Act in regard to criminal and traffic

offences and the jurisdiction of the court in Australia For example, if a visiting government minister or their spouse assaults someone, steals property or commits a traffic offence, they have no personal immunity under the Act. They may be immune in some circumstances in their capacity as a member of a foreign government, most specifically in litigation proceedings on their foreign State. Before doing any of the following that involves a diplomatic agent, consular officer, visiting foreign dignitary or foreign government representative, member of an international organisation or overseas mission their spouse or staff, contact the Commander, POU, during office hours or in urgent matters outside office hours through the DOI as to the nature of the matter:

- interviewing the person in connection with a criminal offence;
- preferment of charges;
- issuing any court process (CAN or subpoena), or
- serving a subpoena issued by the court in a criminal or coronial matter.

If necessary, advice will be sought from the DFAT regarding the protocols to be observed in compliance with the Commonwealth legislation or if further instructions should be sought from the issuing court before service. The matter of immunity may need to be determined by the issuing court, on a case by case basis, given the nature of proceedings and the status of the entity or person against whom the proceedings have been issued.

Diplomatic agents (red ID card)

Police generally

Diplomatic agents and their administrative/technical staff as well as dependent members of their families which are part of their respective households, are immune from criminal prosecution and shall not be arrested, charged and detained. If any such person is an Australian citizen or permanent resident, full immunity may not apply and clarification should be sought.

Immunities may be waived by the relevant foreign State to allow a criminal prosecution. However, a prosecution shall not proceed before such waiver. Matters involving the question of office status, immunity and later prosecution in regard to these persons must be referred through your Local Area Commander or equivalent within specialist commands to DFAT through the Commander, POU.

All official premises and private residences of diplomatic agents including their administrative and technical staff, all official papers and documents as well as sealed diplomatic and consular consignments are inviolable. These premises shall not be entered and searched. Entry shall only be gained with the expressed permission of the head of mission except in an emergency, disaster or other life threatening situation that requires prompt protective action i.e., fire, explosion etc. Protective action extends to any intrusion by trespassers or damages to the official premises or residence

Do not interfere, open, search or detain a diplomatic bag or satchel of a mission nor search the vehicles of a diplomatic mission bearing DC or DX plates. All persons above are immune from personal searches. They cannot be compelled to attend court to give evidence, even if subpoenaed in a criminal matter or other judicial inquiry, unless that person is prepared voluntarily to waive their immunity as a witness and/or a victim of a crime or the relevant foreign State has waived their immunity in a criminal prosecution.

Personal baggage of diplomatic agents and members of their families, forming part of diplomatic agents' households, is exempt from inspection unless you have serious grounds for presuming/suspecting that the luggage contains articles, the import or export of which is prohibited by law or controlled by quarantine regulations.

Diplomatic agents who are Australian citizens or are permanent residents of Australia only enjoy immunity in respect of official acts performed by them in the exercise of their functions.

Consular officers (green ID card)

Career consular officers are immune from being arrested, charged or detained except when an arrest warrant has been issued by a court in regard to an alleged serious criminal offence ("grave offence") that carries a penalty punishable by imprisonment of five years or more. They are liable to criminal prosecution for an offence that carries such a penalty in regard to a personal act but are exempt in most matters, if they were exercising their consular functions. A criminal prosecution may be commenced by an order issued by a court (CAN) in regard to an alleged serious criminal offence as outlined above.

You must consult with the Commander, POU, before instigating any criminal prosecution.

Police generally

Consular officers, their employees (lime ID card) and their dependants are not immune from:

- Giving evidence at court except in matters relating to their consular functions;
- Police entry and search of their residential premises by search warrant under Part 5 of LEPR, and
- Police searching of consular vehicles bearing CC plates and any other motor vehicles under Part 4, Division 5 of LEPR.

Official consular premises have the same immunities as diplomatic premises regarding entry and searching. Entry may only be gained with the expressed permission of the head of post concerned excluding an emergency or life threatening situation similar to diplomatic premises.

The same immunities also apply, as outlined above, in regard to official papers and documents, sealed diplomatic and consular bags, satchels and consignments.

Consular officers are immune from personal searches. However, their employees do not have that immunity nor against arrest and detention and their immunity applies only in respect of

their official duties. The dependants of a consular officer or consular employee have no immunities whatsoever.

Honorary consuls (grey ID card)

Honorary consuls and dependents hold no immunities in regard to arrest and detention, criminal prosecution, giving evidence at court or other judicial inquiry personal, residential and motor vehicles searches, except in regard to the following:

Honorary consuls are immune from prosecution if the act was performed in the exercise of consular functions or from giving evidence in relation these functions, and

Official papers and documents, if kept separately at the official premises, are inviolable if located during the execution of a search warrant.

On the spot traffic infringement notices and criminal infringement notices (CINs) may be issued.

International Organisations

Generally, officers (caramel ID card if the individual is not a resident in Australia), service staff (yellow ID) and dependents are not immune from arrest and detention; lawful entry and search of their residences unless they reside at the diplomatic or consular premises; searches of their vehicles and prosecution except in respect of official acts performed in the course of their duties. Service staff are not immune from personal searches and the giving evidence at court or at a judicial inquiry.

Personal searches of officers may vary depending on the status of the office or individual. Immunity may be waived by the sending organisation to allow a prosecution but the proceedings shall not proceed before that waiver.

Overseas Missions

Immunities to members of a mission may vary depending upon the status of the office or the individual. Any matter involving immunity in regard to an investigation and the lawful gathering of evidence should be referred the Commander, POU, who shall confer with DFAT.

Firearms

Foreign dignitaries, diplomatic and consular officials, heads of State and other foreign government officials etc including their staff and family members are obliged to comply with the Firearms Act and Regulation in regard to the lawful possession of firearms. If you receive any information concerning the alleged unlawful possession of a firearm furnish an immediate report through your Commander to the Commander, POU. Generally, do not attempt to seize the firearm unless the person is prepared to surrender it.

Exercise discretion in other circumstances in the public interest that may warrant the seizure of the firearm having regard to the status of office held by the person in possession of firearm and location of the incident. Contact the Commander, POU, or the DOI outside office hours before seizing the firearm.

Driving and registering motor vehicles

Motor vehicles owned by diplomatic missions and consular posts, by their respective staff members and by dependent members of their household must be registered and are required to carry diplomatic or consular plates unless approval (Public Affairs Department) has been given to use standard registration plates. Distinctive number plates are usually fitted to vehicles which are used by diplomatic and consular staff.

Traffic offences

A vehicle flying a national foreign flag indicates the presence of a head of mission, head of State or Minister of a foreign government etc. Do not stop that vehicle unless an offence has occurred and even then exercise discretion in regard to a minor infringement.

If the offending vehicle bears DC, DX or CC plates, stop the vehicle and if appropriate, issue the driver with an infringement notice. Officials are required to stop if requested by police.

If the offending driver is a diplomatic or consular official or staff member, you may issue an infringement notice. Dependents of consular officers, consular employees, honorary consuls and members of international organisations and overseas missions have no immunities in regard to traffic law enforcement.

When a diplomatic or consular vehicle is parked illegally, causing danger or unreasonable obstruction and the driver cannot be located arrange for the vehicle to be towed similar to any other vehicle in these circumstances.

Major traffic offences

If either the driver of a vehicle bearing plates "DC", "DX", or "CC" plates, or a diplomatic or consular official is alleged to have committed a serious traffic offence, e.g.: alcohol or drug impaired driving, criminal negligence, dangerous driving etc., stop the vehicle and conduct inquiries.

Be aware that diplomatic or consular officers including administrative and technical staff of a diplomat cannot be arrested and detained for the alleged driving offence or if they refuse or fail to submit to an alcohol/drug breath test or blood sample. A consular officer may later be issued with a CAN in connection with the alleged offence.

Consular employees, honorary consuls, members of international organisations and overseas missions including their dependents generally have no immunity. If unsure, consult with DFAT through the Commander, POU, and outside office hours the DOI, regarding the status of the office of the individual. Consult with the Commander, POU, before instigating any court proceedings for a serious traffic offence.

Roadside and random breath testing

Police generally

Diplomatic agents (red ID card), their administrative and technical staff (blue ID card) and their dependants are immune from arrest, detention and prosecution in regard to

alcohol/drug driving and other offences. Consular officers (green ID card) may be prosecuted for drink/drug driving and other serious ("grave") criminal offences by the issuing of a CAN but are immune from arrest and detention.

Consular employees (lime ID card), honorary consults (grey ID card) and Service staff of an international organisation and their dependants have no immunity whatsoever in regard to drink/drug driving offences. Members of international organisations, overseas missions and their dependents generally have no immunity. However, immunities by members of these organisations and missions may vary depending on the status of the office or the individual and any matter of immunity involving these members, the Commander, POU or DOI should be contacted for the purpose of confirming their status with DFAT. Full immunities may not apply if the person is an Australian citizen or permanent resident.

In incidents of alleged alcohol/drug impaired driving incidents where the driver is not in possession of their identity card and claims immunity (irrespective of whether the vehicle is bearing diplomatic or consular plates) it may be necessary to establish their identity and/or clarify their status of office and immunity through the DOI and DFAT, if the road side screening of the driver is positive. As indicated earlier in this guideline, this may include asking the driver to accompany police voluntarily to the nearest police station for the purpose of conducting these inquiries through the Commander, POU, or the DOI.

In matters involving diplomatic agents, their administrative/technical staff and dependents or other foreign representatives who have established immunity, you may still ask the driver to submit voluntarily to a roadside or random breath test. The driver may refuse. If so:

- do not allow the vehicle to be driven by that person, if you have reasonable grounds to suspect that the driver is affected by alcohol or drugs and you are of the view that the person would be a danger to public safety.
- make whatever arrangements is necessary and appropriate in the interests of road safety which may include:
- requesting a passenger, if licensed, to drive the vehicle on the continuing journey,
- contacting the relevant consulate, post or mission or residence to arrange for a staff or family member to attend the location to drive vehicle and occupants,
- arranging for the vehicle to be towed to a nominated destination or nearest police station and the towing fee payable by the driver concerned,
- locking the vehicle securely depending on the location and allow the driver and occupants to proceed by other means of transport i.e., taxi, hire car etc

If necessary make these arrangements through the DOI and report the incident to the Commander, POU.

In all other instances, where it is established that the person has no immunity, follow normal standing operating procedures.

Commencing proceedings against consular officers, consular employees and members of international and overseas missions etc.

It is incumbent upon all police to consult with Commander, Protection Operations Unit, (POU) or in urgent matters outside office hours the DOI, BEFORE instigating proceedings against foreign government representative for the purpose of establishing the status of the office or individual regard to their immunities with DFAT and in regard to immunities that may be waived by the relevant foreign State before commencement of a prosecution.

Immediate notification is required by police to the Commander, POU, for the purpose of notifying DFAT when proceedings have been instigated.

The Commander, POU, may be contacted regarding blatant and inappropriate conduct by foreign representatives that should be referred to DFAT.

Any incident involving a foreign representative and police in the execution of their duties that might attract media attention should be brought to the immediate notice the Commander, POU. Also comply with the NSWPF Media Policy.

Disability Issues

Determining whether a person may have impaired intellectual functioning

Police are not expected to diagnose a person with an intellectual disability or impaired intellectual functioning. However, police are responsible for ensuring that a person being interviewed understands the content of the interview. [See the Dictionary in the Code of Practice CRIME](#), for indicators that a person may have impaired intellectual functioning.

When an officer knows that a person has an intellectual disability or impaired intellectual functioning, this person is considered to be a 'vulnerable person' under LEPR. This means there are a number of provisions which should be considered under LEPR.

Before interviewing a person with impaired intellectual functioning

With each stage of questioning, you will need to make two kinds of decisions:

- what adjustments do I need to make so this communication can be effective?
- do I and/or the person being interviewed need someone else for either general support or to help with communication?

In the case of suspect with impaired intellectual functioning, arrangements should be made for a support person to be present. If you are conducting an investigation the support person should not be a witness in the matter or likely to become one.

Whether the person is a suspect, witness or victim before starting an interview:

- ensure the person understands the reason for the interview and why they are there (a support person may be able to help you in making yourself clearly understood)
- ask them if they wish to have a support person present, and take reasonable steps to arrange one if that is what they want
- find out if they are, or have been, taking medication which might affect their ability to answer questions
- find out if they have disabilities for which adjustments need to be made, eg: hearing or sight impairment.

In planning for the time of your interview remember, people with impaired intellectual functioning might need more time to understand and answer questions.

During an interview with a person with impaired intellectual functioning

When interviewing or speaking to someone with impaired intellectual functioning:

- avoid unnecessary distractions and as far as possible, respect the wishes of the person being interviewed

- encourage frequent short breaks to help the person's concentration
- face the person directly, speak clearly and slowly and ensure that they have a clear view of your face. Your body language is important as people with impaired intellectual functioning often rely heavily on non verbal clues and might interpret a change in voice, a frown or a sigh as displeasure, which might influence their answers
- allow the person to provide a version or account of events in their own words
- regularly check for understanding by asking the person to repeat in their own words what has been discussed other than asking, 'do you understand?'
- if you use a question and answer format, ask clear and uncomplicated questions. Use positive rather than negative sentence constructions (eg: "Where were you going?" rather than "You weren't going home, were you?")
- consider using visual aids (pictures, objects, signs, whiteboards) to help communication and prompt memory. When you ask the person to illustrate something, ensure it is done voluntarily
- be patient if someone has difficulty communicating
- during interviews under caution, periodically remind the person of the caution, and confirm that their understanding of it is ongoing, particularly after breaks in the interview
- be prescriptive with any instructions you want the person to follow (eg: "When you fill out this form, put your name at the top", wait for their response and action and then address the next issue "Sign at the bottom and put the date next to your signature").

Remember, some people with impaired intellectual functioning:

- have a short attention span, poor memory and difficulties with details (times, dates and numbers). Be aware of the likelihood of inconsistent answers to the same questions
- readily take responsibility for matters for which they are not responsible. Carefully explore all available avenues to seek independent corroboration of information supplied, particularly admissions
- are susceptible to authority figures and tend to give answers they believe are expected. A 'yes' answer is not necessarily a reliable indicator of understanding and you should ask the person to explain in their own words what they mean by 'yes'. Be wary of repeated 'yes' or 'no' answers. Ask questions which cannot be answered with a 'yes' or a 'no'.

For further help refer to the guidelines about [Mental illness](#) and [Sexual assault](#) (in this Handbook) and the [Code of Practice for CRIME](#).

Support persons for people with impaired intellectual functioning

You should ensure that a person with impaired intellectual functioning has access to a support person while being interviewed by police. The Criminal Justice Support Network (CJSN) provides a 24 hour statewide phone service for people with an intellectual disability. CJSN can be contacted on 1300 665 908 or at www.idrs.org.au/cjsn/

If the person with impaired intellectual functioning also needs an interpreter, the interpreter should not be considered the support person for the purposes of LEPR.

Disability Action Plan

NSWPF has a Disability Action Plan, [available on the Vulnerable Communities Knowledge Map](#).

Drugs and Alcohol Policy

Refer to the following:

- *Drug and Alcohol Policy*
- *Drug and Alcohol Management Plan (DAMP) Aviation Support Branch 2009*
- *NSW Police Force Student Drug and Alcohol Policy*
- *Targeted Drug Testing Procedures 2009* (including recall to duty target drug testing)

Code of behaviour

Police Regulation 2008, Part 5, Division 2, Clause 78

1. A member of the NSW Police Force must not use any prohibited drug.
2. A member of the NSW Police Force must not use any steroid unless the police officer's use of the steroid is in accordance with a prescription of a medical practitioner.
3. A member of the NSW Police Force must not have the prescribed concentration of alcohol in his or her breath or blood while the member is rostered on duty.
4. A member of the NSW Police Force must not consume alcohol while the member is on police premises. This applies whether or not the member is rostered on duty.
5. A police officer must not consume alcohol while the police officer is wearing a police uniform. This applies whether or not the police officer is rostered on duty.
6. A police officer must not, when required under the Act or this Part to do so, refuse or fail:
 - to undergo a breath test, or
 - to submit to a breath analysis, or
 - to provide a sample of urine or hair,

in accordance with a direction given by an authorised person.

1. A member of the NSW Police Force must treat all information relating to the results of any test conducted under section 211A or 211AA of the Act or this Part that comes to the member's knowledge in his or her official capacity as strictly confidential and must not divulge the information to anyone, except for the purposes of Part 9 of the Act or in connection with the assessment, counselling or rehabilitation of the police officer under this Part.
2. A member of the NSW Police Force must not conspire with, or aid or abet, any police officer to breach this code of behaviour.
3. A breach of this code of behaviour does not constitute an offence.

Dying Depositions and Declarations

Dying depositions

When a dangerously ill witness/victim is able to give material information about an indictable offence, and their evidence will probably be lost if not taken immediately (irrespective of whether proceedings have been taken against the accused person), arrange for an 'authorised person' to take the deposition in accordance with section 284 of the *Criminal Procedure Act 1986* and clause 27 of the Regulation.

Services of Authorised Person

An authorised person is a Judge, a justice of the peace who is a registrar of a Local Court or the Drug Court, or a justice of the peace who is an employee of the Attorney General's Department authorised in writing by the Attorney General to be an authorised person for that purpose. Contact an authorised person to take the deposition. Outside office hours in the metropolitan area, arrange through the DOI and in the country area, the registrar of the Local Court, for the attendance of an authorised person.

Dying declaration

You may take a dying declaration when the requirements for taking a dying deposition cannot be met (eg: you cannot get an 'Authorised Person')

The declaration is more likely to be admissible if the person makes some sort of oath or affirmation regarding the truth of what he/she is saying, and is able to acknowledge that he/she is dangerously ill and may die. There is no need to use a particular format of words. The following are examples of how this may be achieved:

1. Do you swear (or the person may promise) by Almighty God (or the person may name a god recognised by his or her religion) that what you are saying is the truth, the whole truth and nothing but the truth,

OR

2. Do you solemnly and sincerely declare and affirm that what you are saying is the truth, the whole truth and nothing but the truth,

AND

3. Do you understand that you are dangerously ill and may die?

Depending on the circumstances and the urgency of the situation, you may consider including such questions after obtaining the evidence.

Electronic mail, instant messaging and internet

Email, instant messaging and internet use

The NSW Police Force (NSWPF) email and internet are valuable tools that assist the NSWPF meet its business.

All users of NSWPF email functions are to comply with the *NSWPF Email and Internet Policy; Email and Internet Guidelines*; the *NSWPF Code of Conduct & Ethics*, applicable laws and other NSWPF policies and procedures.

Use of NSWPF email, instant messaging and internet should not be considered private and all emails transmitted through the system are the property of the NSWPF.

Acceptable personal use

The *NSWPF Use of Resources Policy* allows minor personal use of corporate resources (including email, instant messaging and internet) which occurs:

- in a limited capacity (eg. is infrequent, brief and does not involve excessive material)
- without disruption to normal business (eg. does not interfere with your work or the work of others)

As a general rule, personal email, instant messaging and internet use should be limited to such tasks as purposeful and brief communication with colleagues, friends, and family, or in attending to brief transactions such as making appointments which cannot be attended to later in your own time.

Improper use

Under no circumstances (except where required for work purposes eg. child protection investigations) are the NSWPF email, instant messaging and internet to be used for searching, sending, downloading or storing material that includes but is not limited to content that is:

- offensive, such as;
 - material of a sexual/pornographic nature (regardless of the format or how mild or whether the recipient is offended or not)
 - material that could reasonably discriminate against, harass, intimidate, vilify or defame individuals or groups
- information relating to a commercial or profit making activity
- chain, junk mail or spam
- communication such as inappropriate or rude jokes, games, music/video files, and participation in chat forums/social networking sites

Reporting of inappropriate use or suspected misconduct

Receipt of material of a kind which could directly or indirectly bring the NSWPF into disrepute should not be deleted and should be reported to your supervisor immediately. You should also be aware that opening suspect messages or visiting suspect sites may potentially introduce computer viruses or other harmful agents into the NSWPF internet and email system. Report any suspect material to BTS.

System audits

The NSWPF monitors email and internet use through a variety of auditing systems to ensure compliance and investigate/prevent inappropriate use. All use of NSWPF email, instant messaging and internet is electronically logged. All logged information can be retrieved by the NSWPF for its business needs, including complaint investigations.

Failure to comply

Failure to comply with the *Email and Internet Policy* and/or *Guidelines* may be a breach of the *NSWPF Code of Conduct and Ethics* which could result in management action and/or criminal charges.

If there is any doubt as to whether your use of the NSWPF email, instant messaging and internet system is appropriate discuss with your supervisor, manager or commander.

Refer to the *Email and Internet Policy* and associated *Guidelines* for further information.

Equity and Diversity

Promoting positive and respectful workplaces

What is workforce diversity?

Workforce diversity relates to gender, age, language, ethnicity, cultural background, disability, sexual orientation and religious belief. It also refers to the multitude of ways we are different in other respects such as personality, life experience, work style, socio-economic background and family and/or other personal commitments.

Workforce diversity is also about recognising and respecting everyone's unique attributes and providing a positive and respectful working environment for all. The New South Wales Police Force Workforce Equity & Diversity Strategic Plan 2012-2016 represents the organisation's commitment to a respectful, equitable and diverse workforce which is reflective of our community.

What are the principles of workforce diversity?

Workplaces should be free from unlawful discrimination and harassment with appropriate standards of ethical behaviour, conduct and performance maintained in line with the:

- [NSWPF Harassment, Discrimination and Bullying Policy](#)
- [NSWPF Code of Conduct & Ethics](#)
- [NSWPF Statement of Values](#)
- [NSWPF Customer Service Program](#)
- [Workforce Equity and Diversity Strategic Plan 2012-2016](#)

The principles of workforce diversity are also entrenched in the following key legislative provisions:

- [Work Health and Safety Act 2011 \(NSW\)](#)
- [Anti-Discrimination Act 1977 \(NSW\)](#)
- [Government Sector Employment Act 2013 \(Section 63\)](#)
- [Government Sector Employment Rules 2014 \(Section 26\)](#)

Where can I obtain further information about workforce diversity?

The Workplace Relations and Equity Unit is a business unit within Human Resources Command and is responsible for implementing the Workforce Equity & Diversity Plan which includes specific recruitment, development and retention strategies to promote an inclusive, respectful and diverse workforce.

The Unit can provide you with information about workplace policies, programs and workforce diversity.

The Operational Programs Command of MEIG is responsible for organisational operational policies that relate to the following:

- Aboriginal Community Liaison and issues
- Multicultural Community Liaison and issues
- Gay, Lesbian and Transgender issues
- Mental health and policing issues
- Vulnerable community issues
- Youth issues

Explosives

At times, you might find yourself in a situation which involves explosives. If you need any help, consult the Commander, Police Prosecutions Command or the WorkCover Authority of NSW (WorkCover). If you have found explosives contact the on duty supervisor at Rescue and Bomb Disposal Unit (RBDU) and seek advice.

WorkCover is the primary agency involved with all licences involving Explosives, dangerous goods, fireworks and Security Sensitive Ammonium Nitrate (SSAN) or Security Sensitive Dangerous Substances (SSDS).

All activities involving the handling of explosives are required to be licensed by WorkCover. Licence applicants must attend Australia Post to have a 100 point check to verify identification. No fingerprints are taken for assessment as to the licence holder's identity. Licences are generally issued for a 5 year period and holders are provided with a laminated photo licence card.

The NSW Police Force (NSWPF) undertakes a probity assessment of the suitability of licence applicants, including criminal history and ASIO checks.

Process

- Applicant contacts WorkCover and is directed to Australia Post where 100 point check is completed.
- Applicant sends completed application form and relevant fee to WorkCover.
- WorkCover submits application to NSWPF. (Workcover is a "Registered Organisation" with NSWPF and is able to submit bulk applications via fax.)
- Application received from WorkCover by the Criminal Records Section.
- Concurrently, the application is sent to ASIO for a security assessment and to the Security Licensing & Enforcement Directorate (SLED) for a probity assessment.
- The SLED provides a report to WorkCover on the applicant's suitability to be the holder of an explosives licence. The report includes the security assessment undertaken by ASIO.
- WorkCover grants or refuses the licence application.
- WorkCover informs NSWPF if the license is granted or refused.
- NSWPF enters details on the COPS system.

Licences

Clause 16 of the Explosives Regulation 2013 provides that WorkCover may grant the following types of licences:

- licence to manufacture
- licence to import
- licence to supply
- licence to transport by vehicle
- licence to transport by vessel

- licence to store
- blasting explosives user's licence
- blasting explosives learner's licence
- pyrotechnician's licence
- fireworks (single use) licence
- licence to use security sensitive dangerous substances (SSDS)
- unsupervised handling licence

General

- A single licence can authorise multiple activities.
- The fireworks licence is the only licence that does not require a Police criminal history check.
- Applicants for licences to use SSDS require a full site security assessment to accompany their application to WorkCover.
- SSDS licences are issued to one person. In the case of a company seeking to acquire a licence, one person is required to be nominated.
- An Unsupervised SSDS licence is only valid when there is a person with an SSDS licence working at the same premises.
- The Unsupervised SSDS licence holder has to be included in the Site Security Plan.

Penalty Notices

There are a number of offences that can be dealt with by way of penalty notices. Refer: P23M – Miscellaneous – Fixed Penalty Handbook.

Disposal of Commercial Explosives

If you are asked to dispose of commercial explosives, e.g. gelignite, contact the on duty supervisor at the RBDU or if you are unable to contact the RBDU directly, contact the Duty Operations Inspector (DOI), Sydney Communications Centre.

Face Coverings (Power to require removal for identification purposes)

Section 19A of LEPR provides that in any case where a police officer has lawfully exercised a power under any Act or Regulation to require a person to provide photographic identification, identify themselves or provide other identification particulars, the police officer may require the person to remove any face covering worn by the person, so that the police officer (or another police officer) can see the person's face. Face means a person's face from the top of the forehead to the bottom of the chin and between (but not including) the ears.

A face covering is defined to mean any item of clothing, helmet, mask or any other thing that is worn by a person and prevents the person's face from being seen (whether wholly or partly). Note that it is only items that are worn by the person so therefore it does not include hair, beard etc.

The subject person is only required to remove so much of the face covering as prevents the person's face from being seen.

Safeguards in s.201 of LEPR apply to the exercise of this power. Before a person can be required to remove a face covering, a police officer must do the following:

- Provide evidence that he or she is a police officer, unless in uniform,
- Provide their name and place of duty,
- Inform the subject person of the reason for the exercise of this power, and further
- Ask for the person's cooperation.

Viewing the person's face must, where practicable, be conducted in a way that provides reasonable privacy for the person if he or she requests privacy (for example, at a police station) and must be conducted as quickly as is reasonably possible.

If the person does not remove their face covering, the police officer must:

- Inform the person that he or she is required by law to comply with the requirement to remove the face covering, and
- Warn the person that failure to comply is an offence.

Failure to remove the face covering after this warning is an offence under s.19B of LEPR, unless the person has "special justification" for not removing it. A person has special justification only if there is a legitimate medical reason for keeping the covering in place; cultural or religious reasons are not sufficient. However police should be mindful of cultural, religious or similar sensitivities when exercising this power.

Note there is no power for police to forcibly remove the face covering if the wearer refuses to do so.

Family Law

Introduction

Never underestimate potential dangers in family disputes. Apart from physical resistance, you might face attempted manipulation to achieve illegal outcomes.

To minimise these dangers, call for help if needed and act objectively. Maintain proper records (eg: notebook and COPS) to show you acted in good faith in a complex situation.

Do not use AVOs to enhance applications before the Family Law Court. Refer to the section on '[Domestic violence](#)' for your responsibilities in this area.

Court Orders

You have no specific powers under the *Family Law Act* to enforce a residence order, contact order or any other parenting plan/order.

Where a station is nominated as the exchange point, take part only to ensure no breach of the peace.

Where an order is allegedly breached, advise the aggrieved party to consult their legal representative.

Before accepting a *warrant* (form 50) or *recovery order*, carefully read it. The warrant or order must be addressed to 'all officers of the NSW Police Force' or alternatively, 'all officers of the police forces of all states and territories of Australia'. You have no power to execute it if addressed otherwise. In these cases, the warrant or order is executed by the Australian Federal Police (AFP) or the person nominated.

Recording warrants and orders

The Warrant Unit does not record details of warrants or orders under the *Family Law Act*. Record orders as normal correspondence, make an occurrence only entry on COPS, include details on the station summary and send a report to your local area commander immediately on finalisation of the order.

Executing warrants

Before executing a Family Law warrant, check its date. Unless the court so orders, you cannot execute a warrant more than six months after the date of issue unless stated otherwise.

Take the arrested person to the local or family court as soon as possible. You can hold the person on the warrant for 24 hours (or 48 hours or longer in some cases, if the 24 hour period ends on a weekend or public holiday). Do not release the person during the holding period unless a court orders. Remember, the *Bail Act* does not apply in these cases.

Take all reasonable steps to ensure the person who applied for the warrant is aware the person named in the warrant has been arrested and which court they will be attending.

Child matters

Getting a description of child

When you receive a *recovery order*, ask for descriptions and photos of the child and the person allegedly detaining or exercising control over them. If possible, get the phone number of where the child is to be delivered.

Enforcing recovery orders

A recovery order must be on a Form 34 under the Family Law Rules. Check the order to determine whether you are authorised as a police officer to enforce the order. The order will tell you what you are authorised to do and the force you may use.

Always remain impartial when enforcing recovery orders. If possible, arrange for the person entitled to custody or access to be in close proximity when you obtain possession of the child. Remember the court has considered the matter and has taken the child's best interests into account when issuing the order. At the time you recover the child the subject of the order serve a copy of the order on the person from whom you took the child. If you require further information when enforcing the order, you should contact the Marshall of the Family Law Court of Australia through the court, or after hours through the DOI.

Endorse the order with the time and date of enforcement and to whom you gave the child. Return the order to the court of issue and endorse the correspondence book.

Failure to enforce orders

If you cannot enforce an order, return it to the applicant or person responsible with a covering report of all inquiries made to find the child. Advise them to contact the AFP's Family Law Squad, Sydney for further investigation.

If an interstate address is known for an order issued in NSW, advise the AFP's General Investigation Duties Branch to inform the interstate authority.

Injunctions

Breach of injunctions

You may arrest without warrant if there are reasonable grounds to believe the person has breached an injunction.

This includes causing or threatening bodily harm.

Ensure you have a copy of the injunction (with seal) before you arrest. If someone claims an injunction has been ordered, ask to see a copy.

The requirements in 'Executing Warrants' above for holding periods, release time and notification also apply to someone you arrest for a breach of an injunction.

Record all answers to questions you ask about the injunction and its validity in your notebook, and ask the complainant to sign it. If they do not, make an appropriate written record, but still act if reasonable grounds exist.

Bring the person before the court which authorised the arrest or a local court as soon as possible. Record details on COPS as an occurrence only entry and include details in the station summary and your notebook.

Children's welfare

Consider the welfare of children and adults at all times. If concerned, you can:

- act under section 60 of the *Children (Care and Protection) Act* if you believe the child is in immediate danger of abuse
- contact the intake officer, Community Services, Child Protection and Family Crisis Service
- take out an AVO.

Welfare issues

Be familiar with, and liaise with, social workers from local welfare agencies.

Fingerprints

Refer to the *Code of Practice for CRIME, Procedures for Evidence Act and LEPPA (Sect. 133 to 138)* for guidance on:

- taking fingerprints
- preparing instruments and hands
- handling fingerprints at stations
- NSW Police Force Handwriting and Signature Sample Form (P59)
- fingerprints from bodies
- fingerprinting crime scenes.

Fingerprinting prisoners – Writs of Habeas Corpus etc

Ensure offenders are fingerprinted when taken to court on:

- a writ of Habeas Corpus
- a bench warrant

Send the prints to the Manager, Criminal Records Section.

Preparing antecedents

Refer to the section in 'Court matters'.

Fingerprint covering sheets

Stations with on line charging facilities

Generate two computer fingerprint covering sheets listing the offenders fingerprinted, before sending the prints and covering sheets daily to the Manager, Criminal Records Section.

You will receive the duplicate list back after it is checked. File it for six months, then destroy it.

Stations not on line

Complete a P59E in triplicate, listing the offenders fingerprinted before sending prints daily to the Manager, Criminal Records Section. Place the original (green) and the duplicate (pink) copies with the fingerprint forms in the envelope, and keep the triplicate (yellow) copy at the station.

Fingerprint examinations of exhibits

Sydney metropolitan area

Only submit exhibits arising from major crime scenes, or exhibits from volume crime scenes, which require advanced fingerprint development techniques, to the Forensic Science Services Branch (FSSB) Fingerprint Laboratory for examination. Record the exhibit in EFIMS and create the appropriate forensic analysis job to track the forensic process.

Have exhibits from volume crime scenes (not requiring advanced development techniques) examined and/or assessed in situ at the crime scene or at a police station by a Scenes Of Crime Officer (SOCO). Record the exhibits in EFIMS and create the scene attendance job or forensic analysis job to track the forensic process.

Further information regarding the FSSB Fingerprint Laboratory's hours of operations, contact details, call out procedures, and case acceptance guidelines are available at the FSSB's Intranet site.

Dangerous exhibits – special requirements

If the exhibit contains drugs, inflammable or harmful liquids or items from clandestine drug labs, those substances need to be properly disposed of (or if needed, removed and stored as an exhibit) before the FSSB Fingerprint Laboratory can accept them for fingerprinting. In these circumstances, contact the Supervisor, FSSB Fingerprint Laboratory for guidance on maintaining the integrity of the fingerprints during the removal process. Ensure you update the Occupational Health and Safety (OHS) warning symbols in EFIMS that are relevant.

Blood/Human tissue etc – for exhibits exposed to or contaminated by body tissue or fluids, which might present an OH&S risk, contact the Supervisor, FSSB Fingerprint Laboratory for guidance on rendering the exhibit safe for fingerprinting. Ensure you update the Occupational Health and Safety (OHS) warning symbols in EFIMS that are relevant.

Syringes – send only syringes involved in serious matters for fingerprinting. In such cases, send a report from a supervisor justifying the need for the examination (considering the potential threat to the safety of the examination staff) along with the syringe (which must be submitted in a suitable, labelled protective container. Ensure you update the Occupational Health and Safety (OHS) warning symbols in EFIMS that are relevant.

Firearms – render the weapon safe and attach a label indicating this has been done. Ensure you update the Occupational Health and Safety (OHS) warning symbols in EFIMS that are relevant.

Cutting implements – securely pack such items in a way, which ensures the implement cannot penetrate the packaging when being handled. Ensure you update the Occupational Health and Safety (OHS) warning symbols in EFIMS that are relevant.

Objects/vessels containing non dangerous materials – ensure any such container is capable of being sealed to prevent spillages during examination and storage. Ensure you update the Occupational Health and Safety (OHS) warning symbols in EFIMS that are relevant.

Voluminous exhibits or large cash exhibits – Large cash exhibits, or large volumes of items, toxic or potentially dangerous substances, and bulky and/or heavy exhibits will only be accepted for examination at the FSSB Fingerprint Laboratory only after prior consultation with and authorisation of a member of the Fingerprint Laboratory. The name of the Fingerprint Laboratory authorising officer must be recorded in the job request in EFIMS.

An analysis job should be created in EFIMS to track the forensic process.

Elimination prints

If you need to get elimination fingerprints/palm prints, obtain the consent of the person proposed to be fingerprinted. Tell people they do not have to supply their prints but if they do, the prints will only be used for comparison with those found at the scene.

Take elimination prints using a P550 or via Livescan, by selecting 'Elimination' in the menu screen. Complete all particulars required on the form.

Include the full name and address of who supplied the prints, name of the victim, where the offence happened, police in charge, COPS event number and fingerprint case numbers.

Do not record the elimination prints on P59E forms. Use this form only if the person is charged.

If you are in the Sydney metropolitan area, send the elimination fingerprints to the Fingerprint Operations Branch for comparison. Outside the Sydney metropolitan area, send the elimination fingerprints to the relevant local Crime Scene Section.

At the completion of the elimination comparison process elimination fingerprints will be destroyed in the presence of the relevant Fingerprint Operations Manager or Crime Scene Zone Manager.

Overseas inquiries

Do not contact Interpol directly to make overseas criminal records' inquiries.

If you suspect someone in custody is from another country and want to establish if there are convictions against them overseas, send a report to the Criminal Records Section (CRS) outlining the present charge/s, the court and hearing date. Attach this to the original set of prints if possible. If it is not possible to forward the fingerprints, ensure the date and station at which the person was charged is included in your report.

If you have not received a response by the court date, apply for an adjournment to allow the inquiry to be finalised.

Fingerprinting for National Police Checking Service (NPCS) purposes

Refer to the section on "National Police Checking Service (NPCS)" section of the 'Criminal Record Checks' chapter

Police employees taking fingerprints for NPCS purposes may use Livescan devices or the ink and roller process. Police taking fingerprints using Livescan devices should comply with procedures outlined within the NSW Police Livescan User Guide.

Police employees taking fingerprints using ink and roller techniques should use form P537 for male applicants or Form P538 for female applicants. Police should ensure that fingerprint and palm prints are clear and that forms:

- contain the applicants name and date of birth details

- are signed by the applicant
- are signed by the police employee taking the prints
- record the LAC at which the prints were taken
- record the purpose for taking the prints (i.e. visa / adoption / licensing) under the applicants name

Further details on fingerprinting procedures are available at the Forensic Services Intranet site.

Full details on NPCS processes are available at www.police.nsw.gov.au or the Criminal Records Intranet site.

Fingerprint requirements for prospective AFP employees

When an applicant requests fingerprints to be taken for AFP employment purposes:

- Sight the AFP recruitment letter provided to the applicant requesting fingerprints to be taken
- Confirm their bona fides with photo identification
- Take the fingerprints on a fingerprint form, Form P537 for males and P538 for females
- Complete the applicants details on the fingerprint form, sign it and include your name, rank and station, and
- Return the fingerprint form to the applicant.

Do not conduct a CNI check or retain the fingerprints.

Collect the prescribed fee (Cash, bank cheque or money order). Issue a receipt and send the payment to Accounts, clearly indicating it is for AFP employment purposes.

For any enquiries, contact the Criminal Records Section.

Renewal of South African passports

When someone requests fingerprints be taken for the renewal of their South African passport:

- confirm their bona fides
- take the prints on a normal fingerprint form or on the form supplied by the applicant
- complete their details, sign it and include your name, rank and station
- return the fingerprint form to the applicant.

Do not conduct a CNI check or retain the fingerprints.

Collect the prescribed fee (cash, bank cheque or money order). Issue a receipt and send the payment to Accounts, clearly indicating it is for the South African passport procedure.

Renewal of Ethiopian Passports

When somebody requests fingerprints to be taken for the renewal of their Ethiopian passport, or in relation to their application for an Ethiopian police clearance or Ethiopian Origin Identification Card:

- confirm their bona fides
- take the prints on a normal fingerprints form or on the form supplied by the applicant
- complete their details, sign it and include your name, rank and station
- return the fingerprint form to the applicant.

Do not conduct a CNI check or retain the fingerprints.

Collect the prescribed fee (cash, bank cheque or money order). Issue a receipt and send the payment to Accounts, clearly indicating it is for the Ethiopian passport/Ethiopian police clearance/Ethiopian Origin Identification Card procedure.

Foreign nationals seeking permanent Australian residency

Applicants must produce their current passport confirming identification and supply a stamped envelope, addressed to the consular/authority.

To process the application:

- take the prints on a normal fingerprint form or on the form supplied by the requesting country
- certify the reverse side of the passport photo with your signature, name, rank, station and date
- complete the application details and certification, with the police station stamp in the top of the fingerprint form.
- place the documents in the stamped, addressed envelope, and mail it to the respective consular authority. Do not send them to the CRS.

Do not undertake a CNI check or retain the fingerprints.

Collect the prescribed fee, issue an official receipt and send the payment to Accounts.

In these circumstances, as no other documentation is prepared (eg: no P799), clearly indicate payment refers to an intending immigrant on the remittance schedule.

Tattoo parlour licence applications

On 29 May 2012, a new law was introduced which requires body art tattooing businesses and tattooists to obtain a licence from NSW Fair Trading under the Tattoo Parlours Act 2012.

NSW Fair Trading began accepting licence applications on 1 February 2013. In accordance with the legislation, all duly made applications will be referred by NSW Fair Trading to the NSW Police Force (NSWPF) for a security determination. These determinations will be made by the Security Licensing & Enforcement Directorate (SLED), on behalf of the Commissioner.

As part of the licensing process, applicants for Tattooist and Operator licences must attend a police station to have their finger/palm prints taken to establish their identity.

- Prior to attending a police station to have their prints taken, all applicants will receive documentation from the SLED which will include:
a letter to the applicant with information and instructions on attending a Police Station.
- a list of Police Stations where finger/palm prints may be taken. Note: Applicants are advised to contact the station of their choice in advance to determine whether an appointment is necessary.
- a 'Police Copy' form for Police to fill in and forward to the Criminal Records Section (with the finger/palm prints).

NSW Department of Fair Trading

Licence applicants cannot have their finger/palm prints taken unless they have applied through NSW Fair Trading and present the 'Police Copy' of the Fingerprint Advice form.

All licence applicants pay NSWPF finger/palm print fees directly to NSW Fair Trading when they apply for their licence. No payment is to be accepted at the Police Station.

Police should follow the instructions on the Police Copy form, including sighting and recording original evidence of identity documents, attaching the finger/palm prints to the form and forwarding both via internal mail to:

Criminal Records Section
Level 3B, NSW Police Headquarters
Parramatta.

Please do not send finger/palm prints directly to SLED.

Livescan

When entering the details into Livescan, select 'Applicant' in the Alternative procedures box. Select 'Tattoo Applicant' from the drop down menu. Other fields are filled in as usual.

Forced Entry

Damage to private property

Where forced entry is used, repairs to private premises damaged during the entry are not the responsibility of NSW Police Force, if the conditions for forced entry have been met.

Never admit liability for any damage or make any offer of payment or settlement.

Record pertinent information in your notebook and as an 'occurrence only' entry on COPS or on the general station pad if the matter is not recorded on COPS.

Conditions for forced entry

There is no general power to enter premises by force.

The only circumstances under which you are permitted to force entry are:

1. By consent of the owner
2. To end a breach of the peace that is occurring or to prevent an imminent breach of the peace
3. To prevent a significant injury or further significant injury to a person
4. To arrest a person who is on the premises
5. Where a statutory power authorises entry
6. Where you are authorised by a warrant to enter

You must believe on reasonable and substantial grounds that it is immediately necessary to force entry because of one of the above circumstances. Consider other means available to you. You must use force only as a last resort and then only as much force as is reasonably necessary.

Except in exigent circumstances, you must announce your office, your name and place of duty and your authority to enter before giving the occupier an opportunity to let you in without the use of force. If the circumstances preclude you from announcing your office, your name, your place of duty and your reason for entering, it must be done as soon as reasonably practicable after you enter.

Claims for compensation

Refer requests for compensation to your local area commander.

Local area commander

Decide whether the actions were in compliance with the 'Conditions for forced entry' this section.

If you consider the actions justified, advise the claimant no compensation will be made. If they are a landlord or agent, advise them to direct their claim to the tenant or approach the Rental Bond Board for access to the bond to make the repairs.

If you consider the actions to be unjustified or possibly negligent, have the officer complete and submit a P446 form in duplicate with two quotes from the claimant for repairs. Record the submission of the form as an action on the COPS event or on the general station pad (if not recorded on COPS). Examine the form and ensure it reflects the owner's claim.

Where NSW Police Force could be liable, refer the claim to the Office of General Counsel for determination.

If approval is given to pay the claim and the amount is less than \$100, arrange for a cheque to be drawn. Arrange for the Office of General Counsel to prepare a suitable form of indemnity to be signed by the claimant before payment.

If payment is made and it is more than \$100, refer it to the NSW Treasury Managed Fund with the appropriate claim form and documentation for consideration as a liability claim. Advise the claimant of this action. Do not make any promise or comment on the possible outcome.

Securing vacant premises

Secure vacant premises damaged in the execution of your duty and notify the owner/occupier/agent as soon as possible. You may arrange urgent temporary repairs by the Department of Public Works & Services.

If conditions outlined in 'Forcing entry to premises' have been met, any permanent repairs remain the responsibility of owner/occupier/agent.

Local area commander

You may approve permanent repairs by Public Works where genuine hardship exists.

In these instances, complete a *Permit to Enter and Perform Certain Works* form and have it signed and witnessed (see sample)

Permit to enter and perform works without prejudice

I...of...in the State of NSW, being the owner of premises at ...agree to the Department of Public Works and Services carrying out the following repairs for the NSW Police Force:

I further confirm, the repairs listed are the full extent of work to be carried out following police activity on my property on (date)... and, subject to satisfactory and reasonable workmanship, no further claim will be made by myself or anyone acting for me for any other work.

I give permission for Public Works' officers to enter the premises to carry out the repairs.

...Signature of owner

Dated this...day of ...20..

...Signature of witness

Forensic Imaging

The Forensic Imaging Section are part of the Forensic Services Group and offer support to investigations throughout NSW.

The section provides 24hrs On-Call coverage for attendance at scenes of major crime and serious vehicle collisions. Contact the DOI to request out of hour's attendance.

The section utilises high end photographic and video equipment, robotic laser survey stations and 3D laser scanners to capture scenes in high resolution and accurate detail, which is presented in a variety of means from interactive crime scene representations to large format paper plans.

Analysis jobs are requested through the EFIMS system. These include:

- CCTV and Video Editing/Dubbing
- Video Walkthrough Interviews
- CAD diagrams
- Comparison Charts/Posters
- 3D Modelling and Printing
- Collision Reconstruction
- Studio Photography

The section also comprises the Suspect Identification System used for creating photographic line-ups.

Fundraising

Fundraising by members of the NSW Police Force (NSWPF) must only occur with the written approval of their Commander. Permission must be sought from the relevant Commander, depending on the scope of the fundraising activity eg if the fundraising is region-wide, then approval must be sought from the Region Commander.

Particular care must be taken to ensure full accountability and record keeping of all money or goods collected. The relevant Business or Local Area Manager must approve the record keeping method used for the fundraising event.

Contributions must not be received from persons:

- known to be engaged in criminal conduct
- involved in activities subject to regulation or inspection by the NSWPF, or
- where a risk of favouritism might be perceived by a reasonable member of the public
- where any other conflict of interest may be present.

Fundraising may not be carried out for police officers or other employees who have been suspended or dismissed.

Helping charitable organisations

Keep assistance to charitable organisations to a reasonable level and generally limit to one annually at each Local Area Command, or equivalent business unit. Try to confine raising funds to the area in which the charity operates or the function is being organised.

Unless you reasonably expect to raise a minimum net amount of \$300, do not conduct a fundraising function in aid of a charity, or a police organisation and a charity combined. If you consider little or no profit will be made, conduct the function for social or recreational purposes only. You may then donate profits to charity, with the prior approval of the Local Area Commander or Specialist Commander equivalent or above.

Licence to Fundraise

Consideration must be given as to whether or not the proposed fundraising requires a licence to fundraise, issued under the *Charitable Fundraising Act 1991* by the NSW Office of Liquor, Gaming and Racing.

If fundraising is being conducted in the name of, or on behalf of another organisation, the appeal must be authorised by that organisation, which must either hold a licence to fundraise or be exempt from the requirement to hold a licence.

Commanders

Ensure all fundraising complies with the *Charitable Fundraising Act, 1991* and the *Lotteries and Art Unions Act, 1901*.

For more information contact the NSW Office of Liquor, Gaming and Racing
(www.olgr.nsw.gov.au)

Also see the *NSWPF Sponsorship Policy*, *Endorsement Policy* and the *Code of Conduct and Ethics*.

Harassment, Discrimination and Bullying

Sexual harassment, harassment, discrimination and bullying, in the workplace, are serious issues and the NSW Police Force is committed to promoting positive workplaces and ensuring a safe working environment for all staff.

All forms of harassment, discrimination, bullying, victimisation and vilification are unacceptable behaviours that breach the NSW Police Code of Conduct and Ethics (Code) and Harassment, Discrimination and Bullying Policy and will not be tolerated under any circumstances.

Policy and Legislation

The appropriate standards of ethical behaviour, conduct and performance are set out in the:

- [NSWPF Harassment, Discrimination and Bullying Policy](#)
- [NSWPF Code of Conduct & Ethics](#)
- [NSWPF Statement of Values](#)
- [NSWPF Customer Service Program](#)

Legislatively, the following Acts are relevant:

- [Work Health and Safety Act 2011 \(NSW\)](#)
- [Anti-Discrimination Act 1977 \(NSW\)](#)
- Racial Discrimination Act 1975 (Commonwealth)
- Sex Discrimination Act (Commonwealth)
- Disability Discrimination Act (Commonwealth)
- Age Discrimination Act (Commonwealth)
- [Australian Human Rights Commission Act 2004 \(Commonwealth\)](#)
- Government Sector Employment Act 2013
- Government Sector Employment Rules 2014
- [Police Act 1990 \(NSW\)](#)

Workplace Relations and Equity Unit Services

The Workplace Relations and Equity Unit is a business unit within Human Resources Command and provides:

- expert advice on equity matters
- clarification, advice, training and support to employees, Commanders, managers and supervisors in dealing with issues
- an alternative option to raise matters and increase confidence in reporting.

Hazardous Entertainment or Meetings

If you suspect life threatening or hazardous entertainment or meetings are being, or will be, conducted in public theatres or halls, contact the local council as soon as possible. The council has power to issue an order under the *Environmental Planning and Assessment Act* to prohibit these activities.

Homelessness

NSWPF is a signatory to the Protocol for Homeless People in Public Places, which has been in place since 2002. The Protocol recognises the right of all people to be in public space, while respecting the need for safe and peaceful communities.

The Protocol aims to ensure that homeless people are treated respectfully, as well as assisting them to access services. The Protocol states that a homeless person in a public place is not to be approached unless:

- they request assistance;
- they appear to be distressed or in need of assistance;
- an official seeks to engage with the person for the purpose of information exchange or provision of a service;
- their behaviour threatens their safety or the safety and security of people around them;
- their behaviour is likely to result in damage to property or have a negative impact on natural and cultural conservation of environment, including cultural heritage, water pollution and fire risks;
- they are sheltering in circumstances that place their or others' health and safety at risk (for example, staying in derelict buildings, high risk areas);
- they are a child who appears to be under the age of 16;
- they are a young person who appears to be 16-17 years old who may be at risk of significant harm;
- they are a child or young person who is in the care of the Director-General of the Department of Family and Community Services or the parental responsibility of the Minister for Family and Community Services.

The Protocol does not prevent NSWPF from taking appropriate action where health or safety is at risk or a breach of the peace or unlawful behaviour has occurred.

Immigration Matters

Under the Migration Act 1958 NSW Police Officers can detain an unlawful non citizen. Contact the Department of Immigration and Border Protection (DIBP) through the ISS to find out if a person is lawfully in Australia.

The ISS (Immigration Status Service) conduct immigration checks of suspected unlawful non citizens on behalf of Australian police agencies.

Police in the field can request a status check via VKG who will undertake the written request and await the response from ISS.

In the written request to ISS police should provide as much information as possible most notably the **passport number** of the person of interest, if known. Further details which will assist in the written request include:

- Details of any other travel documents found on the POI
- Address and date of birth of the POI
- Spousal/partner details of the POI
- Dependent's details
- Employment details of the POI
- The threat of escape by the POI
- The circumstances in which the POI has been identified
- Any health issues relating to the POI

Once police are informed that a person of interest is an unlawful citizen they will be given further instructions by the ISS (DIBP) officer.

Unlawful Non Citizens Needed for Court

Where an unlawful non citizen is need in court as a witness or defendant, contact the DIAC liaison unit in relation to a Criminal Justice Stay Certificate.

Information Gathering from Government and Non-Government Agencies

Information gathering

Information from a range of government and non government organisations can be obtained, in compliance with the relevant privacy legislation

Information is available, through the iAsk System, from the following groups of external sources*:

- Australian and International Law Enforcement agencies
- State and Federal government agencies
- Energy providers
- Other private companies

**This is an indicative list only.*

To gather information, an applicant will need to make a request via the iAsk system. The request requires authorisation by a NSWPF Commissioned Officer or Nominated Unsworn Officer. All iAsk associated costs are incurred by applicants Command. The request will require you to detail the reason for accessing the information and to nominate the applicable legislative Act/Section and penalty regarding the offence. For information on using iAsk and interpreting results, refer to iAsk Support within Systems on the NSW Police Intranet.

Tracing phone calls

When you receive or are advised of a phone call and consider it a life threatening situation and urgent tracing is important contact Operational Information Agency (outside business hours contact the DOI) and request a trace as a matter of urgency. Under no circumstances are phone traces arranged locally.

'Life threatening calls' are calls which relate to perilous or emergency situations which require immediate action.

NB: This includes calls stating someone is likely to die, is dying, or has been seriously injured.

Also included in this category are bomb threats, extortion demands, kidnapping and other situations which need immediate action.

Inspections

Command Management Framework (CMF)

Conduct all inspections in compliance with the *Command Management Framework (CMF)*. Refer to the CMF User Guide (downloadable from the Intranet) for further details.

Commander's inspections

Conduct your own regular test sampling to oversight the sampling conducted by team leaders, supervisors, duty officers and managers. Compile a list of high-risk areas in your command to help you in this task.

Region Commander's or equivalent inspection

Conduct your own inspections of commands under your control. The timing and extent of inspections or checks is at your discretion. However, you should focus on high-risk areas within each command (eg: money on hand, exhibits, miscellaneous property and drug for a LAC).

Internal Witness Support

See:

- Internal Witness Support Policy
- Internal Witness Support Guidelines
- Public Interest Disclosures – Guidelines for NSW Police Force
- Public Interest Disclosures Act 1994

Interpreters and Translators

Refer to the *Code of Practice for CRIME* - Intranet Home -> Policy & Procedures -> Operational Policing -> Code of Practice CRIME

And the *Procedures for Evidence Act* - Intranet Home -> Policy & Procedures -> Operational Policing -> Procedures for Evidence Act

Investigation Priorities

Conduct a thorough initial investigation and gather all available evidence. Ensure all information is recorded on COPS and exhibits are recorded in EFIMS.

NB: For homicides and other complicated or protracted cases use e@gle.i

Criteria

Case management supervisor/Investigations Manager

Examine all COPS entries and case file materials to determine whether an investigation should be continued. Take into account the broad principles and any local criteria when allocating available resources or seeking more. Record your decision and reasons in the Work Priority Section of COPS Case Management System (CMS).

Broad principles (mandatory state wide criteria)

These are the broad principles:

- nature and circumstances of the offence
- solvability (the offence is potentially solvable based on an assessment of all available evidence)
- victim needs (the impact on primary and secondary victims taking into consideration their needs and expectations)
- community needs and expectations (the impact on the community if further investigation is not undertaken).

Minor cheque frauds

First consider whether the actions described by the complainant amount to a criminal offence or a civil matter only. If the actions amount to an offence consider the following in deciding whether to investigate:

- record only
- investigation warranted
- a relationship must have existed between the parties where the cheque was received in good faith (eg: a retailer selling an item and receiving the cheque from the drawer at that time)
- the value of the cheque and the cost effectiveness of conducting an investigation
- whether the person who signed the cheque was authorised to do so (a stolen cheque warrants an investigation)
- other avenues by which the complainant can recover the loss (eg: civil litigation) and the capacity of the complainant to follow them
- whether the drawer of the cheque is a consistent or confirmed fraud offender - whether there is a pattern of dishonoured cheques.

If you decide not to investigate:

- take details of the incident
- tell the complainant to safeguard the cheque and you will talk to your Investigations Manager
- record details on COPS, including your reasons for not investigating on the Work Priority Section of Case Management and disseminate them to your Investigations Manager.

Case Management Supervisor/Investigations Manager

You will:

- ensure the course of action is appropriate
- tell the complainant, in a professional manner, the alleged offence will not be investigated and of alternate avenues to recover the loss
- endorse the action taken and the reasons why on COPS.

NB: Do not base your decision on one factor alone. Carefully consider all factors, particularly the local community needs and the impact your decision will have on the alleged victim.

Local criteria

Local area commander

Develop criteria in consultation with the community to satisfy local priorities.

Do not allow local criteria to act as a substitute for the application of the broad principles, but they may be developed as an enhancement of them.

Case suspension

Investigating officer

After further investigation, you may recommend to the case management supervisor that a case allocated to you be suspended provided:

- the suspect has been circulated and their whereabouts is unknown - the brief and supporting documentation have been scanned onto 'View'
- a warrant has been issued
- a resource cost benefit analysis indicates further investigation is not warranted
- the offender is not known or cannot be identified at the time
- the DPP, the Office of the General Counsel, the Commander Police Prosecutions Command or Crime Manager advises not to prosecute
- other sufficient reason exists (nominate).

Record your recommendation and reasons on the COPS CMS.

Case management supervisor/Investigations Manager

Review the recommendation and record your decision onto the COPS CMS.

Case rejection

Investigating officer

You may recommend to the case management supervisor that a case allocated to you be rejected if, after further investigation, you determine the allegation is false or incorrect and the statistics connected with the COPS event should be removed. Record your recommendation and reasons on the COPS CMS.

NB: Remember rejecting a case also rejects any events linked to the case.

Case management supervisor/Investigations Manager

Review the recommendation and record your decision on the COPS CMS.

Local area commanders

Constantly monitor all decisions relating to investigation priorities.

Jurisdiction

Offences committed in the air and at Security Controlled Airports

The *Aviation Transport Security Act 2004* (Cth) and the *Crimes (Aviation) Act 1991* (Cth) are the primary Commonwealth laws dealing with security of airports and aircraft. NSW Police have a crucial role under this legislation in maintaining the security of airports and aircraft within NSW.

Offences committed at sea

Both domestic and international law have to be taken into consideration when determining the application of Australian (Commonwealth or State) criminal jurisdiction to crimes allegedly committed at sea. *The Crimes At Sea Act 2000* (Cth) is the primary legislation when dealing with offences at sea, within 200nm of the coast or by Australian citizens on foreign flagged vessels.

In addition NSW Police are a party to a National Protocol in which we have agreed to take the initial reports of crimes at sea regardless of where they occur on the basis that the jurisdictional issues can be resolved following this initial investigation. In most cases it will be necessary to obtain the consent of the Commonwealth Attorney General before a prosecution can be finalised, but this does not prevent investigation, arrest and charging.

Justices of the Peace

Nominations

Criminal Records Unit staff

Do a criminal history check on all nominations for appointment as a Justice of the Peace (JP). When the nominee is not on record or that information does not warrant further inquiry, return the form to the Department of Police and Justice. If necessary, the form may be referred by that department to police in the area concerned for further inquiry.

Treat all nominations as strictly confidential. Make no reference to the nominee's political views or religious beliefs.

Death or conviction of JP

Promptly report any death or conviction of any JP to:

Justice of the Peace Team
Community Relations Unit
Department of Police and Justice
Locked Bag 5111, Parramatta NSW 2124
Email: jp@agd.nsw.gov.au
Phone: 02 8688 7487: **Fax:** 02 8688 9620

(The Code of Conduct for Justices of the Peace requires that a JP notify the Department of Police and Justice of any conviction for a criminal offence and also any change of address or contact details.)

Limitations of police JPs

Do not act in the capacity as a JP if you are a police officer, particularly if you are the informant. You can only exercise your functions in relation to affidavits of service provided you are not involved in the matter or the service of the process, (and provided that your term of appointment as a JP has not expired and that you record your current JP registration on any document that you witness as a JP).

Leave

Annual/Recreation Leave

Refer to Part 6, Division 3 & 4 of the *Police Regulation* and Clause 17 of the *Crown Employees (Police Officers – 2013) Award* for annual leave entitlements.

Officers

Officers should apply to their Commander for any period of leave, giving as much notice as possible.

Leave should not be accrued above 342 working hours - including 'projected leave accrual'.

At least 2 consecutive weeks shall be taken by an officer each 12 months. Where an officer is prevented by operational reasons (as determined by their supervisor) from taking sufficient annual leave, it can only be deferred if the commander/manager enters into a written agreement.

Commander

Commands are to review annual leave accruals for every officer, no less than quarterly, and ensure that sufficient leave is rostered in order that each officer's projected accrual of leave will not exceed 342 working hours.

Officers are to be advised where their accrual is projected to exceed the maximum and when in excess of 280 hours - this allows 12 weeks to manage before reaching the maximum.

The SAP Managers Desktop/Desktop Reporting provides a range of tailored pre-determined leave reports to support Commands in this process.

Extended leave

Refer to the *Police Regulation*, Division 2 and Clause 19 of the *Crown Employees (Police Officers – 2013) Award* for extended leave entitlements.

Send a report to the local area commander, or equivalent, through your supervisor, at least one month before you wish to begin extended leave. Indicate whether the leave is to be taken at full, half or double pay, whether pay in advance is required, and your last day of duty.

Reporting outstanding matters before going on leave

Officers

Report any matters which require attention during your absence to your commander.

Commander

Do not interrupt leave unnecessarily

Do not grant leave to an officer needed at court where it involves considerable time in either travel or court attendance.

Conservation of Annual leave

Applications for conservation of leave under Clause 17.12 of the *Crown Employees (Police Officers – 2013) Award* must be made to your commander.

Commanders

If approved ensure a written agreement is entered into with the officer recording the reason for conservation and the manner and time in which leave will be reduced.

Recrediting extended/annual leave

Officers

If you are medically ill or injured while on extended or annual leave, you may apply to have the leave recredited through your commander (refer to Clause 20.3.7 of the *Crown Employees (Police Officers – 2013) Award*).

Commander

If an officer is on annual/extended leave before resignation/termination do not recredit leave, unless the resignation/termination is a retirement.

Family and community services (FACS) leave and Personal Carers Leave

Refer to the *Crown Employees (Police Officers - 2013) Award* Clause 21 and 29 for Personal Carers and FACS leave provisions and the current *Family & Community Service Leave and Personal Carers' Leave for Police Officers Policy and Procedures* available on the NSWPF Intranet under HR/Policy and Procedures.

You might be entitled to FACS leave to assist with family and community obligations where you need to be absent from work on either an unforeseen or planned basis. Where you are required to provide care to a family member who is ill or who requires care due to an unexpected emergency, Sick Leave to Care for a Family member may apply.

Apply through your commander/Manager.

NB: Refer to the *Crown Employees (Police Officers – 2013) Award* Clause 21 And 29 for Personal Carers and FACS leave provisions.

Maternity leave

Refer to Clause 22 of the *Crown Employees (Police Officers - 2013) Award* and the *Pregnancy and Work Policy and Procedures* available on the Intranet under the HR/Policy and Procedures.

Officers

Notify your Manager/Commander that you are pregnant as soon as practicable.

Lodge your maternity leave application at least eight weeks before the anticipated birth date, and indicate whether you want to combine any annual leave or extended leave with your maternity leave.

You are entitled to be granted maternity leave for a period of up to 9 weeks prior to the expected date of birth and for a further period of up to 12 months after the actual date of birth.

If you have completed not less than 40 weeks continuous service prior to the expected date of birth you are entitled to receive 14 weeks paid maternity leave.

In the event of miscarriage, absence is dealt with as sick leave.

In the event of stillbirth, either sick leave (subject to provision of a medical certificate) or maternity leave can be taken.

Commander

Once a Manager/Commander has been advised of the employee's pregnancy, the Manager/Commander is responsible for ensuring that the officer is advised of her parental leave entitlements and determining appropriate duties or other reasonable adjustment that may be required as the employee's pregnancy progresses.

Arrange early consultation/discussion in relation to flexible work requirements for an employee prior to their commencing maternity leave.

Adoption leave

Provide your commander/manager with a report if you intend applying for adoption leave. When possible, make your application at least eight weeks before the date of taking custody. Indicate whether you want to combine any annual or extended leave with your adoption leave.

If the child has not commenced school at the date of taking custody you are entitled to be granted adoption leave for a maximum period of 12 months.

If you have completed not less than 40 weeks continuous service prior to the commencement of adoption leave you are entitled to be paid for a period of 14 weeks of adoption leave or the period of adoption leave taken, whichever is the shorter.

For further information, refer to Clause 24 of the *Crown Employees (Police Officers - 2013) Award*.

Parental leave

Refer to the *Crown Employees (Police Officers - 2013) Award* Clauses 22, 23, 24 and 25 and current *Parental Leave for Police Officers Policy & Procedures* available on the NSWPF Intranet under HR/Policy and Procedures.

Provide your commander with a report if you intend applying for Parental leave at least 8 weeks prior to commencing leave. When returning, contact the Commander/Manager as soon as possible (minimum 4 weeks) prior to your return to discuss your application.

Parental leave may be granted as Short Term Parental leave –an unbroken period of up to one week at the time of the birth of child or other termination of the pregnancy or Extended Parental leave - for up to 12 months.

Extended Parental leave may commence at any time up to 2 years from the date of birth or adoption of the child.

If you have completed 40 weeks continuous service prior to the expected date of birth or adoption you are entitled to be paid Short Term Parental Leave for a period of up to one week.

For further information, refer to Clause 23 of the Crown Employees (Police Officers – 2013) Award.

Right to request additional maternity, parental or adoption leave

Notify your commander/manager of your intention to request the additional leave prior to commencing maternity, parental or adoption leave. All requests for leave should be made at least 4 weeks prior to the end of the original period of leave.

If you have been granted maternity, parental or adoption leave, to assist you in reconciling work and parental responsibilities, you may make a request to the Commissioner to;

- extend a period of short term parental leave to an unbroken period of 8 weeks;
- extend the period of unpaid maternity, parental, or adoption leave for a further continuous period of leave not exceeding 12 months and
- return from a period of full time maternity, parental or adoption leave on a part time basis until the child reaches school age.

For further information, refer to Clause 25 of the *Crown Employees (Police Officers – 2013) Award*.

Leave for Matters Arising from Domestic Violence

Refer to the *Crown Employees (Police Officers - 2013) Award* Clause 33

Family and Community Service Leave, Sick Leave and Sick Leave to Care for a Family Member may be used if you are experiencing domestic violence. Where these entitlements are exhausted, Special Leave may be granted.

Notify your Commander/Manager as soon as you require such leave.

Flexible work arrangements may also be accessed subject to operational requirements.

Commanders

You will need to be satisfied that domestic violence has occurred and may require proof as outlined in the Award. Keep all personal information concerning domestic violence confidential.

Military leave

Refer to clause 31 of the *Crown Employees (Police Officers - 2013) Award* and the current Australian Defence Force Reserve Service Policy and Guidelines.

Apply to your commander. Include notification from the relevant defence authority and indicate whether military leave has been granted during the year. For the purposes of military leave, the entitlement year is the financial year. At the end of the leave, provide a certificate of attendance for the training.

Refer to Clause 31 of the *Crown Employees (Police Officers – 2013) Award*.

Commanders

In accordance with the provisions of the *Defence Reserve Service (Protection) Act 2001*, NSW Police Force has an obligation to release employees to participate in the Australian Defence Force Reserve service and any training necessary to prepare for that service.

Purchased Leave

Refer to Clause 18 of the *Crown Employees (Police Officers – 2013) Award*.

Apply to your Commander to enter into an agreement with the Commissioner to purchase 2 or 4 weeks additional leave in a 12-month period. The purchased leave will be funded through a reduction in your ordinary rate of pay.

Commanders

Consider each application based on business/operational requirements and an officer's personal needs.

Special Leave

Refer to Clause 32 of the *Crown Employees (Police Officers – 2013) Award* and Chapter 6 of the *NSW Premier and Cabinet Personnel Handbook*.

Special leave is granted by the Government in recognition of miscellaneous special services and activities, eg: attending Olympic/Commonwealth Games, jury service, emergency volunteer service.

Apply for special leave in writing to your commander.

(Refer to Clause 32 of the *Crown Employees (Police Officers – 2013) Award* and Chapter 6 of *NSW Premier and Cabinet Personnel Handbook*).

Sick leave

Refer to Clause 20 of the *Crown Employees (Police Officers – 2013) Award*, for sick leave entitlements and the current *Sick Leave Policy* available on the Intranet under HR/Policy and Procedures.

Calling in sick

If you are unable to report for duty through illness or injury, promptly advise your commander. Give details of the cause/nature of illness/injury and the expected length of your absence.

Report any outstanding urgent matters or court cases.

If your absence exceeds the initial estimate, contact your commander and advise them of the extended absence, including any work or court commitments not included initially.

Commanders

Ensure appropriate rosters and leave records are updated and court or outstanding matters addressed.

Restricted duty

An officer's treating medical doctor and/or a PMO may place an officer on modified duties. Details are sent to the officer's commander.

Commanders

Arrange appropriate duties for the officer. If you have any enquiries contact their doctor.

Send a report at the end of each month to your Region Commander, giving names and full details of all officers on restricted duties.

Commanders' responsibilities

Supervision of sick leave

Manage sick leave in accordance with Section 7 of the current sick leave policy.

Ensure officers provide medical certificates for absences greater than 2 days and consider whether medical certificates are required for absences greater than 5 working days in a year.

The SAP Managers Desktop/Desktop Reporting provides a range of tailored pre-determined leave reports to support Commands in this process.

Failure to report absence

If an absent officer fails to notify you of their illness, arrange for an appropriate officer to contact them and get the necessary details where:

1. there is concern for the officer or family;
2. you need to seek the return of arms and appointments;
3. the PMO feels a visit is warranted.

Hospitalised or long term absent officers

When an officer under your command is admitted to a hospital, or is absent on long term sick leave arrange to have them visited at regular intervals and helped where appropriate.

Medical Certificates

If you are away for more than 2 consecutive working days, provide a medical certificate to your commander as soon as possible. If the certificate expires and you are still unable to return to work, supply another one.

If you take more than 5 days sick absence without providing a medical certificate, you may be required to provide a medical certificate for the balance of the calendar year.

Sick while on leave

If you are too sick to return to duty after leave, get a medical certificate and have it endorsed by the commander at the station nearest you.

Commander

Contact the officer's supervisor with relevant details.

Full Time Leave without pay

Refer Clause 30 of the *Crown Employees (Police Officers – 2013) Award* and the *Full time Leave Without Pay policy* on the Intranet under HR Policy and Procedures for leave without pay entitlements.

Submit applications for leave without pay to your commander/manager for consideration. Include a detailed report in support of your application.

Commander

Consider applications for leave without pay on their individual merits think about the needs of the command and the need to replace the officer. A three year limit on leave without pay applies for police officers.

Police Band and Special Constables (Security)

Refer to the *Uniform leave conditions* for ministerial employees and the specific ministerial employees awards as follows:

- *Crown Employees (Police Band) Award*
- *Crown Employees (Special Constable (Security)) Award*

Police sport

Local area commanders and their equivalent have been delegated the authority to grant on duty status using the following guidelines.

For the :

- ANZ Police Games
- Australian Police and Emergency Services Games
- International Law Enforcement Games

a maximum three days on duty status is allowable in any calendar year. One of the days (or part thereof) is to be used for the opening ceremony and the other days are limited to those days or parts thereof when the officer is involved in competition.

Additionally, local area commanders (or equivalent) may grant a further day of on duty status to permit police to compete in multi disciplined or single disciplined sporting event at national or international level (eg: Australian Police Ski Championships), including national team selections and competitions.

Local area commander (equivalent)

Your approval must be in writing, be given before the event and identify the day, days or parts thereof for which on duty status has been granted. File a copy at your command.

An officer granted on duty status (who has used leave to attend the sporting event) is to be recredited leave at the rate of 7.6 hours per on duty status day.

Legal Advice

General legal advice

Office of the General Counsel and the Police Prosecutions Command is responsible for providing legal services and support to members of the NSW Police Force. The Office of General Counsel provides legal support to the New South Wales Police Force on non criminal matters. Police Prosecutions Command provides legal support and advice to the New South Wales Police Force on criminal matters.

Investigating officer

Only seek advice from Police Prosecutions Command and the Office of the General Counsel when the matter cannot be resolved within your command. Firstly seek advice or guidance from your supervisor, crime manager, a skilled or experienced investigator, traffic officer or a member of a specialist command (for matters dealing with the speciality only). Obtain this advice verbally, in writing, by phone or during a conference depending on the urgency of your matter, the complexity of the issues and the time available.

If you are unable to resolve the issue locally and wish to seek legal advice from Police Prosecutions Command and the Office of General Counsel submit a written request for advice through your Local Area Commander (or equivalent), if practical.

Your written request is to include all information, documents and deadlines, in particular:

- a. the relevant facts in respect of the allegation or issue to which the request for advice relates;
- b. the available evidence to establish the facts upon which any prosecution would rely, and where, in the file, that evidence is located;
- c. the issue(s) about which it is considered specialist legal advice by Police Prosecutions is necessary; and
- d. an assessment of the credibility of the witnesses when this is an issue.

The report should be sufficiently detailed to enable advice to be given by reference to your report only. Allow sufficient time for it to be processed and a reply given. Only seek advice from Police Prosecutions when the matter cannot be resolved within your command.

If you want urgent advice outside normal business hours, contact the DOI.

If seeking operational legal advice on criminal matters that are not of a complex nature and are not urgent; you can forward your request via email. In this email you should provide sufficient information for the Operational Legal Advice Unit to provide advice.

When you are given advice about charging, you must decide whether to lay charges – it is your decision. However, any departure from the advice should only occur in exceptional cases and after you have consulted with your commander (particularly when the advice comes from the DPP). You are accountable for your decision and might have to justify it later. Record the reasons for your decision on COPS Case Management.

NB: If you are attached to a command which has its own legal support (eg, Professional Standards Command, State Crime Command) you may use that service to obtain advice.

If you are seeking advice as to the sufficiency of evidence to support a charge(s) for an indictable offence(s) and/or as to whether the charge(s) is appropriate for an indictable offence(s), complete a disclosure certificate (P.516) and if appropriate, the schedule (P.517) and send them with your report and the brief of evidence. If you complete the schedule, also send copies of the non-sensitive material listed in it, unless this is impracticable.

Observe the 'Claims of public interest immunity and privilege' section in the 'Court matters' guideline and statutory immunity regarding non-disclosure of that material when seeking advice from the DPP.

Local area command/Equivalent

If you are unable to provide advice, refer the matter, with your comprehensive comments (or comments from a management level such as duty officer, crime manager etc) to the Commander, Police Prosecutions for criminal matters or to the Office of General Counsel for advice on non criminal matters.

If you consider a charge is appropriate, but there is a reasonable prospect that the ODPP might take a different view or exercise discretion not to prosecute, refer the matter to the Commander, Police Prosecutions.

The exceptions to the above are if you:

- have made an arrangement with the Solicitor for Public Prosecutions for advice in a particular case (according to the protocol between NSW Police and the ODPP)
- are acting on advice from Police Prosecutions.

Manager, Operational Legal Advice Unit

Prepare advice and return it to the relevant command. Refer matters to the ODPP, which you believe are appropriate in accordance with the protocol for seeking advice from the ODPP.

If you receive a request to review legal advice given by the ODPP, attach your comments and send it to the Commander, Police Prosecutions.

Commander, Police Prosecutions

Consider requests for review and take appropriate action.

Review of legal advice

You may request a review of legal advice if you have additional information or evidence, which might affect the previous advice. Your request for a review is to be based on sound reasoning and legal argument. Do not request a review of legal advice solely to obtain a second opinion. Send your request through the same channels as the original advice and include a copy of the previous advice, a copy of the brief, the additional information and any other information, which might affect the advice.

Effect on other guidelines

These guidelines do not change other guidelines in this Handbook (eg: the (eg: Serious Motor Vehicle Collision review policy re charges from serious/fatal motor vehicle crashes). For guidelines about appeals refer to the '[Court matters](#)' guideline in the Handbook.

Legal advice concerning possible criminal charges against NSW Police

The guideline is in accordance with a protocol between NSW Police, Police Integrity Commission, ODPP and the Ombudsman to safeguard and ensure that the principles of integrity, transparency, accountability, timeliness and impartiality are demonstrated in each decision as to whether or not a criminal charge(s) should be preferred against a police officer after the investigation of criminal allegations under Part 8A of the Police Act 1990. These matters include former NSW police officers who, at the time of the alleged offence(s), were members of NSW Police. The protocol is on the Law intranet site under the icon "MOUs, Protocols and Specific Authorisations".

All processes under this guideline are to be carried out under these principles whilst maintaining confidentiality. Advice should be sought only when there is a genuine need to do so and a decision to prosecute is not to be delayed for the purpose of seeking advice when it is clearly justifiable, based on all relevant evidence, to commence proceedings. Refer to Law Notes 12 of 2003 on the Law intranet site under the heading "Sufficiency of Evidence to Commence Proceedings".

All investigating police officers are reminded of their duty of disclosure under section 15A of the Director of Public Prosecutions Act 1986 and as outlined in the '[Court matters](#)' guideline in the Police Handbook. Disclosure means all relevant information (inculpatory or exculpatory), documents or other things obtained during the investigation that might reasonably be expected to assist the case for the prosecution or the accused person. The duty of disclosure continues until a decision is made that the accused will not be prosecuted for the alleged offence, the accused person is found guilty or acquitted or the prosecution is terminated. Relevant information also includes if the allegations have been investigated previously by another agency.

OIC of case

After your investigation if you believe on appropriate and reasonable grounds that there is insufficient evidence to justify a prosecution furnish your report and recommendations including any relevant procedural issues or managerial matters under s.173 of the Police Act to your commander for consideration by the Complaints Management Team.

If on reasonable grounds, you are in no doubt that there is sufficient evidence to warrant a criminal charge(s) and you consider the charge(s) is appropriate against the relevant police officer, you MUST seek immediate approval to commence those proceedings, through your commander from the Commissioner's delegate. Refer to the "Legal Delegations of Authority" on the Law intranet site regarding the Commissioner's delegates.

Pursuant to s.148 of the Police Act 1990, when dealing with a Part 8A investigation, you have no discretion not to commence the proceedings against any police officer or any other person for an alleged offence, if there is sufficient evidence to justify the prosecution. However, when seeking the approval of the Commissioner's delegate, you may bring to notice any good reasons why the proceedings should not be commenced against that police officer. Refer to the public interest issues and factors in Guideline 4 – "The Decision to Prosecute" of Prosecution Guidelines of the ODPP on the Law intranet site that may be considered by the Commissioner's delegate.

Where on reasonable grounds, you are:-

- in no doubt that there is sufficient evidence to lay a criminal charge but you are in doubt as to the appropriate charge, AND/OR
- in doubt as to whether or not a criminal charge should be preferred because of the sufficiency or admissibility of evidence, complex legal issues or credibility of witnesses etc,
- prepare a confidential covering report with the brief of evidence (a completed Disclosure Certificate and if appropriate, the Schedule) and seek legal advice through your commander from the Manager, Operational Legal Advice, Police Prosecutions. If attached to a specialist command that has its own Legal Support, you may use that service. If the criminal allegations and potential charges are of a serious nature, you may request that the matter be sent to the Commander, Police Prosecutions. Do not seek advice from the ODPP directly without referral through Police Prosecutions.

Expedite all ODPP requisitions in connection with advice sought from the ODPP.

You may seek verbal and general advice or guidance from your supervisor, crime manager, a skilled or experienced investigator, traffic officer, a member of a specialist command (for matters dealing with the speciality only) or the Co-ordinator (State-wide Legal Advice), Operational Legal Advice, Police Prosecutions, without revealing the identity of the relevant police officer. Document any verbal advice obtained, the source and date in your investigative brief and in your report to your commander.

On receipt of advice of the decision by the Commissioner or Commissioner's delegate to commence or not to commence criminal proceedings against a serving police officer, immediately fax a copy of the Section 148 form to the Commander, Employee Management Branch (EMB) and to the relevant police officer's commander/manager who must complete page 2 of the form and send it to EMB.

Referral of appropriate matters to the ODPP for advice.

The Manager, Operational Legal Advice, or the Commander, Police Prosecutions, shall provide advice in matters regarding the sufficiency of evidence to instigate proceedings and/or appropriate charge(s) in decisions by the Commissioner or the Commissioner's delegate concerning the commencement of proceedings having regard to the Prosecution Guidelines of the ODPP including public interest issues and other relevant factors.

If appropriate, the Manager, Operational Legal Advice, or the Commander, Police Prosecutions, shall refer such matters to the ODPP for advice with the full brief of evidence, Disclosure Certificate and if appropriate, the Schedule, together with any internal advice that has been provided in each matter. This will include matters where advice has previously been provided by the ODPP.

Where the matter is relevant to a prosecution being undertaken by the ODPP eg, co-accused or complainant etc, the Manager, Operational Legal Advice Unit, shall seek advice from the ODPP.

Commissioner's delegate

If appropriate based on the evidence provided and recommendation, approve of the commencement of proceedings against the relevant police officer in accordance with s.148 of the Police Act 1990. Keep a record of that decision.

If appropriate, consider the public interest issues and factors as outlined in the Prosecution Guidelines of the ODPP. In exercising the Commissioner's delegation carefully assess the potential impact of your decision not to commence proceedings in regard to the grounds whereby the Commissioner may take action under s.181 D of the Police Act 1990. If you decide not to prosecute, keep a record of the reasons for that decision.

Consider and advise on any other action that may be appropriate under s.173 of the Police Act.

Seek advice from the Commander, Police Prosecutions, if you consider it is appropriate.

Non-compliance with Formal Advice provided by the Police Prosecutions Commander ODPP

OIC of case

As a general rule, formal advice provided by or on behalf of the Police Prosecutions Command, or the ODPP should be complied with, unless there are sound and good reasons not to do so. If you disagree with that advice or further relevant information comes to notice, you are to fully document the matter in a report with your reasons for disagreeing together with the brief of evidence and any previous advice. Send your report through your commander to the Manager, Operational Legal Advice, Police Prosecutions.

Any final decision to ultimately reject the advice from the ODPP is to be documented with your reasons in a report through your commander to the Manager, Operational Legal Advice, in regard to a review to determine whether that course of action was appropriate.

Record the creation of your report on c@ts.i and if appropriate on COPS case management.

Local Area Commander or equivalent

Examine each matter through your Complaints Management Team to ensure that the decision made by the OIC of case is appropriate having regard to all relevant evidence. If in any doubt, provide your comments and seek advice from the Manager, Operational Legal Advice, Police Prosecutions. Ensure that the principles of integrity, transparency, accountability,

timeliness and impartially have been demonstrated throughout the investigation and in the decision making process.

Confirmation by phone of any matter requiring urgent attention

Whenever sending a matter by facsimile or e-mail to Police Prosecutions that requires urgent attention, follow-up your transmission by phone to ensure receipt and that staff are aware of the urgency. Ring the general office number if you are unaware of the recipient who will be dealing with the matter. This applies to all urgent matters including requests for legal advice.

Licensing Matters

Commercial Agents and Private Inquiry Agents Act 2004

The Security Licensing & Enforcement Directorate (SLED), State Crime Command, is responsible for the administration of the *Commercial Agents and Private Inquiry Agents Act 2004* and the *Commercial Agents and Private Inquiry Agents Regulation 2006*.

Applications

Application forms, Fact Sheets and the Schedule of Fees are available on the NSWPF website. Applicants should be directed to the website to obtain forms and information, or alternatively to contact the SLED on 1300 362 001.

All applications should be lodged by mail to: Locked Bag 5099 Parramatta NSW 2124.

Renewals

SLED will notify licence holders prior to the expiry of their licence that they must renew the licence in order to continue CAPI activities.

Cancellations

The Act provides mandatory and discretionary grounds for cancelling a licence. The SLED monitors licensees against COPS for this purpose.

Requests by members of the NSW Police Force for SLED to review licences, based on cancellation grounds, should be forwarded through the chain of command to the General Manager, Operations, SLED.

Public Register

SLED maintains a public register of current licences on the [NSWPF website](#). Any member of the public can check if a licence is current by entering the licence number. The public register cannot be searched by a licensee's name.

Security Industry Act 1997

The Security Licensing & Enforcement Directorate (SLED), State Crime Command, is responsible for the administration of the *Security Industry Act 1997* and the *Security Industry Regulation 2007*.

Applications

Application forms, Fact Sheets and the Schedule of Fees are available on the [NSWPF website](#). Applicants should be directed to the website to obtain forms and information, or alternatively to contact the SLED on 1300 362 001.

All applications must be lodged by mail to: Locked Bag 5099 Parramatta NSW 2124.

Renewals

The SLED will notify licence holders prior to the expiry of their licence that they must renew the licence in order to continue carrying out security activities. The security industry

legislation defines renewals as either being on-time or late (renewed within 90 days of expiry date). A licensee who lodges a late renewal can return to work once the payment of the renewal fee (which includes a late fee) is processed.

Security licences can be renewed online or via mail to: Locked Bag 5099 Parramatta NSW 2124.

Revocations

The Act provides mandatory and discretionary grounds for revoking a licence. The SLED monitors licensees against COPS for this purpose.

Requests by members of the NSW Police Force for the SLED to review licences based on disqualifying offences or criminal intelligence should be forwarded through the chain of command to the General Manager, Operations, SLED.

Public Register

The SLED maintains a public register of current security licences on the SLED website. The Public Register is available to any member of the public and allows access to information relating to licences, including the name of the licence holder; the licence classes held; the licence expiry date; and the current licence status. Search by licensee name is permitted.

Tattoo Parlours Act 2012

On 29 May 2012 the *Tattoo Parlours Act 2012* (the Act) commenced. The Act requires that all body art tattooing businesses and body art tattooists obtain a licence that authorises them to 'carry on' a business or perform procedures for fee or reward in NSW.

NSW Fair Trading (NSWFT) is responsible for the administration of this legislation and the *Tattoo Parlours Regulation 2013*. While NSWFT has the responsibility for granting licences under the Act, the Security Licensing & Enforcement Directorate is responsible for:

- Making security determinations as to whether the applicant is a fit and proper person to be granted a licence or whether it would be contrary to the public interest for the licence to be granted; and
- Monitoring all licensees and their close associates against COPS to ensure the licensee continues to be a fit and proper person to hold a licence, and it is not contrary to the public interest for the licensee to continue to hold a licence.

It is an offence to 'carry on' a body art tattooing business, (or to perform a body art tattooing procedure for fee or reward), without an appropriate licence, unless a duly made application was lodged with NSWFT before 1 October 2013 and is yet to be finalised.

Once a licence is issued, licensees must comply with related legislative requirements. Penalties and other offences in relation to licensees apply as detailed in the Act and the Regulation.

Wool, Hide and Skin Dealers Act 2004

The *Wool, Hide and Skin Dealers Act 2004* came into effect on 1 September 2004, to more effectively and fairly regulate those who carry on the business of dealing (buying or selling) in the wool, hides and skins of livestock.

Livestock, wool, hides and skins can be stolen and Wool, Hide and Skin Dealers have been an avenue through which to dispose of illegally obtained produce. To help prevent this, all persons/corporations buying wool, hides and skins directly from growers to on-sell them, must be licensed under this Act.

Importantly, the NSW Police Force has had responsibility for the complete administration of the Act since September 2004. This means that all dealers need to apply to the Commissioner for Police to obtain and renew their licences.

This Act has provided police with invaluable powers when tracing stolen livestock and livestock products by enabling police to lawfully enter and inspect records and produce held by dealers. It has also strengthened the requirements attached to the licensing of dealers by:

- requiring that records of acquisition and disposal be kept;
- requiring that the name, address and signature of the vendor must be gathered; and
- placing an obligation on dealers to report wool, hides or skins suspected of being stolen.

Inspections are undertaken by the NSWPF Rural Crime Investigators (RCIs), who monitor local dealers to ensure compliance with the Act but also have cause to make more detailed inspections of records and produce when investigating stock and wool thefts. These inspections are recorded on COPS under the Incident Category of RURAL/LIVESTOCK INSPECTION; Further Class Wool, Hide and Skin Dealer.

Applications

The Act, Standard Operating Procedure for the application process and all other relevant forms including the "Application for licence under the Wool, Hide and Skin Dealers Act 2004" ([P801 WHS Form 1](#)) are available on the Wool, Hide and Skin Dealers section of the Rural Crime Knowledge Map on the Intranet.

Police should provide applicants with a copy of the Form and the Act and advise the following:

- The completed form should be submitted to the station with two forms of evidence of identity;
- If the applicant is a corporation, then the application must also be accompanied by the names of each of the directors; and
- applicants must disclose particulars on their suitability to hold a licence, including any criminal history and the location of all intended business and storage premises.

The Standard Operating Procedure details the application process. However, please note that any police receiving completed applications should forward them to the nearest RCI who will

undertake background/probity checks to determine whether the person/corporate entity is entitled to hold a licence. Once approved, the application is forwarded to the SLED which issues the licence and maintains the Register of Licences (as required by the Act). The RCIs are also responsible for serving the licence on the applicant and for contacting dealers when their licences are due for renewal.

The licences are in force for three years, unless police have reasonable cause to disqualify a licensee for proven dishonesty offences or a contravention of the Act.

Please contact your nearest Rural Crime Investigator if you need further information.

Local Government

Council meetings

Police attendance

Attend council meetings to prevent breaches of the peace when asked by the mayor or president.

If you expect trouble, stand near the meeting room, but do not enter in anticipation of problems.

Bear in mind many of these incidents might result from a clash of interests or personalities.

Removing citizens

When called to a council meeting over a member of the public's disorderly behaviour, find out the following:

- if council has resolved to expel them for disorderly conduct
- if they failed to leave immediately after.

If these facts are established, you may remove them, and if necessary, stop them re entering.

Removing councillors

When called over a councillor's conduct, proceed as for removing citizens.

Closed council meetings

When called to a closed council meeting which a person refuses to leave, find out the following:

- confirm that the person is not a councillor
- if council has resolved to expel the person
- if the person failed to leave immediately after.

If these facts are established, you may remove them using reasonable force, and if necessary, stop them from re-entering but only whilst the council meeting is a closed meeting.

Local Land Services Act 2013

Formerly titled - Rural Lands Protection Act 1998

***NOTE: The Rural Lands Protection Act 1998 has been replaced by the Local Land Services Act 2013 and until this chapter is able to be rewritten, the reader should take care in assessing if guidelines and powers referred to below have equivalents in the new legislation. Assistance can be sought from your local Rural Crime Investigator.**

Administration

Police generally

Local Lands Services (LLS), (previously the Livestock Health and Pest Authorities [LHPAs]), are the local authorities in their respective districts for administering the *Local Lands Services Act 2013* (the "Act").

LLSs deliver essential services to ratepayers and others in each district as the frontline in the management of animal health, pest animal and insect control, travelling stock reserves, stock movement, stock identification and drought relief.

For information concerning all aspects of livestock identification, i.e. earmarking, tagging and branding, consult your local LLS or the NSW Department of Primary Industries.

Role of RLPB in stock movement management

LLS administer a range of forms for the lawful movement and grazing of stock on public roads and Travelling Stock Reserves (TSRs). Forms that may be required for the movement of stock include Transported Stock Statements (TSSs), National Vendor Declarations (NVDs) and LLS Stock Permits. All movement of stock must be accompanied by the appropriate form of documentation and meet the necessary National Livestock Identification Scheme (NLIS) requirements to ensure stock activity can be monitored and to assist in the tracing of diseases and stolen stock.

Why monitor stock movement?

Australia is a world leader in disease control and traceability of stock consigned for human consumption. To maintain this status, it is imperative that all landholders that intend to run stock on land are aware of and comply with their responsibilities when consigning stock.

Responsibilities when moving stock

The movement of stock is an important component of the livestock industry in NSW. Not only do those moving stock need to be aware of their responsibilities (see below) when carrying out this movement, but so do motorists who are sharing the roadway (see below).

Police powers and responsibilities

Make every effort to prevent stock stealing and detect offenders. Supervise saleyards, stock centres and council stock pounds. Check all brands, marks and descriptions with those of stock reported stolen.

Pursuant to Sections 140A and 140F of the Act all Police have the power to examine transported stock statements. A stock permit issued by the LLS lists as a condition of the permit that the permit must be produce when required to do so. When you inspect these documents and the stock to which they refer, do the following:

- Enter details of the stock and the stock permit on COPS – Rural / Livestock Inspection
- Disseminate to your LAC Rural Crime Investigator (RCI).

Rural stock and property theft

When stock theft or other rural crime is reported, including theft of farm machinery, chemicals, grain etc, utilise the services of your local RCIs to assist in the investigation.

Circulate all rural thefts on the Computerised Operational Policing System (COPS) and disseminate to RCIs.

Searching for missing stock

Before making inquiries into reported losses or thefts of stock, consult the LAC's RCI for specialist advice. The written consent of owners must be obtained to:

- search their land or premises
- muster their stock and
- examine their books and records.

Consider the following:

- the records kept to verify the report
- the means of calculating the loss
- efficiency of management of the property concerned eg: stock dead on the property, condition of fencing etc.

When stock is reported stolen or missing within a short period of time prior to the report, examine the area for evidence e.g., fences cut, tyre marks or other forms of evidence.

If you intend to search any land or premises for stock etc., not being the property of the complainant, obtain a search warrant. Comply with the provisions of the *Law Enforcement (Powers and Responsibilities) Act 2002*. If you are invited onto a property to search without a warrant, obtain the occupier's consent in writing. File the consent for future reference.

National Livestock Identification Scheme (Cattle) (NLIS)

NLIS and moving stock

The National Livestock Identification System (NLIS) for the identification and tracing of livestock was introduced in NSW in 2006. Under the scheme, movements of cattle, sheep and goats between properties with different property identification codes (PICs) must be notified to the NLIS database and all cattle, sheep or goats identified with an NLIS device before leaving a property.

NLIS is Australia's system for the identification and tracing of livestock. It is a permanent whole-of-life identification system that enables individual animals to be tracked from property of birth to slaughter for food safety, product integrity and market access purposes.

How does NLIS work?

NLIS uses machine-readable Radio Frequency Identification (RFID) devices to identify cattle. NLIS approved devices come in the form of an ear tag or rumen bolus/ear tag combination. Cattle are tagged with NLIS devices only once in their life.

Cattle identified with NLIS devices can be electronically read as they move through the livestock chain. At time of reading, each owner's PIC can be recorded and linked to the NLIS device. This transaction information is then stored in the secure central NLIS database. A life record of an animal's residency, and which other animals it has interacted with, is established. This centrally stored electronic history of an individual animal's residency enables rapid and accurate traceability.

Each animal has a PIC recorded on its NLIS tag. The tag can be read manually or RCIs have an electronic NLIS reader which can be used to scan the animal and read the PIC and other data stored on the NLIS database. This PIC is thus able to assist Police in tracing the owner and property of stolen, missing or straying stock.

NLIS (Sheep and Goats)

NLIS (Sheep & Farmed Goats) is a tracing system that allows stock to be traced from their property of birth through all subsequent properties or to the place of slaughter. This traceability is achieved through a combination of ear tags and a paper trail based on a movement document such as the National Vendor Declaration and Waybill (NVD).

NLIS (Sheep and goats) assists police in proof of ownership for lost or stolen stock.

All lambs and farmed kids leaving the property of origin need to be tagged, except for those lambs being consigned direct to an abattoir for slaughter over the hooks. All sheep and farmed goats leaving a farm require an NLIS (sheep and farmed goats) tag which includes the property's PIC.

Unlike NLIS for cattle, it is not compulsory to use electronic tags.

Power of entry and inspections

Section 164 of the Act empowers you, and any person called upon for assistance, to enter premises, (but not residential premises without the consent of the occupier), for any function of the Authorities the officer is authorised to exercise by or under this Act. However, you must have reasonable grounds to believe there are on those premises:

- stock
- stock branding or earmarking instruments
- animal skins
- documents relating to dealings in stock or animal skins

You may demand that a person occupying the premises produce stock, or any of the items mentioned above, for inspection. You may also demand that the person provide information concerning ownership of any animal, or items mentioned above.

It is an offence for someone to intentionally obstruct, hinder, delay, threaten, or assault you or anyone assisting you.

Refer to S.35 of the Wool, Hide and Skin Dealers Act 2004 for further power to enter and search premises.

Diseased stock

Where you become aware of diseased stock, you MUST notify an inspector authorised under the *Stock Diseases Act 1923*. Contact the local Livestock Health and Pest Authorities in the district, or the Department of Primary Industries in the event of exotic diseases.

Authorities to transport stock

Transported Stock Statements (TSS) and National Vendor Declaration (NVD)

The monitoring of livestock movements throughout the state can be a very useful tool to assist in the detection and investigation of stock theft throughout the state. The following are some frequent questions asked about TSS and NVDs.

What is a Transported Stock Statement (TSS)?

A Transported Stock Statement (TSS) is a document on which a person makes a declaration, that they are moving or intend to move, stock from one location to another.

What is a National Vendor Declaration (NVD)?

If you stop a livestock transporting vehicle carting stock for sale or slaughter, the document they should produce is called a National Vendor Declaration (NVD). This document also satisfies the requirements of a TSS. NVD's are coloured documents and are purple for sheep & lambs and yellow for cattle. When checking these documents pay particular attention to part A as much detail should be included in this section as possible.

Who must complete a TSS?

A TSS is to be completed by either the stock owner or an employee of the stock owner, for every individual load of stock transported by road e.g If multiple loads are being transported from the same property to the saleyard, a separate TSS will be required for each load. The types of stock include Sheep, Cattle, Horses and Goats.

When is a TSS needed?

A TSS must be completed and carried whenever transporting cattle, sheep, horses or goats from one location to another. The TSS must be available for inspection by LHPA Officers or Police, at any time through the journey. The owner and/or carrier, and consignee must retain the completed forms, for a period of 2 years.

When is an NVD needed?

National Vendor Declarations (NVD) are normally needed when the stock are being transported to sale or slaughter, as the contents of the NVD document is an industry driven requirement when selling stock. The cost factor of the individual NVD form is far more expensive than a TSS. NVD booklets are purchased by graziers from Meat and Livestock Australia (MLA) whereas TSS booklets are available from the local LLS office.

Are there any exemptions from the requirement to have a TSS?

Yes, exemptions include:

- Stock transported to and from a vet
- Transportation of pigs
- Horses transported to and from any agricultural show, exhibition, gymkhana, pony club or similar function or from a place for use as a working horse.

Why must a TSS be completed?

The TSS allows LLS officers and Police to monitor stock movements and assist with disease control, and creates a paper trail for assisting in tracking stolen stock.

The Act and Regulations require a person to hold a transported stock statement or stock permit if he/she:

- causes stock to be conveyed by vehicle on a public road or a travelling stock reserve
- consigns stock for conveyance by any form of rail, water or air transport.

Issue of authorities for walking stock

The Act requires a person who owns or has charge of stock, to ensure that the stock do not walk over, or graze on, a public road or travelling stock reserve, unless the person is the holder of a stock permit.

Drover (Walking Stock) Inspections:

Drovers require stock permits to graze stock along travelling stock reserves in a LLS Area. These permits are issued by LLS Rangers in accordance with section 78 of the Act to do any one or more of the following;

- a) Enter a controlled travelling stock reserve with stock.
- b) Remain on a controlled travelling stock reserve with stock.
- c) Walk stock on a public road or travelling stock reserve.
- d) Graze stock on a public road or controlled travelling stock reserve.

Offences for Walking Stock

Refer to the *Local Lands Services Regulation 2014* for offences on stock reserves.

Refer to clause 54 regarding the display of temporary stock zone signs.

Refer to clause 64 regarding the failure to adequately prevent stock from moving onto carriageways between sunset and sunrise.

Exemptions

A TSS is not required when:-

1. the stock concerned are transported or are to be transported under the authority of:
 - a) a stock permit issued under the Act, or
 - b) an order made or a permit issued under the *Stock Diseases Act 1923*
2. Stock is transported by vehicle on a road in the following circumstances:
 - o stock are transported into NSW from another State or the ACT and transported within NSW for up to 30 kilometres before proceeding back into the other State or that Territory as part of an unbroken journey,
 - o stock transported across or along a road from one part of a holding to another part that would be contiguous with the first-mentioned part but for being separated by the road,
 - o stock transported to or from a place for treatment by a veterinary practitioner,
 - o when horses are being transported to or from any agricultural show, exhibition, gymkhana, pony club meeting or similar function,
 - o when racehorses or harness racing horses are being transported from one place to another,
 - o when horses are moved to or from any place for use as working horse

Transports stock statements for each vehicle

Police generally

When more than one vehicle is used to transport a consignment of stock, the person in charge of each vehicle carrying the stock is required to possess an appropriate permit or if in convoy, a copy of the original TSS and / or NVD

Transporting stock at night

At night, stock may only be transported by vehicle. A person may not walk stock or pigs over a public road, or travelling stock reserve at night.

A walking stock permit may authorise dairy cows and their calves to be moved over a road during the night, only if they are on the road or reserve for the shortest practicable distance. Appropriate warning signs are to be displayed as set out in the Stock Permit conditions.

Earmarking sheep and goats

Ear marking and ear tags are the most common form of sheep and goat identification. Registered earmarks and ear tags are used widely in the sheep industry. These ear marks and ear tags contain information that identify the owners of sheep and goats along with the property of birth.

Future Service CANS

When you detect breaches of the Act or Regulations, seek advice from your RCI and record:

- names, dates of birth and addresses of the offender/s, person in charge at the time and the owner where possible,
- get the driver's licence details of all parties concerned
- number, type, breed and sex of stock
- time, date and place of offence
- the rural lands protection area where the offence was committed
- the make, model and registration number of any vehicles involved
- destination of stock movements, where they started plus time and date
- the offender's knowledge of the Act and Regulations, and any excuse offered
- an opinion as to whether the excuse is reasonable.

Send the Future CAN to your commander who will authorise prosecution or issue a caution.

There are a number of offences in the Act that can be prosecuted by way of Infringement Notices. These offences are listed in the Infringement Book.

Magpie Destruction

By authority of a licence held by the NSW Police Force, you may destroy an Australian magpie to protect people from being attacked, provided:

- it is not in a national park, historic site, nature reserve, wildlife management area, wildlife district or refuge
- it is not on private property, or, if it is, you have owner's approval.

If a property owner asks for advice about the destruction of an attacking magpie, refer them to the National Parks and Wildlife Service.

If you are to use a firearm to destroy the magpie, in rural areas use a NSW Police Force Shotgun, but only if you are trained in its use (Weapons Trainer, SPSU officer). In the Sydney, Newcastle and Wollongong urban areas use only a .410 police issue shotgun with .410, no. 7 – 8 shot cartridges, but only if you are a certified operational safety instructor. Only in exigent circumstances could a member of the police conduct the destruction if they possess a shooters licence for that category of firearm. In all cases police must have absolute regard for public safety.

Refer also to the section on [Prevention of cruelty to animals](#).

Major crime investigation

For guidance about investigating major crime refer to the *Investigation of Major Crime Guidelines* (issued by State Crime Command). Also refer to the 'Investigation referral and assessment' guideline in this *Handbook*. (Both guidelines are also available on the State Crime Commands Intranet site).

For guidance about investigating cross jurisdictional major crimes (major crimes across State and Territory borders, or between Australia and New Zealand) refer to the *Guidelines for the Conduct of Multi Jurisdictional Crime in Australia and New Zealand* (copy available at your region or State Crime Command).

Marine Area Command (Water Police)

Getting help

Apply for help, through your commander, to the Commander, Special Services Group or the Commander, NSW Marine Area Command, Sydney. Include the exact location, depth of water and any unusual characteristics in the current or tides in the area.

Ensure the scene is secured.

To get help from the Marine Area Command directly contact the Supervisor, Sydney Water Police or your local full time Marine Area Command (Water Police) station.

Searches and rescues

Searches on land, sea or air are the responsibility of the NSWPF. Other resources may be used, including accredited rescue organisations, but the primary responsibility for search and rescue remains with the NSWPF.

If the rescue is beyond available State resources, transfer coordination to the Australian Maritime Safety Authority, Canberra (AMSA), through the NSW Marine Area Command, Sydney.

The Marine Area Command will coordinate and control all marine search and rescue incidents along the NSW coastline and will task appropriate assets depending on the circumstances.

Use of divers

Do not use police divers for searches unless they are authorised members of the Police Diving Unit.

“Diving Operations”

“Police Divers are available 24/7 to provide a range of underwater services state wide.

Police Divers are able to provide a full range of underwater services including;

- Missing persons search and recovery operations,
- Evidence searches
- Salvage operations for coronial and criminal matters,
- Underwater surveys

Should you need divers to assist in an operation contact the Coordinator, Police Diving Unit on e/n 57433 or outside 9230 7433, during business hours. If unattended, or outside business hours contact the Supervisor, Sydney Water Police, Marine Area Command on e/n 57499 or externally on 9320 7499 who will contact the Coordinator or on call Dive Supervisor.

Some Accredited Rescue Services may also be “Diving Accredited” and may be used for underwater “rescue” operations. Such agencies must have current “Diving Accreditation” in terms of the State Rescue and Emergency Management (SERM) Act.

Diving operations need to be conducted in accordance with Australian Standard AS/NZ 2299 – Occupational Diving. The use of recreational divers is not approved.

Further information is available at the [Marine Area Command Intranet site](#).

If responding to the death of someone wearing a compressed air apparatus (SCUBA or other underwater breathing equipment) immediately contact the Coordinator Police Diving Unit or on call Dive Supervisor. If the Unit is unattended contact the on call Dive Supervisor through the Supervisor, Sydney Water Police who will contact the on call Dive Supervisor. All diving equipment including weight belt needs to be taken as exhibits. At the same time, seal and conserve any compressed gas in the apparatus. Take particular notice of its condition and how it was attached to the body. The Diving Unit will provide advice on appropriate securing and removal procedures. Have photos taken of the apparatus in its original condition, if possible.

Send the apparatus and belt, with a covering report, to the Diving Unit. Coordinator Diving Unit

The Diving Unit will arrange for a Government Analyst to test a sample of the gas and a qualified Diving Unit member to carry out a physical test of the equipment.

Ensure statements, certificates and photos are prepared and sent to the investigating officer for presentation to the coroner.

Rescues and searches in shore or close off shore

Local area commanders

The NSWPF are responsible for Maritime Search and Rescue within New South Wales Waters including ports, tributaries and enclosed waters.

Be thoroughly aware of the capability of local resources. Where the accredited local rescue craft are not available, other resources may be tasked at the LAC's expense.

Notify the Marine Area Command on 1800 MAC SAR (622 727) wherever:

- A MAYDAY is received; or
- A request for assistance is received from AUSSAR; or
- A person involved in an incident has died or sustained a serious/life threatening injury; or
- Advice is received that a person is in a life threatening situation; or
- Advice is received that a vessel is seriously disabled and is in danger of sinking; or
- A vessel requires assistance in the offshore/open waters environment.

In addition to the above criteria, the Search and Rescue Coordination Centre (SARCC) or Marine Rescue Base (MRB) must also **as soon as possible** notify the MAC on phone No 1800 622 727 when there is no immediate threat to life or property but where the incident may involve collateral damage, which has been sustained, or is likely to be sustained to a vessel, facility or the environment.

Hiring resources

The Marine Area Command will fund only the hiring of resources for searches or rescues it coordinates and approves.

If you want to hire resources, particularly private craft, contact the Marine Area Command, Sydney for advice on vessel type and costs.

Communication between rescue organisations

Volunteer Search and Rescue Coordination Centres or Marine Rescue Bases

The Search and Rescue Coordination Centre (SARCC) or Marine Rescue Base (MRB) must **immediately** notify the Marine Area Command (MAC) on phone No 1800 622 727 (MACSAR) whenever:

- A MAYDAY is received; or
- A request for assistance is received from AUSSAR; or
- A person involved in an incident has died or sustained a serious/life threatening injury; or
- Advice is received that a person is in a life threatening situation; or
- Advice is received that a vessel is seriously disabled and is in danger of sinking; or
- A vessel requires assistance in the offshore/open waters environment.

In addition to the above criteria, the SARCC or MRB must also as soon as possible notify the MAC on phone No 1800 622 727 when there is no immediate threat to life or property but where the incident may involve collateral damage, which has been sustained, or is likely to be sustained to a vessel, facility or the environment.

Where the rescue is performed by the accredited volunteer unit, it must notify the local area commander of any injuries or unusual circumstances and when finished.

Coastal Marine Area Command stations have not been accredited as coordination centres, as they are usually not staffed when the launch is crewed and at sea. In most instances, however, these launches have radio contact with the Sydney Water Police.

Ensure each incident is finalised and communication between organisations is maintained throughout.

On notification of a close in shore incident, notify the Marine Area Command who will advise the local search and rescue coordination centre and establish contact.

If the incident is off shore, contact NSW Marine Area Command, Sydney. For local incidents, you may go to the coordination centre and monitor proceedings.

Media Policy

Section 6(1) of the Police Act 1990 states that the NSW Police Force mission is to work with the community to reduce violence, crime and fear. Close links with the community are fundamental for effective community based policing, and require maintaining public trust and confidence in the Police Force.

How every officer behaves in public under media scrutiny directly contributes to the way the media presents the NSW Police Force, and therefore how the community sees us. Ensuring officers manage the media in a professional manner is critical for the effectiveness of police messages of public safety, crime prevention and calls for assistance.

This section summarises the key elements of the Media Policy. All employees who communicate with the media, or interact with the media during the course of their duties, must familiarise themselves with the details in the Media Policy.

If you have any questions on the Media Policy, on managing the media or the opportunities that they provide for policing, please consult the Police Media Unit which is available to help 24 hours a day, seven days a week, on Eagenet 45101.

Using the media to achieve police goals

Officers should see the media as an opportunity, not an obstacle. The media is a powerful tool that can be used to get key police messages out to the community. Police can use the media to:

- maximise public assistance to help solve crime
- correct or clarify information in the community
- warn people of dangers or threats
- reassure the community and reduce the fear of crime
- create discussion in the community and/or among criminals during investigations
- deter criminal activity by increasing the perception of detection
- highlight good police work
- increase police visibility
- provide transparency and maintain community faith in policing.

It is important that we communicate to the public what police are doing and have done to arrest criminals. Positive and proactive police news stories are a proven method to help maintain or increase public confidence in policing, encourage the reporting of crime, and drive down the community's fear of crime.

Public Affairs services & contacts

Police Media Unit

The Police Media Unit provides media advisory services 24/7, from over-the-phone advice to developing media strategies, attending major crime scenes and managing critical issues.

Contact the Police Media Unit for advice when dealing with issues such as:

- major events, incidents and emergencies
- marches, rallies, demonstrations and sieges
- critical incidents and suspicious deaths
- serious crimes and arrests
- court decisions or Coronial matters
- incidents involving police officers or other staff
- child abductions
- incidents involving celebrities or sporting identities
- requests from major news or current affairs shows
- the work of a major strike force
- terrorism, security or counter terrorism
- misinformation in the community, media or online
- requests for a media blackout or restricted airspace
- child sex offences or registrable persons
- oversight agency inquiries: eg. PIC, ICAC and the Ombudsman
- requests for information from outside your area of responsibility
- requests to interview, photograph, film or accompany police officers
- positive news stories promoting good police work.

Media and Communications Strategies

The Police Media Unit develops media and communications strategies to assist a variety of policing situations, ranging from the management of major incidents through to forming part of a Local Area Command (LAC) crime reduction strategy. The Police Media Unit must be consulted in the development of all police media or communication strategies, including LAC media strategies.

Media Training

Is provided across NSW and includes TV, radio, print and online examples.

Media Monitoring

Print, TV, radio and online news and current affairs involving the police is monitored. Copies are provided on request.

The Multimedia Unit

The Multimedia Unit provides a secure in-house filming service for investigative purposes. They also film police action for release to the media to showcase good police work. All footage is edited and legally checked before release.

Digital Media Team

Manages the corporate online presence and creates online media strategies for projects and events to complement traditional media strategies.

Film and Television Liaison Unit

Manages all (non news related) requests to interview staff for TV series, films and documentaries etc.

Authority to comment

Staff must not contact the media in their capacity as Police Force employees to make any comment about any incident, police policy or procedure without prior authorisation. This includes contacting talk back radio, comments on social media platforms and letters or emails to the editor.

Information released publicly must be lawfully obtained and released in accordance with the Media Policy and the Code of Conduct and Ethics. Employees must only access, use and/or disclose confidential information if required by their duties and allowed by Police Force policies.

The full list setting out who is authorised to comment on particular aspects of police operations is located at Schedule 1 of the Media Policy.

Commenting on Policy and Procedures

Only the Commissioner, Deputy Commissioners, Corporate Spokespeople and Directors/Assistant Commissioners at Region Command level or equivalent are authorised to comment on policy or procedures.

Current Affairs Shows and Major News Bulletins

Participation in live interviews on current affairs style shows and major news bulletins is restricted to the Commissioner, Deputy Commissioners, Corporate Spokespeople, Assistant Commissioners, and personnel authorised and appropriately trained for that environment. Any compelling case for an exception should be referred to the Director, Public Affairs Branch, for decision.

Corporate Spokespeople

Corporate Spokespeople are responsible for representing the Commissioner externally and internally on matters concerning particular communities, crimes or policing portfolios. When approached to provide advice, consider whether the relevant Corporate Spokesperson for that subject area is better placed to provide public comment.

Speaking on Local Issues

Officers authorised to speak with the media may do so about general day to day issues in their commands, such as:

- routine police operations, investigations or arrests
- local traffic accidents and road safety initiatives
- robberies and assaults
- appeals for public assistance
- crime prevention initiatives
- community policing issues
- local crime trends (for crime statistics, after conferring with the Results Unit, Performance Improvement and Planning Command, and the Media Unit)
- highlighting good police work and falling crime trends.

Key Police Media Messages

Include one or more of the messages below in media releases or interviews:

- police are in your community working hard to address crime and the fear of crime
- crime prevention is our priority
- police need the community's help to drive down crime
- crime is coming down (as relevant)
- police encourage personal responsibility
- police respect people's rights, but will promptly act when the law is broken.

Government Policy

Do not criticise:

- existing or proposed police policy or wider Government policy or legislation
- parliament
- a court decision
- any other government department or agency.

Statistics

The NSW Bureau of Crime Statistics & Research (BOCSAR) is the primary agency responsible for the release of NSW crime statistics, and for public comment on crime trends and patterns.

Media Contact

Local Area Command personnel authorised to do so may provide media comment to local media without contacting the Police Media Unit. Information must be released to the media on an equal basis. Any media inquiry by statewide or national media must be referred to the Police Media Unit.

Media Accompanying Police on Operations (Ride Alongs)

Contact the Police Media Unit if approached by media organisations seeking to accompany police on operations, including 'ride alongs'. Participating media must sign a Media Agreement and Indemnity form (available from the Police Media Unit). Media representatives who fail to sign the form cannot accompany police on operations.

Any exercise where the media accompanies police on an operation must not:

- compromise a police investigation or operation
- disclose operating procedures or investigative methodology
- potentially identify victims of crime (eg., via the police radio)
- cause distress to victims and others
- jeopardise the prosecution of offenders
- cause community unrest, or
- fail to comply with the Safe Driver Policy.

Tips for media interviews

- Remember you represent the NSW Police Force - dress appropriately and wear full uniform. Hats should be worn outdoors. No sunglasses.
- Ensure the interview location is appropriate.
- Always assume the camera or microphone is ON.
- Never make 'off the record' statements.
- Prepare your facts and key messages.
- Tailor your messages to the intended audience.
- Keep your messages and answers simple.
- Do not wander off, or be drawn off, the subject.
- Speak normally, avoid jargon and acronyms.
- Do not use terms such as 'a person was pronounced life extinct'.
- Do not look at the camera in one on one interviews – focus on the interviewer.
- Do not say 'no comment'. If you cannot answer a question say so.
- Stay calm – even if an interviewer is aggressive.
- Keep answers to your area of responsibility.
- Do not speak on policy matters unless you are authorised to do so (eg. Corporate Spokespersons).
- Do not speculate – stay with the facts.
- Never walk out on an interview in progress.

During an investigation or prior to arrest

Before a person is arrested you may release:

- The basic facts of the offence
- Time and place (but not actual address)
- The victim's sex, age, suburb/town and occupation (do not identify the victim)

- Name and rank of commander or senior investigator
- Descriptions of suspects and vehicles, weapons, clothes and other articles (in consultation with OIC)
- Appeals for public help to locate suspects
- Offender's remarks, but no direct quotes
- Descriptions of injuries and the hospital attended (if not a security risk)
- Public reassurances about police action.

Do not say anything that may:

- Hinder an investigation or jeopardise a trial
- Imply a particular crime has been committed
- Imply someone not charged is guilty of a crime
- Speculate on the cause of a death
- Canvass a motive or absence of motive
- Reveal evidence which may be disputed in court
- Reveal police or criminal methodology
- Distress victims or their families unless there is an operational need or risk of harm to any person
- Quote specific conversations with victims.

When a person is in custody

When in custody but not yet charged, you may say:

- The person is in custody, and where he/she is held
- He/she is being interviewed by police in connection with an incident or offence
- The person's age, sex, occupation, suburb or town (do not identify further)
- Where they were arrested (no house/unit numbers)
- When they were arrested
- The Commands, Units or Squads involved.

After charging you may add:

- What the charges are
- The court in which the person will appear
- The date set for appearance
- Whether bail was granted or refused (no details)
- What Police will allege in court (briefly, in consultation with OIC. Do not jeopardise the trial).

Do not say anything that:

- Refers to the psychological state of an offender

- Refers to prior convictions or a criminal record
- Lays blame on or belittles anyone
- Suggests other offences by the offender
- Identifies children or the victim of a sexual crime
- Suggests the offender has or has not made confessions, statements or admissions
- May prejudice a trial
- Reveals a refusal to submit to examinations/tests
- Details forensic or other examinations or 'line-ups'.

Charging Police Officers

The Commissioner has authorised the Police Media Unit to issue a media release if a police officer is charged with an offence, no matter how 'minor' the offence. The media release must be authorised by a Region Commander or equivalent.

Release of Police Fact Sheets

Section 314 of the Criminal Procedure Act 1986 gives media the right to inspect court held documents relating to criminal proceedings (including fact sheets) for the purpose of fair reporting. The media must apply to the Registrar of the Court no later than two working days after proceedings are finalised.

All media enquiries for access to fact sheets that are part of the court's records are to be referred to the registrar of the relevant court.

If a fact sheet has not been filed with the court but the police prosecutor has either read it aloud in open court or handed it up to the magistrate or registrar to assist in making a bail determination, then police prosecutors may make it available for the purpose of accurate reporting unless there are good reasons not to. For example, the fact sheet may contain sensitive information that would not be in the public interest to release, or if it is subject to an order prohibiting publication, a suppression order, or if disclosure is prohibited by any law.

If a fact sheet has not been either read aloud or handed up in court, the media must not be given access and the enquiry referred to the Police Media Unit.

Statutory Prohibitions on Publication

Statutory prohibitions on publication cover people such as children, the victims of sexual assault and parties to family law cases. This prohibition includes the publication of information which:

- Identifies a child accused or found guilty of a crime
- Identifies a child who is a witness or otherwise involved in any type of court proceedings
- Identifies a child who is involved in any way with an apprehended violence order or who is reasonably likely to be involved
- Identifies a victim of a sexual crime whether a child or an adult (unless an adult victim consents, or the person is missing or dead and has not lodged a complaint)

- Identifies parties to adoption proceedings or a child involved in adoption proceedings
- Identifies a child as a ward of the state
- Identifies parties to Family Court proceedings
- Identifies a juror, or identifies a former juror without the consent of the former juror
- Discloses the deliberations of a jury during a trial
- Is derived from an interview with a prisoner, without authorisation of prison officials.

Further information not to release

Drugs

Do not release details of the amount, weight or commercial value of stolen legal drugs – especially when the site of the theft is mentioned (for example a hospital or pharmacy). Use words like ‘a quantity of drugs was stolen’.

The ‘estimated street value’ of illegal drugs may be released, as estimated by investigators. Cannabis crops can be described by the number of plants. Following an arrest, the wording of the charges laid may be used to describe the drugs.

Money

Do not disclose the amount of money stolen. Describe the amount in a non-specific way, such as ‘a sum of money was taken’. If investigators believe it may help a particular investigation, then the amount involved may be released with the consent of the victim.

Methodology & Tactics

Detailed methodology and tactics used by police or criminals must never be released. Similarly, do not divulge the technological capabilities of the NSW Police Force in monitoring criminals, especially covert monitoring.

000/VKG

No recordings, transcripts or other documents relating to emergency calls to 000 or police radio communications (VKG) can be released without the express approval of the Commissioner or Deputy Commissioner.

Persons in Custody

Do not allow the media access to any person in custody. Do not parade people in custody before the media and ensure they are provided with the means to cover their faces if they wish.

Release of images

The release of photographic images or video recordings can be a powerful investigative tool for:

- identifying a Person of Interest (POI)
- creating more media interest (TV, print and online) resulting in better coverage and the message getting to a wider section of the public.

The release of any photographic image or video recording for operational reasons must be coordinated through the Police Media Unit after endorsement by the Office of the General Counsel and authorisation by the Director, Public Affairs Branch, or the Commissioner or a Deputy Commissioner where appropriate.

The only exception is the release of static images relating to either summary offences or Table 2 offences. These images can be posted on official NSW Police Force social media sites, including Eyewatch sites, and/or released to local media.

The images which are exempted for release must:

- be authorised at the site's host Command by a relevant officer of the rank of Inspector or above, consistent with the requirements on the public release of information set out in the Media Policy
- not normally show the commission of an offence
- not depict a person involved with an offence who is a child or was a child at the time of the offence.

All images and audio relating to undercover operatives or their vehicles must be pixelated or altered to hide their identity and not released without approval from the Commander, Undercover Branch.

The publication of all moving images (such as from CCTV footage) must be coordinated through the Police Media Unit.

Details on requirements on the release of specific types of images are set in section 6 of the *Media Policy*.

Photo opportunities with politicians

If a politician requests to be photographed or filmed with a NSW Police Force employee, ensure that the photograph shows you performing official duties. Police Force employees may be photographed with political figures as part of their official duties, such as a Ministerial visit or a forum run by a local Member of Parliament.

Photographs of politicians or candidates with police employees, designed specifically for the production of political brochures, posters and other campaign material, is not permitted.

If employees are unsure what action to take in relation to requests made by political figures they are encouraged to seek the advice of the Police Media Unit or their Commander/Manager, in the first instance.

When describing people to the media

Guiding Principles

Words used to describe crime victims, witnesses, suspects and offenders can be highly contentious, especially when they refer to ethnic or racial origin. When misused or misunderstood, descriptions can damage community harmony, police relations with various

communities and hinder investigations, which often heavily depend on community support and information.

Make descriptions as precise as possible, emphasising physical features and avoiding discriminatory or offensive terms. Criminal and anti-social behaviour should not be associated with any particular group or community. The descriptive terms listed in this section are approved for use. All other descriptive terms must be avoided.

Physical Descriptions

The list of physical descriptors is set out below. If you require further assistance with physical descriptors, please consult the Police Media Unit:

- Build – large, athletic, obese etc
- Height – estimate in centimetres
- Complexion – fair or pale, olive, tanned
- Hair colour – blonde, ginger, white, grey, brown, black
- Hair length – shaved, short, medium, long
- Hair style – straight, wavy, curly, spiky
- Face shape – round, chiselled, heart shaped
- Eye colour – brown, hazel, black, blue
- Eye type – sleepy, bloodshot, crossed
- Eyebrows – fine, bushy, plucked
- Glasses – sunglasses, plastic, half frame, bifocals
- Mouth – full, wide, hare lip
- Facial hair – moustache, beard, sideburns, goatee
- Nose shape – thin, broad, flared
- Scars, tattoos, physical impairments.

Ethnicity Based Descriptors

Great care must be taken when using ethnicity based descriptors. The effectiveness of ethnicity based descriptors is limited as they can be the result of emotional or prejudice driven responses from witnesses that may be wrong. Ethnicity based descriptors can also lead other members of a given community to feel they are unfairly under suspicion, creating hostility to police from community groups.

However, ethnicity based descriptors can be valid and useful if part of an overall description that could lead to the arrest of an offender. The decision to use an ethnicity based descriptor must be justified on the basis that its inclusion will increase the likelihood of identifying the person of interest.

Ethnicity based descriptors can be legitimately used as long as the following guiding principles are observed:

- Ethnicity based descriptors can be used in the pre-arrest phase, when combined with a physical description

- Ethnicity based descriptors must not be used once a person has been apprehended
- Ethnicity based descriptors must only be used to describe people whose ethnicity is not known.

Use only: "The person is of...

- Aboriginal/Torres Strait Islander appearance
- African appearance
- Asian appearance
- Caucasian appearance
- Indian Sub-Continental appearance
- Mediterranean/Middle Eastern appearance
- Pacific Islander/Maori appearance, or
- South American appearance."

Photographing or filming police

Under section 91 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, a police officer may establish a crime scene and exclude the media or members of the public from entering or being inside the crime scene.

Once a crime scene is created, a police officer must, if reasonably appropriate, give the public notice that the premises are a crime scene. Any action that police officers take should be reasonable and justified, having regard to the need to preserve the integrity of the crime scene.

However, the media or members of the public have the legal right to photograph or film into the crime scene from a public space or from a privately owned place with the consent of the owner/occupier. Police have no specific rights or powers to do anything to prevent the media taking photographs of or filming police officers or family members at crime scenes, if the media remain out of the crime scene itself and obey all other laws.

Generally speaking, if the media or members of the public photograph or video police officers, victims, operations, incidents or crime scenes from a public space or from a privately owned place with the consent of the owner/occupier, police do not have the power to:

- Prevent the person from taking photographs or filming
- Confiscate photographic or filming equipment
- Delete, or order a person to delete, images or recordings images or recordings

The media or members of the public can only be requested to move on if there are legitimate safety or operational reasons that provide a legal power to do so. Feeling uncomfortable about being filmed or photographed is not an operational reason.

It is also not the job of police officers to decide whether legally obtained media footage or photographs are insensitive or in poor taste. What the media may publish is governed by various broadcasting laws and codes of conduct.

Public information management & major incidents

The Public Affairs Branch will manage media advisory services and the co-ordination of public information for any event that may lead to a prolonged or intense level of media interest.

If a major incident arises and/or the media presence at an incident is significant, advise the Police Media Unit immediately. A Media Liaison Officer or Police Spokesperson will be assigned to assist Commanders in managing public information in response to a major incident or public disturbance.

Until the arrival of a Spokesperson or Media Liaison Officer, the commander at the scene must set aside a safe media marshalling area which may provide a line of sight to the incident but does not interfere with the integrity of police action or restrict access to the scene.

On arrival at the scene, the Police Spokesperson or Media Liaison Officer must be thoroughly briefed by the commander. The Spokesperson or Media Liaison Officer will work with the on-site commander and other emergency service personnel if applicable to develop a media and communications strategy. Interviews can be given by either the commander at the scene or the Police Spokesperson.

Briefings to the media should, when required, alert the media to any need for sensitive reporting for the duration of the incident. Advise the media of any potential problems in the coverage that could place lives at risk, such as reporting of:

- The apparent emotional state of offenders or hostages
- Any demands made
- The number, type and deployment of police resources.

Be mindful that journalists may seek to engage officers at incidents in conversation. Always assume a camera or microphone is on and that your comments will be used. Refer any request for official comment to an authorised officer or Media Liaison Officer.

In prolonged situations, the media should be briefed at regular intervals to avoid them seeking information from other, potentially uninformed, sources. Equally, the absence of information often leads to misinformed media speculation. There are advantages in providing ongoing basic facts, particularly to correct misinformation before it spreads.

When a strike force is formed

When a Strike Force is formed which is likely to attract a high level of public interest, the Public Affairs Branch can assume responsibility for media management issues and develop a detailed media and communications strategy in conjunction with the Strike Force Commander.

Critical incidents & deaths

Critical Incidents

A Critical Incident may arise where a person dies or is seriously injured in an incident involving a level of police interaction.

As there is likely to be significant media interest in a matter where police are being investigated, the Media Unit may provide the media with the basic approved facts including the time, date and general nature of the incident. A media release should be released as soon as practical unless there are extenuating circumstances that justify not doing so.

The appropriate Region Commander or equivalent is responsible for authorising any public statements and for conducting any media interviews as appropriate. Public statements must strictly comply with section 5.1.2 of the Media Policy.

In circumstances where the Region Commander or equivalent is unavailable this role can be delegated to the next most appropriate officer with the approval of the relevant Deputy Commissioner.

If the incident relates to the homicide of a police officer or death of a person through the use of a police firearm or other appointment, any public statement must also be approved by the Commander, Homicide Squad, State Crime Command.

Deaths, likely Deaths, and the Coroner

Deaths arising from critical incidents must be reported to the Coroner. During the investigation of critical incidents involving deaths, no public comment is to be given without the express authorisation of the relevant Region Commander or specialist Commander equivalent and the Coroner.

Police media statements should never speculate about the cause of a death, which is a matter for the Coroner to determine. Any media inquiries on cause of death should be referred to the Coroner's Office.

Never infer or confirm suicide or apparent or suspected suicide. Do not indicate the existence of a suicide note or other similar writings, or disclose their content.

Never release the names of people who have died until next of kin have been informed and have had time to tell other family members. The next of kin should also be approached for permission to release the name to the media.

Care must be taken where the injuries are such that death is likely. In these cases discuss any proposed public comment with the Coroner's Office before any statement is made.

Should false information about a death circulate, contact the Police Media Unit who will notify the Coroner and seek permission to correct it. Any clarifying statement must be approved by the Coroner's Office.

Child Alerts

Child Alerts are issued to the media and other organisations to immediately saturate the vicinity of the incident with details of the abduction, so that the community can help locate the child.

Child Alerts can only be issued by the Police Media Unit. A Child Alert is requested by a Local Area Commander via the Duty Operations Inspector in accordance with the Standard Operating Procedures.

Personal Opinion

Employees have the right to join political parties, hold and publicly express political views as any other NSW citizen. However, personal opinions and political activities must be expressed or undertaken in the capacity of a private citizen and not as a NSW Police Force employee.

Do not refer to your position in the Police Force when expressing an opinion or participating in public debates in a private capacity. Any comments made must not be seen to represent the official view of the Police Force, or to compromise your ability to serve the Government of the day in a politically neutral manner.

Secondary employment

Police Force employees working within the media industry on approved secondary employment must not:

- Provide advice on policing issues, practices or procedures
- Arrange access to NSW Police Force staff, equipment or resources, or
- Engage in conduct that may constitute a conflict of interest with the employee's Police Force duties and/or impinge on the integrity of the NSW Police Force within the community.

Further information

If you have any questions on the *Media Policy* or on managing the media or the opportunities that they provide for policing, please consult the Police Media Unit which is available to help 24 hours a day, seven days a week.

Mentally Ill People

Mental illness can take many forms such as depression, anxiety, schizophrenia and personality disorders. Police and other emergency services are often called upon to deal with situations involving persons suffering from a mental illness.

The Mental Health Act (2007) and the current Memorandum of Understanding (MOU) between NSW Police Force, NSW Health and Ambulance Service of NSW (located in the Mental Health Knowledge Map on the Intranet) govern the actions of police in these types of incidents.

The Mental Health Intervention Team (MHIT) is a full time unit within the NSW Police Force. The MHIT is able to provide specialist advice and guidance on issues relating to mental health.

Duty Officers who manage the Mental Health portfolio and officers who have completed the Mental Health Intervention Team Training can also be a valuable source of information relating to mental health issues in your Command.

Least Restrictive Actions

In all that you do, be sure to apply the least restrictive actions possible upon a person suffering from a mental illness. The use of force, whilst justifiable in appropriate circumstances, should be utilised as a last resort. Use effective communication skills and other tools at your disposal to de-escalate potentially violent situations, where possible.

Alternative Options for Mental Health Intervention

Where concerns are held by police about a person's mental health status that has not met the criteria for the person detained and taken for assessment under Section 22 of the *Mental Health Act 2007*, the NSW Police Force promote the use of alternate means of intervention which could include:

- Referral to a Community Mental Health Team;
- Contacting the 'Mental Health Line' on 1800 011 511. This is a NSW Ministry of Health service that is available 24 hours a day/7 days a week. The service provides police or the person who is living with a mental illness, next of kin, carer or other involved party, immediate access to advice from a mental health professional;
- Engaging with a member of the person's family or a primary carer to take responsibility for the welfare of the person;
- Where possible, make an attempt to contact the person's treating clinician, or care co-ordinator;
- Engaging the services of Ambulance Service of NSW, who may detain and take for assessment the person, where the ambulance officer believes on reasonable grounds that the person is mentally ill or mentally disturbed and that it would be beneficial to the person's welfare to be dealt with in accordance with Section 20 of the *Mental Health Act 2007*.

Detention of Mentally Ill or Mentally Disordered persons

If you find a person who is mentally ill or appears to be mentally disordered and:

- (a) They are committing or have recently committed an offence, or
- (b) They recently attempted to kill themselves or that it is probable that the person will attempt to kill themselves or any other person, or
- (c) They have attempted to cause serious physical harm to himself or herself or any other person, and
- (d) It would be beneficial to the person's welfare to be dealt with in accordance with this Act, rather than otherwise in accordance with law, take them to a hospital for assessment.

Complete a Section 22 form, being sure to provide all relevant information and in as much detail as possible. Verbally hand over to the triage officer or Nursing Unit Manager (NUM). Leave the person at the hospital for assessment by a qualified medical practitioner. Be sure to record all details in your official police notebook.

Searching of Mentally Ill Persons

Section 81(4) of the Mental Health Act (2007) provides police (and others who detain mentally ill persons) with the power to search such persons. Be sure to conduct a thorough search, particularly for items that may be utilised to harm themselves or others. Make notes in your notebook relating to the search and any items seized.

COPS Entries

When police attend a mental health incident, create an event of "Mental Health" on COPS. Be sure to accurately record the times spent in attending the scene, transporting the person and waiting time at the Hospital. Include detail regarding the particular illness and/or symptoms shown by the person. List any critical information as warnings.

Mentally Ill Persons Detained for Criminal Offences

When you detect a person committing a criminal offence and they appear to have a mental illness or are mentally disordered, consider the following:

1. Table 1 Indictable Offence or Strictly Indictable Offence – persons detected committing offences in this category should be charged and brought before a court as soon as possible.
2. Table 2 Indictable Offence or Summary Offence – should be dealt with under the Mental Health Act (2007).

You can use your discretion to utilise assessment/admission under the Mental Health Act (2007) as an alternative, or prior to charging a person, particularly relating to Table 2 Indictable and Summary Offences. When considering whether to charge a person who has committed one of those offences bear in mind the nature of the charge, the criminal record

and antecedents of the person and the circumstances of the particular offence alleged to have been committed. When in doubt seek advice from a Duty Officer.

Transporting Mentally Ill Persons

Section 81 of the Mental Health Act (2007) and the MOU outline police roles in the transportation of persons who are Mentally Ill. It states that transportation should

- (a) reflect the person's rights and dignity
- (b) be the least restrictive under the circumstances
- (c) not be dependent upon expediency
- (d) be appropriate for risk factors and
- (e) be provided as promptly as practicable.

Utilise family, Community Mental Health and Ambulance vehicles as a matter of course. Police vehicles should only be used where there is a demonstrated significant risk to the mentally ill person or others. Police may also escort persons transported in Ambulance vehicles. Be mindful of the safety of your appointments when in the confined space of an Ambulance vehicle. See "Arms and Appointments" Section of this handbook for instructions in this regard.

Ambulance Officers have similar powers under Section 20 of the Mental Health Act (2007) to detain, search and transport mentally ill persons from the community to a health facility.

Inter-Hospital Transfers

On occasion, mentally ill persons are transported from one Hospital to another. Police are no longer routinely involved in such transfers. There may be a rare occasion where police assistance is requested. In such circumstances, the Ambulance will fax to the Duty Officer an Inter-hospital Transfer Form requesting assistance. Upon receipt of a request for police assistance with an inter-hospital transfer, the Duty Officer managing that request should assess and agree upon the demonstrated level of risk. This may include questions posed to NSW Health regarding the need for police involvement above and beyond existing management strategies such as sedation and mechanical restraint.

If agreed, police will assist in the transport. Police will be required to accompany the person in the Ambulance to the appropriate hospital. Under no circumstances will police vehicles be utilised inter-hospital transfers.

Mental Health Contact Officers

A Duty Officer at each Local Area Command (LAC) is appointed by the Commander to be a Mental Health Contact Officer (MHCO). MHCO's are the primary contact and advocates for mental health issues within the Command. They are expected to attend Local Protocol Committee Meetings, liaise with other relevant mental health stakeholders and resolve issues that arise within the boundaries of their Command.

Duty Officers

Ensure your staff and resources are appropriately deployed and utilised when a mental health incident arises. If possible, have an officer who is Mental Health Intervention Team trained attend such incidents. Ensure compliance with the principles of the MOU by officers, and report any adverse dealings between agencies through the MHCO to the Local Protocol Committee.

Assisting Health Care Workers with Sedation

The decision to sedate a mental health patient is made by the treating clinician. It is a clinical decision. If police are to be involved in assisting the treating clinician to sedate a mental health patient, police will be acting at the request of and under the direction and supervision of that treating clinician.

Police Assisting with the Detaining of Mentally Ill Persons

Under Section 19 of the Mental Health Act (2007), police may be requested by a medical practitioner or accredited person to assist in detaining a person if, in their opinion, there are serious concerns relating to their safety or the safety of others. Liaise with the issuer of the certificate. Arrange a mutually agreeable time to attend with the issuer. Ensure appropriate checks on COPS are completed prior to attendance (person and location checks).

Police should not use police vehicles to transport the person unless there is a demonstrated serious risk.

Police may also be requested to assist other agencies. Requests may include assisting with breaches of Community Treatment Orders (CTO's), forensic patients and patients managed under the Mental Health Review Tribunal. If unsure about the correct procedure, contact the Mental Health Intervention Team (MHIT) for advice and guidance.

Absconders from Mental Health Facilities

Upon receiving notification that a person has absconded from a Mental Health Facility, speak with the Hospital Manager and ascertain as much detail as possible. Create a missing persons event where appropriate. Manage the missing person as per existing SOP's and the level of risk communicated by the reportee. Any follow up is to be recorded on the COPS event.

If advice is received from the Mental Health Facility that the person has returned, update the event and advise your Team Leader or Duty Officer.

Miscellaneous Matters

Australian and visiting defence forces

Illegal absentees and deserters

Help trace and arrest deserters or personnel absent without official leave from the Australian or visiting defence forces. To arrest you must have a warrant issued by the appropriate authority.

Procedures for dealing with illegal absentees/ deserters when they are arrested or surrender themselves can differ for each service (see below).

Warrants, if not executed, (within 90 days for military and Air Force, and six months for the Navy) stay on the central warrant index system until executed or recalled for cancellation.

All reports concerning illegal absentees or deserters should include:

- prisoner's full particulars, including name and service number
- unit to which attached
- date of absence or desertion
- circumstances of arrest
- names of reporting police.

Navy

Communicate direct with the Commanding Naval Police Officer, NSW, Garden Island, Sydney. Hand the person to Naval police if asked. Naval authorities are responsible for all transport arrangements.

Army

Communicate direct with the Officer Commanding, 2nd Military Police Company, Holsworthy. Military authorities are responsible for all transport arrangements. Complete and hand to the military police escort a *certificate of arrest or surrender* (PR5 form) when transferring the prisoner.

Air Force

Communicate direct with the Officer Commanding, Royal Australian Air Force Police, North Sydney. Air Force authorities are responsible for all transport arrangements.

Offences committed by Australian or visiting defence force members

Where court proceedings are started against such members, other than for a traffic breach, immediately phone the respective service personnel. If the offender is from a visiting defence force, also advise the appropriate visiting service police. Contact the relevant consulate by phone and advise the Commander, Protective Security Group.

Interstate inquiries

Send reports to the Commissioner when you need information from an Army headquarters outside NSW. Never send a report direct to the military or police in the state concerned.

Notifications for jurisdictional advice about the Defence Force Discipline Act

Send notifications from the defence forces about proceedings against their personnel to the Commander, Police Prosecutions as soon as possible.

Prosecution Operations

Send notifications of completed military prosecutions to the Commander, Police Prosecutions.

Where the notification advises pending criminal prosecution, determine (with regard to 'Court Matters – Withdrawing criminal proceedings' this handbook) whether the matter should proceed. If so, send the notification to the relevant LAC for investigation.

After the matter has been determined at court, notify the Commander, Police Prosecutions of the result.

If you decide not to proceed, advise the appropriate arm of the defence force and the Commander, Police Prosecutions as soon as possible.

Where the notification seeks advice on the appropriate jurisdiction, determine this. Advise the relevant defence force and the Commander, Police Prosecutions without delay. Send matters for criminal prosecution to the relevant local area command for investigation.

Civil Aviation Act, Regulations and orders

Staff attached to the Aviation Support Branch are conversant with the contents of the *Civil Aviation Act* and its associated legislation. Contact the Aviation Support Branch for assistance or advice.

You may also be needed to assist officers from the Australian Transport Safety Bureau (ATSB) at the scene of an aircraft accident. You may also need to liaise with the ATSB when preparing briefs for the coroner.

In the event of an accident involving a military aircraft, notify the Directorate of Defence, Aviation and Air Force Safety (DDAAFS).

Further specialist advice regarding liaison with the ATSB or DDAAFS, preparation of statements, or material for the coroner can be obtained by contacting the Aviation Support Branch.

Breaches of the Civil Aviation Act, Regulations and orders

Breaches of the Civil Aviation Act, Regulations and orders are investigated by CASA. They include but are not limited to:

- Low flying
- Operation of aircraft from Unlicensed areas
- Noise complaints

- Unsafe operation of aircraft
- Illegal flying operations

If you receive information from a member of the public, or observe such breaches refer them to the appropriate authority.

In the event of aviation related noise complaints contact: Airservices Australia 1800 802 584 (Monday to Friday 0900 to 1700hrs)

CASA can generally be contacted on 131757.

Additionally CASA has a hotline where you can report aviation related safety risks. 1800 074 737. (This number is attended during business hours only.)

For all other aviation safety/flying operation related matters contact:

Administration officer
Civil Aviation Safety Authority
Sydney Office.

Wherever possible/applicable include the following information (if known):

- Place/area (specifically defined, certain paddock, beach etc)
- Time and date of occurrences
- Type of aircraft and registration markings
- Pilot's name and address
- Names of any passengers or description of goods carried
- Evidence the aircraft is being used for hire or reward (eg: tickets sold, statements from passengers etc)
- Description of flights
- Name and address of aircraft owner/operator
- Relationship of aircraft operation to known height references (ie: buildings, trees)

Ship wrecks 'Historic Shipwrecks Act 1986'

Promptly enter details on COPS and disseminate to the Commander, Marine Area Command if you find/receive information about a wreck. Concisely set out the facts with descriptions of any markings. Any artefacts coming into police possession should be held and immediate contact made with the Commander, Marine Area Command. In addition, contact must be made with:

Maritime Heritage Program Team Leader, Heritage Division

Office of Environment and heritage

3 Marist Place, Parramatta NSW 2150

Postal Address: Locked Bag 5020 Parramatta 2124

Telephone: 02 9873 8552

Seizing pillaged/forfeited goods

Non narcotic related goods

As soon as possible after seizing any such goods, deliver them to a customs officer. Contact the area manager during working hours for advice. At other times, contact the Commander, Australian Customs Service Radio Room through the DOI.

Narcotic related goods

After seizing any such goods record them in EFIMS then deliver to the AFP and get a receipt. The receipt should be scanned and uploaded into EFIMS against the relevant exhibit or miscellaneous property. Record the movement details in EFIMS.

Coastal surveillance reports – duties of nominated stations

Immediately report any incidents to the Commander, Marine Area Command, who will record and relay to Australian Customs and Border Protection Service. Also enter details on COPS as an occurrence only entry at the station from which you make the report.

This includes officers, not attached to nominated stations, to report incidents of interest to the Australian Customs and Border Protection Service.

Reporting incidents

Australian Customs and Border Protection Service rely heavily on intelligence from its own resources, other Federal and State Government departments and agencies, and the public.

Incidents which must be reported include vessels in trouble, oil pollution, unauthorised landing on the coastline, foreign commercial fishing vessels operating within 200 nautical miles of the coast, aircraft operating from remote airfields, damage to the environment or any other unusual activity.

The Coastwatch Operations Room in Canberra operates 24 hours a day and can be contacted by toll free phone or fax. Current numbers are available from any water police station.

When notifying water police, include in your report:

- station of origin
- time and date
- position and description of vessel, aircraft, oil slick etc (latitude, longitude, quote chart number) or distance and bearing (true) from a named feature on a chart – quote the chart number
- what you have seen
- nationality of vessel, aircraft
- name of vessel or distinguishing number and/or nationality
- colour of upper works, deck/s, hull, colour and number of funnels
- length

- number of masts, radio discs etc
- type of vessel, sail or power
- simplified description of silhouette
- estimated course and speed at time of sighting
- number of people on board – male/female
- whether spoken to, names and addresses
- time of sighting (local time)
- any further useful information
- name of reporting officer.

Miscellaneous Property

Found property

Property handed in at station

When you accept the property:

- examine property in front of the person handing it to you;
- obtain the name and address of the person and verify if they are the finder. If not the finder, get the name and address of the finder and establish whether they want to claim the property. Note whether the person handing over the property is a claimant;
- consider the criteria for completing a COPS event;
- tag the property for identification with an EFIMS barcode label;
- create a miscellaneous property record in EFIMS;
- print the Miscellaneous Property Receipt from EFIMS (if required);
- sign as the receiving officer and get the person who handed it to you to sign the receipt;
- take a copy of the signed receipt and hand the original to the person who handed the property to you;
- scan and upload the signed receipt into EFIMS against the relevant miscellaneous property;
- secure the property and record the storage location in EFIMS;
- make immediate enquiries to find the owner.

If the owner of the property is not immediately known and if the property is:

- valued at \$1000 or more
 - identifiable (serial number, inscriptions, markings, brand, model, uniqueness etc – to be recorded as traceable property)
 - money (only if it is \$250 or more)
- create a COPS event using the 'located property' incident with the sub category of 'found property'.

NB: Seal cash and small valuables in a PAB18 (Plastic Drug Bag). Ensure both you and the officer in charge double count the cash in each other's presence. On the first seal on the bag write the date, attach the bar size EFIMS barcode label, write your names and each of you sign in the remaining boxes. Stick the larger EFIMS barcode label to the front of the bag in a visible position then place it in the station safe. Update the safe register, including the miscellaneous property barcode number and seal number. Record the storage location in EFIMS.

Forward the money to the Accounts Branch for lodgement to the Crown Trust (Money Found) account. Upon banking, complete an Internal Move on EFIMS to Location 'Station - Banked'. Only dispose of monies on EFIMS upon return to owner/finder or transfer of funds to consolidated revenue.

Property handed in away from station

If you accept property while away from your station:

- examine it in front of the person handing it to you;
- obtain the name and address of the person and verify if they are the finder. If not, get the name and address of the finder and establish whether they want to claim the property;
- enter details in your notebook and have them sign it to verify correctness. Note whether the person handing over the property is a claimant;
- take the property to the nearest station and have it tagged for identification with an EFIMS barcode label;
- record the property as miscellaneous property in EFIMS; and
- cross reference the miscellaneous property barcode number with your notebook number and page and follow the procedures as if the property had been handed in at a station.

NB: An officer from the receiving station is responsible for enquiries to locate the owner if the finding officer is not attached to that command.

Inquiries to find owner

For all found property handed to you and recorded in EFIMS, check against COPS for four weeks. If you cannot find the owner during this time, obtain a direction from your commander about disposing of the property. If you want to return money to the finder, send a submission to the Accounts Branch.

Keep an eye on newspaper ads. Arrange for descriptions of items of value or interest to be printed/broadcast by local media outlets.

Record of claims – property found

When someone claims to be the owner of property but you have not completed your enquiries to satisfy yourself, record their details in the miscellaneous property record in EFIMS so other officers are aware.

Lost property

Submit a COPS event when property is reported lost. Disseminate to the LAC where the loss occurred.

Lost or stolen passports

When someone of any nationality reports a lost or stolen passport, record details in a COPS event.

Australian passports

Anyone reporting the loss/theft of an Australian passport must present police with a *Report of loss of an Australian passport* form issued by Foreign Affairs. Verify with the station stamp in

the space provided. If no stamp is available, sign the form and print your name, rank, station and date. Do not charge a fee.

New Zealand, Filipino, Thai and Uruguayan passports

These consulates issue a form similar to Foreign Affairs. Stamp, sign and date it. Do not charge a fee.

Other nationalities

Complete a COPS entry and verify on NSWPF letterhead that the report has been made.

Include:

- who reported the loss/theft and when
- passport name and number (if known)
- COPS event number.

The prescribed fee is chargeable, however, you may use your discretion, depending on the circumstances. If you charge a fee, issue a general receipt and send money to Accounts with the remittance schedule showing the reason for it.

Inspection of property

Nominated supervisor

Inspect all records in EFIMS based on risk using the CMF. Check property against the records in EFIMS and report outstanding matters to your commander.

Ensure each record is recorded correctly, required reports have been submitted and property is not being kept unnecessarily.

After each inspection, print the relevant miscellaneous property report for your location from EFIMS showing:

- a list of barcode numbers of all items on hand
- the total number of uncleared items

Sign and date the report.

Local Area Commanders

Personally conduct an annual inspection along the above lines.

Property missing or interfered with

If you find miscellaneous property missing or interfered with, follow the procedures outlined in the 'Exhibits' guidelines.

Disposal of property

Owner found

When you return property to the owner, create a movement record in EFIMS and print the 'check out' receipt. You sign and have the owner sign in the appropriate place. Take a copy of the signed receipt and hand the original to the finder. A copy of the signed receipt should be scanned and uploaded into EFIMS against the relevant miscellaneous property.

Record the disposal transaction in EFIMS and include:

- time and date disposed of
- disposing and authorising officers
- how disposed of
- claimant's identity and address
- claimant's identification details (eg licence number)

If COPS event was created for the property (either a lost property incident or located property incident) update the original event by creating a 'located property' incident with the sub category of 'recovered property'.

If money has been sent to Accounts, submit a report so a cheque can be posted to the owner. If property is returned to the owner, tell the finder.

Owner not found

When you are satisfied the owner of property cannot be found, return it to the finder if they are a claimant. Send a P91E through your commander to notify the finder who must present it to collect the property. The form contains an authority for someone else to collect items on behalf of the finder.

Before handing over miscellaneous property recorded in EFIMS:

- satisfy yourself as to the claimant's ownership
- verify and note their identity eg: licence number and address
- get the authority of the shift supervisor or duty officer

When your commander approves the return of property including cash to a finder, hand back the other property and advise the money will be sent separately by Accounts. Send a copy of the report to Accounts, authorising the return.

When you return property to the finder, create a movement record in EFIMS and print the 'check out' receipt. You sign and have the finder sign in the appropriate place. Take a copy of the signed receipt and hand the original to the finder. A copy of the signed receipt should be scanned and uploaded into EFIMS against the relevant miscellaneous property.

Record the disposal transaction in EFIMS and include:

- time and date disposed of
- disposing and authorising officers
- how disposed of
- claimant's identity and address
- claimant's identification details (eg licence number)

Before giving property to a third person, get the written and signed authorisation of the finder. Ensure the authority identifies who is to get the property. Follow the procedures for returning to finder set out in this Section.

If the finder does not want to claim the property, or has not within 28 days of being told of its availability, apply the following:

- in the metropolitan area, send property suitable for sale with the relevant papers to the Metropolitan Exhibit and Property Centre for auction; or
- in country areas, consult your commander on whether an auction should be conducted locally or at the region centre.

See also the section on 'Exhibits' for disposing of certain goods and the responsibility on the NSW Police in offering electrical and other goods for sale.

If a COPS event was created for the property update it with by creating a new incident, 'located property' with the sub category 'recovered property'.

Return to an owner or finder at a distant centre

When returning property to an owner/finder who lives some distance away, adopt the following procedure:

- record the movement details in EFIMS
- send it to the station nearest their home (using the State Mail Service if possible)
- if postage exceeds \$20, ensure the person agrees to meet the cost. Following agreement, send the property with a reference to the EFIMS record and COPS entry to the appropriate station
- when money is held and the owner is found within 14 days, arrange for a bank cheque (payable to them) to be sent to the nearest station.

When you receive property from another station to be collected at your station:

- create a movement record in EFIMS and print the 'check out' receipt
- you sign and have the person sign the receipt to finalise the transfer
- scan and upload the signed receipt into EFIMS against the relevant miscellaneous property
- record the disposal details in EFIMS
- collect all expenses and forward costs with a short report to Accounts

Follow these procedures even if the owner/finder lives interstate.

Exceptional circumstances - 'Finders Keepers'

If the finder is not the owner of the premises on which the property was found confer with the Office of the General Counsel.

If the finder is a NSWPF officer or employee they have the same right to make a claim on the property as any other person as long as the property was not found during the course of their employment.

The Commander should arrange for the property to be returned to the NSWPF police officer or employee if the commander is satisfied;

- that the property was not located during the course of their employment; and
- that a police officer independent of the police/employee making the claim has made all reasonable enquiries to locate the owner; and
- that the property was not found in circumstances where it could be regarded as an inducement or arising from unethical or corrupt behaviour.

In exceptional circumstances advice may be sought from the Office of the General Counsel.

Rival claimants

Record rival claimant details in EFIMS.

Local area commander

Seek a direction from your region commander when rival claimants or complex legal issues are involved. If any advice is required, consult the Office of the General Counsel. See also the section on '[Exhibits](#)' about retention and procedures.

People under 18 collecting found property

Before handing property to a finder under 18, ensure a parent or guardian has completed the authorisation on the P91E.

Property unfit for sale

Destroy it when no longer needed. Record the destruction details in EFIMS.

Property returned to agent

When property is handed to an officer/agent of the Public Trust Office or any other Government official, get a receipt. The receipt should be scanned and uploaded into EFIMS against the relevant miscellaneous property. Record the disposal details in EFIMS.

Weapons, ammunition etc

Follow the disposal procedure set out in the section on '[Exhibits](#)'. See also the section on '[Firearms, prohibited weapons and security](#)'.

Food

When food comes into your possession, make urgent inquiries to find the owner. If inquiries fail, get a statement from the finder to determine whether a claim is made. If not, get a written authority from the finder to allow the food to be handed to a local charity, institution or needy person. Get a receipt.

If food is perishable, authorise immediate return to the finder, or donation. Get an authority/clearance as above before disposing of it.

Alcohol

Alcohol confiscated in Alcohol Free Zones and Alcohol Prohibited Areas

- Seized liquor that is not poured out must be taken to an appropriate police station and entered as miscellaneous property. It should be kept for at least 24 hours. An appropriate police station is the one to which the person from whom the liquor was seized was informed the liquor would be taken.
- Seized liquor may be claimed by a person, and if claimed, must be returned to the person from whom it was seized if:
 - The person establishes that the person was at least 18 years of age at the time of the offence; or
 - The person establishes that the person had a reasonable excuse for possessing the liquor; or
 - The police officer to whom the claim is made is satisfied that in all the circumstances of the case, the return of the liquor is justified.
- If the liquor remains unclaimed, or if in all the circumstances the police decide not to return it:
 - Liquor which is not fit for human consumption must be disposed of; or
 - In the case of all other liquor, arrangements must be made for collection by the Metropolitan Exhibit and Property Centre, or in country areas, arrangements must be made for the liquor to be sold at auction.

Alcohol seized under the Summary Offences Act

Alcohol seized from a minor in a public place is dealt with in the same way as for alcohol seized in an Alcohol Free Zone, or Alcohol Prohibited Area (see above).

See: [Summary Offences Regulation – Part 2 Seized Liquor](#)

Recovered passports

When passports are recovered, create a COPS event and record the passport as miscellaneous property in EFIMS. Return the passport to the appropriate consulate general

by hand or certified mail. If there is no consulate in Sydney, return it to the relevant embassy in Canberra. If none exists seek advice from the Sydney office of the Department of Foreign Affairs and Trade. Record the disposal details in EFIMS.

Australian passports

Return recovered Australian passports, by hand or certified mail, to the Australian Passport office, Sydney

Search for registered interest of insurance companies

Before returning property, search COPS to find out whether an insurance company has registered any interest. If so, tell the company the property has been recovered.

Patients taken to public hospitals

Where someone is taken to a hospital and there is police involvement, ensure their valuable property is secured, either by entering it in the appropriate hospital register or as miscellaneous property in EFIMS. If the property is seized as an exhibit, ensure it is recorded as an exhibit in EFIMS.

Missing Persons

Definition

A missing person is anyone reported missing to police, whose whereabouts are unknown and there are genuine fears for their safety or welfare. This includes anyone missing from an institution, excluding escapees.

There is NO time requirement to report a person missing to police.

Missing person reports

Officer accepting and completing missing person reports

Missing person (MP) reports are accepted at any police station, not necessarily the one nearest to the reporting person's home. Take reports immediately and submit them without delay. A Police officer should take a missing person report in person.

Do not accept a missing person report for the purpose of finding someone for an adoption matter (refer to the Adoptions Branch of the Department of Community Services), family reunions (refer to Salvation Army Family Tracing Service) or debt collections.

If you have any doubts about accepting a missing person report, contact the Missing Persons Unit, (MPU).

Officer taking report

You are responsible for the ongoing investigation of the missing person case unless it is allocated to another officer through the case management system. Immediately assess the risk to the person and to the community and record the risk rating in the Missing Person Event. Police actions should be in line with the risk rating, (see MPSOPS).

Ensure you tell your supervisor of the report so that it can be verified immediately.

Where possible, give a copy of the "Support for Families and Friends of Missing Persons" brochure to the person making the report. This brochure is available on the NSW Police Intranet – [Missing Persons Homepage](#).

Supervisor

Assess missing person cases as soon as possible and, if appropriate, disseminate relevant information to the Local Area Command nearest to where the person was last seen. You may also use the police radio or Memo system to disseminate information to other police.

At the end of your shift ensure you inform the oncoming supervisor of the matter and ensure all inquiries made during your shift are updated on the COPS event. Update event regularly with new information and actions taken.

If you transfer the matter to another Local Area Command, confirm it with the relevant supervisor by telephone and update COPS. The originating Command still has full responsibility for the case until the case is accepted by another Command for investigation.

The LAC responsible for the case is the LAC that the Missing Person was last seen when he/she was reported missing.

Where a potential crime scene/s exists, have police attend and after consulting with them decide whether investigators and/or crime scene investigators should attend.

Forensic material (eg: hair samples, toothbrush, fingerprints, etc) can often be found at the scene or the missing person's home and can later help identify the missing person . This should be collected and retained. The need to obtain other material (dental and medical records) may also be required.

Missing Person report - COPS

When a person is reported missing, enter the details onto COPS and ensure a case is created on the Case Management System.

If more than one person is missing together, complete a separate incident in the COPS event for each missing person.

As additional information becomes available or inquiries are made, update the original event.

Warnings to be placed on COPS

Place a warning on COPS when appropriate.

Person Missing Interstate

If the person has disappeared from an Interstate location, take the report as usual and seek support from the NSW MPU. They will liaise with the respective state in an attempt to locate the missing person

If the person is reported missing at an Interstate location, but was last seen in New South Wales, the MPU will receive the event from the reporting state and create an event. The event will then be forwarded for investigation to the station nearest to the location where the person was last seen. The reporting LAC has investigative carriage of the matter until transfer of the investigation occurs.

Australian residents missing overseas

Police generally

Persons missing from overseas locations must be, at minimum, residents of Australia or an Australian citizen for action to be taken.

If the missing person qualifies, create a COPS event as normal. Clearly state in the Event that the missing person is believed to be missing from a location outside Australia. The Event will be accessed by the MPU but the officer taking the initial report should also contact the MPU by telephone.

MPU staff will conduct inquiries with the Department of Foreign Affairs and Trade (DFAT) on behalf of the LAC submitting the report. The reporting LAC has investigative carriage of the matter until transfer of the investigation occurs.

If the matter warrants further investigation, the Australian Federal Police (AFP) will continue inquiries and forward the results to DFAT. DFAT and Interpol (AFP) will have ultimate carriage of the matter, including final contact with the families/clients. If this occurs, the case can be suspended however the person will remain 'Missing' until such time as advice is received that they have been 'Located.'

Do not ask the person reporting to contact Interpol.

Keep in mind the person making the report is a victim and offer appropriate support.

Notes left by missing person

If a suicide or other note is left by the missing person, send an electronic copy to the MPU. Keep the original document at your LAC and record it as an exhibit in EFIMS. Consider forensic examination of the document.

Photos and media release authority

Obtain a recent photograph of the missing person at the time the report is taken. This should be a good likeness and preferably display the front teeth. Send an electronic copy to the MPU and a signed authority allowing release of details to the media. Ensure a parent, relative, NOK or guardian signs this Authority for Publicity.

Where such a person is not available, the person making the report may, if the circumstances justify such action, sign the authority. If you cannot obtain a photo when taking the initial report, obtain it as soon as possible and send it and a signed authority to the MPU.

To minimise delays in arranging publicity, photographs and signed Authority for Publicity documents should be sent to Missing Persons Unit electronically on COPS.

Authority for publicity release of missing person details

I/we, the undersigned, request and give permission to the Commissioner or representative, for the information in relation to the missing person (*name*) to be published under the following circumstances:

- a) For the purpose of being published by the media (includes Internet)
- b) For inclusion in official police publications which will be displayed for public viewing.

NB: Cross out which is not applicable.

(Police Officer)

(Next of Kin/Person Reporting)

Witness: _____ Signature _____

Print Name: _____ Print Name: _____

Rank: _____ Address: _____

Station: _____ _____

Date: _____ Phone No: _____

Consent not given for release of information

If a parent, relative or guardian does not agree to media involvement and genuine fears are held for safety of the missing person, refer the matter to your Local Area Commander for a decision.

Release of information to the media

Where seeking media assistance in an effort to locate a missing person, contact the Missing Persons Unit or Police Media Unit for advice. Approval needs to be given by the Duty Officer for Media Publication. Ensure you have a signed Authority for publicity form.

Missing children – separated parents

Where the parents of a missing child are separated, find out who has legal custody of the child. Notify the other parent that the child has been reported missing.

Continuing inquiries

The Officer in Charge is responsible for conducting inquiries until the person is located. Update all inquiries and results in the COPS event.

Missing person cases are re-allocated or co-allocated to an appropriate officer performing criminal investigative duties when they remain outstanding for more than three months.

Missing persons cases should only be finalised on COPS if the missing person is located or a body is identified. If a Coroner rules the missing person deceased without a body, the case must remain outstanding for future potential matching.

COPS Multi Media system should be utilised where possible to secure all documents in the investigation. In serious matters, e@gle.i should be utilised.

Status reports or requested information is required to be sent to the Missing Persons Unit every three months.

Locating missing people

Officer locating missing person

A MP must only be 'located' when he / she has been sighted by a person in authority (eg: Police Officer, Customs Officer, Department of Community Services, Department of Immigration Multicultural and Indigenous Affairs, Department of Corrective Services, treating Doctor, Mental Health Practitioner, School Principal). If in doubt seek advice from the MPU.

The locating officer should check that the MP is safe and well and provide any assistance where necessary.

After locating a MP, update COPS by creating a new incident as 'Missing Now Located Person' in the original event, remove any MP warning, do not create a new event, add new narrative that outlines when, where and by whom located and sighted, and details of advice to NOK or person reporting.

Disseminate the COPS information to the station and officer that took the original report.

Where the MP is an adult or above the age of 16 years, notify the person who lodged the MP report that the person has been located. If however, the located person does not wish their whereabouts to be disclosed and/or the matter has been referred to the Department of Community Services (DOCS) (under 18ys), do not disclose their whereabouts.

On locating a MP who is 16 years or under inform the parent/guardian and the person reporting that you have located them. If the MP does not want to return home, place the child in the care of the DOCS. Advise the parents/guardian to contact the DOCS for any further information.

If it is not possible to notify a parent / guardian, contact the nearest DOCS office for advice.

Unidentified bodies and skeletal remains

Please see [`Chapter I - Identification of deceased bodies and skeletal remains`](#)

Unidentified people suffering memory loss or injury

Where you are unable to establish the identity of an injured person or someone that is suffering memory loss, obtain a complete description, including clothing worn, and enter details on COPS as a 'Located Person' event. Create a State-Wide email for all police to view.

Conduct a COPS check on recent missing persons reported in the surrounding areas.

Contact the MPU for assistance to complete a check on the Missing Persons Database.

Indicate in the COPS event, at which institution or hospital the person has been placed, and the time and date of admission.

If the person is wearing a Safely Home Identification Bracelet, access the Safely Home Database on the NSW Police Intranet – Missing Persons Homepage. Enter the Safely Home identification number and the details of the located person will be displayed. Arrange for the person to be returned to their home immediately. Alternatively, contact the MPU hotline number located on the bracelet, quote the identification number and details regarding the identity if the person will be obtained. As above, return the person to their home immediately.

Take a photo of the unidentified person and send out a state-wide email to assist in identifying the person.

Unresolved cases and persons suspected of being deceased

If after 12 months, the MP has not been located AND there are no signs of life; or as soon as your investigation leads you to suspect that the MP is deceased, you are obliged to notify the Coroner.

In preparing the Brief for the Coroner you must include a P79B 'Report of Suspected Death to the Coroner'. You may contact the Missing Persons Unit for assistance with enquiries and statements for inclusion in the Coronial Brief.

The Missing Persons Unit will conduct 'sign of life' checks and complete the relevant statement for inclusion in the Coronial Brief.

NOTE: Checks will only be completed in conjunction with a submitted P79B and are only acceptable if less than 12 months old.

Missing Persons Unit

The MPU maintains records of all matters being prepared for inquest and the subsequent results.

DNA Collection Program

The MPU, in consultation with the Forensic Services Group, coordinates the DNA Collection Program for missing persons in NSW.

Arrangements to take DNA should be taken within the first 72 hours if suspicious circumstances are present or apparent, or there is a high risk of suicide.

Missing Persons not Located

Collection of BIOMETRICAL, DNA and other information

If the MP remains missing after three months, the Officer in Charge should commence collection of Biometric, DNA, and other information such as dental and medical records. The MPU will forward reports outlining requirements to the OIC at the three, six, and 12 month anniversary of the MP report.

At least one mitochondrial DNA sample in the form of a buccal swab should be obtained from a maternal blood relative of the MP. A nuclear DNA sample of the MP should also be obtained. The mitochondrial DNA sample should be forwarded to the MPU as an exhibit and the nuclear DNA sample should be sent to the Forensic and Analytical Science Services (FASS).

All items collected can be returned to the family at a later time if required.

Checklist for suspicious cases

Consider the following as a framework of actions to help you investigate missing person's cases:

- take the report and obtain as much information as possible, including a full physical description of the missing person.
- send an officer to the scene for a preliminary investigation.
- search records for previous missing persons reports, prior police responses to incidents in the area (eg prowlers, abductions, indecent exposure) and tell the responding officer of anything relevant.
- broadcast information over police radio and/or Statewide messaging and regularly update.
- ask for Supervisor and/or Duty Officer for assistance if necessary.
- follow guidelines for "Control of the Crime Scene".
- identify each person's relationship with the missing person.

- obtain names, addresses and telephone numbers of friends, relatives and associates and interview them for their views and when they last saw the missing person.
- obtain permission (and document it) to search the home or place where the incident took place (including surrounding areas, vehicles or other places of concealment).
- determine if any belongings are missing. If possible, photograph or videotape the area/s
- evaluate the contents and appearance of the person's room/residence.
- obtain latest medical and dental records of missing person.
- consider using telephone hotline (eg Crime Stoppers) to raise public awareness and investigative leads.
- ensure details of the missing person and the case have been entered onto COPS and updated with any further information about the missing person.
- contact Missing Persons Unit for specialist advice.

Money - Australian bank notes

Previously named - Damaged notes

Damaged Notes

The Reserve Bank of Australia (RBA) aims to have only good quality banknotes (notes) in circulation. This helps to maintain confidence in Australia's currency by making it more difficult for counterfeit notes to be passed or remain in circulation.

Slightly damaged notes are not removed from circulation immediately, given that minor damage does not prevent ongoing use of a note or affect its value.

A genuine note that has become worn or sustained minor damage in circulation can be exchanged for full face value. These notes are classified as unfit notes and may have small pieces missing or small holes (less than 20 per cent of the note missing in both cases), have been torn, have heat damage affecting less than 20 per cent of the note, have adhesive tape on them or have been stapled, contain graffiti, stains or marks. These notes can continue to be offered and accepted in transactions because they are worth full face value.

Notes with unusual damage such as severe heat damage (affecting 20 per cent or more of the note), contamination from blood, chemicals or other substances, or badly damaged notes where the value or genuineness is in doubt are classified as badly damaged/contaminated notes. These notes need to be returned to the RBA via banks or other authorised deposit-taking institutions (ADI) for assessment/evaluation.

The RBA pays the appropriate value for such notes after assessment/evaluation.

Assessment/evaluation is based only on the visual presence of a note. If, for example, a note is totally reduced to ash in a fire, no value is paid. If part of a note remains, the value is determined on the same basis as for incomplete notes.

See Reserve Bank - [Damaged Banknotes Policy](#)

Claims

Badly damaged/contaminated notes can be presented at any a bank, credit union or building society, or other authorised deposit-taking institution (ADIs), for on-forwarding to the RBA. An Incomplete/Badly Damaged/Contaminated Australian Note(s) Claim Form (form 1480 Mar 14) is required to be completed and accompany the claim.

Banks and ADIs are encouraged by the Reserve Bank to accept all claims. Incomplete banknotes may be assessed on the spot using grids provided by the Reserve Bank to calculate the value. Badly damaged and contaminated banknotes need to be forwarded to the Reserve Bank's National Note Processing and Distribution Centre (NNPDC) for assessment. All Banks and ADIs will ensure the claim is securely delivered to the NNPDC on behalf of the claimant. Claims for contaminated banknotes must be sealed in a bag and the bag clearly marked with details of the contamination.

The form and further information can be found on the RBA's website at:

<http://www.rba.gov.au/banknotes/damaged/claims.html>

[Incomplete/Badly Damaged/Contaminated Australian Note\(s\) Claim Form \(form 1480 Mar 14\)](#)

Deliberately damaged bank notes

In addition to any offences that may be considered under NSW Crimes Act 1900, there are offences under the Crimes (Currency) Act 1981 (Commonwealth) relating to the deliberate damage of Australian banknotes. It is unlawful to deliberately damage or destroy bank notes, regardless of whether the person is lawfully entitled to the bank notes damaged.

The Reserve Bank will not complete the processing of claims where either the cause of the damage or the source of the damaged banknotes is not explained by the claimant to the reasonable satisfaction of the Reserve Bank. Where the Reserve Bank believes an offence may have been committed in relation to the relevant banknotes or their source, the matter will be referred to the police.

For further information, contact the Reserve Bank:

Phone: 1800 633 220

Fax: 9551 8021

Email: banknotes@rba.gov.au

Web: <http://banknotes.rba.gov.au>

Counterfeit bank notes

Non-evidentiary counterfeits

If you receive a suspected counterfeit banknote that's not the subject of a criminal investigation or prosecution, fill out a Suspect Counterfeit Banknote form, available on the AFP website (<http://www.afp.gov.au/policing/counterfeit-currency.aspx>), and send it with the suspected notes via registered mail to the AFP Currency Team:

Australian Federal Police

Locked Bag 4817

Somerton, Victoria 3062

A property receipt will be forwarded to your property office once received.

Evidentiary counterfeits

Any seized articles (i.e. counterfeits, or material connected with the production of counterfeits such as printers, tools, paper, etc.), may be retained for 90 days. Under the Crimes (Currency) Act 1981 if a prosecution is commenced within the 90 days, then the evidence can be retained. Qualified RBA examiners are able to provide expert witness statements if required.

Where the court is satisfied that an article is forfeited, a condemnation order should be requested for its disposal. Send the articles via registered mail with a copy of the order to the AFP Currency Team who will coordinate the destruction in accordance with the Act.

Where a prosecution has not commenced within the 90 days, send the articles to the AFP Currency Team via registered mail with a Suspect Counterfeit Banknote form, available on the AFP website.

A property receipt will be forwarded to your property office once received.

Motor Dealers and Vehicle Repairers

General

Provisions contained in the Motor Dealers Act, 1974 and the Motor Vehicle Repairs Act, 1980 can be used by Local Area Commands to address motor vehicle theft, re-birthing, disposal of stolen motor vehicle parts, or fraud related offences involving motor vehicles.

New South Wales Fair Trading is the lead agency in relation to compliance by those involved in the motor vehicle industry. Fair Trading are responsible for motor dealers (e.g. car yards, auto-dismantlers, etc) and auto repairers (e.g. smash repairers, automotive mechanics, etc).

Fair Trading will provide assistance, guidance and information to police in relation to motor dealers and motor vehicle repairers.

Powers

Police have powers of inspection under both the Motor Dealers Act 1974 (and Regulations) and the Motor Vehicle Repairs Act 1980 (and Regulations) in relation to the motor vehicle industry as a whole.

Police ARE authorised officers under the Motor Dealers Act, 1974 and therefore they have the same general powers as an Investigator from Fair Trading. As such they are specifically empowered to do the following:

- without warrant enter the premises for sole purpose of inspecting business records,
- without warrant enter and inspect premises licensed under the Act in relation to stolen motor vehicles, parts or accessories,
- inspect registers, copy them and if needs be seize them,
- require explanations of entries in those registers,
- issue penalty notices in relation to certain offences under both the Act and Regulation.

Under the Motor Vehicle Repairs Act, 1980 police **ARE NOT** authorised officers however we are empowered to do the following in relation to stolen motor vehicles, parts or accessories only:

- without warrant enter and inspect premises licensed under the Act,
- search for and examine any motor vehicle,
- inspect records in relation to traceable parts and copy them if needs be, require explanations of entries in those records.

Motor Dealers Act & Regulations

The general thrust of the Motor Dealers Act, 1974 (the Act) and the Motor Dealers Regulation, 2010 (the Regulation) is to regulate the sale of motor vehicles, motor vehicle parts and accessories. The Act governs motor dealers (new and used), motor vehicle wholesalers, auto dismantlers (wreckers) and the manner with which they deal with motor

vehicles, parts and accessories; how those parts are documented and records relating to both the acquisition and disposal of those vehicles and parts.

Motor Dealers Act - Licenses

Motor Dealer

Is a person who carries on the business of buying, selling or exchanging motor vehicles, but does not include a financier.

Wholesaler

Is a person who carries on the business of buying motor vehicles from any person and selling those vehicles to, or exchanging those vehicles with, persons who are financiers or holders of licences (other than car market operators' licences or motor vehicle consultants' licences) and only those persons.

Auto Dismantler

Under the Act an 'auto dismantler' means a person who carries on the business of:

- demolishing or dismantling motor vehicles or parts or accessories, or
- buying motor vehicles and substantially demolished or substantially dismantled motor and selling substantially demolished or substantially dismantled motor vehicle (whether or not the person also sells parts or accessories of motor vehicles), or
- buying and selling prescribed kinds of parts or accessories of motor vehicles.

Motor Vehicle Parts Re-constructor

Under the Act a 'motor vehicle parts re-constructor' means:

A person who carries on the business of purchasing or otherwise acquiring for the purpose of selling or exchanging, or for the purpose of reconstructing and selling, or for the purpose of reconstructing and exchanging, such parts or accessories of motor vehicles as may be prescribed for the purposes of this definition.

Key Points to Remember

- A dealer cannot trade without a licence
- A dealer cannot lend or transfer a licence
- A dealer's licence must be displayed at all times at the relevant premises
- A dealer must quote his licence number in all advertising
- A dealer must pay his licence fee by the correct date
- A dealer must seek approval before changing his business address
- A dealer must notify changes of directors or partners
- A dealer must keep prescribed registers
- A dealer is responsible for the actions of his/her employers

Motor Dealer Powers to Inspect Records and Search Premises for Stolen Vehicles and Parts

53A Powers of entry etc

(1) For the purpose of ascertaining whether the provisions of this Act or the regulations are being or have been complied with by any person, an authorised officer may:

- (a) enter premises where the person carries on business,
- (b) require the production of records,
- (c) inspect and require explanations of any record, and
- (d) take notes, copies and extracts of or from any record or statement produced pursuant to this section.

(1A) For the purpose of searching for, or obtaining information concerning, stolen motor vehicles and stolen parts and accessories of motor vehicles, a member of the NSW Police Force may:

- (a) enter premises where a person carries on a business for which the person holds a licence or is reasonably suspected of carrying on a business for which the person is required to hold a licence,
- (b) search for and examine any motor vehicles and parts and accessories of motor vehicles on those premises,
- (c) require the production of records,
- (d) inspect and require explanations of any record, and
- (e) take notes, copies and extracts of or from any record or statement produced pursuant to this section.

This power does not permit entry to any part of premises used for residential purposes unless:

- a person holds a licence granted in respect of the premises, or
- you are acting pursuant to a search warrant under Section 53AA.

If the production of a record is required and it is not in writing, or is not written in English, or is not decipherable; the requirement to produce the record shall be deemed to be a requirement to produce the record in a readable format.

It is an offence to;

- wilfully delay or obstruct a person exercising powers of entry the Act or Section 53A,
- refuse or fail to produce, or conceal or attempt to conceal, any record or statement the person is required under the Act,
- refuse or fail to answer a question or give an explanation relating to any such record or statement put to or required of him or her by a person entitled to require production of the record or statement who first informs him or her that he or she is required and obliged under the Act,

- give to a question relating to any record or statement an answer that he or she knows is false or misleading or give an explanation of any record or statement that he or she knows is a false or misleading explanation, or
- conceal or attempt to conceal any motor vehicle or part or accessory of a motor vehicle that a member of the police force is entitled to search for and examine under the Act.

Unlicensed Motor Dealer - Search Warrant

53AA Entry of Unlicensed Premises

If you believe that the premises is being used for the carrying on of a business for which a person is required to hold a licence, and you intend to conduct an inspection, you must apply to an authorised justice for a search warrant.

Note: Only the officer named in the search warrant can execute the warrant. The warrant is to be executed as if it was a Part 5 warrant (LEPRA).

Production of Records

Under Section 53B you may orally or in writing require the person to produce specified records, or records of a class or description, to an authorised person at a specified time and place.

Inspection of Registers

The holder of a Motor Dealers Licence is required to keep a register that may, at any time during which a place of business is open, be inspected, and copies of all or any part of any entry in the register be taken.

An authorised officer may, for the purpose of inspecting and of taking copies of all or any part of any entry in a register required to be kept, take and retain possession of the register if the authorised officer supplies the person who is required to keep the register with a blank duplicate register.

The holder of a licence is not required under this section to produce a register to an authorised officer unless the authorised officer produces their name, rank, station, evidence that the officer is a police officer if not in uniform and the reason for the request.

2A and 2B Registers

Auto dismantler registers consist of a Form 2A book that is used for vehicles which are dismantled and the prescribed parts are removed for sale. A Form 2B book is used for individual or multiple prescribed parts which are acquired. Depending on the business operation, both registers may be required.

These registers are commonly referred to in the trade as 'police books'. The register is either kept in writing in the prescribed books or by means of electronic registers (computer) with software that ensures that the information in the register:

- is capable of being displayed and printed, on demand, at each place of business to which the licence relates, and
- is in a format that is readily intelligible when it is so displayed or printed, and
- includes the date on which each record in the register was made

The information kept on electronic registers must be able to be displayed or printed in the same format as a printed register.

If a person who holds a motor dealer's licence also operates under the authority of that licence, the business of an auto-dismantler, a wholesaler, a motor vehicle parts re- constructor, a motor vehicle consultant or a prescribed business, the person must keep a register of that business as well as a register of the persons business (if any) as a dealer.

For example, if a person is carrying on a business as a motor dealer (buying and selling used cars) and also carries on the business of an auto-dismantler, then the appropriate registers must be maintained for both the car sale business and the auto-dismantling business.

Marking and Recording Details of Parts

Each part must be marked with the entry number of the vehicle from which the part was salvaged. This entry number should comply with the 2A register. In the case of an individual part, the entry number should comply with the 2B register. This requirement applies to bulk purchases as well as single items.

When a vehicle is acquired for dismantling or any prescribed parts are acquired, the dismantler must:

- Enter the necessary details in the appropriate register (2A Register for full vehicles and the parts salvaged there from; 2B Register for parts acquired that have not been salvaged by the licensee).
- Mark the register entry number on each prescribed part by means of an indelible marking substance (marking pen) or if that is impracticable by means of a durable label or tag. The number must be visible and attached to the part while it is in the possession of the dismantler. Some dismantlers attach labels to the prescribed parts. This is acceptable in addition to the number being marked on the part.
- S.26A (4) Motor Dealers Act, 1974 and Cl.33 (1) Motor Dealers Regulation, 2004 relates to the marking and recording of parts.

Note: Entries in 2A and 2B Registers must be made within one business day of receipt of the prescribed part.

Operating with Auto Dismantlers

The manner in which a dismantler's business is conducted will fall into a variety of operations. In general there are three types of operation;

1. The business which immediately dismantles the vehicle and discards the refuse. Salvaged prescribed parts are catalogued and stored separately for sale.

2. The business which stores the vehicle on the premises but does not salvage (remove) the parts until a sale is made.

Dismantlers in this instance should:

- enter the vehicle particulars in the upper half of the Form 2A Register; and
- note any prescribed parts which are missing from the vehicle in the lower portion of the 2A Register.
- note in the column 'salvaged (y/n)' if the part is salvageable or not.

Thus, if the vehicle has suffered extensive damage to the left hand front guard and in the licensee's opinion the part is not salvageable then in the column 'salvaged' an 'N' is indicated. Therefore, each prescribed part must have next to it either, Y, N or N/A (if the part is not on the vehicle)

3. The business which stores the vehicle on the premises but does not salvage the parts until a sale is made, however marks all the prescribed parts both on the vehicle and in the 2A Register when the vehicle is acquired. The business then need only record the date of sale and the receipt number to acquit the register.

Note: There is no legislative requirement to mark those parts which are left on a vehicle until such time a part is salvaged (removed). However, as a matter of best practice auto-dismantlers are advised to make an assessment of the vehicle when it arrives in the yard, mark those parts they intend to salvage and record them in the 2A Register. If the register is left blank as to those parts which have been salvaged it makes 'laundering' stolen parts through the 2A register easier.

Receipts

Auto-Dismantlers must supply a receipt containing certain particulars when they dispose of a prescribed part. CI33 (2) of the Regulations indicates the particulars that must be included.

When an auto-dismantler disposes of a prescribed part or accessory to a person, the auto-dismantler must issue to the person a receipt which contains the following information:

- the date of disposal;
- a description of the part or accessory;
- the entry number marked on the part or accessory;
- the VIN for the vehicle from which the part or accessory was taken (if known);
- the person's name and address; and
- if the person has any of the following numbers;
 - an ABN (Australian Business Number)
 - an ACN (Australian Company Number)
 - an ARBN (Australian Registered Body Number)

If the person is an individual, and:

- if the person is the holder of a licence under the Act, the licence number, or
- if the person is not the holder of a licence under the Act, the person's driver licence number, or
- if the person is not the holder of a licence under the Act or the holder of a driver licence, details (including the number) of some other document bearing a photograph of the person, that appears to be issued by the government or a statutory authority of New South Wales or the Commonwealth or another State or Territory, and that appears to provide reasonable evidence of the person's identity,
- an auto-dismantler
 - must keep a receipt book that contains receipt forms (in duplicate), with the forms consecutively numbered by mechanical or electronic means, and
 - must retain the book at the place where the auto-dismantler carries on business for a period of not less than 6 years after the last receipt was issued from the book.

Falsification of Documents

A person shall not, in respect of any particulars or information required under the Act to be entered, make an entry in the register, notice or document knowing that it is false or misleading in a material particular (Section 52A).

Evidence as to Entries in Registers

The content of register whether or not kept in the prescribed form shall be received as prima facie evidence in any court or tribunal.

Retention of Suspicious Goods – Motor Dealer

S.50 of the Act enables you to direct the licence holder not to dispose of suspect motor vehicles, parts or accessories for a period of 14 days after the service of a notice.

On application to an authorised officer a Local Court may, order that the effect of a notice be extended for a further period of up to 28 days. More than one application may be made.

The form that the notice must take is not contained in the Act or Regulation. A template that meets the needs of the section has been created and is accessible on the Property Crime Squad intranet site.

Evidence of Carrying on Business as Motor Dealer

If in any proceedings for an offence under this Act or the regulations it is proved that a person sold, or offered or displayed for sale, more than 4 motor vehicles within a 12 month period to any other person or persons (other than a dealer), it is presumed in the absence of proof to the contrary that the person was carrying on business as a dealer during that period. (Section 56D).

Bribery

Any person who, without lawful authority, offers, makes or gives to any person authorized by the Director-General under section 6 or appointed by the Minister under that section, any

payment, gratuity or present in consideration that that person will do or omit to do some act or thing pertaining to that person's authority is guilty of an offence (Section 53).

Proceedings – Motor Dealer

In the majority of instances proceedings are launched by Investigators from Fair Trading. Fair Trading maintains a data base of action taken against any auto-dismantler. If Police take any action, either by way of caution, penalty notice or breach, Fair Trading is to be advised, preferable in writing, so they can be recorded on the data base. Court results should also be advised. This is important, as Fair Trading also has responsibility for determining if a licence holder is a fit and proper person to hold or maintain a licence and unless Police advise of action taken, then full information is not available to Fair Trading to make a proper and informed decision.

Recommended Procedures when Conducting Inspections on Dismantling Yards

The following are the preferred procedures to be adopted when planning and on completion of inspections of auto-dismantlers.

- Prior to conducting any inspection contact Fair Trading, Compliance & Enforcement Section, to obtain advice, to determine if the business is licensed, status of licence and prior history. Fair Trading has primary responsibility for compliance and enforcement of the relevant legislation. Fair Trading may also be able to assist with the inspection
- Also contact the Property Crime Squad, to obtain advice on police powers, best practice, known intelligence, to determine if previous inspections have occurred and action taken. PCS may also be able to assist in planning stages, training and with the inspections.
- On completion of the inspection complete a COPS event- BUSINESS INSPECTION – OTHER.
- Also advise Fair Trading of the result for recording on their data base.

Motor Vehicle Repairs Act & Regulations

The general thrust of the Motor Vehicle Repairs Act, 1980 (the Act) and the Motor Vehicle Repairs Regulation, 2011 (the Regulation) is to regulate the licensing of repair businesses and the certification of repairs tradespeople. They govern motor vehicle repairer's obligations in respect to record keeping, disciplinary proceedings and the dispute resolution.

The key definitions are;

Licensee

Is the holder of a licence.

Repairer

Is a person who carries on the business of repairing motor vehicles, but does not include:

- (a) a person who does repair work only on motor vehicles owned or used by the person, or
- (b) a person who does repair work on motor vehicles only in the course of his or her employment with another person.

Classes of Repair Work

The following are the classes of repairers listed under Schedule 1 of the Regulations;

- an automotive electrician who works from a fixed workshop,
- an automotive electrician who works from a mobile workshop,
- a body maker,
- a brake mechanic,
- an exhaust repairer,
- a front end specialist,
- a liquefied petroleum gas mechanic,
- a motor cycle mechanic,
- a motor mechanic who works from a fixed workshop,
- a motor mechanic who works from a mobile workshop,
- a natural gas mechanic,
- a panel beater,
- a radiator repairer,
- a transmission specialist,
- a vehicle painter who works from a fixed workshop,
- a vehicle painter who works from a mobile workshop.

Traceable Parts

The Motor Vehicle Repairs Regulation, 2011 requires all repairers to keep records of traceable spare parts. Records must be kept of the parts listed that are either purchased or otherwise obtained.

The main feature of the Regulation is that in most instances records already required for taxation purposes can be used.

Each of the following parts of a motor vehicle is a traceable part which must be recorded (Cl.4 (1) of the Regulations):

- body components – chassis and major body sections, bonnets, right and left front doors, right and left front mudguards, front and rear bumper bars, front apron panels;
- mechanical components – engines and engine blocks, gearboxes and transmissions;
- accessories – car radio, tape or compact disc equipment.

Records of Acquired Traceable Parts

A licensee must keep records of all traceable parts acquired by the licensee which may include new, used and reconditioned parts, e.g. from a parts dismantler, part re-conditioner or other person.

The records may be kept in writing or in electronic form.

The records must distinguish between parts acquired by purchase and parts acquired otherwise than by purchase, e.g. parts removed from a vehicle or parts given to the licensee.

The record of a part must include the following:

- if the part was acquired by purchase—the invoice, receipt or other document (or a copy of it) issued to the licensee in connection with the licensee’s acquisition of the part,
- if the part was acquired otherwise than by purchase—the date on which the part was removed from a vehicle or otherwise acquired by the licensee and the identity of:
 - (i) the vehicle from which the part was removed, or
 - (ii) the person from whom the part was acquired,
- the date on which the part was fitted, sold or otherwise disposed of by the licensee and the identity of:
 - (i) the vehicle to which the part was fitted, or
 - (ii) the person to whom the part was sold or otherwise disposed of.

The required information must be entered in the record within one business day of the event or transaction.

Records kept in writing must be in English and readily decipherable. They must not be torn, defaced or otherwise mutilated and must not have any erasures. Alterations may be made by a line drawn through the word, leaving it decipherable.

Computer records must use software which ensures that the information in the record is capable of being displayed and printed at each place of business to which the licence relates. It must be readily understandable when displayed or printed and include the date on which each record was made. If any information is amended or deleted then a record of the information prior to the amendment or deletion and the date of the change must be kept.

False or Misleading Entries

Under Cl.9 of the Regulations a person must not make an entry in a record of traceable parts in the knowledge that the entry is false or misleading in a material particular.

Retention of Records

A record either in writing or kept electronically must be retained for at least six (6) years after the date on which the last entry was made in it.

Failure to maintain the records under the Regulation is an offence.

Licensing

Motor Vehicle Repair businesses must be licensed. It’s an offence under the Act not to be licensed. They must be licensed for the class of repair work.

Section 15 - Licensees

A person (other than an exempted person) must not:

- carry on or advertise that the person carries on or is willing to carry on the business of a repairer in respect of any repair work unless the person is the holder of a licence in respect of a class of repair work that includes that repair work, or
- carry on the business of a repairer at any place of business unless the person is the holder of a licence granted in respect of that place of business.

A second offence can result in imprisonment

Tradesperson Certificate

A repairer or commercial vehicle owner (other than an exempted person) must not permit a person employed by him or her to do any repair work unless the person so employed:

- holds a tradesperson's certificate in respect of a class of repair work that includes that repair work, or
- is an apprentice and does that repair work in the course of his or her apprenticeship and under the supervision of a person who holds such a certificate (Section 22).

Note: It is the duty of the operator to ensure that workers are certified.

Motor Vehicle Repairs Powers to Inspect Records and Search for Stolen Vehicles and Parts

Section 75 (3) Power of Entry & Examination

For the purpose of searching for, or obtaining information concerning, stolen motor vehicles and stolen parts and accessories of motor vehicles, a member of the NSW Police Force may:

- (a) enter any place at which a person carries on a business for which the person holds a licence or is reasonably suspected of carrying on a business, for which the person is required to hold a licence,
- (b) require any person employed or engaged at that place to produce such records or other documents as are required to be kept under this Act or the regulations and as are in or under his or her custody or control, and
- (c) search for and examine any motor vehicles and parts and accessories of motor vehicles at that place.

The power does not extend to any part of premises used for residential purposes unless:

- a person holds a licence granted in respect of the premises, or
- acting pursuant to a search warrant under section 75A.

Unlicensed Motor Repairer - Search Warrant

75A Entry of Unlicensed Premises

If you believe that the premises are being used for the carrying on of a business for which a person is required to hold a licence, and you intend to conduct an inspection, you must apply to an authorised justice for a search warrant.

Note: Only the officer named in the search warrant can execute the warrant. The warrant is to be executed as if it was a Part 5 warrant (LEPRA).

Production of Records

For the purpose of searching for, or obtaining information concerning stolen motor vehicles and stolen motor vehicle parts or accessories, a police officer has the powers of an inspector under section 75B (4).

A person must not refuse or fail to produce any records or statement in accordance with a requirement made under section 75B (5).

Obstructing Inspector or Police

A person shall not:

- refuse or intentionally delay the admission to any place of an inspector or member of the police force in the exercise by him or her of any of his or her powers under this Act or the Regulations,
- intentionally obstruct an inspector or member of the police force in the exercise by him or her of any such power,
- fail to comply with a request or requirement of an inspector or member of the police force made under this Act for the production of any record or other document,
- conceal any person from an inspector or member of the police force or prevent any person from appearing before or being examined by an inspector or member of the police force or attempt so to conceal or prevent any person, or
- conceal or attempt to conceal any motor vehicle or part or accessory of a motor vehicle that a member of the police force is entitled to search for and examine under this Act.

Duty to Report Suspicious Goods

The holder of a licence, or the employee of the holder, who suspects for any reason that a motor vehicle, motor vehicle parts or accessories or any other thing in the custody of the holder or employee in the course of the holder's business, or that are offered to the licensee or employee for sale, may have been stolen or otherwise unlawfully obtained must without delay inform an inspector or a police officer of that suspicion (Section 77B).

Retention of Suspicious Goods – Motor Repairer

Section 77C of the Act gives a Police Officer the power to direct in writing that the holder of a

licence not dispose of suspect motor vehicles, parts or accessories. The section is analogous to Section 50 of the Motor Dealers Act and operates in much the same way. Template in respect of this is also available on the Property Crime Squad Intranet site.

Proceedings – Motor Repairer

Police do not have the authority to take out, authorize or conduct proceedings pursuant to the Act and Regulations. Only a prescribed officer can authorize proceedings. It is advised that upon detection of any offences, prepare a brief of evidence and forward to Fair Trading except for penalty notice offences (Section 87A & Schedule 3 of the Regulations).

Fair Trading will conduct an assessment of the brief, may make further inquiries before determining if a prosecution is warranted. In essence Fair Trading become the informant in the matter, conduct the prosecution with police being a witness (Section 87).

Note: Section 87 (5), any proceedings for an offence against this Act or the regulations shall be commenced by information laid at any time within 1 year after the time when the offence is alleged to have been committed.

and

Section 87 (6), despite subsection (5), proceedings for an offence under section 15 may be commenced at any time within 3 years after the time when the offence is alleged to have been committed.

Prescribed & Traceable Parts

Not all the parts removed from a motor vehicle are prescribed or traceable parts. The aim of recording parts in these categories is to track vehicle parts commonly stolen and used in motor vehicle re-birthing.

Note: The legislation does not apply to new parts imported from overseas, but does apply to second-hand imported prescribed parts.

There are a number of differences between the prescribed parts required to be recorded under the Motor Dealers Act and traceable parts under the Motor Vehicle Repairs Act.

The following table reflects these differences.

Part	Prescribed [Motor Dealers Act]	Traceable [Motor Vehicle Repairs Act]
Chassis	*	*
Major body section	*	*
Bonnet	*	*

Right side door (front)	*	*
Left side door (front)	*	*
Right side door (back)	*	
Left side door (back)	*	
Hatchback door	*	
Boot lid	*	
Right front guard	*	*
Left front guard	*	*
Front bumper bar	*	*
Rear bumper bar	*	*
Front apron panel	*	*
Engine/engine block	*	*
Gearbox/transmission	*	*
Instrument cluster	*	
Car radio/compact disc	*	*
Electronic navigation equipment	*	
Television	*	
DVD Equipment	*	
Airbag	*	
Alloy "mag" wheel	*	

Motor Vehicle Crashes

Major or minor crashes

On receiving information about a crash, find out if it is major or minor motor vehicle accident (MVA). Attend and investigate major MVA's where:

- someone is killed or injured
- a party fails to stop and exchange particulars
- a driver is allegedly under the influence of intoxicating liquor or a drug, or
- a vehicle is to be towed away.

If an ambulance or accredited rescue unit is needed arrange for them to attend without delay.

A person is regarded as injured in an MVA, if they seek immediate medical treatment from a qualified medical practitioner by being:

- transported to hospital by ambulance and
- treated and/or admitted to a hospital

or by being treated for that injury by a qualified medical practitioner within 24 hours of the MVA.

or by being treated at scene for an injury received arising from the MVA by a member of the NSW Ambulance Service.

Treatment does not include examination only at the scene of a motor vehicle collision by a member of the NSW Ambulance Service or attending a medical practitioner for examination only.

Minor MVAs do not require police attendance

Where a minor MVA is reported, and later (outside 24 hours) a person involved seeks medical treatment for an injury, create a further occurrence only incident in the Minor MVA Event, to record the injuries.

Where a person wishes to report an injury outside the 24 hour period, refer to '[Recording injuries received under s42 of the Motor Accidents Act](#)' this section.

Attending major MVAs

Investigating officer

Attend scenes of crashes promptly.

Where an urgent duty response is required, proceed with warning devices activated and in accordance with the *Safe Driving Policy*.

Arrival and assessment

Park in a safe location, which provides suitable warning to other road users, taking care not to contaminate evidence and:

- advise police radio of the exact location
- check for hazards, and if present use IESOP
- confirm if anyone is injured or trapped and provide initial help as required
- assess for traffic obstructions and delays.

Initial actions

After your preliminary assessment:

- notify police radio of
- number of people injured/killed
- any further emergency response needed
- the best access for other services
- whether the roadway is obstructed and traffic conditions
- secure the scene to protect evidence, those involved and emergency services personnel
- liaise with emergency services when positioning their vehicles, to minimise traffic obstruction
- ensure the injured are transported from the scene and deceased removed, as soon as possible (using government contractors)
- where possible, clear the roadway sufficiently to re-establish traffic flow and implement a diversion if needed
- update Radio Operations Unit with a situation report and ask Traffic Control Unit be advised of any traffic problems
- for major incidents establish a command post to coordinate activities at the scene
- request necessary support services

NB: Preserving evidence at the scene is not the sole consideration when roads are blocked and diversions implemented. Be aware of the need to open the road as soon as possible by using local contingency plans and refer to the section on 'Investigation of crashes', for actions to reopen roads.

Where support services are not needed, clear the road as quickly as possible.

Requesting support services

Notifying crash investigators

Where available, arrange for crash investigators to attend MVAs involving:

- Death or serious injuries are involved where serious indictable charges are likely (be aware, the offences under the *Crimes Act* are not limited to public streets and includes private property)

- serious injury or death where the responsible party cannot be determined
- failure to stop with people killed or seriously injured
- death or *serious* injury where a NSW Police Force vehicle, or on duty member is involved
- a major incident of an unusual nature (tourist/school buses, trains etc)

Note: Serious injury means injuries that amount to Grievous Bodily Harm

Investigating officer

Where the Crash Investigation Unit (CIU) is not available and you consider its presence is essential, contact the local area commander/representative to request their attendance.

Local Area Commander/representative

Consider information from police and the CIU and whether criminal investigators will suffice.

Crash Investigation Unit

When advised of an incident, consider the information and decide if investigators need to attend.

In the metropolitan area, you are to comply with the direction of the Commander Traffic Services Branch or the Commanders representative. In country areas you are to comply with the direction of the Local Area Commander or the Commanders representative.

Notifying criminal investigators

Investigating officer

Request the attendance of criminal investigators when:

- there is evidence or suspicion of a deliberate attempt to kill or injure another person
- where crash investigators are not available

Notifying crime scene investigators

Investigating officer

Request the attendance of crime scene investigators for MVAs involving:

- death/or where death is likely
- serious injury where there is likelihood of criminal charges

Ensure a crime scene attendance job is created in EFIMS to track the forensic process.

Crime scene investigators are not needed where crash investigators equipped to take photos are in attendance.

Crime scene investigator

When crash investigators are not in attendance, investigate the physical evidence of the MVA. Update EFIMS accordingly.

Photogrammetry and Drafting Unit

The Photogrammetry and Drafting Unit will only attend an MVA if requested by a crash investigator or crime scene investigator.

Notifying engineering Investigators

Request the DOI, or in country areas, have the shift supervisor contact the DOI to notify Engineering Investigators of MVAs involving:

- death or injury involving Service vehicles or members while on duty
- death or injury crashes involving police in pursuit, on urgent duty or engaged on an operation, regardless of whether the Service vehicle is involved in the crash

When conducting coronial investigations or investigating collisions where the injuries amount to grievous bodily harm and indictable charges are likely to be laid; create a job analysis request on EFIMS for the attendance of the Forensic Services Group Engineering Investigation Section to examine the offending vehicle.

Notifying traffic coordinators

Investigating officer

Where traffic coordinators are in place, notify them of MVAs or heavy vehicle rollovers likely to impact on main highways, freeways, motorways etc.

Ensure the traffic coordinator is told of incidents where crash or criminal investigators attend.

Notifying Professional Standards Command

Investigating officer

Advise your regional Professional Standards Manager of:

- fatal or injury crashes involving Police vehicles and members on duty
- fatal or injury collisions involving police in pursuit, on urgent duty or engaged on an operation, regardless of whether the Police vehicle is involved in the crash.

Notifying the Coroner

Investigating officer

Ask the DOI at Radio Operations Unit to notify the State Coroner of significant or unusual MVA incidents resulting in:

- five or more deaths
- a death involving a heavy vehicle
- a death involving a public passenger carrying vehicle ie: bus, taxi or hire car
- a death from police pursuits, urgent duty or operations.

In country areas, ask the duty officer to notify the local Coroner and also the DOI, who in turn will advise the State Coroner.

Notifying RTA inspectors

Investigating officer

Ask the DOI to notify the RTA (through the Traffic Control Unit) of MVAs and unusual incidents involving:

- all classes of heavy vehicles
- shifting or lost loads
- over dimension loads
- public passenger vehicles (including taxis)
- defined road work sites.

Investigating MVAs

Investigating officer

Where crime scene investigators, crash or engineering investigators are needed, take into consideration the disruption to traffic and the subsequent delays and:

- preserve the scene until photographed and recorded (see '[Scene Preservation](#)' this section). Do not spread sand/hose down road until after scene is examined
- breath test all drivers immediately, ensuring breath analysis is conducted within two hours, for positive tests
- identify all drivers and witnesses and get detailed versions. (If undue delays are likely record name, address and a phone contact of witnesses for later inquiry).

Only remove vehicles and debris if:

- real or potential danger exists
- major disruption is caused to the community
- evidentiary value appears minimal in view of witness accounts.

Where a crash occurs on a major traffic route comply with local contingency plans.

On major routes, where there is no local contingency plan:

- draw a scene sketch, record:
- vehicle positions
- debris
- physical evidence
- mark with paint, crayon etc the positions of vehicles involved. Do not outline bodies with paint
- remove bodies promptly, except in fail to stop incidents where vital evidence might be lost
- where available, take preliminary photos and measurements

- quickly remove vehicles to safety and re-open the road. The offending vehicle is to be towed by all up lift.

To help in the prompt removal of vehicles causing obstruction, use any available resource to photograph the scene in situ (before removal)

Where alcohol/drugs are a possible factor, question the driver to obtain a history and the substances consumed. If an offending driver is taken to hospital, ensure they are escorted and guarded, where possible, and that a blood and or urine sample is taken within the two hour limit.

Where a tow truck operator has an authority to tow a vehicle, they must remove debris. Any hazardous material must first be rendered safe by the NSW Fire Brigade.

Decide whether to impound offending vehicles (consider need to address mechanical failure). Remove personal property and enter it as miscellaneous property in EFIMS. Have impounded vehicles (with keys) escorted to an authorised police holding yard or equivalent.

At an MVA not requiring attendance of specialist units, in addition to the above:

- obtain complete details and versions in your notebook
- on return to your station, enter an Event on COPS (see '[Completing a major MVA](#)', this section).

Using your notebook

Use your official notebook to record all particulars from an MVA, including the details of vehicles, drivers and witnesses and their versions or statements. Sign the entry.

In the case of a fatal or serious injury crash, it might be appropriate to arrange for a typed statement to be obtained immediately.

Where a driver declines to supply information or a version after a collision, bear in mind the provisions of Rule 287 of the Road Rules 2008, which requires drivers to provide certain information.

When you need statements from people who live outside your local area command, send a job via the COPS system to the command in which the person supplying the statement resides. (see '[Requesting statements, versions etc outside your LAC.](#)')

Where action is to be taken against a driver for an offence, see also the section on '[Reporting traffic and parking offences](#)'.

Scene preservation

After considering the impact on traffic, where a decision to preserve a scene is made:

- request the RTA or local government body to help with traffic control and barricades
- remove people who are smoking near spilled fuel or hazardous materials

- take directions from the senior fire officer, in the event of a fire, until the area is made safe
- provide crowd control to ensure safety to all people
- protect the property of people involved in the crash
- do not move vehicles, debris or property until clearly marked in the investigation stage, except for the rescue of occupants
- do not allow anyone to examine/interfere with vehicles at the scene, other than RTA inspectors or someone authorised by the crash or engineering investigator.

Clearing the scene after investigation

Apart from preserving the crash scene for investigative purposes, ensure drivers remove debris, which is likely to endanger anyone.

Where a driver is injured, ensure the debris is removed by the tow truck driver (if being towed) or remove it yourself.

When a rescue unit attends, have them remove any debris resulting from their presence.

Defecting heavy vehicles involved in MVAs

Issue a defect notice to any bus or heavy vehicle with a gross vehicle mass (GVM) of more than 4.5 tonnes, which is to be towed away from a crash.

Endorse the notice "crash damage" and note that the vehicle is to be presented to Heavy Vehicle Authorised Inspection Station (HVAIS) for inspection.

When there is an obvious defect before the crash ie: a smooth tyre, include it on the defect notice and submit a breach report. When you issue a defect notice for "crash damage" only do not submit a breach report.

Testing STA buses

For MVAs involving death or serious injury you may impound the vehicle for a full engineering examination, if needed.

However, generally where an MVA occurs and a State Transit bus driver alleges the condition of the brakes contributed to a collision, arrange to have the bus withdrawn from service immediately.

The STA impounds the vehicle until it is tested in the driver's presence, the authority's engineer and senior traffic officer. A copy of this report is supplied on request.

MVAs outside your LAC

When a crash needs investigation, police nearest the scene carry out inquiries, except where the matter is investigated by crash or criminal investigators.

When people involved in a MVA report at your station, which is not nearest the scene, check COPS to ensure the MVA has not previously been reported. Contact the station nearest the scene to find out if the crash is being investigated.

Where necessary, complete an MVA Event in COPS and disseminate to the relevant local area command.

For major MVAs, obtain a statement about the crash from the person reporting the incident. Scan a copy of the statement and any other associated material (eg. Site diagrams photographs) into CMMS. If the statement is taken in a notebook and is not legible it must be transcribed in the approved statement format before being scanned. All material should be referenced in the event narrative prior to dissemination.

Requesting statements, versions, etc. outside your LAC

Requesting Officer

Where you require statements, versions, or forms of demand from persons outside your LAC request a job via the COPS job system. Highlight for the information of the receiving officer any particular issues that need to be addressed as part of your investigation. Ensure that any material such as statements, photographs etc are scanned into CMMS before sending the job.

Receiving Officer

Attend to the job in a timely manner being particularly mindful of statute of limitations in respect of traffic matters. Review and familiarise yourself with the COPS event for the MVA and any other material supplied.

Once the statement, version etc is obtained scan the material into CMMS under the original event number. If the statement is not legible it must be transcribed in the approved statement format. Acquit the job with COPS indicating the time and date the task was completed and when the material was entered into CMMS.

Traffic Supervisor

Before verifying completion of the job within COPS check CMMS for the material obtained. If it does not meet legislative requirements, or is not legible resubmit the job for appropriate action before forwarding to the originating LAC.

Conflicting statements

Investigating officer

When you are unable to determine the person responsible for a crash, due to conflicting statements, follow this procedure:

- complete a Major MVA Event on COPS and include in the narrative no action is proposed
- compile all statements from participants and witnesses, all photographs and site diagrams and forward with a covering report to the Traffic Supervisor for review.

You must be mindful of the statute of limitations in relation to traffic matters. If it appears that you will be unable to complete inquiries and obtain appropriate advice within the statutory period seek immediately see your traffic supervisor.

Traffic Supervisor

Review all material submitted and the covering report. If the issue cannot be resolved by means of further investigative process and there exists no likelihood of sufficient evidence to proceed against any of the parties involved, endorse the COPS event accordingly. Return all material to the investigating officer for filing with the Brief Handling Manager.

If there exists any doubt in relation to the collision seek advice from Traffic Services Branch and forward all material to the Local Area Prosecutions Manager for adjudication.

The investigating officer must assemble a complete brief of evidence prior to the matter being referred to the Local Area Prosecutions Manager.

Major MVA Events on COPS

Investigating officer

Before completing your shift, complete a Major MVA Event on COPS and mark the event for the station summary. Update matters still under investigation on COPS when completed.

Generate and complete a site diagram from COPS. Scan the site diagram and upload the scan to COPS multi-media system (CMMS)

Team Leader

Verify the event on COPS.

Local Traffic Services Officer

Ensure any site diagrams have been scanned onto CMMS.

Fatal MVAs

As soon as possible, after a person is killed in an MVA, create a Major (fatal) MVA Event in COPS. Mark the event for the station summary and flag as a significant event.

Where someone dies later from their injuries, ensure you update the COPS event from an injury to a fatal Major MVA. Mark it for the station summary and flag it as a significant event.

Fax the completed COPS generated site diagram to Traffic Services Branch as soon as possible after the death.

Additionally, inform your local area commander or representative and prepare a briefing note when required

Local Area Commander

Disseminate the information to the region commander's office.

Offences from fatal/serious injury MVAs

Investigating officer

If you need advice/guidance in regard to proceedings against a driver/rider of a vehicle who causes death or grievous bodily harm to a person in a crash/collision seek it from your

supervisor, crime manager, a skilled or experienced investigator, traffic officer or a member of a specialist command (for matters dealing with that speciality). Contact your local police prosecutor only when the matter cannot be resolved within your command.

If you consider it is inappropriate to instigate proceedings against the relevant driver/rider for an indictable offence and you believe summary proceedings should be commenced, do so. Then, immediately send a copy of the brief of evidence and a covering report to your LAC. Your report must include the following:

- details of the summary charges laid
- listing date and current court venue
- whether the proceedings are listed for mention, hearing, plea etc
- any legal advice given to you and by whom
- any relevant information, copy of documents or other things not contained in the brief that might reasonably be expected to assist the case for the prosecution or the case for the driver/rider.

Furnish a similar report if you considered the summary offences were appropriate but became statute barred. Include the reasons why this occurred in your covering report.

Do **NOT**:

- wait for advice before laying summary charges
- accept a plea from the defence regarding the summary charges pending advice (instruct the police prosecutor to seek adjournments)
- delay in forwarding your copy of the brief of evidence and covering report to your LAC.
- You are NOT required to furnish this report if you decide that no charges (summary or indictable) are to be preferred at all against any person involved in the accident.

While the decision to prefer charges ultimately rests with you, any deviation from the advice given by the State Wide Legal Advice, Police Prosecutions, or ODPP should only occur in exceptional circumstances and after careful deliberation and consultation with your commander. You are accountable for your decision and may have to justify it at a later stage. You should record the reasons for your action in the COPS Case Management.

Local Area Commander

Ensure the investigating officer has complied with this guideline and send the papers to the Co-ordinator, State Wide Legal Advice, Police Prosecutions for advice as to whether or not indictable proceedings are appropriate. Include your comprehensive comment or that similar comment is provided at local managerial level i.e., Duty Officer, Crime Manager or Traffic Supervisor. DO NOT send or seek advice from the ODPP directly under any circumstances.

Co-ordinator, State Wide Legal Advice, Police Prosecutions

Review the brief of evidence in each matter and provide advice to the OIC of the case as to whether indictable proceedings are appropriate. In other matters where there is doubt and

the DPP may have a different view concerning possible indictable proceedings (Table 1 and Table 2 offences) seek a second opinion from the ODPP Secretariat. Inform the OIC of the case of the outcome of that advice from the DPP. The DPP will not provide any advice regarding the summary proceedings.

NOTE: Refer to extensive educational and training material on the Police Intranet. Under 'Law' and 'Case law – Traffic' regarding the offences of Dangerous Driving, Manner or Speed Dangerous, Injuries by Furious Driving, Causing Grievous Bodily Harm, Drive Under the Influence,

Mechanical Defects involving summary disposal, scope of offences and Case Law. See also the 'Law Lectures – Offences – Dangerous Driving' and the segmented titled 'The 3 Degrees of Negligence' regarding the subjective judgement on the degrees of negligence by the driver/rider and the appropriate charge [s.42 (1) of the Road Transport (Safety & Management) Act and s.52A and s.54 of the Crimes Act] based on the evidence available and all of the circumstances.

Completing a minor MVA event in COPS

Check the registration numbers on the P5 form on COPS. If the crash is recorded on COPS, write the Event reference number on the top right hand corner of the P5 form.

Where not recorded, enter a Minor MVA Event on COPS. Only include the time, date, place and registration numbers of vehicles involved and the name of the person reporting it. Write the COPS Event reference number on the top right hand corner of each page of the P5.

Where possible, verify the licence and registration status of all drivers. Endorse any action taken over non compliance in the COPS Event summary. No further investigation is necessary.

Should the person reporting disclose any of the following;

- someone is killed or injured
- a party fails to stop and exchange particulars
- a driver is allegedly under the influence of intoxicating liquor or a drug, or
- a vehicle is to be towed away.

Clarify the issue and determine whether an investigation is necessary and, if so, complete a Major MVA Event in COPS.

Fail to stop drivers

When driver who failed to stop at an MVA is later identified, update the COPS Event.

Crashes in recreational vehicle areas (RVA)

When a crash occurs in a RVA, causing death or serious injury, normal reporting procedures apply. Complete an MVA Event in COPS.

If the injury is not serious enter an occurrence only event on COPS and mark it for the station summary.

Include:

- particulars of the people involved
- offences
- action taken or proposed.

Accept reports of minor crashes in an RVA by the completion of a P5 form.

Remember, when dealing with a reported collision in an RVA, the area is deemed to be a road or road area in the terms of the *Road Rules 2008*.

Recording injuries received under S42 of the *Motor Accidents Act*

When people report injuries under the *Motor Accidents Act*, check on COPS whether the incident has been recorded.

Only record details where the injuries suffered are of a personal or bodily nature and it is reported to you in writing, within 28 days of the incident. A longer period is acceptable where the nature of the injuries precludes the person from making an earlier report.

Where an existing MVA Event is recorded on COPS, create a further occurrence only incident in the Event, to record the reported injuries and attach the written report to the COPS generated site diagram.

If there is no record on COPS, create an occurrence only Event and mark it for the station summary.

Supplying MVA information

Do not supply any information to loss assessors, insurance companies, solicitors or people not involved in the crash, who seek particulars. Advise them to address requests to Insurance Services Unit

Level 5A, NSW Police Headquarters
1 Charles Street
Parramatta NSW 2150

Station/investigating officer

You may give information to people actually involved in the crash or their accredited legal representatives, however, only provide details of:

- names and addresses of the parties involved
- registration numbers of the vehicles
- time, date and place of crash.

You may also provide information to public hospitals and the ambulance service, where people have needed hospital or ambulance treatment. Restrict this information to:

- the name and address of the injured party
- whether the injured party was a pedestrian, passenger or driver
- time, date and place of the crash
- police station at which reported
- registration numbers of vehicles involved, plus names/addresses of the owners and drivers.

Interviews about compulsory third party (CTP) claims

Commander

Allow accredited compulsory third party (CTP) insurers to interview members of your staff to assist with their inquiries. The interview is conducted at a time, convenient to all concerned, and during rostered shifts.

Supplying information to Motor Accidents Authority (MAA)

On receiving a written request from the MAA, supply the following information:

- registration numbers of all vehicles involved
- names of all people killed or injured
- hospitals to which injured people were taken
- vehicles most likely to have been at fault.

Miscellaneous issues

Using rescue equipment

Where accredited personnel are unavailable, and in life threatening situations it is necessary to remove people from vehicles, use any equipment with extreme care and due safety.

Bulk chemical transport crashes

Chemicals and hazardous material can kill. Refer to the *IESOP* manual. The fire brigade is responsible for hazardous material incidents.

Damage to boundary fences

Notify the owner/person in charge when fences to agricultural/pastoral land have been damaged.

Warnings and cautions at MVAs

Do not issue cautions for motor vehicle crashes.

NSWPF personnel involved in crashes

Refer to the section on '[Police Vehicles](#)', when police are involved in crashes.

Advising other agencies of crashes

Investigating officer

Inform the RTA (Sydney Traffic Control Centre) or the local government authority of hazards or damage to roads, bridges or traffic facilities which are their responsibility.

Advise them of serious crashes on their roads and advise them of the date and place of any inquest. When informing the RTA of an inquest, do so by written report through the Commissioner.

Advise the authority controlling a road when you regard its condition as a contributing factor in any crash.

Blood samples from fatal crash victims

See also the section on '[Exhibits](#)'.

Vehicles used as exhibits from a fatal crash

See also the sections on '[Coroner's](#)' and '[Exhibits](#)'.

Photos and plans in fatal and serious crashes

See also the section on '[Photos and plans](#)'.

Blood testing and sampling

For information on blood testing and sampling refer to the section on '[Breath tests and analyses](#)'.

Caring for a child where the parent/guardian has been hospitalised, arrested or deceased

Please refer to '[Chapter C - Children](#)'

Dangerous or defective roads in collisions

Where through investigation of a motor vehicle collision a road is found to have directly or indirectly contributed to the collision notification must be made to the responsible roads authority, either council or RMS.

Officer In Charge

At the scene of a motor vehicle collision where it is obvious from physical evidence or statements made by witnesses that the road is the primary cause of the collision and you believe it is in a dangerous condition contact VKG and have them advise Transport Management Centre (TMC).

If following investigation you conclude the road is the primary cause of the collision, complete a full brief of evidence and attach a covering report detailing the nature of the road fault. The brief and covering report must be submitted to the Local Traffic Supervisor or in their absence a Highway Patrol supervisor for assessment.

Where possible police are to obtain photographs of the scene and upload them to CMMS as part of the COPS event.

When advised by the Traffic/Highway Patrol Supervisor that the matter is to be referred to RMS add an action and additional narrative in COPS to either the event or case detailing the referral.

Traffic / Highway Patrol Supervisor

Review the brief and covering report.

RTA Administered Roads

If, based on the material supplied, a roadway design or fault is determined to be directly responsible for the collision forward a copy of the report to the Police Liaison at the Transport Management Centre (TMC)

In addition written notification by way of business letter authorised by the Local Area Commander is to be forwarded to the RMS representative on the Local Traffic Committee. Further the issue is to be tabled as an agenda item by Police for the next Local Traffic Committee meeting. Ensure that any discussion relating to the matter is minuted.

When a reply is received from TMC forward the response including the relevant CMCS reference number to the OIC. Ensure that this information is included in their event or as a case file item.

Council Administered Roads

If, based on the material supplied, a roadway design or fault is determined to be directly responsible for the collision forward a copy of the report. In addition written notification by way of business letter authorised by the Local Area Commander is to be forwarded to the Council representative on the Local Traffic Committee. Further the issue is to be tabled as an agenda item by Police for the next Local Traffic Committee meeting. Ensure that any discussion relating to the matter is minuted.

If not satisfied that the collision arose from roadway defect or design but was driver error refer the matter back to the officer in charge for appropriate action.

Police Liaison TMC

Daily – check the #TMC SMAC box for reports. Where a report is submitted for an RMS road ensure that the defect is recorded on RMS Central Management Computer System (CMCS). Reply to the submitting officer and provide the relevant CMCS reference number.

Where contacted by VKG arising from a referral at a collision scene advise the Manger, TMC of the collision and the police concerns that the roadway may be at fault. If RMS requests the scene remain closed until inspectors arrive, consult with the relevant Duty Officer responsible for the area. If utilising police does not place an unreasonable operational impost on the relevant Command, request police close the road and remain on scene until RMS staff arrives.

Mounted Police

The Mounted Unit is a fully operational specialist unit providing assistance to all NSW Police commands and the community in general. The work performed by the unit ranges from general patrolling, protocol engagements and public order management.

How to Request Mounted Police Assistance

1. Log into the Intranet.
2. Go to Forms and click Info/Support Request Forms.
3. Click on Mounted Police then the "Link" icon.
4. Click online request form for Mounted Support and fill in form.

When completing request forms please factor in travel times to and from the LAC. Include why the Mounted Police are required eg. Crowd control, anti-social behaviour, HVP etc. Include a contact person for Mounted Police to report to on arrival for briefing. Mounted Police will only attend if full details; taskings and operational orders are supplied. These can be emailed electronically to #mounted or faxed to E/N 56796.

Mounted Police Charter of Business

High Visibility Patrols

Consist of planned rostered patrols to provide high visibility proactive policing. Patrols are usually planned rostered activities that provide a Local Area Commander with a high profile proactive policing resource that can be deployed into any given area, particularly one that may require extra resources. HVP Patrols also include patrolling areas with a large influx of crowds and high density areas requiring visual surveillance.

The Mounted Section also participates in community events that include visits to schools, pre-schools, open days and other community events, and work in conjunction with the police band. One such example is the Police Musical Ride display highlighting the performance of the police horses drill movements in precision with music.

Public Order Management

Mounted Police are used to influence and assist in the control of both passive and active crowds, working in conjunction with the Public Order Riot Squad (PORS) and Operational Support Group (OSG). Mounted Police are utilised for drills and formations in support of PORS and OSG. Mounted Police generally hold several training days per year with PORS and OSG.

Special Operations

The utilisation of Mounted units in conjunction with other resources to target a specific crime problem within a Local Area Command. The use of Mounted Police in special operations involves using Mounted Units in conjunction with other resources such as Highway Patrol, TAG and General Duties police, etc to target a specific problem. To allow Mounted

Police to be effectively utilised in a special operation it is important that they are supplied with current and accurate intelligence. Operational Commanders need to be mindful that due to time and travel constraints Mounted Officers are often unable to attend briefings at the commencement of the shift and thus may require a briefing on arrival or by telephone prior to their departure from the Section.

Searches

Bushland searches for missing persons, drug plantations and in some cases evidence. The Mounted Section is also available to assist Local Area Commands in bush searches. In the past the Section has been utilised in searches for drug plantations and missing persons. Mounted units can be called upon at relatively short notice to assist in searches involving missing persons. However, approval is at the discretion of the Commanding Officer of the Mounted Section and will depend on available resources. As part of the training requirements of the section, members are taught navigation and search skills and techniques.

Rural Crime

Assistance in executing search warrants for stolen livestock. Mounted Police Units provide an effect tools that may be utilised when searching a property for stolen livestock when executing a search warrant. Mounted Units are able to search areas inaccessible to motor vehicles. Horses also enable police to get close enough to livestock to identify brands, ear marks, and ear tags. Mounted Police Units also have the ability to move livestock from their location to the nearest holding yards.

Protocol

Ceremonial events, parades and escorts are part of the work conducted at either static or moving pace. The use of Mounted Units in a Protocol capacity typically occurs for Mandatory Protocol events such a parades, ANZAC day, funerals and escorts.

User Pays

Police horses are requested for several user pays jobs which have a great capacity for people. Generally, large music festivals request Mounted Police to patrol the perimeters of fencing for any illegal breach of entry into the event or antisocial behaviour beyond the fence line.

Technical Large Animal Emergency Rescue (TLAER)

NSW Mounted Police personnel are trained in TLAER procedures and all vehicles are fully equipped for retrieval of animals. NSW Mounted Police should be called for any animals being trapped or requiring rescuing, even for assistance over the phone with animal behaviour and minimisation of risks to personnel rescuing the animals. NSW Mounted Police experience in TLAER also provides guidance to Rescue crews for the correct and humane procedures to rescue horses with the minimal damage or injury to the animal whilst being rescued. Many animals usually sustain greater injuries whilst being rescued due to inappropriate rescue procedures and equipment.

Emergency evacuation of Large Animals

NSW Mounted Police have the resources to move large animals such as horses, cattle, sheep and goats in times of emergency. NSW Mounted Police are trained in catching and retrieving animals and loading onto floats/trucks for removal from any areas in danger, ie bushfires and floods.

Tour Group and museum tours

The Mounted Police conduct free tours of the stables and museum every Tuesday and Thursday from 10:30am. Please contact the NSW Mounted Police for bookings on 9319 2154.

Police bring work experience students and visiting Police to the section for an insight into its history, view the museum and walk through the stables to see the day to day life of the Mounted Police. Please ensure you contact Mounted Police to make any bookings.

For more information on the Mounted Police please log into our intranet site.

Noise Abatement

Your powers in relation to noise abatement are found in the *Protection of the Environment Operations Act 1997* (the Act).

Noise abatement directions

A police officer may, under s. 276 of the Act, issue a noise abatement direction if it appears that offensive noise is being, or has at any time within the past 7 days been, emitted from any premises.

Under the Act premises includes a building, structure, land or place (whether enclosed or built on or not), mobile plant, vehicle, vessel or aircraft.

Your powers under s. 276 of the Act are to:

- direct the person whom you believe to be the occupier of the premises to cause the emission of the offensive noise to cease, and/or
- direct any person whom you believe to be making or contributing to the making of the noise to cease making or contributing to the making of offensive noise.

When you issue a noise abatement direction you are exercising a power and as must comply with the relevant safeguards under s. 201 of the Law Enforcement (Powers and Responsibilities) Act 2002.

Contravening noise abatement directions

Refer to s.277 of the Act for the circumstances in which a noise abatement direction is contravened.

A person who contravenes a noise abatement direction is guilty of an offence and the maximum penalty is 30 penalty units. If a noise abatement direction has been contravened, a police officer may issue an on-the-spot penalty notice to that person.

Entry by warrant

If you are denied entry to premises to issue a noise abatement direction s. 280 of the Act deals with police powers to enter any premise by warrant under the Act.

In order to obtain a warrant you must put a complaint to a Magistrate stating that you have been denied entry to specified premises and you believe that:

- i. offensive noise is being emitted from the premises or offensive noise has, within the past 7 days, been emitted from the premises, and
- ii. it is necessary for you to enter the premises immediately in order to give a noise abatement direction in relation to offensive noise emitted from the premises or to investigate whether a noise abatement direction has been contravened.

The complaint may be made in person or by telephone. Where in all the circumstances it is impracticable for you to make the complaint directly, another police officer may make the complaint (in person or by telephone) to the Magistrate.

The warrant is to be executed as soon as practicable after it is granted, but not later than 24 hours after it is granted, and may be executed by day or night. You may use reasonable force (whether by breaking open doors or otherwise) for the purpose of entering the premises in executing a warrant and you may execute the warrant with the aid of assistants as you consider appropriate.

Powers of police after entry by warrant

Section 281 (1) (a) of the Act provides that a police officer who enters any premises under a warrant granted under s.280 of the Act may take only such action at the premises as is reasonably necessary to:

- i. give the noise abatement direction or investigate whether there has been a contravention of a noise abatement direction, and
- ii. exercise any power under s. 281(2) of the Act or any lawful power to arrest a person.

A police officer may remain at the premises only as long as is reasonably necessary to take that action.

Section 281(2) of the Act provides that if you believe on reasonable grounds that offensive noise is being emitted from any premises or has, within the past 7 days, been emitted from any premises, you may require any person:

- i. whom you believe on reasonable grounds to be the occupier of the premises or to be, or to have been, causing or contributing to the emission of the offensive noise, and
- ii. to whom you have given an oral or written warning of that person's obligation to furnish the information under the Act,

to provide you with their name and address and with the name and address of the occupier of the premises if that person is not the occupier.

Power to seize equipment

Section 282 of the Act applies if a noise abatement direction is in force and the person to whom the direction is given is contravening the direction. You may seize or secure any equipment that is being used to contravene the noise abatement direction.

However, before you may do so the person in charge of the equipment must be warned that its continued use may lead to its seizure.

If any such equipment is seized, you are to issue the person from whom it is seized with a receipt that identifies the equipment, states the time and date of seizure, identifies the police officer seizing the equipment and notifies the procedure for the return of the equipment.

Any equipment that is seized or secured must be returned or released within 28 days, unless it is returned or released earlier.

Notebooks

All police irrespective of rank or duty type will be issued with an official Police Notebook. Complete the details inside your notebook when issued to you. Use it to record particulars of incidents for future reference. Your notebook should be carried with you whilst on duty, unless the nature of your duties makes this impractical. All particulars after an incident should be recorded as soon as practical. Any issue of a serious or contentious nature must be recorded in a notebook or duty book, as soon as practical. Keep your notebooks with you until full. Administrative officers may be issued with a notebook to record computer access.

Notebook entries

Record the action you take for each entry in the margin. Make entries in chronological order and start each with the date and time. Rule a line after each entry and leave a line before starting the next.

Complete entries in pen by writing neatly and underline surnames. If you use shorthand, record names and addresses in longhand.

Remember, making notes at the time of an incident is a professional approach to policing, providing a valuable tool for you in many ways. Not only can you refer to the notes during evidence, but they also help you recall incidents and might help if you have to justify your actions. Ensure entries about people are not frivolous or vexatious.

Do not abbreviate statements from witnesses, victims or suspects. Record all conversations from the time someone becomes a suspect. For interviews recorded in your notebook, have a corroborating and adoption officer sign the entry. If the suspect refuses to sign, note this against the entry.

One officer is to make an entry about an incident where two or more officers attended. The remaining officer counter signs the entry, and makes a brief cross reference in their notebook.

Ensure addresses include the state, postcode and phone number.

As a minimum, record the matters listed below, and where possible, have the affected person sign it. Where you can, record conversations about these incidents as spoken.

Record:

- the exercise of a power (eg: arrest, handcuffing, searching), including why you exercised it (eg: searched because you saw money and foil change hands – suspected drug deal), the person's demeanour, clothing worn and anything found as a result
- the time and date you take a statement (unless otherwise identifiable)
- warnings given, including the offence
- execution of formal process (warrants, summonses)
- a matter which needs a COPS entry but cannot be immediately placed on the system – remember to include driver's licence numbers of all parties (if possible)

- access to the NSWPF computer system (not able to be justified by other means)
- incidents where action will be taken later (summons, breach reports)
- escapees, missing people or others of special interest
- details of property handed to you while away from your station, including name and address of the finder and person handing you it
- material which might exonerate a suspect
- complaints
- property damaged in the course of your duties
- entry to premises by consent (including the signature of the person authorising entry).
- Any issue you determine to be of a serious or contentious nature.

Duty books

If you are on criminal investigation or specialist duties and are issued with a duty book make your entries neatly in pen and:

- write in it each phase of duty with time commenced and completed, including meal times, times in and out of your location etc
- include places visited, people spoken to and action taken (record detailed information in your notebook)
- keep it up to date, signing and recording the time of starting and finishing duty
- record rest days and leave after the last working day's entry.

Alterations

If you must make an alteration, rule a line through the original material, leaving it legible. Do not erase material. Show significant alterations to your supervisor.

Do not tear out any part of the book or erase any entry.

Checking

Supervisors

It is recommended supervisors check subordinates' books weekly. However, a Commander has the authority to vary the interval between checking, where appropriate, but no longer than one month in between checks. Initial and record the date of inspection, and initial any significant alterations. Supervisors should check for:

- Page numbers are sequential
- Entries are legible and suitable for presentation if necessary
- No large spaces are left in between entries to allow for later additions
- Each entry has a corresponding action recorded in the left hand column such as: an Event Number, "Record Only", Infringement Number, etc.
- Check that the reference number is legitimate.

Commanders

Check notebooks during regular inspections (refer to the CMF).

Book accountability

Books are to be filed at the location from where they were issued.

File your notebook or duty book with your administration area:

- as soon as it is completed (do not keep it for ongoing investigations – photocopy relevant pages)
- if you receive a transfer, before taking up that transfer (after your last entry write 'Book finished - transferred to ...'). Have a new book issued at your new work location.
- if you are seconded to work in a specialist area outside your normal command (eg. you are seconded from a LAC to work with Internal Affairs), before taking up that secondment (after your last entry write 'Book finished - seconded to ...'). Have a new book issued at your new location. On completing your secondment, file your duty book or notebook at that location (after your last entry write 'Book finished - secondment finished return to ...'). Have a new book issued on return to your original location.

Record of books

Local commander

Maintain a record of notebooks and duty books and include:

- the number of the book issued, cross referenced with the number of the book returned
- date issued
- name and signature of officer issuing new book and receiving old book
- date returned
- name and signature of officer receiving new book and returning old book
- the re-issue and movement of filed books (in red pen).

Book security

Commander

Ensure the contents of filed books remain confidential.

Nominate an officer at each location to ensure new and completed books are kept secure. This officer will issue books, maintain records and file used books alphabetically using officers' names.

Administration officer

Do not re-issue a filed book without written request, and subsequent written approval of the commander where it is stored. Where possible, use a photocopy. The request is to explain why the original is needed and provide an undertaking to maintain the book's integrity and return it as soon as possible.

Commanders

Give approval only for legitimate police purposes (eg: court, help in investigation). When the original is supplied, have it photocopied first and ensure it is returned intact as soon as possible.

Ensure movement of books is by hand, if possible, otherwise use the government courier or registered mail.

NSW Trustee and Guardian

Appointment of police

Officers acting as agents for the *NSW Trustee and Guardian* ("*NSW Trustee*"), previously called the "Public Trustee", at stations need not be reappointed when transferred to another station, provided they continue to hold the position of acting clerk of the local court. When officers, not holding the appointment, are transferred to stations where the function of *NSW Trustee* is carried out, it is recommended that such appointment be sought from NSW Trustee.

Inquiries about estates

When you investigate the death of anyone, who was the owner of property, find out whether:

- a will was left appointing the *NSW Trustee* as executor
- the deceased was intestate (*that is, did not leave a will*) and if so, full particulars of next of kin
- a document or note (*whether signed or unsigned*) which indicates that the deceased intended appointing the *NSW Trustee* as executor
- if there are next of kin, whether they intend to make a claim on the estate.

Do not involve the *NSW Trustee* when a will exists or where next of kin is prepared to apply for letters of administration. If a will exists, it is a matter for the executor.

Searching premises

When you need to search premises for such matters, be accompanied if possible by another officer or other responsible person to avoid imputations.

Securing premises and valuable property

Leave the premises and property secure. Take money, jewellery, deeds, bank books etc to your station and record as miscellaneous property in EFIMS.

Do not secure money (coins) by attaching them to strips of sticky tape. Place the coins in a suitable envelope.

Informing the NSW Trustee

Advise the *NSW Trustee* or local agent when investigating the death of anyone who owned property except where the next of kin proposes to act. This applies irrespective of an inquest or inquiry.

Supply an inventory of property to the *NSW Trustee*. Forms are available from agents. Attach a copy to the report of death to coroner (P79A).

Inform the *NSW Trustee* urgently where extra protection is needed for certain assets eg: vacant properties, vehicles etc.

Helping the NSW Trustee or agents

Help to trace an estate's assets. When identity has not been established, allow the agent to inspect all books, papers, letters etc found with the effects.

Send a report to the *NSW Trustee*, setting out the time involved and any expenses incurred, tracing wills, assets and executors on its behalf, while not on normal rostered duty.

Disposing of property

Deliver large sums of cash or valuable property to an authorised person ie: the executor or administrator to whom probate or letters of administration are granted by the court and request a receipt for same. You should always ask to see the original (or certified copy) of the probate or letters of administration. Retain a photocopy of same with the receipt and upload both on the Exhibits, Forensic Information and Miscellaneous Property System (EFIMS).

The *NSW Trustee* is prepared to receive money, jewellery, deeds, bank books etc and may hold them until a *Grant of Probate or Administration* is produced, on the basis that pursuant to section 61 of the Probate and Administration Act 1898, all property, real and personal, is vested in the *NSW Trustee* from the date of death until Probate or Letters of administration is granted by the Court.

If property of little value comes into your possession, which belonged to an intestate person, hand it to the NSW Trustee. Get a receipt and upload a copy on the Exhibits, Forensic Information and Miscellaneous Property System (EFIMS).

Similarly, if you hand money or property to any other government officer or other person, get a receipt for audit purposes and upload on EFIMS.

Burial of intestate people

See also the section on '[Deceased Persons - Deceased Destitute People](#)'.

Vehicle or travelling allowance

The NSWPF will not pay any vehicle or travelling allowance if you hold the appointment of agent for the NSW Trustee. The commission allowed by the NSW Trustee is enough to cover any expenses.

Direct allowance claims to the NSW Trustee

If you are not an agent and need to travel in your own vehicle for estate inquiries, send a claim through your commander for referral to the NSW Trustee for consideration of payment.

Off Duty Policing Response

When you are off duty you should involve yourself in incidents only to the extent that your involvement is proportional to the need for immediate police intervention. Additionally, when you are off duty and unarmed you are not expected to:

- directly respond to any incident in a way which might bring you into contact with armed people
- exercise powers which might put you in a dangerous situation.

Examples include, confronting an armed person or using your powers to search for dangerous implements under the *Law Enforcement (Powers and Responsibilities) Act 2002*, or giving a reasonable direction under that Act.

When off duty avoid involving yourself in neighbourhood disputes, trivial street offences and matters concerning family and friends, unless immediate intervention is justifiable. If you are considering responding to an incident and have been consuming alcohol, consider your ability to respond professionally taking into account your level of sobriety, your integrity and safety, and the safety of others.

Handover the investigation without delay.

When you are off duty and a police response is required but direct intervention by you would place you in danger, you should:

- contact local police for help
- attend to injured people
- exclude anyone not involved from any area of danger
- closely observe the offenders for future identification
- disengage if your safety is at risk
- minimise engagement with offenders.

You risk creating a conflict of interest if you involve yourself in these matters particularly if your actions advantage or appear to advantage another person on account of their relationship with you.

For further information see [Off duty behaviour](#) on the intranet.

Operations

During the assessment and planning phase for major operations early consultation is to be made with the Operational Communications & Information Command as well as Special Services Group, to allow the appropriate technical and specialist advice to be provided.

State Planning Unit

Provide technical experts to give advice on large scale events and the management of resources.

Communications Group

Provide technical experts to give advice on Communications issues.

Special Services Group

Provide technical experts to conduct site surveys and give advice on available specialist capabilities.

State Protection Group

Provide technical experts to give advice on high risk operations and availability of resources.

State Crime Command

Provide technical experts to give advice on particular crime groups and crime problems. SCC can also give advice on the preparation and implementation of operational plans and orders.

Professional Standards Command

Provide technical experts to give advice on operational strategies such as Controlled Operations.

Operational Information Agency

Provide technical experts to give advice on access to information such as telecommunications companies and liaison with other Government agencies.

Forensic Services Group

Provide technical experts to give advice on physical evidence and service availability.

Police Prosecutions Command

Provide technical experts to give legal advice on evidence collection and proofs of an offence.

Media Unit

Provide technical experts to give advice on use of public and social media strategies.

Traffic and Highway Patrol Command

Provide technical experts to give advice on use of traffic related strategies.

Police Transport Command

Provide technical experts to give advice on the use of public transport related strategies.

Risk management policies, SOPS and training material

Police Generally

All assessment material (including risk assessment tools, operational policies and manuals, SOPs, guidelines and relevant training material) is to include the importance of supplying all available and relevant information to operational police, so that officers can take appropriate protective measures to address all potential and identified risks in regard to their safety during operations and investigations.

Specifically, all risk assessment documents, Standing Operation Procedures, operational policies, orders, guidelines maintained must include the following note:

"If an exigent situation occurs during an investigation/operation which requires an officer not involved in the investigation/operation to take urgent action, the operational commander will take all reasonable practicable steps to ensure that the officer is informed of:

- (i) any known specific or increased risks to safety which have been identified in relation to any person(s) of interest in the investigation; and*
- (ii) the outcome of any risk assessment conducted on such person(s),*

so that the officer is able to take appropriate protective measures to address these identified or potential risks."

All relevant and future corporate documents are to address risk management in the preparation and execution of operational orders and Standing Operating Procedures.

Overtime and Allowances

Payment for salaries, allowances and overtime

If you have any enquiries about salaries, allowances, overtime or conditions of employment, consult your region Human Resources Manager or the Employee Relations.

Submitting overtime claims

Claimant

Ensure you:

- submit your claim promptly
- indicate fully the reason for overtime including any Event number
- sign the form to indicate whether you want payment or time in lieu
- have the claim signed by the authorising officer.

Country staff

Ensure you:

- complete the form in duplicate
- file the original at your station
- send the duplicate to your local area commander daily for processing and filing.

Authorising officer

Examine each claim to see it is correct and ensure details are recorded on the relevant duty roster. If satisfied, sign and refer it to your commander for certification.

Commanders (or other officer with financial delegation to approve payments/time in lieu)

Ensure you:

- examine each claim carefully
- check particulars are recorded on the duty roster.

If the claim is correct, certify approval and refer to the roster officer for necessary action.

Calculate overtime to the nearest quarter hour (do not calculate periods of less than a quarter hour).

Roster Officer

Ensure you:

- Process only those claims which have been authorised, certified, approved and are recorded on the daily duty roster
- Enter the details of the claim into the roster system software

- Check the accuracy of the entry in the roster system
- Indicate by way of initials against the entry on daily roster, the overtime has been processed
- File claim forms with the relevant fortnightly papers
- Keep records of quality assurance (i.e. acquittance of overtime claim) to the expected minimum standard

Filing claim forms

After processing, file claim forms with relevant rosters.

Country sectors

File the original claim at the sector and the duplicate at the LAC.

Travelling time – rostering

Commanders/Roster officers

When an officer has to travel, roster them to travel:

- during a rostered shift – Combine travel with duty to make up the rostered shift. Payment of travel time is not needed.
- before or after a rostered shift – This could apply when travel time plus duty exceeds the rostered shift length. Travel time is payable for the time spent travelling outside of the rostered shift.
- on a rest day – This could apply when travel time is less than the rostered shift length, and it is not reasonable to combine duty with travel to make up a rostered shift.

NB: For officers working under a flexible roster, appropriate changes might need to be made to their rostered hours, RLDs and rest days to accommodate the circumstances and to maintain the overall average of 38 hours per week within the roster period, in keeping with flexible rostering.

Travelling time claims

Use a P28D form when claiming travelling time. Include overtime, if appropriate.

When you attend a course at the Academy and are entitled to travelling time, your claim is managed in one of two ways:

- If seconded or temporarily transferred to the Academy and your roster is managed by the Education & Training Command, your claim is managed by the Roster officer for the Academy
- If your roster remains managed by your home Command, your claim is managed by your home Command roster officer

Principal

Send any claims received to the relevant local area commander or branch.

The same procedures apply to travel time as for authorising and processing of overtime claims, including time in lieu.

Endorsing duty rosters

Shift supervisor

When the shift ends:

- Record on the duty roster details of all overtime, travelling time and shifts worked
- Initial the entries and underline them in red
- Ensure all claims are submitted
- Certify 'Overtime actually worked' on overtime claim form

Concession granted for Anzac Day ceremonies

Metropolitan Commanders

Record as performing a normal day's shift for roster purposes (even though those hours are not worked), ex service members, former members of the permanent defence forces, the Citizen's Military Forces, members of the General Reserve who have completed six month's service and ex service personnel who are qualified to become full members of the RSL and who march on the Sydney Anzac march as part of the police contingent.

Penalty rates will be paid as a concession, on the basis of the time normally taken in the march, which is usually four hours. Police who take part in the march will be entitled to four hours at time and a half (half time extra).

Country Commanders

The concession also applies to personnel attached to country areas where there are officially recognised Anzac Day marches and services warrant the concession similar to that applied in Sydney. Consider, time taken in the march and service and the number of participants, as well as local interest.

Tell those participants that attendance at functions other than the march or service will be off duty and in plain clothes.

Do not call on officers who participate in the Anzac Day march to perform any other duty that day, except where absolutely necessary (payment at ordinary public holiday rates will then apply).

Have details recorded in overtime records as 'hours' not 'excess public holidays'.

For information on overtime performed on public holidays by police, see also the *Crown Employees (Police Officers - 2013) Award*.

Special Constables

To facilitate participation in the march, as many eligible special constables as possible should be rostered off duty (as distinct from rest day), and will be granted an additional one day annual leave.

Performance Management

The NSWPF is required to maintain performance development policies and procedures which meet the core requirements set by the Public Service Commission per Section 67 of the *Government Sector Employment Act 2013*, in particular that it:

- connects, aligns and develops individual and team capability towards achieving organisational goals; and
- includes mandatory objectives for all employees who have responsibility for managing people.

The NSWPF Career Management System (CMS) is the mechanism to meet these requirements and plays an important role in the promotions and mobility transfer processes where competence is discussed and recorded as a set of Management Performance Review scores.

The Commander, Human Resource Command will maintain the NSWPF Career Management System Policy and Guidelines.

Participation

The following staff will take part in the performance management component of the Career Management System:

- all NSWPF employees except probationary constables and Senior Executive Service level officers. The performance of Probationary Constables is documented in their Practicum Duty Book.
- all contractors to the NSWPF where their contract extends beyond 90 days.

Commanders/Managers

Encourage and promote appropriate use of the Career Management System to document individual strengths and weaknesses, progress against objectives and development opportunities.

Ensure Career Management Scheme processes are carried out at the appropriate time and have in place systems to monitor them.

Ensure Management Review Panels are properly convened and are in a position to consider Management Performance Review scores when necessary in a consistent and timely manner.

Supervisors

Set and clarify expectations by ensuring officers understand their job and what is expected of them.

Monitor performance and engage in ongoing two-way discussions.

Plan and review work objectives and understand how much achievements link to the organisation's objectives under the Corporate Plan.

Develop the capabilities to effectively fulfil their roles and perform at a high level.

Resolve unsatisfactory performance promptly and effectively.

Participating staff

Work with your manager/supervisor to:

- Set and clarify expectations, ensuring that you have a clear understanding of your role and what is expected of you
- Monitor your performance and take part in ongoing two-way discussions to continuously develop your performance
- Plan and review your work objectives and understand how your achievements are linked to organisational objectives under the Corporate Plan
- Develop the capabilities needed to effectively fulfil your role and perform at a high level
- Promptly and effectively correct your performance if it is deemed unsatisfactory.

Where relevant:

- provide sufficient evidence of competence against each of the Management Performance Review (MPR) areas to allow appropriate consideration of your self assessment by your Management Review Panel
- ensure you finalise your Management Performance Review score in sufficient time for inclusion in any relevant process (eg: promotion / mobility transfer).

Keep your commander/manager informed of progress and any problems being experienced.

Personal Matters to be Reported

Changes in domestic circumstances

If you are in receipt of the Remote Areas Living Allowance or occupy NSWPF accommodation, report details of any alteration to your domestic circumstances, including notification when the age of a child means they no longer qualify as a dependent child for the purpose of an Award.

When relationship circumstances change, such as an officer in receipt of individual Remote Living Allowance forms a spousal relationship (including a de facto spousal relationship) with another officer in receipt of individual Remote Living Allowance, one officer no longer qualifies for such allowance.

Officers should notify their command in writing of any such changes to domestic circumstances to enable verification and approval of adjustment to allowance payment.

Officers should be aware that changed domestic circumstances may have an impact upon workers compensation and/or income protection benefits and should communicate any changes immediately to their command and any relevant body managing their claim(s).

Address details

Your current residential address and contact details should be recorded in the NSWPF SAP system as the primary location for such records. Some commands retain address cards as a secondary record.

Advise your commander/manager of your residential address and contact details, such as residential telephone number, mobile telephone number and personal e-mail address. This information should be updated directly into SAP by completing the updating function within the address details option in the Employee Self-Service (ESS) facility. Your personal e-mail address should be recorded on Line 1 (addressee) of the mailing address option and not the permanent residence option.

Updates to all your contact details should occur within 48-hours of any change.

Next of kin and/or Dependants

Provide details of next of kin, partner, nominated emergency contact and/or dependants by completing the relevant sections of SAP. This information should be updated directly into SAP by completing the Family Related option in the Personal Details section on the Employee Self-Service facility of SAP.

You are encouraged to provide alternate means of contact in the Emergency Contact option to enable communication during a critical disruption or emergency.

Photos and Plans

Crime scenes

Preserve the scene as soon as you arrive. Use police crime scene barrier tape. Have the scene guarded and record the names and times of those who need to enter the scene.

The Senior Investigation Officer should ensure that the scene is photographed, recorded and examined by the Crime Scene Officer (Physical Evidence or Fingerprint) before being touched or searched by anyone.

For major crime/incident scenes the Crime Scene Officer may use Forensic Imaging to ensure detailed and accurate plans are available for investigative purposes. The decision to use Forensic Imaging staff will be determined by the Crime Scene Officer.

Ensure a crime scene attendance job is created in EFIMS to track forensic process.

Serious accidents

Ensure serious road accidents that might result in proceedings at a district or coroner's court are photographed.

The Photographs may be taken by either the Crash Investigation Unit or the forensic investigator, depending on who attends to record the scene.

If the Crash Investigation Unit or forensic investigator is not attending, photographs of the scene should be taken using NSWPF-issued cameras. The use of private mobile phone cameras is to be avoided.

Where possible, ensure the vehicles are photographed in situ.

Preparation of plans

Plans must be prepared by either; a member of Forensic Services Group or an officer who has successfully completed a course in this field.

Unless exceptional circumstances exist, prepare 'scale plans' (including full detail) only where there is a charge involving an indictable offence. Label as 'scale plan'.

Label plans drawn to scale which include details not drawn to scale as 'sketch plan'.

You may forward scale and sketch plans with measurements taken at crime scenes to the Forensic Imaging Section, Forensic Services Group for them to prepare CAD Plan for matters proceeding at Court.

Where plans are to accompany files dealing with breaches of the *Road Transport Legislation* and other related Acts (see also the section on 'breach reports and infringement notices'), you do not have to draw such plans to scale but give due regard to all essential detail.

Plain Clothes Police - Identification during operations

The most pressing issues relating to identifying yourself as a police officer whilst wearing plain clothes are:

- Safety in high-risk situations;
- Complying with requirements under LEPR
- Maintaining covert capability whilst interacting with members of the public; and
- Reducing the likelihood of alarm amongst the public.

Plain clothes officers may encounter situations where they are required to readily identify themselves as a police officer to offenders, members of the general public and/or other police officers.

Before arriving at the decision to identify yourself as a police officer, you should consider the identification options available to you at the time. The option you choose should be appropriate to the current situation and should comply with relevant legislative requirements, (i.e. when exercising police powers under LEPR, there should be no doubt that you are a police officer).

You should continually reassess the circumstances to determine whether it is appropriate and safe, both to identify yourself as a police officer and to consider whether the option chosen is the most suitable at the time. When choosing an identification option, officers should be mindful that there may be a need to revert from being overt back to covert and therefore the original method chosen should be capable of supporting such a change.

You may choose to use one or a combination of the following identification options depending upon the circumstances:

- Verbal announcement of office
- Police-issued name plate
- Display Police badge/warrant card
- Police baseball cap with chequered band
- Reflective fluorescent 'Police' vest
- Ballistic 'Police' vest
- Other Police-issued identifying clothing

Planned operations

When conducting a risk assessment in relation to a planned operation, consideration should be given to the attire worn and the form of identification used by officers involved.

Risk assessment/Unit charter

In most cases the Police Handbook should not be used for operational risk assessments without accompanying operational orders or unit charter. Unit charters should include

reference to, and consideration of, internal and external standards and best practice, (where they exist).

Police Appeals and Tribunals

Notification to appear

When you want another member of the NSWPF to give evidence on your behalf at Civil Proceedings, cause a summons to be issued.

When you are summonsed as a witness, promptly send this, with a report, through your commander to the Office of the General Counsel.

Request for statements

You may be approached by external law firms, instructed by the Office of the General Counsel, to represent the Commissioner of Police before the Industrial Relations Commission, District Court, NSW Civil and Administrative Tribunal, Workers Compensation Commission and any other Court or Tribunal.

When you receive a request to supply a statement or affidavit in relation to legal proceedings involving the Commissioner of Police or NSW Police Force, prepare a statement in consultation with the Office of the General Counsel and any external solicitors. Send the original and duplicate, with the request and a covering report, through your commander to the Office of the General Counsel.

Attendance concessions

When you attend any civil proceedings under summons connected with your duty, you are on duty and entitled to return rail fares and travelling allowance for the time you are absent.

For appeals against dismissal, recoupment of accommodation expenses will be considered for appellants and their witnesses on a case by case basis.

This chapter is to be read in conjunction with [Chapter W - Witnesses](#)

Wearing of uniform at hearings

If appearing as a witness in civil proceedings, wear uniform unless you normally perform duty in plain clothes.

You may wear uniform or professional attire when appearing before any Court or Tribunal.

Appointments should **NOT** be worn for any such court appearance.

Police Equipment

Damage to, loss or theft

Arms and Appointments

See 'Arms and Appointments' Chapter of NSW Police Handbook

Uniform, Badges and Warrant Cards

See 'Uniform' Chapter of NSW Police Handbook

Police Radios

See 'Communications' Chapter of NSW Police Handbook; and

Communications Group Policy 'Standing Operating Procedures Lost, Misplaced, Stolen & Located Radios' 2012

Other Communication Devices

See BTS 'Communication Devices Policy' 2010

Credit Cards

See Finance and Business Services policy 'Purchase Card Policies and Procedures' 2010

Commanders/section managers

Inquire into damage to or loss/theft of, NSWPF property.

Arrange for repair/replacement through provisions of Managed Fund.

If inquiries indicate neglect, report to your region commander or branch manager.

Senior commanders/branch managers

On receiving the report:

- note and return the papers if it is a clear case of no further action required
- send the papers to the Commander, Professional Standards Command if doubt exists or departmental charges will follow.

Portable radios

Ensure portable radios are carried in the leather case supplied, attached to your appointments belt. If an extension speaker/microphone is supplied, attach it to the portable radio.

Rechargeable torches

Service and repair is carried out at regional radio electronics units and radar engineering units, and is done only by qualified personnel.

If the torch is affected by water, send it as soon as possible for maintenance.

When not in use, place the torch in the charger holder to ensure the battery is fully charged.

Note: Do not leave the torch:

- operating near flammable material
- on the seat or floor of a vehicle.

Only the relevant local area commander can deem items unserviceable or surplus with written approval from the region commander or the appropriate branch/section commander/manager.

Fixed assets

It is not possible to list all requirements of the fixed asset system in this Section. Read this in conjunction with the relevant chapter on fixed assets in the *Accounts Manual* and comply with those requirements.

Record of fixed assets

Commanders/managers

Ensure a correct record of fixed assets, plant and equipment is maintained for each cost centre under your control.

Annual stocktake

Commanders/managers

Ensure all fixed assets, plant and equipment is sighted at least once a year. For the purpose of fixed assets, the stocktake year is from 1 April to 31 March.

All regions within Field Operations and all branches within Management Services, Specialist Operations and Human Resources & Development supply to the General Manager, Financial Services a certificate stating 'as at 31 March all fixed assets listed have been sighted at least once in the preceding year, are all on hand and are in satisfactory condition.

For plant and equipment follow the policy specified in the *Accounts Manual*.

Police Housing and Buildings

NSW Police Force Housing Guidelines

Police housing must be managed in strict accordance with the NSWPF Housing Guidelines.

Property relocation cost responsibility

See [Property Relocation Cost Responsibility](#) information on the Police Property Group Intranet site.

Hazardous Building Material in Police premises

Hazardous building materials including asbestos and lead paint must be managed strictly in accordance with the [Hazardous Materials Management Plan for Police Building Assets](#).

See also: [Hazardous Building Materials in Police Buildings](#)

Management of Property Maintenance

See: [Property Management Portal](#).

Conditions and agreements

Enquiries regarding conditions and agreements such as:

- Provision of Quarters (s11 of the Crown Employees (Police Officers - 2013) Award
 - Remote Area - Living Allowances (s12 of the Crown Employees (Police Officers - 2013) Award
 - Incentives for Police Officers Serving in Special Remote Locations Agreement 1993
- should be made to [Employee Relations, Human Resources](#).

Police Reward Process

The reward process is an integral part of Human Source Management and represents one of a range of benefits available to Human Sources for their information and assistance to the NSW Police Force.

The Reward Evaluation Advisory Committee (REAC) is chaired by the Commander, Operational Communications and Information Command. Committee members include senior officers (minimum rank of Inspector) from the State Crime Command, Police Prosecutions Command and Local Area Commands (typically Crime Managers / Senior Supervisors).

The Committee convenes on a monthly basis to consider applications to post Government Rewards and Reward Applications for confidential Human Sources. Whilst it is acknowledged that each application will typically relate to a protracted and complex investigation, the Committee will be principally concerned with the assistance provided by the Human Source and the resultant risks taken by the Human Source to provide that assistance. Applications where Human Sources are exposed to higher levels of risk will generally receive a greater financial reward than those where relatively low levels of risk are undertaken.

Reward applications can be created from any Registration that has been activated within the SOURCE Management System, even if that Registration has been closed, i.e. a deregistered Source. The application may be the first time Committee members read about the particular investigation/operation so comprehensive yet succinct information must be provided.

Police Vehicles

On Call Use of Vehicles

Garaging NSWPF vehicles at home (non PSSSES)

Commander On Call

Commanders generally:

- Take all reasonable steps to ensure the security of the vehicle and it's contents
- The vehicle is not to be used for other than work related purposes or to get to and from home or place of work or call out location.

Operational on call category

This category applies to officers of all ranks and grades working as operational staff in operational units. It does not apply to non-operational staff, staff officers, commanders, directors or managers.

Commanders/equivalent

Where it is impracticable to roster scarce resources to meet operational needs on a 24 hour basis make appropriate arrangements to ensure such services can be provided in a timely, efficient and effective manner outside of normal business operating hours.

Given the variety of duties and functions provided, it is not proposed to specify every type of call-out group to whom this category should apply. Rather a basic set of conditions is provided to guide you in the exercise of your discretion.

Your approval is to be based on the following:

- when considering best methods for responding on call officers, that a balance is struck between containing excessive fleet costs and the need to ensure minimal delays in providing service to other police and the public
- the use and home-garaging of vehicle is a genuine operational requirement
- a regular need exists for the scarce resource or specialist service to be provided outside of normal business hours
- all vehicles used are FBT exempt. Exceptions to this requirement are to be approved by responsible CET member (eg. surveillance, covert duties or other duties where the marking of the vehicle would be demonstrably detrimental to actual operational activity)
- on call officers are rostered and available for such duty. Alternatively officers must be engaged in an ad-hoc duty requirement as directed by you
- on call officers must be contactable at all times and are able to respond in a timely fashion to on call requests
- on call officers take all reasonable steps to ensure safety of vehicle and contents
- call out vehicles are not home garaged by an officer whilst on sick, annual or extended leave without explicit approval

- call out vehicles are not to be home garaged during rostered days off without explicit approval
- call out vehicles are not to be used for other than work related purposes or to get to and from home or place of work or call out location.

You need to be in a position to account for your management of this process to the OCR panel.

Command on call category

This category applies to commanders of or above LAC rank or equivalent in charge of operational or specialist field support units. It does not apply to staff other than Commanders.

Commanders must be available to provide leadership and advice in emergency or abnormal operational circumstances. These officers need to be available around the clock to take charge of, direct or offer advice in respect to a multitude of operational matters. This is a NSWPF requirement.

Approving Officer

Approving officers are the next level of command (eg. Region Commander).

Your approval is to be based on the following:

- a genuine business need exists for the subject commander to home-garage a fleet vehicle
- the commander is contactable at all times and available for consultation
- the commander is available to respond to operational matters or other emergencies as required
- the vehicle is not to be home-garaged during sick, annual or extended leave
- all vehicles used are FBT exempt. Exceptions to this requirement are to be approved by responsible CET member.

Staff support on call category

This category applies to sergeants and above (and administrative equivalents) occupying or acting in senior staff officer positions, region staff support positions and staff support positions in specialist operations branches. Positions must be at Region, Branch or higher command levels. It does not apply to officers falling within the Operational on call or Command on call categories.

There are a range of officers who by virtue of their positions are able to provide staff support outside of normal business hours. A common feature of these officers duties is that they regularly commence and complete duties in the field away from their normal work place and it is personally and operationally convenient for them to home garage a fleet vehicle.

Approving Officers

CET member.

Commanders

Taking into account the following guidelines make an appropriate recommendation to your CET member. This may be done on a bi-annual schedule.

You should ensure:

- the subject officer fully understands that participation in this scheme is **voluntary**
- a genuine business need exists for the subject officer to home-garage a fleet vehicle
- the officer is contactable and available for consultation outside of normal business hours
- the vehicle is not to be home garaged during sick, annual or extended leave
- the vehicle used is FBT exempt. Exceptions to this requirement are to be approved by the responsible CET member.

Note that, if approved, the use of non FBT exempt vehicles in this category will incur a commuter usage fee (Contact Financial Services for information about this usage fee).

FBT Inquiries

Contact Financial Services for FBT inquiries, including information about FBT exempt vehicles. **Do not** contact the Australian Taxation Office directly about FBT matters.

Deployment

Allocation and deployment

Commanders

Immediately notify the Director, FMS in writing when you permanently redeploy a vehicle.

Carefully evaluate the use and deployment of each vehicle at every location to ensure they:

- are being used efficiently and effectively
- are deployed for real and demonstrable needs
- are not being kept by individual officers as personal issue
- are being pooled to allow a maximum flexibility of use where appropriate
- are not being used for unofficial purposes and/or taken home without necessary approval
- remain marked, if required, and equipped.

Region, local area and equivalent commanders, in consultation with the Director, Fleet Management Services (FMS), decide vehicle allocations.

Change of vehicle type

Apply in writing for a different type of vehicle if there is a change in local conditions or duties. Ensure applications reach the Director, FMS at least five months before the existing vehicle is due for replacement.

Approvals are subject to finance being available. Non standard vehicles are issued to surveillance groups only.

Computerised fleet maintenance system

Commanders

Change a vehicle's location on the system when it is transferred from your cost centre or cost command, otherwise you will continue to be financially responsible.

Do not alter, type over or delete the original dates of issue and transfer to your location as these are essential to vehicle ordering, receipt, fitting, issue, return, stripping and disposal.

Use the 'Accessories' field of the modification facility to enter the new location eg: to Parramatta 010198.

Marking and fitting of vehicles

Do not unmark a vehicle unless approved by the Deputy Commissioner.

Notify the Director, FMS of any such approval and advice as to equipment removal and return.

Transfer and replacement of vehicles

Immediately before and after a vehicle is transferred or replaced, carefully inspect to ensure:

- it and accessories are in good condition
- it is roadworthy and presentable
- all dents, scratches and body chips are repaired, unless they are minor
- all tyres comply with the regulations under the *Road Transport Legislation*.
- all seats, glass, lights and lenses are serviceable
- there is enough fuel to reach FMS, Enfield, (any surplus results in unnecessary loss to your budget).

Registration

FMS will arrange registration and Third Party Insurance for all fleet vehicles.

Get roadworthy certificates for FMS nominated vehicles and ensure they reach the Director, FMS by 15 May each year. Obtain the certificates from an authorised inspection station.

Vehicles weighing more than five tonnes are subject to the heavy vehicle inspection scheme. Ensure they are inspected every six months by the RTA.

Purchase, disposal, hire and lease

FMS purchases, supplies and disposes of all fleet vehicles.

Do not buy, dispose of, or enter a lease with any commercial firm for the supply of a NSWPF vehicle, without the approval of the Commissioner or deputies.

Only the Commissioner, deputies, assistant commissioners and executive directors are able to authorise the hire of vehicles. Such authorisation is subject to the following:

- on a short term basis, in special circumstances, if there are funds available for the purpose from the branch or region budget
- they are not used to cover the non availability of fleet vehicles.

The above provisions do not apply to the hiring of vehicles for covert duties.

Always use the third party liability insurance available from the hirer. Only engage in contract approved hire car firms.

Certification to Drive Police Vehicles

Driver authorisation

Do not drive or ride any NSWPF vehicles unless you have been authorised under that specific category or you come within the ambit of 'emergency driver'.

Unsworn members

Get a Driver Classification before driving any NSWPF vehicle.

All staff

Refer to and comply with the *Safe Driving Policy*.

Applications

Commander

Determine the suitability of each applicant and whether they need authorisation in line with present duties. If approved, arrange for a suitably qualified field training officer (Driver Development) to conduct training.

Retesting after two years

If you have not driven/ridden a NSWPF vehicle of a particular category for two years or more, get retested before doing so.

Unsworn officers

Unsworn officers may obtain a Bronze Unsworn Members' certification. Apply to your commander whose recommendation is sent to Police Driver Training (PDT) Goulburn for review after endorsing your driving record.

Commanders

Ensure:

- applicant holds and produces a current NSW Driver's Licence (minimum full class `C`)
- applicant has six (6) months clear civilian driving.

You may recommend withdrawal of the authority at any time, after taking into account one or all of the following:

- poor civilian driving record
- incidents of non professional driving
- loss of civilian driver's licence.

Send such recommendations to PDT for review.

Unsworn officers

Do not drive marked vehicles unless authorised. This does not apply to those attached to the FMS or PDT.

The Director FMS or Commander PDT, after endorsing the driving record on the Safe Driver System, may approve unsworn officers to drive marked vehicles in the ordinary course of their duties.

Licence suspended, cancelled, disqualified or conditional

In line with the *Safe Driving Policy*, immediately notify your Supervisor or Manager in the case of receiving a traffic related infringement notice that results in your civilian licence being suspended, cancelled, disqualified or have limitations placed upon it which will restrict your ability to perform your normal duties.

Commanders

Review all such reports and make recommendations, which may include removing police driving certification or reduction.

Liaise with your Safe Driving Panel and send such recommendations to PDT.

Miscellaneous

Toll fees

You are exempt from paying road or bridge tolls while on duty. All police vehicles managed by Fleet Services (whether marked or unmarked) are exempt from paying all tolls.

Urgent duty drivers

You do not have to pay the toll provided you identify yourself at a manual toll booth and indicate you are on urgent duty. Where possible, advise the DOI of such duty.

Vehicles Leaving Local Area

Notify the radio operator when leaving your local area.

Riding pillion

While in uniform, do not ride pillion on NSWPF or private motorcycles, unless you are on some urgent duty.

Pursuits

Refer to and comply with the *Safe Driving Policy*.

Use of sirens and flashing lights

Use sirens as a warning only when responding to an emergency call or pursuing a suspected offender.

Do not rely on them entirely to prevent collisions at intersections and similar hazards.

Use sirens with discretion in traffic jams and near hospitals, churches, theatres and other public places where people are likely to assemble.

When approaching a red light or 'stop'/'give way' sign, reduce speed for safety but you may cautiously proceed.

Overtake traffic with extreme caution. Keep the light bar activated while on urgent business or stationary at an accident/emergency.

Constantly exercise good judgement and skill to ensure you reach emergencies safely.

Refer to and comply with the *Safe Driving policy*.

Vehicle Diaries

Maintenance of diaries

Officer in charge of vehicle

Make all entries legibly in pen.

Record the:

- time and date you take the vehicle and when you return it (if whole shift, just start and finish times)
- the driver and passengers
- odometer reading and distance travelled (if whole shift, just total for shift)
- petrol and oil received
- condition of vehicle and equipment.

Do not record your duties (eg: places visited, people seen) in the vehicle diary unless there is no other place (eg: tasking sheet, CIDS) to record this information.

Paste any speedo test docket and petrol or oil receipt on the reverse side of the previous page.

Sign the entry, print your initial and surname immediately below and record your rank.

Carry and keep the diary up to date if travelling away from your location.

Escort

Check the entry and initial in the 'out' and 'in' columns, certifying accuracy. If you were the escort for only some of the period covered in the entry, certify that part only.

Commander or supervisor

After each shift, check the diary to ensure this Section is being complied with. Record your signature, time and date immediately after the last entry.

Monthly returns

Accurately complete a P97 in duplicate at the end of each month, showing any accident repair details etc, if applicable.

Have it checked by a supervisor.

Update the computerised fleet maintenance system on or before the third day of each month with the original form. Paste the duplicate P97 on the reverse page of the diary facing the last entry for the month.

Local commander

Check the returns on your inspections and advise the Director, FMS of any discrepancies.

Diaries of replaced vehicles

When you receive a replacement vehicle, rule off the diary and send the appropriate P97 to FMS. Paste the duplicate on the back of the previous page facing the last entry.

Start a new page in the diary and enter all relevant particulars of the replacement. Paste the relevant new vehicle information sheet opposite this page. Neatly rule a line through the registration and serial numbers on the front cover so they remain legible, and write the new numbers beneath.

Check each diary as it is completed and file it at the station/office where the vehicle is attached.

Accidents

Police vehicle accidents

Contact your Supervisor and advise VKG if you are involved in an accident in which:

- someone is killed or injured
- one or more of the drivers appears to be under the influence of liquor or drugs
- one or more of the drivers refuses to supply particulars
- one or more of the vehicles needs towing.

If possible, stay at the scene until investigating police arrive. Do not admit liability for damage or injury.

If somebody was injured, as soon as possible and within 28 days, phone the allocated compulsory 3rd party insurer of the NSWPF vehicle. Enter relevant particulars on COPS. If you receive a *Notice of Accident* form, complete it and attach a COPS event copy when returning it to the insurer.

Where you find serious circumstances might exist, immediately seek guidance from a commissioned officer as to appropriate action.

If damage to the NSWPF vehicle makes it unroadworthy, direct that it not be driven.

If there is a defect allegation, needing mechanical examination, ask for the Vehicle Examination Unit to attend. Ensure any NSWPF vehicle involved in a fatal or serious accident is examined.

Notifying Radio Techs of a Written Off or Long Term Smash Repair of a NSW Police Force Vehicle

To maintain the integrity and security of the NSW Police Force communications network, police vehicles being left for scheduled maintenance or long term repairs must have the police radio remotely disabled (UHF digital radios) via VKG or removed by a Wireless Network Services (WNS) technician. In the event of a police vehicle being, or likely to be, towed/transported to a location not owned or operated by the NSW Police Force, all radio, MDT Toughbook and ICV hard drive equipment is to be removed before the vehicle can be released. After hours notification must be made to the on-call WNS Duty Supervisor on mobile telephone number 0411 158 533, or via the VKG Duty Operations Inspector (DOI). During business hours, contact the nearest Wireless Network Services office.

Commanders/Managers should follow the following steps for all NSW Police Force vehicles

The following steps should be followed by all commands for all vehicles:

- When a vehicle is being left for service the police radio, (UHF digital areas only) MUST be disabled via VKG. Vehicles with non-UHF radios are to have the control head (hand piece) removed by the driver, kept securely and replaced once the service is complete.
- The WNS on-call duty supervisor MUST be contacted after hours if a police vehicle is, or is likely to be towed/transported to a location that is not owned/operated by the NSW Police Force.
- The local WNS MUST be contacted during business hours if a police vehicle has been or is likely to be written off.
- Fleet Services MUST be contacted, during business hours, with details of a written off vehicle.
- WNS will arrange to have the police radio transceiver(s) removed along with the MDT Toughbook and ICV hard drives, if applicable. These will be kept securely at the local WNS until the new/replacement vehicle is ready for deployment.
- Once LAC/Command is advised that new vehicle is ready, the local WNS MUST be notified by that command to arrange re-installation of the equipment.

These procedures MUST be followed by all commands as a matter for the security and integrity of our police radio network.

Fatal/serious accidents involving police vehicles

See this section in the chapter on '[Deceased Persons](#)' in this handbook.

Serious breaches of the traffic laws

Refer all serious breaches of the traffic laws by officers to the Commander, Professional Standards Command.

Non serious accidents involving police vehicles

Local commander

Adjudicate on breach reports submitted for non serious accidents involving police on duty. You have three options: no action, penalty notice or Future Service Court Attendance Notice. If you decide on no action, the criteria for this are:

- exemption provided by Rule 305 of the *Road Rules 2008*
- not enough evidence to establish an offence.

You can direct a penalty notice be issued in these circumstances up to three (3) months from the offence. Authorise proceedings by Future C.A.N. outside this period.

Advise the Solicitor for Public Prosecutions, provide a full brief of evidence and a copy of the Future C.A.N. in duplicate

Investigating officer

Immediately conduct the inquiry. Send all relevant papers to the LAC traffic sergeant or other responsible officer on completion. You may issue a penalty notice to an unsworn driver of a NSWPF vehicle.

Minor police traffic accidents

If you are in a NSWPF vehicle involved in a minor accident, which comes under the self reporting scheme, report it.

Enter details on COPS, and send a hard copy to Employee Relations and the officer's commander/supervisor.

Towing accident damaged vehicles

If your vehicle needs towing, make arrangements with the nearest station for a rostered tow.

When damage to your vehicle, including towing fees, is under \$300, the cost is paid from local funds. When damage exceeds \$300, the fee is claimable under the NSW Treasury Managed Fund.

Arrange all accident repairs within the NSWPF purchasing policy ie: bought to the best advantage. Repairs exceeding \$500 are assessed by the GIO, arranged by the repairer once the NSW Police Insurance Claim Form and the damaged vehicle are delivered.

Safe Driver System (SDS)

NSW Police Insurance Claim Form is the only one accepted by the GIO.

Record details of the accident on the SDS. Generate a claim form if repair costs exceed \$100 or other vehicles or property is damaged. If there is no damage to the police vehicle, send the claim to the nearest GIO Processing Centre. When multiple police vehicles are damaged and the party at fault has been identified, copy a form for each repair.

Attach a copy of the COPS event to the claim form when a police vehicle is to be repaired or when a form is to be lodged. Refer any letters of demand to the GIO Processing Centre.

Ensure the cost centre, entered onto the SDS, is the one the driver/claimant is attached to or where they are temporarily on loan.

Note incidences of accumulated damage on the SDS as a record of other damage.

Maintenance of Police Vehicles

General

Keep the vehicle clean, in good order and ready for immediate use.

After carrying someone with an infectious disease, immediately have the vehicle fumigated at the nearest ambulance station. In the metropolitan area, Central District Ambulance Control Room nominates the appropriate station.

Exercise care when using high pressure hoses to clean cycles. Prevent water touching the control head, speakers or microphones of communication equipment.

When starting or ending duty:

- look for defects
- ensure there is an adequate supply of petrol, oil and water
- check the brakes work properly
- ensure the spare wheel and fire extinguisher are ready for use
- make sure the lights and tyres are properly maintained and comply with regulations
- look for any articles which are not part of the vehicle's equipment or accessories and hand any to the local area commander with a report
- if not attached to highway patrol, check the RBT kit in front of the shift commander.

Local commander

Ensure all vehicles are serviced and presentable.

Servicing schedules

Refer to manufacturer's and *Fleet Management Guidelines*.

Vehicle mechanical repairs and servicing

FleetCare Australia is the vehicle mechanical repair and servicing contractor for the NSWPF. All NSWPF vehicles will be (non warranty) repaired/serviced by them. Do not use Purchase orders.

Initial servicing and warranty repairs

First servicing and warranty mechanical repairs must be done by an agent of the manufacturer.

Use purchase orders for initial servicing, but not for warranty repairs.

Tyres

Ensure all tyres fitted to police vehicles are roadworthy and comply with regulations at all times.

Emergency mechanical repairs/towing

In case of breakdown, FleetCare Australia will arrange for a repairer to mobilise the vehicle or arrange towing. Towing costs will be met by FleetCare if the breakdown cause falls within the terms of the contract.

If your vehicle is covered by a manufacturer's roadside warranty, consider using this.

Fleet Services

FS is responsible for overall contract management. Contact branch personnel on any unusual or difficult aspect, especially:

- interpretation of, and general advice on, the contract documents and obligations
- unresolved complaints to AP Fleet
- rejected warranty or extended warranty claims
- suggestions of driver or vehicle abuse.

Fuel

Do not erase any entry in the petrol issue book or on motor stores' dockets.

When an alteration is necessary, clearly rule a line through the original entry and initial it. Have the officer who issued the petrol initial the entry.

When you have to cancel a docket, leave both pages in the book.

Officer issuing fuel

Check the information in the petrol issue book and the docket. Sign the docket.

File the original docket at the station of issue as a receipt for the petrol and for audit purposes. Leave the duplicate in the book.

Paste receipts for fuel bought on a fuel card into the vehicle diary.

Reward cards

Departmental vehicle users are prohibited from accumulating any points on personal rewards cards when fuelling police vehicles. Any offer to swipe a personal rewards card must be refused. Fleet Services will be able to obtain data of any associated rewards cards used to earn reward points when used with Fleet Services issued fuel cards. Any misuse will be dealt with as a breach of the Code of Conduct and Ethics and the Receipt of Gifts and Benefits policies and may result in management action.

Use of Private Vehicles

Authority to use private vehicles

Only use a private vehicle on duty with the prior approval of your region commander or equivalent.

You may, however, use a private vehicle in an emergency, when a serious delay would result in getting approval. In such cases, send a report immediately after the incident.

If you do not hold a general authority to use your private vehicle on duty, you may get one under exceptional circumstances from your region commander.

Only use a private vehicle on duty if it is covered by comprehensive insurance. This restriction may be waived in cases of extreme urgency in clearing up or preventing crime with no other means of suitable transport available.

Necessary provisions in insurance policy

To get authority to use your own vehicle on official duty, you must have a comprehensive insurance policy in force, duly signed by your commander. Keep it insured with a company having an unlimited third party indemnity of personal damage and a minimum of \$200 000 for property damage, in favour of the Crown as well as its officers.

Ensure the policy is with a company approved by the Treasury and has an endorsement which sets out, in effect:

"At the request of the insured, it is hereby understood, agreed and admitted that the insured, for the purpose of this insurance, has by intent entered into the contract of insurance, not only for their own interest, but has constituted themselves a trustee for the insurance indemnity and beneficial interest of their employer under this contract; and that the expressions 'insured' and 'employer' in this contract are deemed to include Her Majesty Queen Elizabeth II, her heirs and successors".

Ensure this endorsement does not exclude passenger risk.

Where the policy is payable by instalments, ensure the necessary indemnity is provided.

Make sure the policy provides cover for all risks where the vehicle is driven on duty by another person with your consent.

Send the receipt for each renewal premium to your commander.

If you discontinue this insurance, notify your commander in writing.

Parking private vehicles on police grounds

Do not park your own vehicle on police grounds unless you have approval of the commander responsible for that area. If so, park in accordance with any signs or instructions.

Damage to private vehicles on police grounds

If you consider damage to your vehicle while on police grounds resulted from negligence by the NSWPF, send the following to Insurance Services at Shared Services:

- completed *NSW Treasury Managed Fund incident report form*
- a letter of demand with two quotes for repairs
- a report as to why the vehicle was on police property and how the damage occurred, if known.

Do not make an entry on the SDS.

Damage to Private vehicles authorised for official duties

Follow these procedures if you consider damage to your vehicle while on police grounds resulted from NSWPF negligence.

If you consider the NSWPF was not negligent, you might be able to claim an amount up to your insurance excess. Provide the following to Insurance Services at Shared Services:

- completed *NSW Treasury Managed Fund incident report form*
- a letter of demand with attached:
- proof of claim and the excess applied; or
- proof the excess would have been greater than, or equal to, repair costs if a claim was lodged
- a report detailing approval, type of official duties and how the damage occurred.

Prevention of Cruelty to Animals

Assistance to R.S.P.C.A.

Police generally

See Memorandum of Understanding (M.O.U.) "02/2509" between the NSW Police and the RSPCA.

See the M.O.U. in relation to exchange of information between Police and the RSPCA. The MOU also outlines the consideration of the attendance by NSW Police Officers to cruelty of animal incidents at the request of RSPCA offences.

Police will not provide details of a P.O.I.s criminal history to the RSPCA.

Duty Officer or equivalent

As agreed in the above MOU, upon request by the RSPCA in relation to an alleged cruelty to animal offence, you will access the COPS system to see whether the person(s) believed to be in possession of the land has any history of violence and/or cruelty to animals and/or other offences that might lead to possible concern for the safety of RSPCA inspectors / officers.

Offences re cruelty to animals

Take action on cases, which come to your attention.

If you suspect an offence against the *Prevention of Cruelty to Animals Act* has been or is about to be committed against an animal you may:

- take possession of the animal
- remove the animal or its carcass to somewhere you think fit
- keep the animal for up to 60 days unless court action is taken, in which case you can keep it until the court otherwise directs or the case finishes. Contact the RSPCA's head office where the animal is to be kept during court proceedings

Refer to the Act for a full explanation of your powers, including those, which allow you to examine, water and feed mistreated animals.

You do not have any specific powers of arrest under the Act, however, you can use your powers under s99 LEPPA.

Conveyance of animals

Refer to the *Stock Investigators Manual* for requirements on carriage of stock animals.

Investigations into animal research

Promptly refer to the Director-General, NSW Agriculture all complaints and investigations into animal research, premises or individuals conducting research.

Euthanasing animals

In all cases when you are thinking of euthanasing an animal, consider calling a vet or taking the animal to the vet for destruction. **As a last resort**, destroy small animals by shooting.

You may take an animal and euthanase it when:

- it is so severely injured, diseased or in such physical condition that it would be cruel to keep it alive
- it is about to be destroyed in a way which would inflict unnecessary pain.

Before euthanasing or arranging for an animal to be euthanased try to get the owner's consent if you can and complete a 'Euthanasia request form'. Your first priority, however, is the animal's welfare. Ensure there is as little delay as possible in euthanasing animals in extreme pain and beyond recovery.

The following information will help you decide whether an animal should be euthanased when a vet or other authorised officer is not readily available to assess condition.

Euthanase any animal, which is having extreme trouble in breathing. Check for:

- very noisy or gasping breath
- coughing up of blood
- bluish gums or tongue
- pale gums (possible internal bleeding)
- profuse bleeding, especially from the head or ears
- unconsciousness or lack of response to touch, light or noise
- severe fitting
- weakness to such a degree the animal is lying down and unable to rise
- severe burns to the body
- inability to give birth. Appears to be in considerable distress and has an offspring, which cannot be manually removed, stuck in the birth canal
- animal uncontrollable and endangering its own life and those of other animals or people
- wounds to the stomach area from which internal organs are protruding
- a broken back and unable to move back legs (apply pressure to the feet to test for a reaction)
- a broken neck and unable to move any of its legs
- two or more broken legs.

In addition, euthanase livestock and wild animals if:

- the animal has a broken leg ie: will not put any weight on it; if the leg is held at an abnormal angle; or if bone can be seen through a wound
- two or more feet have been badly injured eg: burnt in a bushfire
- both eyes have been severely injured
- suffering a condition that cannot be cured or there is no solution at any cost.

Arrange RSPCA or Animal Welfare League involvement before euthanasing an animal by shooting unless its suffering is too severe.

If euthanasing of animals by shooting is considered necessary, you may use your NSW Police Force firearm, or rifle if available.

Where birds are involved in a rural location use a NSW Police Force Shotgun, but only if you are trained in its use (Weapons Trainer, SPSU officer). In the Sydney, Newcastle and Wollongong urban areas use only a .410 police issue shotgun with .410, no. 7 – 8 shot cartridges, but only if you are a certified operational safety trainer. Only in exigent circumstances could a member of the police conduct the destruction if they possess a shooters licence for that category of firearm. In all cases police must have absolute regard for public safety.

Before shooting an animal consider the possibility of a ricochet. If there is a chance of a ricochet call a veterinarian to administer a lethal injection (remember to properly dispose the animal to avoid other animals being poisoned).

Whenever you are going to shoot an animal, ask all bystanders to move on and make every effort to keep the shooting out of public view.

Before destroying an animal by shooting, notify Police Radio to tell the local police. This will enable local residents to be advised if they phone to report shots fired.

Ensure officers complete COPS Event and disseminate to the Weapons Tactics, Policy and Review Unit (WTPR) of the Operational Safety and Skills Command.

When police discharge a firearm for the purposes of destroying an animal, the following fields should be completed in COPS:

- Incident Category: Discharge police firearm by police
- Incident further classification: Purposeful
- Associated factor: Animal destruction

Cattle

Refer to Euthanasia of Animals Workshop notes for the correct method of euthanasing cattle.

Horses

Refer to Euthanasia of Animals Workshop notes for the correct method of euthanasing horses.

Dogs

You should only need to shoot dogs in very rare circumstances (eg: where it is so savage it can't be captured – consider use OC spray) where there is no other option.

Refer to Euthanasia of Animals Workshop notes for the correct method of euthanasing dogs.

Judging when animal is dead

After an animal is shot you need to determine whether it is dead. There may be reflex leg movement and gasping even after the animal is shot or stunned. It is your responsibility to ensure the animal is dead rather than just unconscious. Do not make the assumption the animal is dead just because it is not moving or not breathing.

When an animal is dead there is:

- absence of respiratory movement
- absence of heart beat
- absence of pulse (can be felt on left side of body behind elbow)
- loss of colour of the mucous membranes (gums a bluish/grey colour)
- loss of corneal and eyelid reflexes (checked by touching the eyeball firmly)
- glazing of the eyes, pupils expanded.

If you are in any doubt that the animal is dead it should be shot again or exsanguinated (throat cut – only if you are experienced in this method).

Animals used as exhibits – photographing and retention

When you take animals as exhibits, photograph them in colour, ensuring injuries etc are clearly shown for production at court.

Where more than one animal is photographed, place a number on each animal with harmless spray paint or on a card. Record details of each animal in your notebook.

On return to your station record all animals as exhibits in EFIMS.

When animals cannot be returned to their owners, arrange for proper and lawful care and veterinary attention if needed.

If an animal is to remain in police custody, pending a court decision, establish the cost of keeping it and apply to a court for costs. Consider use of video equipment, if allowed when determining the practicality of production of a live exhibit.

Stock straying on roads

Immediately try to contact the owner and ask them to remove the stock which has strayed onto the road. If you cannot find the owner, or the owner refuses to remove them, contact:

- within a city, shire or municipality – the pound keeper, who can act under the *Rural Lands Protection Act*
- outside these areas – the pound keeper appointed under the *Impounding Act*
- while travelling illegally on a stock route or reserve – the ranger appointed in accordance with the *Rural Lands Protection Act*. This covers cattle, horses, sheep, camels, pigs and goats.

Removal of injured/dead animals from streets

Local councils have power to remove and destroy animals found injured or dead in any public place or on private land within their boundaries. You are responsible for removing carcasses from natural watercourses if on unoccupied land outside such boundaries. Consider prosecutions under the *Public Health Act* for owners who leave dead animals in watercourses.

If an injured horse or other animal is found lying in the street and appears likely to recover, but the owner cannot be found, promptly advise the local council.

Exotic diseases in animals – control and eradication

If notified of an outbreak of one of the exotic diseases which occur in animals, refer to *IESOP*.

Noxious animals

Anyone who frees, tries to free or possesses any noxious animal is liable to a penalty under the *Rural Lands Protection Act*. Rabbits, native dogs and wild pigs are noxious animals under that Act.

Animal welfare organisations

Familiarise yourself with the local animal welfare organisations operating within your area.

Proceedings Against Police

Criminal proceedings against officers

See - *Complaint Handling Guidelines*

S148 Police Act 1990: Proceedings to be instituted if warranted

See - *Complaint Handling Guidelines*

Obtaining legal advice from the Police Prosecutions Command and the Office of Director of Public Prosecutions

See - *Complaint Handling Guidelines*

DPP liaison and disclosure

See - *Complaint Handling Guidelines*

Brief of evidence to ODPP

See - *Complaint Handling Guidelines*

Disclosure of sensitive material

Sensitive material is material that would attract a valid claim of public interest immunity or privilege. If sensitive material exists the investigator is to promptly submit an application for non-disclosure of that material through their chain of command to the Office of the General Counsel. The report must identify the material to which the claim applies and include or reference applicable legislation. Material that is subject of a claim should not be provided or disclosed to the ODPP until the determination of any such claim. If the Office of the General Counsel advise that a claim of privilege, public interest immunity or statutory immunity does not apply the material must be disclosed to the ODPP.

If the material originated from another government agency (eg Department of Corrective Services) advice should be sought from that agency's legal branch regarding access and any claim of privilege or public interest immunity by that agency. Advise the DPP of the outcome of any advice from the originating agency.

Further information about public interest immunity and privilege is available on the Law intranet site.

Report service of process

Promptly submit a report to your commander if you are served process over a court action, including applications for AVOs, whether for personal or domestic violence, or wherever you take action under Crimes (Appeal and Review) Act 2001 No.120.

This direction applies to traffic infringement notices which you do not pay. It does not apply to:

- process issued by the Family Court relating to your marital state or domestic affairs

- process concerning private civil matters (other than indebtedness) where you are a party to the proceedings.

If you are required to be a witness in a matter in which you are not a party refer also the section on '[Subpoenas – Police subpoenaed as witnesses in civil cases](#)'.

Commander

Assess the matter in consultation with your region professional standards manager.

Service of process on another officer

If you have to serve process on another officer, report promptly through your commander to your region commander (or equivalent).

Region commander

Have the matter reviewed by your professional standards manager.

Court attendance as defendant/plaintiff

Appear in your own time and expense if you are a defendant/accused at a local, District or Supreme Court, and the proceedings are authorised by the Commissioner (or delegate), or instituted by an authority such as, PIC, ICAC, ACC, State Crime Commission, Federal/State DPPs etc.

The same applies where you are the respondent in civil proceedings, not arising in the course of your duties, or where you are the plaintiff in a matter which did not stem from official duties.

You may attend on duty where:

- the informant is not someone acting with the authority of the Commissioner, and
- the incident arose from your official duties, and
- you have been granted legal representation by the Crown Solicitor.

Crown representation for police

Ex gratia legal assistance is available to NSWPF employees in circumstances where they have been named as a party to legal proceedings. There must be a sufficient connection between the alleged conduct and the performance of official duty by that member. For example, where a police officer lawfully arrests a citizen and, in turn, that citizen initiates unwarranted AVO proceedings against the officer in an attempt to circumvent their own criminal matters, a grant of ex gratia legal assistance may be appropriate.

The most common example of the provision of ex gratia legal assistance is the grant of Crown Representation. Usually, once an officer is served with papers that officer will need to approach his or her Commander. The officer will need to draft a report outlining the circumstances of the incident and certify that they have acted in good faith and made full disclosure in respect of the matter. The report must be endorsed by the Local Area Commander or equivalent.

Instructions must be forwarded to the Office of the General Counsel. The General Counsel will consider the application, seek approval from the NSW Attorney General's Department and subsequently instruct the NSW Crown Solicitor's Office (CSO) to take carriage of the matter and act for police. Where a grant of Crown Representation has been approved, the relevant police officer(s) will be indemnified against the cost of proceedings.

To make an application, visit the Law icon on the police intranet and follow the links to the Office of the General Counsel and then to the Dispute Resolution Unit where the relevant forms and pro forma applications have been attached.

The report is to be forwarded to the attention of:

The Manager
Dispute Resolution Unit
Office of the General Counsel
NSW Police Force
Level 12, 130 George Street
PARRAMATTA NSW 2124

Telephone: (02) 9689 7955 / EN 79955

Facsimile: (02) 9689 7281 / EN 79281

It should be noted that Ex gratia legal assistance is purely discretionary and is not granted of right. Assistance may be withdrawn at any stage of the proceedings if it appears that the relevant officer has acted unreasonably and/or has not made full disclosure. In such circumstances, individual police may become liable for any cost incurred or damages awarded.

Where an application for ex gratia legal assistance is refused, police will be advised to contact the Police Association or a private legal representative for advice.

Help in indictable offences

If you are charged with indictable offences arising from your duties, you may apply through your commander for Crown representation at the preliminary local court hearing.

The Crown Solicitor cannot represent you at the higher courts in these matters. If you have provided your own legal assistance, however, at the local preliminary hearing, you may apply for reimbursement.

Request for Crown assistance

If you want Crown representation, attach to each copy of the report a request set out as follows:

'I have been served with the attached (summons, statement of claim, notice of intended action etc).

As the proceedings arise from an incident during my duties, I ask the Government to provide me with legal representation.

I have made full disclosure to the Commissioner of all the circumstances giving rise to the proceedings.

Should the Government approve, I further request the Crown Solicitor or other appointed attorney to brief, on my behalf, counsel assigned to act, incur all appropriate expenses in connection with my defence, and in any subsequent proceedings, and settle/compromise in such way as the Government might see fit.

I further authorise the Crown Solicitor to appeal against any adverse decision or to oppose, settle or compromise any appeal instituted against a decision in my favour.

Pending a decision on representation, I ask the Crown Solicitor to act as my attorney for such appearance or defence as necessary to safeguard my interests. I undertake to repay any filing fees or other expenses incurred on my behalf in the event my application for Crown representation is declined.

I agree that, should the Government approve this request, I will be entitled to be considered for indemnity for as long as I keep that attorney in the proceedings'.

Ex gratia assistance may be withdrawn at any stage of the proceedings, if it appears that you have acted unreasonably and/or you have not made a full disclosure. In such circumstances you might become liable for any costs incurred or damages awarded. Additionally, you might become subject to managerial action.

Investigation by commander

When you receive an application for the Crown Solicitor to act, immediately arrange a full investigation. Get reports and statements from anyone with relevant information.

Conduct the inquiry so the officer has no cause for complaint. Do not interview the plaintiff. It is essential there is full disclosure by the officer involved and any other. Each officer in the chain of command is similarly responsible.

Carefully examine the reports and statements, and prepare a summary of all pertinent information in the proper form, with your recommendation on whether the Crown should act. Make a reference to any departmental inquiry in which the officer is involved, arising from the incident, forming the basis of the court process.

Send the reports, statements and minutes in triplicate to Commander, Police Prosecutions.

Send a copy to your region professional standards manager (PSM) for assessment, and also comply with the requirements of Part 8A of the *Police Act*. If there is not enough time, supply a copy of the court process, with a brief report of the circumstances, to both Commander, Police Prosecutions and the PSM.

If further process is served after the reports are submitted, repeat the above procedure.

Insufficient time to advise approval

When there is not enough time before the return date on the summons for the Crown Solicitor to be advised of approval of your representation, go to the court and advise the magistrate of the application. Seek help from the police prosecutor or DPP officer at the court in this regard.

Police arranging own defence

If proceedings have been taken/are about to be taken against you, and you intend to arrange your own defence (rather than via the Crown Solicitor), include your preference in your report to your commander.

Civil proceedings – cross action against police

If, in the course of your duty, you take action against an offender, who institutes civil proceedings as a cross action, and you want the Crown Solicitor to act for you, submit all available evidence urgently, both in your defence and in support of your prosecution to your commander.

Commander

Assess the matter in consultation with your professional standards manager

Using local solicitors in an emergency

In an urgent case when immediate action is essential, you may consult a local solicitor until the matter can be placed before the Crown Solicitor, who decides whether the local representation is to continue and what other steps are necessary. Do not do this unless you have phoned the region commander who might confer with the Crown Solicitor.

NSWPF not liable for legal expenses

The NSWPF does not accept any liability for legal expenses incurred by officers during inquiries into themselves, unless approved by the Minister.

Proceedings for return of property from police

Send a report immediately to the Office of the General Counsel if you want legal assistance from the Crown Solicitor, on receiving a notice for recovery of property in police possession or getting a further notice or a claim by a second person.

The Office of the General Counsel

Send the report to the Crown Solicitor so arrangements can be made for the claims to be dealt with simultaneously.

See also the section on '[Exhibits](#)'.

Help at coronial inquiries

The Government might consider providing legal aid to police who have to appear before inquests as a result of killing someone. Assistance will be considered where the force was applied while protecting the officer's life, somebody else's or in preventing a serious offence.

To seek such help, apply to the Office of General Counsel outlining fully the circumstances of your involvement in the inquiry.

Reimbursement of legal costs

Apply in writing to the Commander, Professional Standards Command for reimbursement of legal expenses arising from criminal charges (authorised by the Commissioner). Outlining your involvement and the outcome of the charges. The Commissioner (or Minister where the Commissioner considers he is in some way involved in the matter) will make a recommendation to the Attorney General who will decide whether costs will be paid, and if so, the amount.

Service of a Notice about an appeal

On receiving a notice of appeal, phone the Office of the Solicitor for Public Prosecutions (SPP) and supply the required information and documents via your commander. The SPP will represent you at the Supreme Court.

In these cases, you do not need to use the Format of request for Crown assistance, outlined earlier in this Section.

Compensation sought after traffic accident

If you are served with a statement of claim or other process, seeking compensation over an accident in which you were the driver of a NSWPF vehicle, send all papers to the Office of the General Counsel. You do not have to use the Format of request, as above.

Include in the forwarding minute, details of the adjudication of any breach report submitted.

Non-Acceptance of resignation by a police officer

This Commissioner's Policy Notice replaces CPN 12/06.

From time to time, police officers tender their resignation from the NSWPF. Commanders are reminded that they may accept the resignation of a police officer at any time except in the following circumstances:

1. When there is overwhelming evidence made known during judicial proceedings or an inquiry conducted by the Police Integrity Commission that discloses the officer's involvement in serious criminal activity or serious misconduct, or
2. When the officer is under suspension and is the subject of an investigation for serious criminal activity or serious misconduct.

Chain of command

Confirmed police officers

In either of the above circumstances, commanders are to forward for comment the officer's written resignation through the following chain of command:

- the officer's Local Area Commander (or equivalent)
- Region Commander (or equivalent)
- Director, Management Action and Workplace Services
- Commander, Professional Standards Command
- Deputy Commissioner, Corporate Services
- The Commissioner.

Constables appointed on probation

In either of the above circumstances, commanders are to forward for comment the officer's written resignation through the following chain of command:

- the officer's Local Area Commander
- Region Commander
- Office of Professional Standards, Corporate Services
- Assistant Commissioner, Education & Training.

Separation

Once the Commissioner (confirmed officers), or the Assistant Commissioner, Education & Training (for constables appointed on probation), has made a determination, the officer's commander is then responsible for taking the necessary steps for the officer's separation from the NSWPF.

This policy is reflected in the provisions of the Police Act (NSW) 1990 S72 (2), which provides that the resignation of a non-executive officer does not take effect until:

1. the Commissioner or Assistant Commissioner, Education & Training, accepts the resignation, or
2. the non-executive officer has given the Commissioner or Assistant Commissioner, Education & Training, at least four weeks' notice in writing on the day on which the officer intends to resign and the officer is not under suspension from office on that day.

Accordingly, the Commissioner or Assistant Commissioner, Education & Training may decline to accept a resignation from an officer who is under suspension from office on the date on which the proposed resignation is intended to take effect.

The final decision in this regard rests with the Commissioner or Assistant Commissioner, Education & Training, and each instrument of resignation is to be dealt with individually.

Documentation provided to officers

Officers who have completed five years of satisfactory service at the time of their departure are entitled to be issued with a Certificate of Discharge.

The officer is not entitled to receive a Certificate of Discharge when they have been removed from the organisation, resigns in the circumstances described above, or has completed less than five years of service.

The officer is to be issued only with a Statement of Service, which is prepared and signed by the client service officer on Police Business Services letterhead. (Refer to Police Regulation 2000 – Reg. 12.)

Project Management

Project

A project is defined as a temporary organisation that is created for the purpose of delivering one or more business products according to an agreed business case.

Project management

Project management is the planning, delegating, monitoring and control of all aspects of the project, and the motivation of those involved, to achieve the project objectives with the expected performance targets for time, cost, quality, scope, benefits and risk.

Project management methodology

The NSWPF Project Management Methodology is based on PRINCE2 this is in alignment with the government directive in 2004 for all agencies to adopt the UK OGC (now known as Cabinet Office) Prince 2 methodology to ensure a controlled approach to the management and delivery of projects.

The PRINCE2 methodology has been tailored to work with NSWPF and NSW Government processes and where required, the Project Management Framework incorporates or has been enhanced to include processes for NSW Treasury, NSWFP Expenditure Review Committee, Human Resources, Procurement and Finance.

The key features of PRINCE2 are a:

- focus on business justification
- defined organisation structure for the project management team
- product-based planning approach
- emphasis on dividing the project into manageable and controllable stages
- flexibility that can be applied at a level appropriate to the project

The methodology consists of:

7 Principals

There are a **set of seven common-sense principles** that guide the project manager and the project team during the project life cycle. Think of these principles as a short-list of strategic things that good project managers use to target project success. Remember, **all** seven principles must be applied in the project.

1. Continued business justification
2. Learn from experience
3. Define roles and responsibilities
4. Manage by stage
5. Manage by exception
6. Focus on products
7. Tailor to suit the project

7 Themes

There a **seven themes** that guide the project manager and the project team during the project life cycle.

1. Business Case
2. Organisation
3. Quality
4. Plans
5. Risk
6. Change

These themes describe critical aspects of project management that must be addressed continuously and in parallel throughout any project. Defining and managing the themes throughout the project life cycle is critical achieving a successful project outcome.	7. Progress
7 Processes	
There are seven processes in the project management lifecycle, which provide the set of activities required to direct, manage and deliver a project successfully.	<ol style="list-style-type: none"> 1. Start-up 2. Directing a project 3. Initiating a Project 4. Controlling a Stage 5. Managing Product Delivery 6. Managing Stage Boundaries 7. Closing

The table below outlines each of the Project Management processes and the objectives of each.

Process	Description	Objectives
Start-up (SU)	This process ensures that all prerequisites are in place in order to make an informed decision about commencing a project. The pre-project activities found in this process are not intended to be lengthy or time-consuming. Most of these activities are performed by corporate and programme management, the Executive and the Project Manager if one has been assigned to the project. The key input to this process is a mandate from corporate or program management "triggering" the pre-project activities. The Start Up Process activities deal with building the project management team, justifying why the work is worth doing and selecting the project approach.	<ul style="list-style-type: none"> • To ensure there is a business justification for initiating the project (approved by the relevant ICT Governance Boards, Investment Advisory Committee (IAC), Investment Committee (IC) and NSW Treasury) • To confirm information in the approved Business Development Proposal (BDP) / Business Case (BC) is still relevant and the project is still viable (review of approach, scope, deliverables, assumptions, constraints, risks, timescale, cost and benefits) • To confirm that all the necessary authorities exist for initiating the project • To engage and appoint the project management team • To document the work required to initiate the project (Initiation Stage Plan)
Directing a Project	This process enables the Project Board to be accountable for the	<ul style="list-style-type: none"> • To ensure there is authority to initiate the project, deliver the project's product and

(DP)	<p>project's success by making key decisions and exercising overall control while delegating day-to-day management of the project to the Project Manager. All of the activities are performed by the Project Board with decisions, direction and guidance provided to the project manager. The Directing a Project activities deal with authorising the project initiation, stage plans, exception reports and project closure. Providing ad-hoc direction, advice and decision on escalated issues to the Project Manager and engaging with and keeping informed Corporate or Program Management. Ultimately the Directing a Project process is responsible for ensuring that the project remains viable and on track to deliver the Benefits.</p>	<p>close the project.</p> <ul style="list-style-type: none"> • To ensure that management direction and control are provided throughout the project's life and that the projects remain viable • To ensure that corporate or programme management has an interface to the project • To ensure plans for realising the post-project benefits are managed and reviewed
Initiating a Project (IP)	<p>This process establishes solid foundations for the project enabling the organisation to understand the work that needs to be done to deliver the project's products before committing to a significant spend. Most of the activities are completed by the Project Manager and submitted to the Project Board for approval. The key input to this process is the Project Board Authority to Initiate the project and the project brief from the Start up Process. The Initiation Process activities include preparing the strategies governing benefits, quality, configuration, risk, communication and organisational change, setting up the project controls, creating the plans and assembling the Project Initiation</p>	<ul style="list-style-type: none"> • To ensure there is a common understanding of the reasons for doing the project, the benefits expected and the associated risks • To document and agree the scope of what is to be done and the products to be delivered • To document and agree how and when the project's products will be delivered and at what cost • To document and agree whom is to be involved in the project decision making • To document and agree how the quality required will be achieved • To document and agree how baselines will be established and controlled • To document and agree how risks, issues and changes will be identified, assessed and controlled • To document and agree how progress will

	<p>Document (PID). The key output from the initiation process is requesting authority to deliver the project provided by the Project Board, along with the PID and the next stage plan.</p>	<p>be monitored and controlled</p> <ul style="list-style-type: none"> • To document and agree who needs information, in what format and at what time • During this process, please ensure you engage the ST&P and BTS Operational areas for their input and/or advice. Their requirements should be included during the planning process.
Controlling a Stage (CS)	<p>This process is evolved with the daily allocation, monitoring and reporting on project progress. The project manager is ultimately responsible for this process. The key inputs to this process are Project Board Stage Authorisation, Project Board advice and direction and completed work packages. The Controlling a Stage activities deal with authorising, reviewing progress and accepting completed Work Packages from various teams; Monitoring and Reporting on project progress to the project board and Issue Management including the capturing and examining of risk and issues, taking corrective action and escalating identified issues / risk to the project board if required.</p>	<ul style="list-style-type: none"> • To ensure that attention is focused on delivery of the stage's products to avoid scope creep and loss of focus • To ensure risks and Issues are kept under control • To ensure the Business Case is reviewed for viability • To ensure the agreed products are delivered to stated quality standards, within cost, effort and time agreed and benefits achieved • To ensure the delivery is within agreed tolerances
Managing Product Delivery (MP)	<p>This process puts in place relevant controls between the project manager and the team manager to ensure the successful delivery of Specialist Project Products. The link between the Project Manager and Team Manager is controlled by placing a formal requirement on accepting, executing and delivering project work. The majority of the work in this process is done by the Team Manager. The role of the Team</p>	<ul style="list-style-type: none"> • To ensure work on products allocated to the team is authorised and agreed • To ensure Team Managers, team members and suppliers are clear on what is to be produced and what is the expected effort, cost or timescales • To ensure the planned products are delivered to expectations and within agree tolerance • To ensure accurate progress information is provided to the Project Manager at an agreed frequency to ensure that

	<p>Manager is to coordinate an area of work that will deliver one or more of the project's products; team managers can be internal or external to NSWPF. The Key input to this process is an authorised work package provided by the Project Manager. The Managing Product Delivery activates deal with accepting, executing and delivering a work package to the agreed standards and within the agreed tolerances. The key output of this process is a completed work package.</p>	<p>expectations are managed</p>
<p>Managing Stage Boundaries (MSB)</p>	<p>This process enables the project board to make an informed decision on the current status of the project at the end of each stage to confirm the stage products have been completed and approved and that the project remains viable and on track to deliver the benefits before the next stage is started. It is the responsibility of the project manager to provide the Project Board with sufficient information to make these decisions. The Managing Stage Boundary process activities deal with approving the next Stage Plan, reviewing an updated Project Plan, requesting an Exception Plan (if required) and confirming the continued business justification and acceptability of the project risks. The activities in this process take place at or near the end of a stage or when the current stage has exceeded tolerance and is in exception.</p>	<ul style="list-style-type: none"> • To assure the Project Board that all products in the Stage Plan for the current stage have been completed and approved • To prepare the Stage Plan for the next stage • To review and, if necessary, update the Project Initiation Documentation (PID) • To provide the information needed for the Project Board to assess the continuing viability of the project – including the aggregated risk exposure • To record any information or lessons that can help later stages of this project and /or other projects • To request authorisation to start the next stage
<p>Closing a Project</p>	<p>This process ensures that the Project Product and objectives as outlined in</p>	<ul style="list-style-type: none"> • To verify user acceptance of the project's product

(CP)	<p>the PID have been achieved and accepted allowing the project board to make an informed decision to close the project. This process can also be 'trigger' if a decision is made to prematurely close a project because it is no longer viable or has anything further to offer the organisation. The Closing a Project activities deal with handing over the project product to the business or BAU teams, ensuring that all open issues and / or risks are collected and forwarded to the relevant owners, ensuring all relevant support documentation and system guides have been handed over to the correct owner and evaluating the project success. The key output of this process is the Project Board's authorization to close the project and an End Project Report.</p>	<ul style="list-style-type: none"> • To ensure that the host site is able to support the products when the project is disbanded • To review the performance of the project against its baselines • To assess any benefits that have already been realised, update the forecast of the remaining benefits and plan for a review of those unrealised benefits • To ensure that provision has been made to address all open issues and risks, with follow-on action recommendation
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Roles and responsibilities

The scope, magnitude and complexity of a project will dictate the size of a project team. NSW Police Force projects as a minimum will have a Project Board made up of the Project Executive, Senior User and Senior Supplier. In addition to the Project Board a Project Manager will be appointed to manage the project on behalf of the Project Board.

Project Executive

The Project Executive is ultimately accountable for the project, supported by the Executive Stakeholders, CIO, CTO, Senior User and Senior Supplier. The Executive role is to ensure that the project is focused throughout its life on achieving its objectives and delivering a product that will achieve the forecasted benefits.

The executive has to ensure that the project gives value for money, ensuring a cost-conscious approach to the project delivery, balancing the demands of the business, user and supplier. Throughout the project, the executive is responsible for the continued viability of the business case.

Key Responsibilities

The key areas of responsibility for the Project Executive include:

- **Project Delivery:** The PE is accountable for the overall project delivery as defined in the business case.
- **Budget:** The PE is responsible for seeking the funding and overseeing the allocated capital budget.
- **Monitoring and Control:** The PE is responsible for monitoring the progress of the project at a strategic level.
- **Business Assurance:** The PE is accountable for ensuring that the project remains on target to deliver products that will achieve the expected benefits and that the project will be completed within the agreed tolerances.
- **Decision Making:** The PE is responsible for making decision on issues, with a particular focus on continued business justification.

Senior User

The Senior User is responsible for defining what, when, what cost and quality is required to be delivered by the project. This means specifying the needs of those who will use the final product(s), for user liaison with the project team and for monitoring that the solution will meet those needs within the constraints of the Business Case in terms of quality, functionality and ease of use.

The role represents the interests of all those who will use the final product(s) of the project, those for whom the product will achieve an objective or those who will use the product to deliver benefits. The Senior User role commits user resources and monitors products against requirements.

This role may require more than one person or the establishment of a user group to cover all the user interests.

Key Responsibilities

The key areas of responsibility for the Senior User include:

- **Business Requirements:** The SU must provide detailed and accurate business requirements.
- **Quality Expectations & Acceptance Criteria:** The SU must provide quality expectations and define the acceptance criteria for the project.
- **Benefits Realisation:** The SU is responsible for ensuring the expected benefits are realised.
- **Project Assurance:** The SU must ensure project assurance from a SU perspective. *See project assurance report.*
- **Risk and Issues:** The SU is responsible for all User related Risks and Issues.
- **Decision Making:** The SU is responsible for making decision on issues related to the user perspective, with a focus on safeguarding benefits.

Senior Supplier

The Senior Supplier represents the interests of those designing, developing, facilitating, procuring, implementing, and possibly operating and maintaining the project products.

This role is accountable for the quality of products delivered by the supplier(s).

This role may require more than one person to cover all the Stakeholder interests. For the sake of effectiveness the role should not be split between too many people.

Key Responsibilities	<p>The key areas of responsibility for the Senior Supplier include:</p> <ul style="list-style-type: none"> • Solution Design: The SS is responsible for the Solution design including the project approach, design and development • Quality Acceptance Criteria: The SS must ensure there is a detailed, agreed quality acceptance criterion in place for all products. • Quality Product: The SS is responsible for ensuring quality procedures are used correctly, so that products adheres to requirements and meets the business quality criteria. • Project Assurance: The SS must ensure project assurance from a SS perspective. <i>See project assurance report.</i> • Risk and Issues: The SS is responsible for all Supplier related Risks and Issues. • Decision Making: The SS is responsible for making decision on issues related to the supplier perspective, with a focus on safeguarding the integrity of the complete solution.
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Project Manager

The Project Manager Technical is responsible for ensuring that the project produces the required products to the required standard of quality and within the specified constraints of time and cost. The Project Manager is also responsible for the project producing a result capable of achieving the benefits defined in the Business Case.

Key Responsibilities	<p>The key areas of responsibility for the Project Manager - Technical include:</p> <ul style="list-style-type: none"> • Baseline Management Products: Developing all the mandatory baseline project management products as per the Project Management Framework. • Reporting: Producing monthly project reports as per the PMO Reporting Standards. • Financial Management: Managing the Project Budget on behalf of the Executive. • Resource Management: Managing, motivating and leading their project resources including Contractors and Service Providers. • Change Control & Configuration Management: Managing the scope of the project and ensuring any changes go through the correct change control process. • Manage Product Production: Managing and delivering the production of the Project Products on behalf of the Executive. • Manage KPIs and Vital Signs: Monitoring and managing all KPIs and Vital Signs inc. Budget, Schedule, Scope, Benefits, Risks, Issues & Dependencies.
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NSW Police Project Register

The NSW Police Force uses an intranet based platform to capture project information across the organisation. The system allows simple centralised recording, monitoring and reporting on all NSW Police Force projects. The system is live and interactive on the intranet for all members of NSW Police Force. The system acts as a live "Project Library" providing data on project details, ownership, contacts, status, budget, deliverables & documents. Project Managers are encouraged to ensure projects that have a wider implication or interest to a number of commands are registered on the [NSW Police Force Project Register](#).

Protection and Security Plans

Witness protection program

The NSWPF Witness Protection Program is administered by the Witness Security Unit, Anti Terrorism & Security Group.

The Witness Security Unit provides support and ongoing care to witnesses in need of protection, production of witnesses required to give evidence before court proceedings, and assistance to re-establish witnesses in new surroundings.

The Witness Protection Program formalises the protection of 'witnesses' as defined under s4 of the *Witness Protection Act* (NSW). Protection under the program is also available to others related/ associated to the witness.

If you believe that you have a witness in need of protection contact the Witness Security Unit or alternatively information and necessary documentation is available through the [Command's intranet site](#)

The assessment criteria are defined under s7 of the *Witness Protection Act* (NSW).

If you believe immediate protection is required, apply verbally through your Commander to the Witness Security Unit.

After hours contact is available through the Duty Operations Inspector.

The Witness Security Unit can provide assistance to Commands in preparing protection plans and identifying alternate methods to be implemented for witnesses in need of protection who may not fall within the criteria of the Witness Protection Program.

Change of Name via Births, Deaths & Marriages

If you have a witness or victim that does not fall within the criteria of the Witness Protection Program however, for their protection requires a change of identity (name) the Witness Security Unit will facilitate this for you via Births, Deaths & Marriages. There may be a cost to your Command involved in this process.

Recovered Asset Pool – ReAP

If you have a witness or registered Human Source that you believe requires protection but does not fall within the criteria of the Witness Protection Program, you can apply through the ReAP process for funding for the protection of your witness Human Source. Refer to the [Witness Security Unit Intranet site](#).

Major crime investigation

This section has been moved to [Chapter M – Major crime investigation](#).

Judicial officers' security plan

The plan provides for timely and adequate protection for judicial officers against threats and violence arising from them performing their duties. Under the plan, the NSWPF and the NSW

Sheriff have joint responsibility for judicial officer security. Liaison between the two agencies is through the duty operations inspector (DOI) and the Sheriff's Office Control Room. Duties and responsibilities are detailed in the plan.

A copy of the plan is available under the [Operational Policies](#) page of the NSWPF Intranet site, or via the DOI.

Source management

This section has been moved to [Chapter S – Source management](#).

Police Reward process

This section has been moved to [Chapter P – Police Reward process](#).

Notification of inmate witness/informants under threat

Where you receive information that an inmate in Corrective Services NSW custody, (including an inmate who is a witness, potential witness or human source), is under threat or should be kept apart from another inmate, you are to notify the Corrective Services NSW Corrections Intelligence Group (CIG).

Notification is by way of an 'Initial notification - Inmate under threat' form available from [Police Corrections Intelligence Unit \(PCIU\) intranet site](#), found under State Crime Command - Intelligence Directorate. Fax the form to the CIG via the number shown on the form. You will receive the completed Part B from the CIG. Keep this as confirmation of your notification. If you have not received an acknowledgement from the CIG within 24-hours, contact the CIG directly via the number on the form.

Where appropriate, create a COPS Event or Information Report.

In urgent circumstances contact the CIG via the telephone.

If you move to a new location, immediately notify the CIG of your contact details or the name and details of an alternative officer.

Further information can be obtained by contacting the PCIU and CIG.

Security of prosecutors

If you are told by a Crown prosecutor or an Office of the DPP lawyer that they or their family has been threatened because of their work you will:

- obtain all details and conduct an interim assessment of the threat or risk
- advise, without delay, the local area commander for the area in which the incident happened.

Local area commander

You will:

- ensure an appropriate response is taken regarding the immediate protection and security of the prosecutor and family
- appoint a case officer (not connected with the relevant court case) to investigate the incident
- consider special security needs for the court in consultation with the sheriff of the court.

Case officer

Make an appropriate entry on COPS as a significant event and mark it NOT FOR PRESS. If the incident is connected with proceedings involving Australian Federal Police notify the Commander General Duties Branch, Eastern Division.

Public Health and Hospitals

If an officer has a reasonable belief that a person suffers or is suffering from an infectious disease, which is not subject of a medical treatment plan, then police should:

- Utilise appropriate infection control procedures, including social distancing and personal protective equipment
- Advise the person to attend a doctor (at their own cost) as soon as possible
- Advise the local "Public Health Unit" of the NSW Health Department
- Public Health Units are attached to Regional Health Services. These are listed in the white pages telephone directory.

Inquiries at hospitals and other health facilities

Obtain permission from the treating medical practitioner before interviewing patients. You will be given permission to interview patients only when their condition allows.

Seek permission from a hospital supervisor before interviewing staff members.

Record in your notebook if a patient of a hospital or other health facility authorises you to access their health record.

If the patient does not authorise you to access their health record and the information is essential to your inquiries you will require a search warrant.

Public Interest Disclosures Act 1994

Refer to –

- *Public Interest Disclosures – Guidelines for the NSW Police Force*
- *Public Interest Disclosures Act 1994*
- *Internal Witness Support Guidelines*

Public Order Management

Policy

The NSW Police Force recognises that people have a right to free speech and peaceful demonstration, the right to engage in daily activities and the right to feel safe and secure.

When possible, police will attempt to negotiate with all groups wanting to use a particular public space. In managing the use of public space, police will be impartial, and will use their discretion to facilitate the lawful activities of all parties.

The primary goal of police will be the maintenance of law and order, public safety and security. To do this, police may need to exercise discretion in relation to some unlawful activity. However, when necessary, police will take action to prevent or address harmful or dangerous unlawful behaviour towards people or property. This action may be taken on the day of an incident occurring, or on a day after the incident has occurred.

Police will arrest offenders according to NSW Police Force guidelines, and any person arrested will be treated with care. Police use of force will be the minimum amount reasonably necessary for the circumstances existing at the time.

To properly manage the use of public space police may need to collect information for legitimate policing purposes.

Introduction

The following procedures are designed to provide a professional approach to public order management.

The local area commander for the area in which the event is to take place, is responsible for the planning unless directed otherwise.

If resources from outside the local command are needed, the Region Commander is to be consulted.

If the event crosses Local Area Command boundaries, the region commander will determine the command and resource arrangements.

If the event crosses region boundaries, relevant region commanders will consult and determine command and resource arrangements. If agreement cannot be reached, the Deputy Commissioner should be consulted.

Command & Control

Police Commander

The Police Commander is the officer charged with the overall responsibility & command of the incident. There can be only ONE Police Commander at any incident.

Forward Commander

The Forward Commander is the officer appointed by the Police Commander to develop and implement the Operational Orders in accordance with the Police Commander's intent, to resolve the incident. The Forward Commander works from a Forward Command Post or Staging Area and commands the Police resources in the field. There can be SEVERAL Forward Commanders appointed depending on the size and geographic locations of an incident.

Tactical Commander

The Tactical Commander is the officer appointed by the Police Commander to execute the tactics within the Tactical Concept of Operations to resolve the incident in accordance with the Police Commander's intent. The Tactical Commander works closely with the Forward Commander in the field with various resources under his/her control. There can be SEVERAL Tactical Commanders appointed depending on the size and geographic locations of the incident.

Planned events

The following procedures apply to events about which police become aware, in sufficient time to allow planning to take place.

Police Commanders (Local Area Commanders, Region Commanders, or the Deputy Commissioner, Field Operations) are to ensure the following actions are carried out.

Police Commander

Make sure all of your actions and decisions are documented as soon as possible.

Information and intelligence

Police

If you become aware that an event is planned, create an information report in the 'public order' intelligence category, giving it a title which will readily identify it.

Include in your report details of:

- where and when the event will take place (under 'Location'), and ensure these details are accurate.
- who is organising the event under 'Person of interest'
- the group behind the event under 'Organisation'.

Tell the Police Commander what you have identified.

If you become aware that an event will be in another Local Area Command (LAC), disseminate the above information to the Local Area Commander for that LAC.

LAC Intelligence officer

You should:

- review the information report for the event
- identify previous operations, events and information connected with similar activities of people or groups organising this event (for example, use FINGER).
- Link previous events or information reports and create a new narrative in the original information report about the other information
- search open source information (for example, the internet)
- ensure that supervisors task officers in your LAC to collect information to verify that an assembly or demonstration will take place
- if appropriate, talk to the relevant police liaison officers (community safety, ethnic, youth, gay and lesbian, aboriginal, domestic violence, sexual assault) in your command, to determine any useful background information.
- brief the police commander.

When the event has been confirmed:

- create a 'Minor overt operation' on COPS at your LAC (Cost Centre No/year/LAC No)
- link all current operations/events/information reports to the new operation
- create a 'Public Order Incident' event and include details of the organising group, or details of the application for assembly and any supporting information
- confirm an event liaison officer has been appointed.

Gather intelligence and information which will help identify with whom you are dealing and any risks to public safety and police activity. Relevant police liaison officers (eg community safety officer, ethnic liaison officer) in your command may be able to assist. Contact the Intelligence Directorate, SCC for help, if necessary.

Police commander

Ensure information collection plans are in place, and that information which is collected is placed onto COPS.

If intelligence suggests the event is likely to involve politically motivated violence, advise your Region Commander and the Deputy Commissioner (Specialist Operations). Should violence escalate during the event the Deputy Commissioner, on the advice of the Police Commander and Region Commander, may seek to implement the National Counter Terrorism Plan. This would affect the following commands: Counter Terrorism and Special Tactics Command, State Protection Group, State Protection Support Unit, Operational Information Agency, State Crime Command, Special Services Group, and Forensic Sciences.

Head of Discipline

Ensure a list is maintained of police who have experience in commanding public order policing matters.

Initial assessment

Police Commander

Conduct an initial assessment of the event including:

- who is likely to be involved in the event, and the reasons behind the action
- when and where the event is likely to occur
- what the organising group is planning for the event
- the likely number of people attending the event and any security concerns of the organisers
- any security or protection measures the organisers will have in place
- risks or opportunities to the NSWPF
- whether a “notice of intention” has been submitted (refer to the Summary Offences Act).

Based on your initial assessment decide on the likelihood of the event being passive, active or volatile (this will impact on your planning).

Based on your decision begin planning and consider the following matters

Site assessment

Police Commander

Assess the site or route of the event, to identify problem areas, resource requirements, impact on local users, and likely confrontation points. Consider seeking advice from a Tactical Commander, Public Order & Riot Squad.

Negotiation/liaison

Police Commander

Appoint an event liaison officer to contact the organiser, leader or management of the parties involved in the event, before the event takes place.

Event liaison officer

Continue to identify the issues listed in the initial assessment. Additionally, explain the NSWPF policy on public order management and its role in managing protests and industrial actions.

If appropriate, talk to the relevant police liaison officers (community safety, ethnic, youth, gay and lesbian, aboriginal, domestic violence) in your command, to determine any useful background information.

Brief the commander regularly. Use the public order event created for the incident as a log of all contacts, police actions and relevant issues.

Media

Police Commander

Contact the Media Unit to advise that the event will be taking place and provide the Unit with a copy of the Operational Orders. You, or a senior officer nominated by you, should conduct all media interviews following consultation with the Media Unit.

Media unit

Appoint a media officer to provide advice on media plans and strategies. The Media Unit will brief the media on any road closures, diversions or disruptions to normal daily activities.

Resources

Police Commander

Identify what police resources, both physical and human, you will need. For example:

Physical

- Charging facilities
- Transportation
- Multiple arrest kits
- Public order trailers
- Meals and Water
- Barriers

Human

- Public Order & Riot Squad (PORS)
- Operations Support Group (OSG)
- Mounted Police
- Dog Squad
- Rescue & Bomb Disposal
- Aviation Support Branch
- Custody Teams
- Additional police
- Police Prosecutions

If necessary, negotiate with external commands. Resolve any difficulties through your Region Commander.

Determine the nature of the event and consider using the Emergency Operations Centre for your Region.

Identify whether external agencies might be of assistance or might be required (for example, local councils, Ambulance Service, Fire Brigades, SES, hospitals, State Rail, State Transit,

EPA, Electricity Companies, and local bus companies), and negotiate with them. Consider including these parties in the event planning.

Ensure adequate protective equipment is available for use by appropriately trained personnel.

For contact procedures and further information on available external resources, refer to the Incident Emergency Standing Operating Procedures (IESOP).

Communication

Police Commander

Consider organising a special operations channel for the event.

Ensure a list of mobile telephone numbers for all relevant commanders and specialist leaders is available. For major events forward a copy of this list to the Commissioner.

Strategies and tactics

Police Commander

- Identify the strategies and tactics likely to be used to handle the particular event. Consult a PORS Tactical Commander for advice.
- Consider separate plans for tactics including: PORS/OSG; traffic management; media; crime scene; investigations; and tactical and technical intelligence.
- Appoint a police prosecutor to provide legal advice at the event briefing, and to be on duty at the command centre.
- Identify and plan for contingencies.
- If necessary, plan for relief breaks for officers.
- Consider the principles of command post management (refer to the IESOP).
- Avoid confrontation and the use of force where possible. Only use the minimum amount of force reasonably necessary.
- Where confrontation is likely, ensure appropriately trained police are used. Consider using PORS/OSG, dog squad, and mounted police.
- Reinforce that arrests must be made in accordance with NSWPF guidelines. Minor offences which do not jeopardise public safety can be tolerated, however offences involving violence to people and damage to property should be prevented.
- The tactics you use will vary depending on the actions of the people involved in the event. These actions can include: chaining to trees, gates; concreting into ground; tunnelling and laying booby traps.
- Remember, only people suitably trained may use specialist equipment. Refer to the section below on "Specialist equipment".

Specialist equipment

Specialist equipment (for example, chainsaws, bolt cutters, angle grinders) can only be used by appropriately trained and/or appropriately accredited people.

Police commander

Before authorising the use of specialist equipment consider the likely risks involved including (but not limited to):

- injuries to police
- injuries to bystanders
- injuries to person involved in the event
- benefits to be achieved from using equipment
- likely media impact
- liability of an officer in using the equipment
- liability of the NSWPF
- alternatives to using the equipment.

Video taping

Police commander

Consider the benefits of videotaping the event. Consider contacting the Police Video Unit to do this. Benefits of taping the event include:

- identifying offenders
- use as a training aid
- use as evidence
- use as a visual record of the events as they happen.

Where practical, tell the parties involved in the event it might be videotaped by police.

Briefing

Police Commander

Ensure operational orders are prepared in the TSMEAC form. Ensure all police are briefed, paying particular attention to:

- The Commander's intent and the mission of the operation
- the NSW Police Force policy on public order management
- outlining that police must act with professionalism, impartiality and objectivity
- giving an operational overview and clearly stating the operational objectives and outcomes, the operation's name and the public order event number
- offences and police powers (preferably by a legal officer/prosecutor)
- arrest strategies (consider using local police or the OSG in arrest teams, and local police in investigation teams)
- evidence procedures (particularly exhibits procedures)
- the use of COPS to record information relating to the incident and that narrative details should include why and how an offence was committed
- potential for violence

- potential trouble makers and how to handle them
- other agencies involved and their role
- police uniform protocols, **particularly name badges** and hats.

Videotape briefings if possible.

Debriefing

Police Commander

Ensure a debrief (or debriefs) is conducted as soon as possible after the event has finished.

The debrief should include the following:

- did the event comply with the group's application or known ideology
- identification of subversives (either for or against the event)
- the number of arrests and charges
- numbers and demographics of participants
- how the event was conducted (peaceful, radical, riotous, agitated)
- weapons or tactics used
- level of organisation and type/s of communication used
- transport used
- appropriateness of police response (numbers, strategy, tactics)
- comments on strengths and weaknesses of tactics used by both police and demonstrators.

Police Commander

Ensure:

- all debrief information is collated by the intelligence officer and placed into a 'Post incident report' in the narrative of the 'public order event' which was created on COPS for the incident.
- all events, arrests and charges are linked to the operation
- any recommendations to improve the policy or SOPS are brought to the attention of the Deputy Commissioner.

Reactionary events

The following applies to those events to which police must react, or to those events that do not allow time for planning.

Responding Police

- Immediately take command.
- Immediately assess the situation and determine risks to safety and any impact on the general public.

- Provide a SITREP to the DOI (what has happened, what is going on, what are you going to do?). Ask the DOI to start relevant call out procedures and to contact the PORS Tactical Commander.
- Attempt to contain the situation.
- Have a duty officer attend and assume command of the event.
- The decision to change command can only be made by the relevant Local Area Commander or Region Commander, or by the Deputy Commissioner, Field Operations.

Police Commander

- Officially assume command and document the time you did so. Document all your decisions and actions.
- Identify yourself to police involved as the commander.
- Assess and continually reassess the situation and maintain communication with VKG.
- Determine if the incident is politically motivated. If it is, inform the DOI to start relevant call out procedures. Ensure the Tactical Commander of PORS is contacted via the DOI.
- Appoint a media liaison officer to manage the media and to contact the Media Unit for help. You, or a senior officer nominated by you, should conduct all media interviews following consultation with the Media Unit
- Remember the police role is to: maintain public safety; remain impartial; and to use discretion, based on the circumstances of the event. Avoid action which will escalate the event.
- If possible, identify leaders of the event. Communicate with them to establish their intentions and to inform them of the police role.
- Consider the need to establish a command post, inner and outer perimeters, arrest teams, investigation teams and event intelligence.
- If necessary and where possible, take action to prevent offences involving violence to people and damage to property.
- Consider using sufficient, appropriately trained, and appropriately equipped police to resolve the event.
- Remember that arrests are only to be made in accordance with NSWPF guidelines.
- Also remember that specialist equipment (chainsaws, angle grinders, etc) can only be used by trained people. Before you use them consider the risks involved.
- Ensure a debrief (or debriefs) is conducted as soon as possible after the event has finished.
- Following the event, ensure that all information is placed onto COPS as per the requirements of 'Planned events' in these SOPS.

Industrial disputes

In addition to the general guidelines on public order management follow these guidelines.

Local Area Commander

Ensure liaison is established and maintained during the dispute with the employer, the employees and the union. Do not take sides in the dispute.

Where no communication is established with the union or where it breaks down, ask your region commander to contact the Labour Council to talk to the union.

Refer any complaints or inquiries about breaches of the Industrial Relations Act to the Prosecutions Branch of the Department of Industrial Relations. Remember, union officials should produce a written authority to enter building sites. For advice on these matters contact the Department of Industrial Relations.

Contact WorkCover for information or advice about safety issues which are brought to your attention.

Protected premises and persons

Commissioned Officers and Sergeants

You may direct an assembly of 12 or more people, which is taking place in relation to protected premises or a protected person, to disperse if there has been or you believe there will be violence or damage to property. Issue a direction in the following form:

"In pursuance of the Public Order (Protection of Persons and Property) Act of the Commonwealth of Australia, I... (name of officer), being a sergeant (or higher rank) in the name of the NSW Police Force, direct all people taking part in this assembly to disperse now. If you do not, you might be liable to penalties provided by the Act."

Ensure the direction is clearly heard by as many people in the assembly as possible.

Fifteen minutes after the direction is given, if it is not complied with you may disperse the assembly. You may use reasonable force to do so. When the assembly is behaving violently or damaging property, you may use force whether the direction is given or not.

NB: Incidents involving international government organisations need extreme vigilance and sensitivity.

Prosecutions

After you charge someone with an offence and bail is determined, do not go ahead with court proceedings without the written consent of the Commonwealth ODPP.

Within 24 hours of charging, send a report in duplicate, including a description of the protected premises or person, through your commander to the Commissioner.

Contact Police Prosecutions for further advice.

Recognisance and Bonds

Breaches

Do not arrest someone for an alleged breach of a recognisance or bond without a court order.

Helping prisoners to secure surety

Do not procure or offer the services of a bondsman for a prisoner's release on recognisance. In line with your normal duties, you may help the prisoner by sending a message to get the security.

Records

Commanders

You may release information or records, relevant to your command. When the information is of a sensitive nature, likely to create political or media attention, ask your Region Commander/equivalent to determine the level of authority needed to release it. If you are unsure whether the release of information may lead to litigation, seek advice from the Office of the General Counsel before you release any information

Bear in mind the extent of the public's access to documents.

When preparing documents:

- ensure reports and forms contain only factual information
- do not make personal or judgemental comments on forms or reports
- explain and justify conclusions and judgements which should be relevant to the matter at hand
- do not give unnecessary opinions, particularly on matters in which you are not qualified.

If documents, in which you made defamatory comments about someone are obtained under the *Government Information (Public Access) Act, 2009*, you might have to justify them in the event of litigation.

See also the section on '[Notebooks](#)' when completing narratives.

Releasing information

When requested for information refer to clause 75 of *Police Regulation 2008* and the NSW Police "Privacy Code of Practice" which is available on the Police Intranet site. The NSW Police Privacy Code of Practice only applies to personal information if NSW Police is exercising an administrative or educative function under the Privacy and Personal Information Protection Act 1998. Principle 11 of that policy relates to the disclosure of information to individuals or bodies. In summary the principle states that when Police hold personal information it will not be released unless;

(a) The disclosure is directly related to the purpose the information was gathered, and the Police Officer releasing the information has no reason to believe that the individual concerned would object to the release, or

(b) The individual concerned is reasonably likely to have been aware, or has been made aware, that information of that kind is usually disclosed to that other person or body, or

(c) The police Officer releasing the information believes on reasonable grounds that disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

Police will not depart from Principle 11 of the "Police Privacy Code of Practice" unless exempted under the policy or the *Privacy and Personal Information Protection Act 1998*. Exemptions listed under the policy are;

1. A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:
 - the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
 - the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
 - the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
2. If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

Department of Housing

Police can release information to the extent that the disclosure of personal information to the Department of Housing may be permitted in the following circumstances;

- (a) where the Department of Housing is investigating a complaint a particular tenant and the information held by the Police is directly relevant to that investigation; or
- (b) where NSW Police has obtained information about an offence and there is reasonable cause to believe that the offence committed is in breach of a Department of Housing tenancy agreement.

Insurance Claims

NSW Police departs from Principle 11 to the extent that it may supply motor vehicle accident or crime incident reports to an insurance company or insurer, or to the agent of an insurance company or insurer, in circumstances where a claim has been lodged against the insurance company or insurer and the report sought relates to that claim.

Motor Vehicle Accident Reports

NSW Police departs from Principle 11 to the extent that it may supply motor vehicle accident reports to any person directly involved in the accident to which the report sought relates.

Police Association of NSW

NSW Police departs from Principle 11 to the extent that the NSWPF allows the Police Association of NSW access to the "POL" function of the Eagle mainframe system to obtain member, work location, work contact and rank details.

Release to victims of crime

Supply victims or their legal representatives with copies of their statements, particulars of the time and date of the crime report, the officer to whom reported and station reported to. On request, supply victims of crime or their representatives with the COPS event number. Do not charge for this service.

Access to Complaint Information

Access to complaint Information

Police generally

You may request access to complaint information in matters where a 'Sustained' finding has resulted in reviewable or non-reviewable action under s173 or s181D of the Police Act 1990. The information you can seek includes the allegation, the findings of the investigation and the reasons for those findings.

(For resolution matters subject officers will be entitled to a copy of the allegation a redacted version of page 1 of the Mandatory Resolution Outcome Report including the investigator's findings.)

Any other material which is not covered by clause 48 of the *Police Regulation 2008* **may** be obtained by way of an application under the *Government Information (Public Access) Act 2009* (GIPA Act).

All applications for access must be made in writing to your commander/manager.

You will not be entitled to information where an investigation is current or caveated for any reason. However, see Complaint Practice Note 10/03 for information on when Part 8A information is released to a subject officer.

Commanders/Managers

Where an officer makes a written application for access to their complaint information, you may provide copies of allegations, findings of investigations and the reason for those findings for any matter in which a 'Sustained' finding was made. The subject officer is also entitled to any documentation created or supplied by the officer.

You are to ensure that no legislation is breached (e.g. disclosure of identity of Internal Police Complainant or public interest immunity issues) in doing so.

For resolution matters a redacted version of page 1 of the Mandatory Resolution Outcome Report up to and including the investigator's findings can be provided.

Subject officers are not entitled to notebook entries or other information gathered during the investigation.

Do not provide information relating to current investigation or investigations which are the subject of a caveat.

Confidentiality

Always ensure computer terminals, monitors and visual display units (VDUs) are positioned so they cannot be viewed by the public.

Security requirements

You have statutory obligations to ensure that any NSWPF record, created by you or which comes to you, is used by authorised personnel for police purposes only and is eventually disposed of securely.

Comply with the NSWPF records security guidelines.

Commanders

Establish and maintain appropriate security procedures which prevent unauthorised access to NSWPF records. Develop and implement a regular disposal plan for all records created and maintained within your command.

Under [General Disposal Authority GA28](#), the NSW State Records Authority has approved the destruction of certain public records held at police establishments. NSWPF also uses two functional disposal authorities, namely [DA220 Functional Retention & Disposal Authority](#) and [DA221 Investigation Case File Disposal Authority](#) to manage the disposal and destruction of records specific to NSWPF.

Refer to the [Records Disposal Procedures Manual](#) as well as appropriate disposal authorities.

Destruction

Commanders

Commanders/Managers are responsible for coordinating local implementation of the NSWPF records management program. This includes ensuring that official and appropriately classified files are created and managed in the corporate records management system, TRIM, coordinating the storage and destruction of time-expired records and ensuring that appropriate staff are trained.

The *State Records Act 1998* prohibits the destruction of any records without prior reference to a Functional or General Disposal Authority.

Disposal or destruction of records must only be carried out in accordance with the corresponding disposal authority and the guidelines as per the [Records Services](#) Intranet site. The business unit or command that owns the records is responsible for ensuring that they are appropriately sentenced prior to transfer and/or destruction.

Records that don't provide evidence of a business transaction or a decision can be destroyed without specific reference to a disposal authority, under Normal Administrative Practice (NAP). These records can include drafts, working papers, duplicates, computer support records, facilitating instructions and stationery can be destroyed without the need to refer to disposal authorities.

Vacating premises or disposing of furniture, vehicles or computers

Commanders

Where you vacate premises or dispose of furniture or vehicles, appoint an officer to check them to ensure no NSWPF publications/records are left behind.

Boating infringement books

Keep completed books for 12 months for court purposes then return them (accompanied by a listing of the first and last numbers and dates of the books) to the Commander, Water Police.

Correspondence, files and reports

When appropriate, acknowledge receipt of correspondence. If your reply is likely to take longer than 14 days, advise the writer accordingly.

See the *Document Standards and Publication Management* manual for procedures on:

- format of reports
- letterheads
- Ministerial correspondence and similar
- sitreps/operational briefings.

International or interstate correspondence

When you act at the request of interstate or overseas police departments, send all reports in duplicate. Your local area commander keeps the duplicate.

In interstate matters, send the original copy of the report direct to the writer or through your region commander.

Send correspondence for an overseas police department through the Commissioner's office.

Reports as evidence

Police reports may be admitted as evidence in court proceedings. When reporting, ensure everything included is correct, can be substantiated and is not frivolous.

Files and records

All files regardless of format, must be created and registered by the command or business unit in which they originate. The medium of the record is immaterial to how it is managed,

the critical factor is the subject matter and its content, rather than the format, i.e. electronic and hardcopy records are classified and categorised in the same manner.

The Local Area Manager/Business Manager/Manager or Executive Officer must ensure that appropriately titled and security-classified files are created at the inception of any new business activity, and on an ongoing basis as issues or projects arise.

The [Records Management Policy](#) details the specific recordkeeping responsibilities of all NSWPF staff

Fax messages

Use these machines for official messages only. When sending a fax, use the approved NSWPF top sheet (as outlined in the Document Standards and Publication Management manual) and take care it goes to the correct destination. Observe confidentiality.

When you send a fax, file the transmission report/confirmation, in chronological order, in the *Facsimile Transmission Record Folder*.

Where a machine does not provide a transmission report, file the top sheet of the message in the folder. If you doubt whether a fax has been received, confirm by phone.

Commanders

Maintain a folder at each machine. Keep folders for two years from the date of the last transmission report or top sheet and then destroy in accordance with normal procedures.

Exercise discretion when sending/receiving faxes, particularly for sensitive or confidential matters.

When it is necessary to transmit such information, take every precaution to ensure it is sent to the right destination and received only by the intended person. Take care when faxing confidential information on unsecured lines.

The following will help to reduce security risks:

- phone to confirm you received the message/your message was received
- use the approved covering sheet containing the name and phone number of the sender and recipient
- if you receive a sensitive/confidential message, confirm receipt (as above)

If you send such a message, make sure it is received by the intended person.

Returns

Where you need statistical, survey or similar information from more than one other area, seek permission from the commander by completing an *Application to conduct a return* (P532). For example, if you want a return across LACs in the same region, send the form to the region commander.

If you need a return from areas in several regions, send the form to the Deputy Commissioner. If you consider the information should be available on the NSWPF computer system, send a report to the Executive Director, Management Services.

Rosters

Unless excused from doing so, rosters are managed via the corporate rostering software solution.

It is expected that all staff on the LAC/Business Unit's Positions and Occupant report are accounted for on the corporate rostering system.

Staff rostered for duty are expected to report to Supervisor at the commencement and conclusion of rostered shift to be signed on and off duty.

Supervisors

Supervisors are responsible to account for all staff rostered for duty by:

- Signing staff on and/or off duty on the daily roster
- Amending daily roster when a staff members avail themselves of any form of unplanned leave including nominating the type of leave taken
- Making or causing inquiries to made in instances where staff have not presented for duty
- Certification of accuracy on daily roster for the shift the supervisor has responsibility.

Commanders/Managers

Ensure you:

- Have systems in place to drive and/or support the rostering process within your Command
- Or your representative reviews/quality assures the daily rosters on a daily basis.

Schools - Banning Notices

Introduction

The *Inclosed Lands Protection Act 1901* allows for Principals, or appropriately delegated persons, of a NSW school to ask any person to leave the school grounds. Any person who remains in the school after being requested to leave by a principal commits an offence and is liable to penalty.

The NSW Police Force and the NSW Department of Education and Communities work cooperatively to improve safety and security in and around schools and to prevent and reduce crime. There should be a zero tolerance towards persons who act in a violent or anti social manner or who by their actions cause fear amongst staff or students attending schools.

Principals of NSW schools may direct a person in writing that they are not permitted to enter school grounds (commonly referred to as a "Ban Notice"). A Ban Notice is not a legislative instrument like a court attendance notice but is the name that has been given, for convenience sake, to the document. A Ban Notice is simply a letter informing the person named in the letter that they do not have the consent of the school principal to be on school grounds. This may assist in proving an element of the offence of unlawful entry under section 4 (1) of the *Inclosed Lands Protection Act*.

Circumstances where a principal might consider issuing a Ban Notice to a person who has come onto a school site might include:

- The person is, or has, physically assaulted or threatened to physically assault students, staff, parents or community members at the school or during the course of school activities.
- The person uses inappropriate behaviour in the presence of students, staff, parents or other visitors that is so serious that it warrants action being taken.
- The person behaves in a manner in the presence of students, staff, parents or other visitors to the school that could reasonably be expected to cause alarm or concern.
- The person uses offensive language (i.e. swearing) in the presence of students.
- The person has been abusive, threatening or offensive during phone calls, in text messages, websites or emails made to or about staff or directed towards staff or the school.
- The person persistently interrupts the learning environment of the school by entering classrooms without permission.

- The person persistently enters the school site without permission or a legitimate reason.

The principal may ban any person from schools including the parents or other family members of students.

It is the decision of the principal as to whether a Ban Notice is issued to a person. The decision is not that of police although police could offer advice to the principal if they consider a Ban Notice to be justified in certain circumstances.

Principals may serve Ban Notices without police assistance, in these circumstances principals are encouraged to forward a copy of the notice and details of its service to their local police. Police should create an information report containing the details of the notice and the POI so that it can be accessed by any police officer. A warning should be placed on the POI indicating they are banned from the school and the time period that the ban is in force. A copy of the Ban Notice should be attached to the information report through VIEW IMS.

Police involvement in serving Ban Notices

There are several scenarios in which police may be asked to serve a Ban Notice. As a Ban Notice is not a court document requiring "service" in accordance with the relevant rules of service, the term "service" is used here simply to mean handing the Ban Notice to the person to whom it is addressed.

Police may be asked to become involved in serving a Ban Notice if they are:

- called to an incident, for which a Ban Notice is created and served by police
- not called to an incident but asked to serve a Ban Notice, or
- asked to record a Ban Notice served by the principal of a school.

When police are asked by principals to assist in the serving of a Ban Notice, it is important that police provide full assistance and cooperation. Service of a notice by police not only protects the safety of the principal and their staff, but it also puts into context the implications of the notice to the POI and goes towards showing the POI that the school is not acting alone but that the police have knowledge of and support the action of the school.

Police will be expected to take action in relation to a person who acts in contradiction to a Ban Notice. If there is a record that the notice has been served and the person on whom it has been served attends the school premises, the person may be committing an offence under section 4 (1) of the *Inclosed Lands Protection Act*.

These guidelines have been developed in consultation with the Department of Education and Communities and although they only extend to NSW State Government Schools, the concepts within the guidelines could be utilized when dealing with similar situations with private schools etc.

These procedures apply to all NSW police officers. NSW police are expected to cooperate with NSW Government schools in the interests of maintaining a safe and secure school environment as agreed to in the *Memorandum of Understanding for Information Exchange between Schools and NSW Police*.

The MOU applies to NSW State Government Schools, Catholic Schools and Independent Schools but does not extend to TAFEs, colleges, universities or other educational institutions.

Police attending an incident

If the principal decides to involve police due to behaviours displayed by the POI, the principal will write the Ban Notice. The principal will provide the original on school letterhead and a copy to the Local Area Command in which the school is located. This should occur as soon as possible after the incident that caused the issuing of the Ban Notice.

The service of the Ban Notice should be recorded in the official police notebook of the officer serving; including the date, time and place the notice was served, the name of the person on whom it was served and any comments made by that person to indicate their understanding of the implications of the notice.

If the incident involved the arrest of the POI, the notice should, where possible, be completed immediately and supplied to arresting police to serve on the POI whilst he/she is still in custody. If police attend and there is no arrest, the attending police will be responsible for the service of the notice.

The officer serving the notice will be responsible for:

- service of the Ban Notice
- making/updating the COPS event of the incident with a narrative providing information about the notice and its service
- an action for the service of the notice
- scanning the Ban Notice into VIEW IMS, and
- a warning created for the POI as part of the event, indicating they have been banned from the particular school for the specified period of time. The date of service should be included in this warning along with the expiry date of the notice.

Where police have left or have not been asked to attend the school the notice will be taken to the LAC by the principal or school staff. The service of the Ban Notice should generally be conducted by officers taking a report of the original incident that led to the creation of the notice. If these officers are unavailable or there is a degree of urgency in serving the notice, then other general duties officers should be used. However as a last resort the YLO or SLP may be able to assist.

Where there is no urgency for service of an unserved Ban Notice at the LAC, or the notice is received at the LAC by other means ie. via fax or email, the notice should be entered into the TRIM system and be allocated to the Supervisor/Duty Officer on duty who will then allocate it to the appropriate officers for service.

Notice Already Served by Principal

When a Ban Notice has been received at a LAC from a principal who has already served the notice, details of the notice along with service details and the POI's details should be obtained. Any available police or the YLO should create an Information Report containing all details. This will allow other police to have access to the information. A copy of the notice should be attached to the IR through the VIEW IMS system.

Warning Notices

It should be noted that warning notices are not Ban Notices. A warning letter is not to be served by police. This type of action does not place any type of restriction on the POI and only has the purpose of warning them that if their behaviour persists a Ban Notice may be served on them in the future.

Sample Letter re Direction to Leave Premises (on letterhead)

Dear

I refer to the incident on (date of incident) when you entered onto the (name of school and your description of behaviour which lead to the creation of this letter). I also refer to my previous warning letter to you dated.....

Your behaviour on this occasion was inappropriate and as a result I do not consider your current access to the (name of school) to be in the best interests of either the students or the staff. You should note that entry on to the (name of school) is a privilege not a right.

In accordance with my authority under the Inclosed Lands Protection Act 1901, you are directed not to come onto the (name of school) site again without my prior approval or except under the following conditions This directive is to remain in force for a period of (relevant period).

If you enter onto the (name of school) site contrary to this direction, the matter will be immediately reported to the police who may then take further summary action.

The restrictions imposed upon you in relation to your entry onto the (name of school) site will be reviewed periodically to determine whether they should continue to operate. Generally the reviews will be held in June/July and December each year.

If you feel my decision in this matter is unfair you can make a complaint to (details of district superintendent for school matters in the relevant area).

Yours faithfully

Principal

Date

Common offences

- Enter prescribed premises of any person without lawful excuse - Law Part Code 26633.
- Remain on prescribed premises without lawful excuse - Law Part Code 26636
- Offensive conduct while upon prescribed premises - Law Part Code 26637

Secondary employment

The NSW Police Force requires that you seek approval prior to engaging in secondary employment.

The [Secondary Employment Policy & Procedures](#) apply to any person employed by the NSW Police Force, with the exception of members of the NSW Police Force Senior Executive Service (who can only undertake secondary employment with the explicit approval of the Commissioner).

When considering an application, the determination as to whether to approve or reject an application will depend upon the role of the employee within the NSW Police Force; the proposed duties of the secondary employment and the risk assessment of such employment, including any potential, perceived or actual conflicts of interest for either the NSW Police Force or the employee.

Because it is considered to be high risk for the NSW Police Force, approval to engage in secondary employment will not be granted where there is clearly a conflict of interest between the role of the NSW Police Force and the operations of the secondary employment; or there is a significant threat to the good reputation of the NSW Police Force.

Failure to comply with the policy may be considered a breach of the *Code of Conduct and Ethics* and may result in management action.

Sexual assault

Refer also to the *Investigation & Management of Adult Sexual Assault Policy*.

Police Roles & Responsibilities

NSW Police officers have an important role in responding to adults who report crimes of sexual assault. Although these roles vary, the response that a victim receives at each point of contact is crucial. Without an appropriate initial response many victims will not proceed with a complaint. The first point of contact that a victim has with a NSW Police officer may have a lasting effect on them.

Initial Complaint to Police

All reports must be taken seriously and treated with a sensitive and professional approach.

Role of the Initial Response Officer

The initial response officer will:

- Respond to the victim in a respectful and supportive manner;
 - Record in the official notebook details including:
 1. The victim's personal details.
 2. The exact words used by the victim to report the sexual assault and any conversation they have had with anyone else about the incident.
 3. The time of the sexual assault. This will assist in establishing whether immediate specialist medical attention is required.
 4. The location of the crime scene.
 5. The identity of the offender. For many victims the identity of the offender is known. If known, and circumstances demand it, obtain and circulate a Description of the offender.
 - Immediately notify the Duty Officer;
 - Assess the victim's immediate safety;
 - Assess if urgent medical attention is required;
 - Ensure that the victim is provided with a private space away from the general public and work activities at the Local Area Command;
 - Ensure that victims who may be affected by alcohol/drugs are responded to immediately;
 - Keep the victim informed of what is happening and;
 - Create an event on COPS.
 - Arrange a support person where necessary.

Historical Sexual Assault

Delay in complaint is common in sexual assault. There are many reasons why victims do not report immediately to the police. The reporting of historical complaints must be taken seriously as these reports can be used by police to obtain valuable information about children currently at risk of harm. The above principles for responding to victims apply equally for historical complaints. The Duty Officer will determine whether the on call detectives should attend. If detectives are not called the victim will be provided with a victim's card including the following details:

- Event Number.
- Appointment time with detectives.
- Name of Officer.

Role of the Duty Officer

The Duty Officer will ensure that:

- The victim:
 - is advised that an investigation will be carried out by detectives.
 - is advised of the services provided by the Sexual Assault Service.
 - is advised that transportation can be provided to the Sexual Assault Service.
 - is not required to repeat the details of the assault to multiple police officers.
- The Investigations Manager has been notified.
- That an assessment is conducted to determine the need to call out the Detectives.
- VKG has been contacted and arrange for crime scene to attend.
- S/he attends the crime scene and ensures its preservation.

Role of the Investigations Manager

The Investigations Manager will:

- Appoint a Criminal Investigator to be the officer in charge of the case.
- Ensure equity in allocation of sexual assault cases to Criminal Investigators.
- Ensure quality of all investigations.

Role of the Criminal Investigator

The criminal investigator will:

- Liaise with the initial response officer and duty officer;
- Ensure the victim of sexual assault is informed of;
 - The availability and purpose of a forensic medical examination;
 - The role of counsellors within sexual assault services and the availability of Counselling;

- The police role and the need for detailed statements and the use of Statements in later proceedings;
 - The expected length of time the statement taking may require;
 - Their right to have a support person (who is not a likely to be a witness) present during the interview;
 - The likelihood of having to recount details of the police statement if the Matter goes to court;
 - The interviewing of suspects, the use of bail and Apprehended violence orders; and
 - The court process and what is required of witnesses.
- Liaise with Crime Scene Investigators.
 - Conduct a full and proper investigation of the offence.
 - Establish a working relationship with the relevant government and non Government Sexual Assault Services to maximise the resources available when Conducting a criminal investigation.

Child sexual assault

For additional information refer to the *Child Abuse Investigation and Management Guidelines*.

The Child Abuse Squad (CAS) is responsible for investigating the sexual abuse of children under the age of 16 years of age. For young persons aged between 16 and 18 years of age, refer to the policy "Investigation and Management of Sexual Assault Victims aged 16 to 18 years" located on the CAS intranet site.

The CAS consists of the JIRT Referral Unit (JRU), Child Abuse Response Team (CART) and 21 Joint Investigation Response Teams (JIRT) which cover the State of New South Wales.

If the victim of a sexual assault is a child:

- Ensure that the child or young person's safety, welfare and wellbeing are of paramount importance
- immediately ensure their safety and provide comfort and support
- arrange urgent medical attention if required
- if they are at your station take them to a private area, arrange for a support person to be with them and tell the child of the process [i.e.: Family and Community Services (formerly DoCS) will be notified, specialist investigators will attend etc]
- Make a record of anything said by the child or accompanying person. If you have limited information about the incident and you cannot obtain this information from other witnesses, ask the child "Tell me what happened?" and write down exactly what the child says (do not substitute words). If the child refers to an act which seems sexual in nature but it is unclear from their disclosure (for example, the child says, "He touched my flower pot") then clarify what the child means by asking, 'What do you mean by flower pot?' **DO NOT question or interview them about the offence**
- Immediately notify Family and Community Services by contacting the Child Protection Helpline. If the Helpline determines the report meets the JIRT Criteria (see Joint

Investigation Response Teams Policy & Procedures Manual 2001 for sexual assault, physical assault and neglect criteria), then the matter will be referred to the JIRT Referral Unit (JRU). The JRU will make the final determination as to whether the report meets JIRT criteria and will allocate the matter to the nearest CAS office to where the child resides, If the JRU determines that the report does not meet JIRT criteria then it will be referred to the nearest Community Services Centre to where the child resides. If a criminal offence has occurred but the report does not meet JIRT Criteria (i.e. Minor physical assault) then the JRU will create or update a COPS event and transfer the report to the Local Area Command responsible for where the offence occurred. After hours, the Child Protection Helpline will contact the on-call CAS Investigator if they determine the report meets JIRT criteria. The on call CAS investigator will determine whether an afterhours CAS response is required.

- follow any advice given to you by the CAS investigator.

DO NOT INTERVIEW THE CHILD ABOUT THE OFFENCE WITHOUT APPROVAL OF THE CAS INVESTIGATOR (if you think the offender is still in the vicinity you may attempt to obtain information which will assist in apprehending this person).

NB: All accepted CAS matters are referred to the nearest CAS Office to where the child resides irrespective of where the offence has occurred.

NB: If the victim of child sexual assault is now an adult and the report is about historical abuse, the investigation is carried out at the local level by criminal investigators.

Children giving evidence

Refer to the *Criminal Procedure Act 1986* for requirements regarding children giving evidence, particularly for the use of CCTV.

Children under 16 years of age ONLY can give evidence by way of CCTV.

Victim Care

Specialist Support Services

It is essential that police respond empathically to victims of sexual assault. However, police should not involve themselves in the victim's long-term psychological well-being. The Criminal Investigator will inform victims of the availability of specialist services (such as NSW Health Sexual Assault Services) and how these services can assist victims in their recovery. With the consent of the victim the Investigator should make referrals to the Sexual Assault Services as soon as possible. A contact list of all NSW Sexual Assault Services and other assistance can be located at: www.sexualassault.nsw.gov.au

NSW Health Sexual Assault Services

In NSW there are 55 NSW Health funded Sexual Assault Services. These services are available 24/hours a day. They can be contacted through the local hospital. When making a referral to the sexual assault service the following information is required:

- The victim's personal details including name, date of birth and address.
- Date of the last sexual assault.
- The need for an urgent forensic medical examination.
- Brief history of the assault.

NSW Rape Crisis Centre

NSW RCC is a free state-wide telephone counselling service for adult victims of sexual assault. The service provides access to specially trained counsellors on one number, twenty-four hours a day.

If a victim attends the police station and are:

- Uncertain about the options available to them;
- Uncertain about what they want to do;
- Unable to access the local NSW Health Sexual Assault Service; and or
- Distressed.

NSW Police officers will:

- Advise the victim of the availability of the specialist counselling and support provided by NSW RCC.
- With the victims consent telephone the NSW RCC.
- Provide the victim, wherever possible with access to a telephone in a quiet and private space to speak with the counsellor.

The NSW RCC can be contacted on:

Ph 1800 424 017

NSW Rape Crisis online counselling - www.nswrapecrisis.com.au

TTY (02) 9181 4349

Victim Access Line can be contacted on 1800 633 063 or (02) 8688 5511

Confidentiality

All officers have a statutory obligation under the *Victims Rights Act 1996* to abide by the *Charter of Victims Rights*. Criminal investigators will maintain strict confidentiality during the investigation of any adult sexual assault matter and during any subsequent proceedings.

Transport of Victims

If the victim presents to the local police station it is the responsibility of the Duty Officer to ensure that the victim is advised of the availability and benefits of specialist Sexual Assault Service intervention. In situations where the victim requires immediate attention from the Sexual Assault Service, and they wish to attend the service, the Duty Officer will ensure the nearest service is notified. (NOTE: this may not necessarily be located at the nearest hospital).

If the victim requires urgent medical attention or forensic medical examination it is the responsibility of police to transport the victim to the Sexual Assault Service. In some situations Police may consider an ambulance to transport the victim. Where ever possible victims will be transported in unmarked police vehicles with police in plain clothes. In circumstances where the victim presents to a Health Service where a Sexual Assault Service is not located it is the responsibility of the Health Service to transport the victim to the nearest sexual assault service.

Considerations for Bail

The Charter of Victim's Rights grants victims the following:

- The right to have their need or perceived need for protection put before an authority by the prosecutor in any bail application by the accused;
- The right to be informed of bail conditions;
- When making a bail application, the bail authority should take into account the apprehension experienced by the victim of sexual assault. Concerns should be discussed with the victim in order to maximise both their protection and sense of safety;
- Subject to the provisions of the Bail Act (Part V, Division 1) which specifies the criteria to be considered in the bail application, the bail authority should consider giving conditional bail which prevents the person charged from contacting the victim, either directly or indirectly, or being in the vicinity of the victim's home or work.

Apprehended Violence Orders

As well as laying charges, police may also apply for an Apprehended Violence Order (AVO). It may be appropriate to apply for an AVO where there is insufficient evidence to proceed with criminal charges. If the AVO application is made before a suspect has been interviewed about the sexual assault, it should contain enough information to satisfy the court that the victim has a reasonable fear for her/his safety but must not contain any details of the substantive sexual assault allegations.

Victims should be advised, when an application for AVO is made by police, as s/he will be required to attend court and that her/his name and address will be disclosed to the court. The *Crimes (Domestic Violence) Act 2007* provides for both Apprehended Domestic Violence Orders and Apprehended Personal Violence Orders, depending on the nature of the relationship between the victim and the suspect. The Domestic Violence Liaison Officer (DVLO) may be able to assist with information regarding AVO's.

Victim Follow-Up

The Criminal Investigator is responsible for ensuring that the victim is informed of the status of the case and progress of the investigation. This includes charging, bail conditions and subsequent remand dates. In addition, police should encourage victims to seek support or counselling from a sexual assault service. Victims must be provided with a Victim Card which

has been completed with the name of the OIC, the name of the LAC, telephone and fax number, time and date of the report and the COPS Event number.

Victims Compensation

Victims of sexual assault may be eligible for counselling as well as victims compensation from the Victims Compensation Tribunal. Victims must be provided with information regarding access to compensation as victims of violent crime. Police can refer victims to the Victims of Crime Bureau, should they require information regarding victim's compensation. The bureau can be contacted on:

Main number (02) 8688 5511

Toll free 1800 633 063

Toll free - Aboriginal & TI 1800 019 123

National Relay Service (for hearing impaired) 1800 555 677

www.lawlink.nsw.gov.au/vs

Victims Register

Under the Charter of Victims Rights, victims of crime are given the right to information about the offender's status. Victims of crime, including sexual assault have a right to receive information about an offender who is an adult or a young person in custody or who is a forensic patient. In situations where the offender is serving a custodial sentence, victims must be informed of the Victims Register. Each department that has responsibility for offenders in custody has a Victims Register. In NSW there are three registers:

1. Department of Corrective Services Victims Register: Phone - (02) 8346 1374

web - <http://www.correctiveservices.nsw.gov.au/>

Postal address - Coordinator, Victims Register, Corrective Services NSW, PO Box 31 GPO, Sydney NSW 2001

2. Department of Juvenile Justice Victims Register: Phone - (02) 9219 9400

Fax: (02) 9219 9511

Postal address - The Victims Register, Executive Services Branch, Juvenile Justice, PO Box K399 Haymarket NSW 1240

3. NSW Health Forensic Patients Victims Register: Forensic Division MHRT: - Phone - (02) 9816 5955

web - <http://www.mhrt.nsw.gov.au/the-tribunal/>

email - mhrtforensic@doh.health.nsw.gov.au

Victims with Specific Needs

People from culturally and linguistically diverse background

Before interviewing sexual assault victim's police should consider the cultural background and religious beliefs of the person and the impact this may have on the statement taking process. The Ethnic Affairs Commission of NSW *Use of Interpreters in Domestic Violence and Sexual Assault Cases* provides a useful guide for responding to victims of sexual assault where English is not identified as the first language.

Use of Interpreter services

If a victim cannot communicate orally in English with reasonable fluency, then an appropriate interpreter service will be used. Police must use accredited interpreters when interviewing victims or witnesses in sexual assault matters. Where ever possible on site (face to face) interpreters should be used. Under no circumstances should unaccredited police employees or members of the public be used to interpret in detailed operational and policing situations. The use of the Telephone Interpreter Service should be considered in these situations. NSW Police guidelines for using interpreters are documented in the *Code of Practice CRIME and Procedures for the Evidence Act*. Do not use a friend or relative to interpret when taking a statement from the victim. Some victims of sexual assault from culturally diverse communities may have experienced torture and trauma in their country of origin. This may have occurred at the hands of a political oppressor a military regime or the police. Their experience may impact on their ability to disclose the assault and willingness to co-operate with police.

Aboriginal People

It is important for officers to be sensitive to cultural issues when responding to the needs of sexual assault victims from the Aboriginal community. Establishing and maintaining networks with the support of the Aboriginal Community Liaison Officer (ACLO) will assist you in your work. In many Aboriginal communities it is often the case that complainants and alleged offenders are related to or well known in the community. Aboriginal victims may fear reporting to police particularly if the alleged offender is also aboriginal or they are already known or had previous dealings with police. In all of these circumstances the matter needs to be dealt with in a highly sensitive manner.

People with an intellectual disability

People with an intellectual disability are particularly vulnerable to sexual assault, and frequently do not report to police when they have been victims. Police may have concerns about investigating a sexual assault of a person with an intellectual disability due to:

- the potential trauma that the victim could experience during a trial
- perceptions that the victim will have difficulty in accurately recalling events and times

- the likelihood of securing a conviction.

Victims with an intellectual disability may need additional support when reporting a sexual assault. The use of a support person can greatly assist police in interviewing the victim, and assist the victim through the court process. The Criminal Justice System Network (CJSN) has produced resources to assist police in interacting with a person with an intellectual disability reporting sexual assault. These resources are available on the intranet on the Sex Crimes Squad and Vulnerable Communities Knowledge Map.

If you decide not to proceed with a statement and prosecution for a person with an intellectual disability, you must document your reasons and submit this information to your Commander and the Commander, Police Prosecutions.

People with a physical disability

People with a physical disability are vulnerable to sexual assault, particularly those who have severe physical disabilities and are dependent on carers. If a person with a physical disability is being abused by their carer, this creates additional barriers to reporting the sexual assault to police.

People who have communication impairments are also particularly vulnerable to sexual assault and may have difficulty in reporting to police. Appropriate adjustments should be made to ensure the person can communicate effectively with police

Sexual Assault within residential facilities

Where a notification of adult sexual assault has been made by a residential or hospital facility, criminal investigators should proceed in consultation with staff at that facility. A notification may be made without the knowledge or consent of the victim and a high level of sensitivity is required in these circumstances. Early contact with the sexual assault service should be made.

Victims who are deaf or hearing impaired

Accredited Auslan interpreters must be used when interviewing deaf and hearing impaired victims. They can be contacted at the:

Community Relations Commission - Telephone 1300 651 500

NSW Rape Crisis Centre is able to offer counselling to deaf and hearing impaired victims through the TTY phone service (02 9181 4349)

Sexuality and gender

People who identify as Gay, Lesbian, Bi-sexual, Transgender, Queer and Intersex may experience sexual assault as a form of homophobic or prejudice related violence. Sexual assault also happens within these communities and is very much a hidden crime. People who identify from any of these communities may experience heightened fear in reporting to sexual assault to the police because of fear of not being believed or being judged because of their sexuality. The Gay & Lesbian Liaison Officer (GLLO) at the Local Area Command may be

able to provide valuable advice about investigating sexual assaults involving people who identify as Gay, Lesbian, Bi-sexual, Transgender, Queer or Intersex.

Mental Health

Mental health issues may include a range of conditions such as psychiatric disabilities psychological problems and drug related disorders. Mental illness for most people is transitory. Victims of sexual assault with a mental illness may be too unwell at the time to proceed with the investigation or make an informed decision. In such instances it is preferable, where possible; to defer the investigation until the person is well enough to give informed consent. It is crucial that in situations where there is a recent assault and the investigation is being deferred due to the victim's mental health that any physical evidence is secured and any corroborating evidence obtained. In situations where the victim of sexual assault is suffering from an acute psychiatric illness consultation with a mental health professional is recommended before proceeding with statement taking. Police should seek this advice from the treating psychiatrist or a mental health professional nominated by the psychiatrist.

Sex Workers

Sexual assault and violence in the sex industry is frequently not reported to police. Sex workers are marginalised, this leaving them more vulnerable to sexual violence. Sex workers generally do not report sexual assault to the police because they fear that they will not be believed, may have outstanding warrants, will not be taken seriously or will be blamed or judged because of the work that they do. The Sex Workers Outreach Project (SWOP) can offer advice and support when investigating allegations of sexual assault against sex workers. They can be contacted on:

Phone: 9319 4866

Free call: 1800 622 902

Fax: (02) 9206 2133

email: infoswop@acon.org.au

web: www.swop.org.au

Postal address: PO Box 1354, Strawberry Hills, NSW 2012

Police Employees

The principles of these SOPS apply equally where the victim is a NSW Police employee (sworn or unsworn). Information and access to support should be provided to officers who are victims of sexual assault. When investigating sexual assault allegations involving police officers or police employee's guidance must be sought from a senior officer within the Local Area Command investigating the allegation. The privacy of all officers involved in the allegation must be protected at all times. If the victim is an employee of NSW Police, do not record the victims name on COPS rather enter "victim known to Police". Sexual assault

allegations that involve NSW Police Officers or employees MUST NOT be recorded as a significant event. The Local Area Commander or equivalent must be advised of the situation.

Victims of Domestic Violence

The reporting of sexual assault within intimate domestic relationships is the lowest reported form of domestic violence. Sex offences that have occurred within a domestic relationship can be difficult to prosecute as lack of consent may be difficult to prove. It is essential that the Domestic Violence Liaison Officer (DVLO) and the Criminal Investigator work closely together with these victims. Criminal Investigators should consider ways that the DVLO may be able to assist during the investigation including support to victims when they are providing a statement in relation to the sexual assault.

Victims of Sexual Assault aged 16 to 18 years

A key principle of the *Children and Young Persons Care and Protection Act (1998)* allows young people to participate in decisions that affect them and extends the options available to them, including adult courses of action. In all cases 16 to 18 year olds who have experienced a sexual assault will be offered counselling and medical services in an adult sexual assault service. The legislation does not mandate police to report young people, aged 16 –18 years of age who have been sexually assaulted to the Department of Community Services. Cases involving young people aged 16 to 18 years who are sexually assaulted by a peer, stranger or acquaintance and where the young person is not at risk of ongoing harm will be investigated and managed by the LAC. This includes date rape situations. Matters that do not meet these criteria are investigated by the Joint Investigation Response Team.

Where there is doubt about responsibility for a matter negotiations regarding the allocation of a case will take place between the CAS Team Leader and the Investigations Manager. If the allocation remains unresolved then the matter goes to the CAS Coordinator, Crime Manager. If this remains unresolved the Commander Child Abuse Squad will liaise with the Local Area Commander.

Victims affected by Alcohol and or Drugs

Offenders may use drugs and or alcohol to facilitate sexual assault. Reports indicate that drink spiking is under-reported to the police, medical agencies and other authorities. (Taylor N, Prichard J, Charlton K 2004. *National project on drink spiking: investigating the nature and extent of drink spiking in Australia*) Victims who do report may be hesitant as they have a poor memory of what has happened. These victims may attend police stations intoxicated, in order to ensure the preservation of traces of drugs or alcohol it is essential that toxicology is obtained as soon as possible. In situations where the victim has been sexually assault these samples (blood and urine) will be taken by the Sexual Assault Service.

Situational Reports (SITREP)

Situation Report (SITREP) template **MUST** be used.

The Duty Operations Inspector (DOI VKG) must be notified immediately when the following incidents occur;

Situation Reports are to be submitted for the following types of incidents:

- Death of a serving member (any reference to serving member means sworn or unsworn) whether on duty or not,
- Where a serving member receives a serious or significant injury, whether hospitalised or not, in the execution of his or her duty,
- Any serious or significant injury to a serving member suffered off duty,
- Any matter defined as a critical incident,
- Any major incident, requiring a large-scale response from police,
- The arrest and / or charge of any serving member,
- Good / meritorious police work, which is considered worthy of follow up action,
- Matters related to terrorism,
- Any incident which impacts on the integrity, or breaches the security of critical infrastructure sites,
- Murders,
- Siege situations,
- Any incidents of civil unrest,
- Bushfires,
- Serious armed robberies involving wounding, a large amount of property (\$40,000 value) or cash, or occurring in circumstances or a context that will be of media/public interest,
- Incidents of serious offences, including but not limited to; sexual assault, robbery, home invasion, break enter and steal, carjacking, and / or where a number of offences are linked,
- Sexual assaults where the offender is unknown and a community warning may be considered,
- Kidnapping/abduction, product contaminations and other significant extortions,
- Disaster situations, significant evacuations or major disruption to transport routes/systems,
- Significant, controversial or high profile arrest / incidents,
- Any matter that is likely to attract significant public interest or media attention, and,
- Any damage to police infrastructure including but not limited to; property, vehicles, equipment.

Situation Reports must be submitted as soon as practicable to:

- your next level command

- Duty Operations Inspector (VKG) e/n fax 54272,
- Operations Response Unit, Office of the Commissioner, e/n fax 45352, and,
- Media Unit, Public Affairs, e/n fax 45312,

Please be reminded that it is the responsibility of the Duty Officer within a Local Area Command (or equivalent) to notify the relevant Local Area and Region Commander and not that of the Duty Operations Inspector (VKG).

These guidelines supplement any local or regional requirements for the reporting.

Duty Officer (or equivalent)

It is your responsibility to ensure that a quality SITREP is produced and forwarded and except in exigent circumstances, the Duty Officer (or equivalent) MUST vet and sign it.

Incidents of deficient Situation Reports will be brought to the attention of the relevant Commander for quality assurance, training and improvement purposes.

SITREP Content

It is essential that Situation Reports, where possible, include the following:

- When the incident occurred;
- Where the incident occurred;
- Who was involved in the incident (including the correct DOB);
- How the incident occurred;
- Why the incident occurred (eg- drug related, domestic related);
- Action that has been taken;
- Resources that have or are going to be utilised;
- Further action that is planned;
- Issues/impact relating to the incident of which the chain of command needs to be notified (eg- political or media impact);
- Specialist areas that need to be notified or have been consulted (eg- State Crime Command, Counter Terrorism Command, Special Services Group);
- Correct dates and event/charge/case numbers;
- If action is taken, charges preferred, bail conditions, date of next court appearance and where;
- Police welfare issues where appropriate should include but not be limited to; police injuries, if EAP is or will be offered, hospitalisation and location.
- Where appropriate refer and report on the incident as referenced against the NSW State Plan. For more information on the State Plan see <http://www.nsw.gov.au/stateplan/>

Quality Control

- The document should be checked for spelling and grammar;
- Situation Reports should contain the signature and name of the author;

- Situation Reports should be verified and signed by a Duty Officer/Local Area Commander or equivalent;
- Situation Reports should be written in the third person, limiting the use of police jargon;
- Situation Reports should be as informative, yet concise as possible;
- Situation Reports should not include highly confidential operational information (eg- details of a confidential source) that might jeopardise an investigation. If this information is available and important to the reader, this should be conveyed by more secure means;
- When assigning the appropriate media status to the Situation Report, use one of the three generic descriptors supplied (For Press, Not For Press & Contact Author).

Be mindful that these documents may form the basis of information supplied to agencies outside the NSW Police Force including the NSW Premier, Police Minister and NSW Police Ministry.

While Situation Reports are most commonly used by officers in a General Duties/Detectives/Local Area Command capacity, those Specialist Commands (eg- Prosecutors, CTSTC, PSC, SCC) with issues that need to be brought to the attention of the NSW Police Executive should also use this format.

Specialist groups

Often, the initial role of a specialist group at the scene of an incident is to offer advice to local area commanders so they can consider options.

Except in an emergency or sensitive circumstances, as described later, a specialist group, irrespective of the command level to which it is attached, does not perform operational duty within a LAC unless the Local Area Commander authorises it.

'Operational duty' means policing relating to:

- the execution of any warrant (other than a telephone interception warrant)
- an arrest/intended arrest
- any incident where weapons might be used or the safety of a person jeopardised
- an incident likely to cause unreasonable inconvenience to the public
- an incident involving local area police
- an investigation likely to last more than a week.

Where an operation involves more than one LAC, and time and circumstances allow, the specialist group is to consult all commanders involved and seek authorisation.

If a local area commander refuses to authorise a specialist group to conduct operational duty or imposes conditions which the group finds unacceptable, the issue will be taken up with the region commander.

On the rare occasions when the urgency or sensitivity of a situation, does not allow the specialist group to consult the local commander, brief the region commander (or delegated officer). The region commander, in consultation with the specialist group commander, approves such operational duty and decides what level of command will be notified.

At the end of the operational duty, as soon as possible:

- provide a comprehensive verbal briefing to the local area commander and record the result of that activity
- disseminate to the LAC timely intelligence impacting on it and likely to enhance further operations
- advise higher commands, as appropriate.

Local area commander

You are responsible for the operation, in your Local Area Command where you have been made aware of the operation, unless it clearly is a major incident and an operational commander is appointed.

Sponsorship and endorsement

Sponsorship

Sponsorship is a commercial arrangement in which a sponsor provides a contribution in money or in-kind to the Police Force to support a police activity, in return for specified benefits.

The NSW Police Force accepts sponsorship *from* external organisations as a means to supplement police resources either by reducing the cost of performing a particular activity, or by enhancing or expanding service delivery.

The NSW Police Force *does not* sponsor or endorse the products, services or activities of any external person or organisation.

Sponsorship can provide opportunities to interact with the community through:

- special events such as the Royal Easter Show or Police Open Day
- local crime reduction initiatives
- educational and awareness programs, such as Missing Persons Week or attendance at local open days, schools visits or fetes and community events.

For example, Local Area Command (LAC) crime prevention initiatives are assisted by sponsorships which provide funds to develop promotional materials, displays and information forums. Sponsorship also enables the Police Force to obtain cars (non operational) and other equipment to assist with crime prevention and community engagement.

The NSW Police Force has a [Sponsorship Policy](#) which provides guidance and templates for identifying, securing and managing sponsorships. The Corporate Communications Unit, Public Affairs Branch, can also be contacted for sponsorship advice.

All sponsorships worth more than \$2,000 must be registered with the Public Affairs Branch.

Endorsement

Endorsement occurs when the NSW Police Force gives approval or support to an organisation, individual, product, service or activity.

The Police Force *does not* endorse organisations, individuals, products, services or activities where the endorsement will result in a commercial benefit.

The NSW Police Force can provide non-commercial endorsement:

- (a) for an *activity or event* which is
- (b) organised by a government agency, not for profit community organisation or charity, and
- (c) if the activity or event:
 - supports the police mission to work with the community to reduce violence, crime and fear
 - does not create an actual, potential or perceived conflict of interest between the organisation and the NSW Police Force
 - provides a positive image for the NSW Police Force, and
 - does not provide a commercial benefit or profit.

The NSW Police Force has an [Endorsement Policy](#) which provides guidance and templates for managing endorsements. The Corporate Communications Unit, Public Affairs Branch, can also be contacted for endorsement advice.

Sporting and social functions

Formation/administration of sporting and social clubs

Police employees may form a police amateur athletic or social club with the Commissioner's approval. If the club relates solely to staff from one command, the commander may give approval.

Employees should be aware that it is an offence, under section 204A of the *Police Act 1990* for an organisation to use the word 'police' within their operating name without the approval of the Commissioner of Police.

Approval for a sporting or social club to use the word 'Police' in its name can be sought by application to the Director, Public Affairs Branch.

Affiliation with the NSW Police Council of Sport

All NSW Police sporting clubs should be affiliated with the NSW Police Council of Sport.

To gain affiliation to the Council of Sport you must make a formal application, in writing, to the Secretary of the Council of Sport.

Information on how to apply for affiliation to the NSW Police Council of Sport can be obtained from their website at: <http://nswpolicegames.com.au/>.

Books and accounts

Open the minutes and accounts of the club for inspection by any member of the club.

Ensure an annual balance sheet/statement is compiled and audited by an independent non-police auditor.

If a local club, send the sheet to the local commander within one month of the annual general meeting.

If the club includes police from other areas, send the balance sheet or statement to the Commissioner, audited and within the timeframe above.

Include the following information with the balance sheet:

- a copy of the submission (including the Trim and file number) granting approval to form the club and/or to conduct social functions
- a copy of the submission (including the Trim and file number) granting approval for using soft drink or other vending machines, if relevant.

Ensure balance sheets clearly and separately show the receipt and disposal of all money received from operating vending machines.

Do not receive any payment or reward for services to police sporting or social clubs without the Commissioner's approval.

Commanders

Check the audited annual balance sheet/statement, and keep a copy of all balance sheets/statements.

Police at sporting events

You may take part in any event of an amateur athletic club, but do not compete for a money prize or wager without the Commissioner's approval.

Police at public functions

Get approval before holding or helping at any sporting or social function with which the NSW Police Force is associated, and to which the public is admitted.

Include the following information in the application:

- the number of tickets to be printed, their prices, how and by whom they will be sold, and where
- the capacity of the function venue
- an estimate of how much any charities associated with the function will benefit. (Show the ratio of benefit between the various recipients)
- if the function is to help a charitable organisation, the date of the last such function
- whether the function is to be advertised.

If the function is to benefit a charity, include the sanction of the charity with the application.

Do not ask people to buy tickets for a function in honour of police, or for a function to raise funds for a police sporting body/social club, or jointly for a police sporting body/social club and a charitable organisation. People may voluntarily buy tickets, however, at the place the function is held.

Send a statement of income and expenditure, audited by an independent non-police auditor, to the relevant local commander or the Commissioner (as relevant) at the end of the function.

Presentations to serving and retiring officers

Refer to the *Code of Conduct and Ethics* about the acceptance of rewards and gratuities etc.

Advise anyone offering a reward to any police employee of the above restriction, and if they want to record their appreciation, they may write to the Commissioner.

State Protection Group (SPG)

The State Protection Group (SPG) is part of the Counter Terrorism and Special Tactics (CTST) Command. The SPG is comprised of five specialist units:

- Dog Unit;
- Negotiation Unit;
- Police Armoury;
- Rescue and Bomb Disposal Unit (RBDU); and
- Tactical Operations Unit (TOU).

The SPG specialist units are recognised technical heads of profession, for their respective skills area, and have operational, training and support relationships with part-time and decentralised personnel in the field, including:

- State Protection Support Unit - Tactical;
- Police Negotiators;
- Decentralised Police Rescue Units; and
- Decentralised Dog Unit Officers.

Dog Unit

The Dog Unit provides the following specialist dog services:

- General Purpose Dogs;
- Tactical Dogs;
- Drug Detection Dogs;
- Firearms & Explosive Detection Dogs;
- Off-lead Explosive Detection Dogs; and
- Cadaver Dogs.

General Purpose Dogs

Dog teams can assist Local Area Commands (LACs) in reducing the incidence of crime through proactive deployment to hotspot areas.

The primary functions of General Purpose (GP) Dogs are:

- The tracking of human scent and searching for persons of interest in bushland, open terrain, residential, commercial/industrial areas and any sort of building;
- Searching for property and exhibits that may have been hidden, discarded, buried or otherwise secreted by persons of interest;
- Searching specific locations for recently reported missing person/s (bushland etc);
- Physical apprehension of violent, armed or fleeing offenders who cannot be apprehended through other means;

- Proactive policing including mobile and foot patrols (where practical these patrols will be based on intelligence driven tasking);
- A support role at high risk situations involving the TOU and Police Negotiators (GP dog teams will take up a perimeter role and provide support for tactically trained dog teams. When two teams are in attendance at a situation the tactical dog team will be the primary team and the GP dog team will be a secondary resource) - see Tactical Dogs; and
- To provide a protection and support role to police involved in dangerous or potentially dangerous situations where police are at risk of injury, e.g. public order situations, brawls, public order management (reactionary and planned) and high profile events.

Note: GP Dogs will not be used to disperse crowds unless certain violent circumstances exist. Contact the Supervisor, Dog Unit or Operations Manager for further advice.

For further information on GP Dog capabilities including DOG UNIT PUBLIC ORDER SOPS refer to the [SPG Dog Unit Intranet Site](#).

Tactical Dogs

The primary functions of tactically trained police dogs are:

- To work with the TOU to assist in the resolution of high risk situations;
- The search and clearance of strongholds and areas nominated by the Operations Coordinator, TOU (with the use of remote cameras as required) as part of an emergency action or deliberate action;
- The tracking and searching for offenders or persons of interest as directed by the Operations Coordinator, TOU;
- To subdue violent, armed or fleeing offenders as directed by the Operations Coordinator, TOU;
- To support tactical teams during high risk vehicle intercepts, buy/bust operations and the arrest of armed offenders; and
- Perimeter security roles during siege containment in conjunction with other tactical options.

Note: Tactical Dogs can only be deployed on request from the TOU.

Drug Detection Dogs

The primary function of Drug Detection Dogs is to search for drugs and substances by screening the free air space:

- During the execution of Search Warrants;
- During high profile Street Operations;
- During covert Street Operations;
- During Transit Operations on "prescribed routes";
- Around motor vehicles;

- Around persons of interest; and
- Around nominated property.

Prior to requesting a drug detection dog officers should ensure the planned deployment complies with the requirements for use set out in Part 4 Division 1 and Part 11 of Law Enforcement (Powers and Responsibilities) Act 2002.

Request for Assistance - Drug Detection Dogs

DRUG DETECTION DOG SOPS place the onus on requesting police to ensure the intelligence relied upon for non-warrant based drug detection dog operations is recent, relevant and specific. If you are planning an operation that requires the assistance of Drug Detection Dog teams you are required to submit a request for assistance on the Dog Deployment System (DDS) - located under [Systems](#) on the Police Intranet. All details are to be included on the request, which is electronically submitted to the Dog Unit Coordination Office (e/n 47704). The request should be submitted at the earliest opportunity in your planning to ensure availability of the necessary detection dog team.

Note: At times the Dog Unit may need to prioritise Drug Detection Dog deployments. Dog teams may be diverted from an operational deployment for urgent or exigent circumstances.

For further information on Drug Detection Dog capabilities including DRUG DETECTION DOG SOPS refer to the [SPG DOG UNIT INTRANET SITE](#) .

Firearms & Explosive Detection Dogs

The primary functions of Firearm & Explosive Detection Dogs (FEDDs) are to detect explosives, powders, nitrates, emulsions, gels, firearms and munitions. FEDDs are not trained to detect replica or sterile firearms (i.e. firearms which have not recently been fired).

FEDD teams will only deploy conditional on an appropriate risk assessment being carried out of a task. Standard FEDD teams will not be deployed in circumstances where an object has been deemed suspicious by virtue of the "HOT" guidelines. In these instances the services of RBDU should be requested. In circumstances where an IED threat has been received, FEDD teams will not search any premises within thirty minutes either side of any detonation time given. Any search involving military ordinances should be referred to the on-duty supervisor at the RBDU (or if you are unable to contact the RBDU directly contact the DOI) who will contact the Australian Defence Force (ADF) Senior Ammunition Technical Officer (SATO) for assistance.

FEDDs provide a 24-hour on-call capability and are deployed to:

- Search premises to detect Improvised Explosive Devices (IEDs), where there is a perceived threat or where a specific threat has been received;
- Screen property such as luggage, parcels or mail for firearms, munitions and IEDs;
- Search crime scenes for firearms, munitions, IEDs or spent shell casings;
- Search premises post-blast;

- Search premises for firearms and or munitions under the provisions of domestic violence legislation;
- Screen the free air space around persons in a public place to detect firearms, munitions, IEDs or spent shell casings; and
- Provide support to the RBDU, as deemed appropriate.

Request for Assistance - FEDD

If you are planning an operation that requires the assistance of FEDD teams you are required to submit a request for assistance on the Dog Deployment System (DDS) - located under [Systems](#) on the Police Intranet. All details are to be included on the request, which is electronically submitted to the Dog Unit Coordination Office (e/n 47704). The request should be submitted as soon as possible.

Off-lead Explosive Detection Dogs

Off-lead Explosive Detection Dogs work in conjunction with RBDU to provide an enhanced Bomb Response capability. The primary function of an Off-lead Explosive Detection Dog is to screen the free air space around suspect areas, vehicles and devices to provide an initial indication of explosives, thereby reducing risks posed to officers

Cadaver Dogs

Cadaver Dogs indicate the presence of cadaver (deceased human being) odour within varying environments including: parkland, bushland, rainforest, coastal dunes, arid desert, snow regions, vehicles, vessels, residential dwellings and commercial/industrial premises. Cadaver dog teams are capable of being deployed with the Aviation Support Branch, Marine Area Command and RBDU.

The primary functions of Cadaver Dogs are to:

- Search for clandestine graves; and
- Search for deceased persons in various states of decomposition including intact and disarticulated human remains undergoing the five stages of human decomposition (soon after death, bloated, decay, liquefaction and skeletal decomposition phases).

Request for Assistance - Cadaver Dogs

If you are planning an operation that requires the assistance of Cadaver Dog teams you are required to submit a request for assistance on the Dog Deployment System (DDS) - located under [Systems](#) on the Police Intranet. All details are to be included on the request, which is electronically submitted to the Dog Unit Coordination Office (e/n 47704). The request should be submitted as soon as possible.

Negotiation Unit

The Negotiation Unit provides highly trained police negotiators to a variety of situations including suicide intervention, sieges, kidnap and extortion matters; as well as any matter

where police believe a trained negotiator may be of assistance. Police Negotiators are qualified to national standards and have skills in mediation, dispute resolution and counter terrorism (CT) negotiation.

The Negotiation Unit is located within the Sydney Police Centre. Police Negotiators are primarily part-time and work on an on-call basis to provide a 24-hour response to all parts of the state.

In accordance with the principles of containment and negotiation of armed high risk situations, any response, to a request for assistance by police, will entail the deployment of Police Negotiators in conjunction with the TOU and/or SPSU in a country location. For any police negotiator response to a person threatening self harm, where that person is not armed, the services of other specialist units such as the RBDU may be utilised.

Requests for the assistance of Police Negotiators should be directed through the Duty Operations Inspector (DOI), Sydney Communications Centre or directly to the Commander, Negotiation Unit on e/n 53527.

See also: Sub-heading "Tactical Operations Unit" in this chapter of the handbook for further information relating to police response to High Risk Situations.

Police Armoury

The Police Armoury is located on Level 2, Sydney Police Centre.

The Police Armoury is responsible for:

- The purchase, issuing and maintenance of all NSW Police Force firearms;
- The purchase, issuing and maintenance of NSW Police Force appointments including magazines, handcuffs and electronic control devices (ECDs or Tasers);
- Manufacture and supply of training ammunition and supply of operational ammunition;
- Disposal of Oleoresin Capsicum (OC) Spray canisters
- Specialist engineering services to the NSW Police Force.

General Hours of Business

The Police Armoury is open for business on Monday to Friday from 8.00am to 4.00pm.

Collection and Pickup Services

All collection of bulk ammunition should occur by prior arrangement. Extra security precautions must be considered when conveying multiple firearms to and from the Police Armoury, including use of additional escorting police and secure transport storage.

Return of Police Appointments

A Police Armoury [RETURN OF POLICE APPOINTMENTS form](#) available from the [POLICE ARMOURY INTRANET SITE](#) will be completed for all appointments that are returned to the Police Armoury.

Return of Police Appointments for Police on Long-Term Leave or Upon Retirement

Appointments on issue to police on any form of long-term leave (including sick leave, extended leave and maternity leave) or on issue to police exiting the NSW Police Force are to be returned to the Police Armoury as a matter of priority. All returned appointments are to be accompanied by a [RETURN OF POLICE APPOINTMENTS form](#).

Any return of firearms to the Police Armoury must include the return of two magazines. The Police Armoury will recoup the cost of non returned police magazines (\$100 each). In such instances advice will be forwarded to the relevant commander seeking payment.

Rescue and Bomb Disposal Unit

The Rescue and Bomb Disposal Unit (RBDU) provides specialised support in the provision of an effective search, rescue, bomb response and operational support to the NSW Police Force.

The RBDU, with the assistance of decentralised police rescue squads, provides a 24 hour / 7 day a week operational response that is deployable to all areas across NSW, at NO COST to a LAC or Region.

RBDU delivers Rescue (Vertical Rescue, Swift Water Rescue, General Land Rescue) services , coordinates Land Search & Rescue (LANDSAR) across NSW, provides the community of NSW a Bomb/CBRNE Response capability and provides specialist operational and logistical support to the NSW Police Force.

Rescue Operations

The RBDU has primary accreditation from the State Rescue Board to provide general land and vertical rescue services in the Sydney central business district (CBD), eastern and inner western suburbs. Police Rescue Squads also provide primary rescue and operational support to Police. They are located at the Blue Mountains, Bathurst, Newcastle, Lake Illawarra, Lismore, Goulburn and the Far South Coast.

Typical rescue work includes motor vehicle accidents, vertical rescues (e.g.: cliffs and buildings) domestic and industrial rescue, swift water and flood rescue. All Police Rescue Units in NSW are accredited Swift Water/Flood Units under the State Rescue Board.

The RBDU responds to major emergencies and disasters across the state as required and works closely with other emergency services.

Special Support Tasks

Using their rescue skills and equipment RBDU officers support front line police with special tasks and operations that are outside the definition of rescue under the STATE EMERGENCY AND RESCUE MANAGEMENT ACT 1989 No 165 (SERM Act).

The RBDU provides support to front line police for special tasks and operations which include:

- Accessing places and areas which are difficult to reach such as heights, depths and confined spaces (for example: cliffs, rooftops, trees, bridge spans, improvised structures, machinery, caves, tunnels, wells and mineshafts);
- Crime scene access and physical evidence recovery;
- Body recoveries;
- All police operations at height including the removal of protestors and suicide interventions;
Search warrants - gaining entry to fortified premises, along with providing metal detectors, cutting equipment, probes, fibre scope cameras, portable lighting, tarps, inflatable tents, and officers to search roof cavities, under house etc;
- Use of specialised tools to search premises, vehicles and bushland;
- Remote area operations (self sufficient and sustainable for greater than 24 hours) and specialised operational logistical support;
- Heavy and light 4WD access;
- Gain entry to premises for detention of schedule patients, under the MENTAL HEALTH ACT 2007 No 8;
- Lighting Truck – requested through the DOI where lighting is required: used at fatal car accidents to assist crash investigation units, crime scenes and sieges;
- Lighting Trailer - can be requested by a command via a request for assistance form: used for emergency operations where lighting is required;
- Robotics - to assist at a siege situation, negotiation and hazardous areas;
- Provided Breathing Apparatus for hazardous and contaminated areas;
- Recovered projectiles from walls, removed floors and walls for evidence, been involved in exhumations of bodies, gained access to safes and cash tins, recovered evidence from roofs and other hard to access areas, camera's to search for and retrieve evidence (e.g.: drugs) which may have been disposed of by way of flushing;
- Heavy Vehicle Prime Mover & Low Loader capability;
- Medium Rigid Tilt Tray Capability;
- Infra Red (IR) and X-Ray equipment.

Note: If any such situations are deemed high risk consideration must be given to using other SPG resources, such as the TOU.

Search and Rescue Operations

The RBDU provides accredited Search and Rescue Coordinators as well as experienced Search Team Leaders to support Police Commanders in relation to search and rescue operations for missing and overdue persons, vehicles, unregistered aircraft and physical evidence in a land environment. This is a major responsibility of the NSW Police Force in accordance with the NATIONAL SEARCH AND RESCUE PLAN and the NSW STATE DISASTER PLAN.

Land Search Operations, Accredited Search Coordinators and Suspending Land Searches

The NSW Police Force is the designated combat agency for the coordination of Land Search &

Rescue (LANDSAR) operations. LANDSAR operations for missing persons usually involve the assistance of other emergency service organisations and community volunteers.

When the decision is made to conduct a land search operation, the Duty Operations Inspector (DOI), Sydney Communications Centre and RBDU (Alexandria) is to be notified immediately of the situation.

A qualified Land Search Coordinator must be nominated to undertake the actual search operation planning and coordination function.

It is imperative that an officer undertaking the Land Search Coordinator function has successfully completed the accredited NSW Police Force Search and Rescue Coordinators Course (Land Operations).

Search Advisors attached to the Operational Support Group (OSG) and/or Public Order & Riot Squad (PORS) are not accredited Land Search Coordinators for the purpose of missing persons etc.

In the first instance a Land Search Coordinator must be utilised from within the Region. Should such a person not be available in the Region, the RBDU can provide expert advice and/or a qualified Land Search Coordinator.

All requests for Land Search Coordinator deployments should be directed through the Region Operations Manager within the area of operations.

Once a Land Search Coordinator is appointed they will be responsible to manage the actual search operation planning and coordination function.

The Land Search Coordinator will record details of the search and complete an Urgency (Risk) Assessment Form. A search coordinator from either the RBDU or Decentralised Police Rescue Squad will attend if:

- Urgency Assessment Score results in an 'Emergency Response';
- LANDSAR Operation extends beyond 24 hours;
- High Risk Category (young child, self harm, dementia, intellectual disability etc);
- High Profile Searches.

Prior to suspending a land search operation the Land Search Controller and Coordinator will consult with the Operations Coordinator, RBDU (Alexandria).

For additional information, please refer to the Incident & Emergency Standing Operating Procedures (IESOPS) located on the NSWPF Intranet. Alternatively, contact can be made through RBDU on e/n 73900 or ph: 02 93183900 (24 hours).

Bomb Disposal Operations

The RBDU provides NSW with a comprehensive bomb response capability. This includes appraisal and rendering safe of improvised explosive devices (IED), vehicle borne improvised explosive devices (VBIED), homemade explosive devices (HME), person borne improvised

explosive devices (PBEID), homemade incendiary devices (HMI), chemical, biological and radiological devices and the removal/render safe of hazardous explosive materials.

The RBDU also provides advice, response and coordination for unexploded military ordnance (UXO) through the Australian Defence Force (ADF) and Senior Ammunitions Technical Officer (SATO). The RBDU are available 24 hours a day 7 days a week for advice and response to bomb related incidents across NSW.

A bomb response involves the use of specialised techniques including the use of explosives, special weapons and state of the art equipment such as X-Ray, robots and bomb suits. A bomb response could also involve the use of specialised Off-lead Explosive Detection Dogs. These dogs are utilised by the bomb response team to screen the free air space around suspect areas, vehicles and devices thereby reducing risks posed to officers.

Qualified Bomb Technicians at the RBDU are supported by Bomb Appraisal Officers (BAOs) within the decentralised rescue units. BAOs have the capacity to respond to suspected IEDs and undertake appraisal operations with specialised equipment, which includes X-Ray. Rendering safe of devices, deemed suspect after the appraisal process, can only be undertaken by qualified Bomb Technicians, authorised by the Commander, RBDU.

Requesting the Services of the RBDU

Rescue Services

All response for rescue services, state-wide, will be coordinated by the Rescue Coordinator, within the relevant Communications Centres (VKG).

Special Support Tasks

For a situation requiring immediate response, within the Sydney metropolitan area, Police should contact the Supervisor, RBDU. For pre-planned operations Police should initially consult with the Operations Coordinator, RBDU and then complete a REQUEST FOR ASSISTANCE FORM.

In regional areas supported by decentralised Police Rescue units, Police should defer to local request and call-out arrangements.

In regional areas not supported by decentralised Police Rescue units, police should contact the RBDU for services not provided through local rescue arrangements.

Bomb Disposal Operations

For an emergency response to any bomb related situation state-wide police should make a request for assistance through the Duty Operations Inspector (DOI), Sydney Communications Centre. This will ensure RBDU are properly notified of these incidents. In addition police can contact the RBDU at any time for advice. For pre-planned operations Police should initially consult with the Operations Coordinator, RBDU and then complete a REQUEST FOR ASSISTANCE FORM.

Tactical Operations Unit

The Tactical Operations Unit (TOU) is located within the Sydney Police Centre.

TOU Mission Statement:

To provide extraordinary operational support on a 24-hour basis to all police with the intent of resolving high risk situations without loss of life, injury to persons or damage to property.

The TOU response to a high risk situation will generally occur in conjunction with the deployment of Police Negotiators.

The TOU may be deployed to the following high risk situations:

- Siege/hostage situations;
- Arrest of armed and dangerous offenders;
- Conducting high risk entries and searches of premises;
- Escorts deemed to be of a high risk nature;
- Security of Internationally Protected Persons (IPPs), Heads of State and holders of high public office assessed at risk; and
- Providing support services for major operations considered high risk.

The below definition of a high risk situation, as used by the NSW Police Force, is adopted from the AUSTRALIA NEW ZEALAND GUIDELINES FOR DEPLOYMENT OF POLICE TO HIGH RISK SITUATIONS 2013.

High Risk Situations

The circumstances and types of situations which may be defined as High Risk vary widely. The essential judgement that needs to be exercised is whether the real or impending violence or threat to be countered is such that the degree of force that could be applied by the police is fully justified. In this context, one or more of the following criteria may be used to define High Risk for the purpose of these guidelines:

- Seriousness of the offence committed by the suspect/offender;
- Expressed intention by suspect/s to use Lethal Force;
- Reasonable grounds to believe that the suspect:
 - may use Lethal Force;
 - has or may cause injury/death;

- has issued threats to kill or injure any persons;
- The suspect has:
 - a prior history of violence;
 - is exhibiting violence now;
- Involvement of innocent participants (e.g. hostages, VIPs or bystanders).

First Response Police

In high risk situations, including incidents where persons are threatening self harm, all police should carefully consider their personal safety and safety of other police and the public.

Where possible, first response police attending any high risk situation should:

- Consider the guiding principles of containment and negotiation;
- Isolate the incident site by establishing a perimeter; and
- Request the assistance of the TOU and Police Negotiators.

The purpose of a perimeter is to:

- Provide a buffer zone between the danger and the community;
- Prevent persons approaching or interfering in the police operation;
- Prevent the escape of a suspect;
- Facilitate the safe movement of specialist police and support services such as Ambulance or Fire Brigades; and
- To provide information/intelligence.

The situation may escalate prior to the arrival of TOU or specialist police support. If a direct threat calls for immediate action responding police must consider taking the requisite action to protect human life.

Urgent assistance of the TOU and Police Negotiators can be requested through the Duty Operations Inspector (DOI), Sydney Communications Centre.

Requests for Assistance - Emergency Response

In emergency high risk situations **any officer** can request the assistance of the TOU and Police Negotiators, however in making this decision advice should be sought, wherever possible, from a senior officer.

As a general rule, police will direct a verbal request for assistance, for TOU and Police Negotiator support, via police radio to the DOI at Sydney Communications Centre. However, in certain circumstances, verbal requests for assistance for emergency high risk situations may also be made direct to the Shift Supervisor, TOU on e/n 53444.

Requests for Assistance - Pre Planned Operations

A high risk Pre-Planned Operation is a non-emergency high risk situation which provides more opportunity for assessment and evaluation of risk factors and tactics and enables more detailed planning.

A request for assistance for a high risk pre-planned operation must be submitted on a [Tactical Operations Unit – Request for Assistance \(RFA\) Form](#)

Prior to submitting a RFA, the Requesting Officer:

- Should consult with the Operations Coordinator, TOU regarding factors to consider in completion of the form;
- Must ensure the Local Area Commander, delegated Duty Officer or designated Operation Commander, from the LAC in which the operation is to be conducted, has been informed, unless such operation is deemed covert;
- Must ensure the RFA Form is certified by the relevant Commander, Crime Manager or equivalent; and
- Must ensure sufficient information, relating to the risk assessment for the pre-planned operation, is included for consideration.

At the time of submitting the RFA, the Requesting Officer will:

- Provide a copy of all relevant intelligence holdings and criminal history surrounding the persons of interest; and
- Provide a copy of the completed Risk Assessment relative to the application.

Upon receipt of a RFA Form, the Commander, TOU will:

- Review the request to ensure it is within the charter of the TOU; and
- Verify that the relevant Commander or equivalent has approved the TOU performing operational duty within their LAC, unless extenuating operational circumstances have negated the need to notify the Commander.

Authorisation for Deployment

The Commander, TOU must authorise the operational deployment of the TOU. Deployment is the movement of TOU personnel and equipment from their base to a location for the purposes of assessing, gathering intelligence and carrying out an appreciation of a situation

in preparation for operational duty. Generally, the TOU will not perform operational duty within a LAC unless authorised by the Local Area Commander.

Operation Commander

The Operation Commander is the officer with direct command and overall responsibility for the resolution of a high risk situation for which the assistance of the TOU and Police Negotiators has been requested.

The Operation Commander is a designated role and may be performed by:

- A Local Area Commander; or
- A LAC Duty Officer under delegation; or
- A designated senior officer.

The Operations Coordinator, TOU will act as the Senior Field Supervisor for all operational deployments of the TOU. The Operations Coordinator, TOU will liaise directly with the Operation Commander regarding any planned course of action.

Authorisation for Use of Specialised Weapons & Tactics

The use of specialised weapons and/or specialised tactics and the proposed use of force, as a planned course of action to resolve a high risk situation, must be authorised by the relevant Assistant Commissioner. Depending on the location and context of the incident, the relevant Assistant Commissioner could be:

- A Region Commander; or
- The Commander, State Crime Command (SCC); or
- The Commander, Professional Standards Command (PSC); or
- The Commander, Counter Terrorism & Special Tactics Command (CTST).

State Protection Support Unit

The State Protection Support Unit (SPSU) is comprised of part-time tactical operatives from the non-metropolitan regions. The SPSU operates in accordance with the STATE PROTECTION SUPPORT UNIT MANAGEMENT-OPERATIONAL GUIDELINES and in conjunction with the TOU to safely and effectively resolve high risk situations

See also: Sub-heading "Tactical Operations Unit" in this chapter of the handbook.

SPSU Authorisation for Deployment

The relevant Region Commander must authorise operational deployment of the SPSU. This authority, in exigent circumstances, can be delegated to a Local Area Commander.

Deployment is the movement of SPSU personnel and equipment from their base to a location

for the purposes of assessing, gathering intelligence and carrying out an appreciation of a situation in preparation for operational duty.

See also: Sub-heading "Tactical Operations Unit – Authorisation for Use of Specialised Weapons & Tactics" in this chapter of the handbook.

SPSU Operational Duty

The TOU has primary responsibility for resolving high risk situations. The charter of the SPSU is to support the TOU in its functions. The SPSU shall not respond to a high risk situation without first requesting the deployment of the TOU.

The Operations Coordinator, TOU will act as Senior Field Supervisor in all TOU & SPSU operational response to high risk situations. In some cases, certain actions and responsibilities, at the incident site, will be delegated to the SPSU Field Supervisor.

The Operations Coordinator, TOU and SPSU Field Supervisor will liaise directly with the Operation Commander regarding any planned course of action.

In limited cases, a determination may be made not to deploy a TOU team to a particular location. For such instances the SPSU will be tasked with the implementation of a resolution action plan, in consultation with the Operations Coordinator, TOU.

Within country regions exigent circumstances may occur prior to the arrival of the TOU. If the immediate threat necessitates the use of force, then an emergency action by the SPSU, may be committed in order to protect human life.

Management of SPSU Resources

Region Operations Managers are responsible for the management of SPSU resources within their region and are supported in the administration of this task by the Regions Operations Coordinators.

The SPSU MANAGEMENT COMMITTEE maintain a managing and auditory function over the operational guidelines, training, assessment and resource entitlement of the SPSU to ensure capability is maintained across the state.

The TOU is responsible for the co-ordination and delivery of training for the SPSU. This function includes:

- Selection and Basic Tactical Operator Courses;
- The validation of training;
- The development and review of training, courses and workshops, including course content and manual preparation; and
- The development and conduct of the Annual Skills Enhancement Camp program.

Stolen Motor Vehicles and Vessels

Why are Motor Vehicles/Vessels Stolen?

There are a number of reasons why motor vehicles [vessels] are stolen including for use in:

- Short term opportunistic crimes
- Commission of other serious criminal offences
- Motor vehicle / vessel re-birthing
- Stolen motor vehicle / vessel parts trade
- Insurance fraud
- Unlawful scrap metal
- Unlawful export

Stolen Vehicle Report

It is very important for police when taking reports, investigating or recovering stolen motor vehicles [vessels] to ensure that the full circumstances of the incident are properly recorded including details in the COPS Event Narrative.

Remember, the better your report the better the chances are the vehicle [vessel] will be recovered.

Person contacting Police Station via the phone to Report Theft of Motor Vehicle/Vessel

Station staff should not accept a report of a stolen motor vehicle [vessel] over the telephone.

Obtain details of the owner or person reporting, the stolen vehicle [vessel] **and** if stolen in a recent timeframe consider circulating the description, last known location and possible direction of the vehicle [vessel] over the local police radio channel via VKG through the Computer Aided Dispatch system (CAD). The status of the vehicle at this time is an 'Unconfirmed Stolen Motor Vehicle'.

To create a COPS Event of a motor vehicle [vessel] ask the owner or person reporting to:

- Attend their nearest (or most convenient) police station to make the report in person, or
- In the case of the elderly, invalid, infirm or whether the stealing occurred during the commission of other serious offences make arrangements for local police to attend the address to take the report, or
- Contact PoliceLink on 131444 (who have SOPs for confirming information, including identity).

Person attending a Police Station to Report Theft of Motor Vehicle/Vessel

When a person attends your police station to make a report of the theft of a motor vehicle [vessel], verify their identity, obtain full details from them and create a COPS Event – do not refer them to another police station or invite them to telephone PoliceLink (unless otherwise unavoidable) to make the report. If they are not the owner of the motor vehicle [vessel],

obtain details as to their authority or relationship to the owner and record this in the Event Narrative.

Before creating a COPS Event, conduct discrete enquiries (such as `Vehicle Enquiry`) on COPS to determine if the motor vehicle [vessel] has `Warnings` placed on it or matches the description of motor vehicles that have been circulated for recent crime/s or other incidents. If so, contact police involved in these investigations for advice or speak to your supervisor if they are not available.

Suspicious Report of Theft of Vehicle/Vessel

If you are suspicious regarding the circumstances of the report (including unexplained delays in the report of the theft), obtain a signed notebook statement from the person reporting or obtain a comprehensive signed statement.

Creating a COPS Event - 'Stolen Vehicle/Vessel' Incident

A `Stolen Vehicle/Vessel' Incident should only be created for motor vehicles that have been registered (including conditionally registered); are capable of being registered; or eligible to be registered with minor modification (i.e. the vehicle generally complies with the applicable vehicle standards for that type of vehicle).

In the case of non-registrable motor vehicles (including off-road motor cycles, all terrain vehicles and certain heavy plant equipment) amendments are currently being made to COPS to permit the recording of certain non-registrable motor vehicles as stolen vehicles. If the owner or person reporting has the Vehicle Identification Number (VIN) of the non-registrable vehicle then a `Stolen Vehicle' Incident should be created as this allows the stolen vehicle to be recorded on the National Vehicle of Interest (NVOI). The most important thing to remember is the ability to locate and recover the stolen vehicle.

Obtain full details from the owner or person reporting the theft including:

- Full description of the motor vehicle [vessel]
 - If stolen in a recent timeframe circulate the description, last known location and possible direction of the vehicle [vessel] over the local police radio channel via VKG through the Police Computer Aided Dispatch (CAD).
- Record details of the motor vehicle's Registration Number (if registered), Vehicle Identification Number - VIN (or Chassis Number if the vehicle was manufactured before 1989) and Engine Number (also refer to the **Heavy Plant Equipment** section).

[The VIN is an international unique serial number of a motor vehicle issued by the manufacturer. Since 1989 all Australian motor vehicles must be fitted with a VIN which is 17 digits in length comprising of letters and numbers. The letters `I', `O' and `Q' are NOT used in a VIN but the numbers `1' and `0' are as a result there is sometimes confusion between these characters.]

- Confirm the accuracy of these numbers bearing in mind the Engine Number may not be accurately recorded on the database if there has been a change of engine.
- A motor vehicle can still be recorded as stolen if it is unregistered or has had its registration cancelled.

- Record details of the vessel's Registration Number (if registered), Hull Identification Number – HIN and Engine Number.
 - For trailerable vessels – In the event that the trailer is stolen at the same time as the vessel also record details of the trailer's Registration Number (if registered and VIN) Full description of property left in the motor vehicle [vessel], in particular, property that can be identified or is of value.
- Full description of property left in the motor vehicle [vessel], in particular, property that can be identified or is of value.

When creating a 'Stolen Vehicle/Vessel' incident on COPS ensure that the vehicle's VIN (vessel's HIN), Chassis Number (if applicable) and Engine Number are accurately recorded. If the VIN or Chassis Number of the vehicle are not known at the time of the report, enter 'UNKNOWN' in the Chassis Number field to enable the owner or person reporting to ascertain the correct number. The Event will remain Incomplete until a number is placed in the field. If the owner or person reporting cannot provide the correct number, a surrogate number can be used so the Event can be verified as Complete. It is preferable that the number entered is a unique identifier of the stolen vehicle, however if the Event is not Complete the Incident cannot be recorded on the National Vehicle of Interest database.

Obtain full circumstances regarding the theft of the vehicle [vessel] including:

- Details of the owner of the motor vehicle [vessel]
 - This is particularly important if the registered owner is not the person reporting the vehicle [vessel] stolen. If necessary, contact the owner to confirm the circumstances of the theft
 - If registration papers cannot be produced obtain details as to why
- Details as to the circumstances of the theft
- Description of any offender/s, vehicle/s of interest
- Details of any eTag/tollway tag inside the vehicle
- Details of any after-market alarm, immobilizer and/or cut-off switch installed in the vehicle
- Details of any whole or part of vehicle identification marking system (such as micro dotting)
- Details of any tracking system (it is important to make immediate enquiries with the monitoring company to determine the current or last known location of the vehicle as offender/s can quickly disable or remove these devices)
- Details of any modifications, after-market parts and panels fitted to the vehicle
- Whether there are any photographs available of the vehicle [vessel]? This is particularly important in the case of unique or distinctive vehicles [vessels]. If so make arrangements for them to be collected
- Details of where all keys for the vehicle [vessel] are kept, if any keys were kept in the vehicle, whether any keys are missing & circumstances of same. Details of who has access to the keys or who has authority to drive the vehicle [vessel]
- Details of any finance owed on the vehicle [vessel] including details of financial institution and money owed
- Details of any damage sustained to the vehicle [vessel] prior to its theft
- Details of whether the vehicle [vessel] has been recently offered for sale

- Whether there is any CCTV or other video footage available? If so make arrangements to have it collected
- Are there any forensic examination opportunities? If so make arrangements for a Scenes of Crime Officer (SOCO) to attend the scene of the theft in line with Local Area Command and Forensic Services Group arrangements. Ensure that any exhibit/s seized are entered onto EFIMS and linked to the COPS Event.

Towing and Forensic Examination Authority

Record in the COPS Narrative if the owner authorises the towing of the recovered motor vehicle [vessel], this will be at the owner's own expense if the vehicle is uninsured. If a vehicle is insured, the insurance company covers the payment of a tow. It is important to obtain the insurance details as the owner's insurance cover could be placed at risk if they don't elect for the vehicle to be towed on recovery and the vehicle is subsequently re-stolen or sustains further damage at the scene after recovery.

Record in the COPS Narrative if the owner authorises a forensic examination to be carried out on the recovered motor vehicle [vessel].

Insurance Company Details

Obtain full details (for inclusion in the 'Stolen Vehicle/Vessel' Incident) of any insurance for the motor vehicle [vessel] including:

- Insurance Company details
- Policy Number (Is the policy due to expire or has it recently commenced?)
- Type of Insurance (Comprehensive / Third Party Property only)
- Amount Insured (Have there been recent changes to the amount insured?).

VIEW Imagery Management System

Ensure that any statements, photographs, CCTV footage etc. obtained is uploaded onto the VIEW Imagery Management System and linked to the COPS Event.

Creating 'Warning' and or NEMESIS Messages

In the case that the stolen motor vehicle has been used in the commission of other serious offences, or it is known that the offender/s were armed consideration should be given to placing an appropriate 'Warning' notification on the vehicle. It is important to update the Event and remove the 'Warning' notification when it is no longer required.

If you wish to place a 'Warning' on the National Vehicle of Interest (NVOI) database, which gives other law enforcement jurisdictions access to the warning, enter 'Y' in the 'Send to NVOI' field.

In the case that the motor vehicle [vessel] is significantly unique or distinctive (such as a limited availability high performance or distinctive vintage vehicle) consideration should be given to creating a NEMESIS message both state-wide and nationally.

Unregistered or Cancelled Registration

Remember that a 'Stolen Vehicle/Vessel' incident should still be created even if the motor vehicle is unregistered or registration is cancelled.

Reporting of Multiple Motor Vehicles (Vessels)

Refer to [Crime Recording Standard](#) - Section 9.3(a) - Stolen Vehicles and Vessels

Where a motor vehicle and a vessel are stolen and reported at the same time, create one Event with one 'Stolen Vehicle/Vessel – Vehicle' Incident and one 'Stolen Vehicle/Vessel – Vessel' Incident. COPS requires specific information to accurately identify and describe vehicles and vessels.

Example: A registered boat trailer with one jet-ski is stolen from outside residential premises. Create one Event with one 'Stolen Vehicle/Vessel – Vehicle' Incident to record the registered boat trailer and one 'Stolen Vehicle/Vessel – Vessel' Incident to record the details of the jet-ski.

Where more than one motor vehicle [vessel] is stolen and reported at the same time, one Event should be created. The number of Incidents created will depend upon the number of owners of the vehicles. If the motor vehicles are owned by different persons / organisations, a separate 'Stolen Vehicle/Vessel' Incident should be created for each victim. The creation of a separate Incident for each victim assists with owner notification when vehicles are recovered.

Example: A truck, registered trailer and conditionally registered excavator owned by different companies are stolen from outside industrial premises. Create one Event with three 'Stolen Vehicle/Vessel – Vehicle Incidents, one Incident for each vehicle / owner. Recording separate Incidents allows the appropriate owner to be informed when a vehicle is recovered.

If the stolen motor vehicles are owned by the same person / organisation then all vehicles can be recorded in one 'Stolen Vehicle/Vessel' Incident (bearing in mind that different insurance companies may insure different vehicles and all insurance company details may be captured). If only one Incident is created for multiple vehicles you must ensure that all details for each vehicle are accurately recorded.

Example: Four vehicles are stolen from a car yard. All vehicles are owned by the one organisation. Create one Event and one 'Stolen Vehicle/Vessel – Vehicle' Incident. Record four vehicles within this incident: one for each of the cars. One victim: organisation will be recorded.

Motor Vehicle Stolen during Commission of an Offence

In the case that a motor vehicle is stolen during the commission of an offence such as a 'carjacking' (robbery), armed robbery or breaking offence ensure that a 'Stolen Vehicle/Vessel' incident is also created for the motor vehicle to ensure that it is appropriately recorded on COPS. Also consider placing a suitable 'Warning' on the vehicle linking it to the other offence.

Stolen Motor Vehicle with Interstate Registration

In the case of the reporting of a motor vehicle being stolen in New South Wales that is registered interstate create a COPS Event with the Incident Type 'Stolen Vehicle/Vessel' incident.

Other Property in Stolen Motor Vehicle/Vessel

In the case where property (in particular identifiable property or property of value) is also in the stolen motor vehicle [vessel] at the time of its theft you should include this property within the `Property` field of the 'Stolen Vehicle/Vessel' incident.

Stolen Motor Vehicle Registration (Number) Plates

In the case of the reporting of stolen motor vehicle registration (number) plate/s only create a COPS Event with the Incident Type `Stealing – Steal From Motor Vehicle` with the Object Type `Vehicle Plate`. Advise the person reporting to also attend their local Roads & Maritime Services registry to report the theft of the plate/s.

Stolen registration plate/s are often used to be placed on other motor vehicles to commit other offences including failure to pay for petrol.

Stolen Motor Vehicle Engine/Accessories, Parts & Panels

In the case of the reporting of stolen motor vehicle engines, accessories, parts & panels only create a COPS Event with the Incident Type `Stealing - Steal From Motor Vehicle` (when the property are stolen directly from the motor vehicle) or other appropriate Incidents when the property is separated from the motor vehicle with the relevant Object Type/s `Vehicle Engine`, `Vehicle Part` and/or `Vehicle Accessory`.

It is important to record what has been stolen, consider forensic examination opportunities and upload photographs of the motor vehicle onto VIEW IMS. Offender/s may be stripping or partially stripping motor vehicles of their engine, accessories, parts & panels for re-birthing purposes and the accurate recording of what has been stolen will assist in future investigations.

Attempted Stolen Motor Vehicle/Vessel

When a report of an attempt to steal a motor vehicle [vessel] is made you must establish that the offender/s were intending to steal the motor vehicle [vessel] as distinct from stealing property from the motor vehicle. A motor vehicle [vessel] moved only a short distance would constitute a stealing offence and should be treated as such.

It is important to fully record the details of the circumstances of the attempt (including method of entry, method of mobilising the motor vehicle [vessel], property stripped from the motor vehicle [vessel] or property stolen from the motor vehicle [vessel]). This information may assist in determining why the motor vehicle [vessel] was stolen (such as short term opportunistic, commission of other offences, re-birthing) and may assist in identifying the offender/s responsible, modus operandi and/or crime trends.

Clearways and other Special Event Areas

Conduct enquiries with the person reporting to ensure that the motor vehicle was not parked on a clearway or in an area designated for a Special Event. Tow truck operators are contracted by Roads & Maritime Services Traffic Management Centre to move these vehicles. The RMS Transport Management Centre provides a computerised listing of these vehicles to PoliceLink and is updated regularly. PoliceLink can be contacted to ascertain if the vehicle has been towed and its current whereabouts. Alternatively the RMS Transport Management Centre can be contacted on 131700.

Victim Support

Ensure the person reporting the crime is provided with the Victim Support Card and record your details and the COPS Event Number on the card.

For further information regarding Victim Support refer to the [Police Handbook – Victims](#) and the Charter of Victims Right.

Motor Cycles

The total number of motor cycles including registered motor cycles, off-road motor cycles and all terrain vehicles (ATV) represent a small proportion of the total number of motor vehicle thefts. However, motor cycles are significantly less likely to be recovered than other types of motor vehicles. The critical issue with motor cycle theft is not the total number of thefts but rather the high number of unrecovered motor cycles.

Unrecovered motor cycles are used for re-birthing purposes, for the illegitimate spare parts market and for other unlawful purposes including being ridden with false registration plates or used in off-road applications. Certain off-road motor cycles and ATVs have a property value far in excess of certain registered motor cycles.

Non-Registrable Motor Cycles / All Terrain Vehicles

Amendments are currently being made to COPS to permit the recording of certain non-registrable motor vehicles as stolen vehicles. In the case of non-registrable motor cycles (including off-road motor cycles and all terrain vehicles) these are currently regularly being recorded on COPS as stolen property under the Object Type 'Toy / Playground Equipment - Motor Cycle (Non-registerable)' or as untraceable property. These types of non-registrable motor cycles can be very expensive and highly identifiable but if not recorded appropriately on COPS they may be very difficult to locate within COPS for the purpose of recovery.

Heavy Plant and Equipment

Heavy plant equipment is defined as the equipment and machinery required to conduct industrial or engineering activity (including building & construction as well as warehousing and agricultural work). There is a high unrecovered rate of stolen plant equipment which indicates that this equipment is being stolen for profit and is being unlawfully disposed of within the industry, through second hand markets or on the black market. The property value of certain plant equipment is significant greater than other motor vehicles and it is important that the initial report is comprehensive. Nearly all plant equipment is currently manufactured overseas and there is currently no database available to police in NSW.

Individual items of heavy plant equipment can be identified by various means. Heavy plant equipment use different identification systems from manufacturer to manufacturer. The different types of identification systems used by manufacturers include:

- **VIN:** The Vehicle Identification Number is a unique serial number issued by the manufacturer. The VIN is 17 digits comprising of letters and numbers. [The letters 'I',

`O' and `Q' are NOT used in a VIN but the numbers `1' and `0' are as a result there is sometimes confusion between these characters.]

- **PIN:** the Product Identification Number is a unique serial number similar to the VIN. The length and format of the PIN may vary between manufacturers and is generally less than 17 digits.
- **Serial Number:** Another name for the PIN; sometimes used to describe the last numeric segment of the PIN.
- **Engine Number:** A unique number recorded either on a plate or stamped which identifies the engine.
- **Component Number:** A unique number recorded either on a plate or stamped into a component, which identifies a part of a unit, such as the transmission.
- **Attachment Number:** A unique number recorded either on a plate or stamped into an attachment, which uniquely identifies an attachment, such as a bucket or blade.
- **Stamped Pin:** Either the full PIN or a segment of the full PIN stamped into the unit in a location often easily visible during inspection; sometimes next to the PIN plate.

To improve the opportunity for police to recover stolen plant equipment it is important that when they are reported stolen (registered, conditionally registered or unregistered) that a `Stolen Vehicle/Vessel' incident is created so that full details of the plant equipment is captured.

When taking a report of stolen plant equipment it is also important to record:

- Details of other attachments (such as buckets, blades, scoops, augers etc) not affixed to the equipment stolen.
- Details of any whole or part of vehicle identification marking system (such as micro dotting)
- Details of any tracking system (it is important to make immediate enquiries with the monitoring company to determine the current or last known location of the vehicle as offender/s can quickly disable or remove these devices)

Conditional Registration

The conditional registration scheme allows certain motor vehicles that do not comply with the construction and equipment requirements of the Australian Design Rules (ADRs) and Vehicle Standards, limited access to the road network to perform specific functions. Motor vehicles that are conditionally registered should be recorded on COPS as a `Stolen Vehicle/Vessel' incident.

Examples of conditionally registered vehicles include:

- Agricultural vehicles
- Construction vehicles
- Recreational vehicles
- Street rods
- Purpose built vehicles

- Oversnow vehicles

Non-Registerable Heavy Plant Equipment

Amendments are currently being made to COPS to permit the recording of certain non-registerable motor vehicles as stolen vehicles. In the case of non-registerable heavy plant equipment these are currently regularly being recorded on COPS as stolen property under the Object Type `Farm/Plant/Earthmoving Equip' or as untraceable property. These types of non-registerable heavy plant equipment can be very expensive and highly identifiable but if not recorded appropriately on COPS they may be very difficult to locate within COPS for the purpose of recovery.

Disputed Ownership/Hire and Rental Motor Vehicles

Disputed Ownership/Implied Consent

When a person wishes to make a report concerning the theft of a motor vehicle [vessel] and there appears to be a disputed ownership / implied consent with the alleged suspect obtain the full circumstances surrounding the incident (especially where the location of the vehicle [vessel] is known to the person reporting). You may wish to seek advice from your Supervisor regarding this matter. If you are satisfied the person in possession of the motor vehicle may have disputed ownership or implied consent create a COPS Event with an `Occurrence Only' Incident. Consider placing a `Warning' on the motor vehicle [vessel]. Remember you must consider the full circumstances surrounding the matter.

Examples of when disputed ownership / implied consent may occur when the matter involves:

- An employee who has use of the vehicle in the course of his employment.
- A close relative (such as a son or a daughter).
- A de-facto partner
- A person known to the owner and has loaned the vehicle.
- A person who has lawfully re-possessed the vehicle for a financial institution.
- A person who has carried out repairs to the vehicle and is awaiting payment (refer to the **Uncollected Goods Act – Section 31 Certificate** section).

Hire/Rental Motor Vehicles

When a report is made by a representative of a hire/rental company that a hire car has not been returned by the contracted return date and an allegation is made that the vehicle has been stolen or fraudulently converted to the renter's use then police should treat each instance on a case by case basis depending on the information and evidence available at the time of reporting.

You may wish to seek advice from your Supervisor regarding this matter to determine whether the motor vehicle should be initially recorded as an `Occurrence Only' or a `Stolen Vehicle/Vessel' Incident and place a suitable `Warning' on the motor vehicle.

Vehicle Hired Using Fraudulent Identification and/or Payment

With the increase in identity theft and related crime the fraudulent conversion of hire/rental motor vehicles has become more prevalent.

In circumstances where the person reporting the non return of the motor vehicle indicates that either the driver's licence, other form of identification or method of payment, i.e.: credit

card tendered by the renter at the time of rental is believed to be fraudulent or stolen, conduct COPS enquiries to establish the bona fides of the documentation. If the bona fides cannot be established and you are satisfied that the vehicle has been obtained fraudulently create a COPS Event with a `Fraud` Incident (such as `Fraud – Larceny Clerk/Servant/Bailee`). Within this Incident record the details of the motor vehicle fraudulently obtained in the Field `Veh/Ves Obt by Fr`. Consider placing a suitable `Warning` that the vehicle was fraudulently obtained and enter `Y` in the `Send to NVOI` field as this warning will be then be recorded on the National Vehicle of Interest database.

Non-return of a Hire/Rental Motor Vehicle - Deemed Not Stolen

Generally the non return of a hire/rental motor vehicle by its due date is a civil matter unless there is clear evidence of theft or fraud (such as Larceny as a Bailee where the hirer goes outside the terms of a written contract and converts the property to the hirer's own use). It is important for police to consider the nature of the hiring, contract details, length of time since the vehicle was overdue, hirer's history / relationship, payment history and whether there is any evidence of fraud. In these instances create a COPS Event with an `Occurrence Only` Incident so that officers are aware of the circumstance surrounding the possession of the vehicle. An appropriate `Warning` notification is to be placed on the motor vehicle in the COPS Event.

Inform the person reporting that the police are to be immediately contacted if the motor vehicle is returned to or recovered by the person reporting. If the person reporting / owner contacts police and notifies them of this fact (and you are satisfied that this is the case) then suitably update the COPS Event including a detailed Narrative regarding the circumstances of the return and remove any outstanding `Warning`.

Non-return of Test Driven Motor Vehicles

In the case that a person makes a report that a test driven vehicle has not been returned after a reasonable time has been elapsed, obtain the circumstances of the incident and create a COPS Event with a `Stolen Vehicle/Vessel` Incident. Ensure that a detailed COPS Event Narrative regarding the circumstances is also created. An appropriate `Warning` notification is to be placed on the motor vehicle in the COPS Event.

COPS Event Narrative re Disputed Ownership, Hire or Test Driven Motor Vehicles

When police create a `Stolen Vehicle/Vessel` or `Occurrence Only` Incident in the abovementioned circumstances a detailed COPS Event Narrative is to be created. This will ensure that police involved in the recovery of the vehicle have a full background of the circumstances of the matter.

Investigation Further Information

Conduct further enquiries with the owner and obtain:

- Details of any eTag activations

- Details of any red light / speed camera activations

Follow up any outstanding enquiries and actions generated from original stolen motor vehicle [vessel] report.

When further information / evidence is obtained update the original COPS Event containing the `Stolen Vehicle/Vessel' Incident and create a suitable Narrative to record this information.

Ensure that any photographs, CCTV footage etc. obtained is uploaded onto the VIEW Imagery Management System and linked to the COPS Event.

Recovered/Located Motor Vehicles/Vessels

Police should attend the scene of the recovery of a stolen motor vehicle [vessel].

Before recovering any stolen motor vehicle [vessel] conduct discrete enquiries (such as `Vehicle Enquiry') on COPS to determine if the vehicle [vessel] has `Warnings' placed on it or matches the description of vehicles that have been circulated for recent crime/s or other incidents. If so, contact police involved in these investigations for advice or speak to your Supervisor if they are not available.

Bear in mind that if recovering a stolen motor vehicle that has been used in the commission of a serious crime officer safety is of paramount importance.

When recovering a stolen motor vehicle [vessel] confirm that the registration plates (if attached) match the VIN / Chassis / Engine Number (if locatable) and match the description of the stolen motor vehicle [vessel].

When recovering a stolen motor vehicle [vessel] make an assessment about forensic examination opportunities (if so make arrangements for a Scenes of Crime Officer – SOCO to attend the scene of the recovery in line with Local Area Command & Forensic Services Group arrangements). Assess the availability of CCTV and other video footage in the area and make arrangements to collect same.

In the case that the motor vehicle has been stripped or partially stripped it is important to record what accessories, parts & panels have been removed and consider photographing the recovered motor vehicle.

Offender/s may be stripping or partially stripping motor vehicles of their accessories, parts & panels for re-birthing purposes and the accurate recording of what has been stolen will assist in future investigations.

Conduct enquiries with the owner to determine if any property has been stolen from the motor vehicle [vessel] or whether the offender/s have left property behind. Conduct enquiries (such as `Object Enquiry') on COPS to identify property that was not in the motor vehicle at the time of its theft. Consideration should be given to the seizing of exhibit/s, entering of exhibit/s into EFIMS and the conduct of forensic examination of exhibit/s

Police Powers re Searching & Forensic Examination of Motor Vehicles/Vessels

Prior to conducting any search or forensic examination of a motor vehicle [vessel] Police are to seek authority from the owner of the motor vehicle (this authority should be recorded on the original COPS Event or should be obtained from the owner at the time of recovery).

In any case police are reminded of their powers under the Law Enforcement (Powers and Responsibilities) Act 2002 regarding the searching of motor vehicles (Section 35), the searching of motor vehicles (Section 42) and under Part 7 – Crime Scenes. If the owner does not or cannot give consent this fact should be recorded in the COPS Narrative.

Updating the COPS Event - 'Located Vehicle/Vessel - Recovered' Incident

Update the original COPS Event containing the 'Stolen Vehicle/Vessel' Incident and create a 'Located Vehicle/Vessel – Recovered' Incident.

It is important to fully record the details of the circumstances of the recovery (including method of entry, method of mobilising the motor vehicle [vessel], property stripped from the motor vehicle [vessel] or property stolen from the motor vehicle [vessel]). This information may assist in determining why the motor vehicle [vessel] was stolen (such as short term opportunistic, commission of other offences, re-birthing) and may assist in identifying the offender/s responsible, modus operandi and/or crime trends.

Ensure that any photographs, CCTV footage etc. obtained is uploaded onto the VIEW Imagery Management System and linked to the COPS Event.

Ensure that any exhibit/s seized are entered onto EFIMS and linked to the COPS Event.

Recovered Stolen Motor Vehicle with Interstate Registration

In the case of the recovery of a stolen motor in New South Wales that is registered interstate either:

- If the motor vehicle was reported stolen in NSW – update the original COPS Event containing the 'Stolen Vehicle/Vessel' Incident and create a 'Located Vehicle/Vessel – Recovered' Incident.
- If the motor vehicle was reported stolen outside NSW – When you create a COPS Event you will be prompted to import the stolen vehicle information from the National Vehicle of Interest database into COPS. This automatically creates a 'Stolen Vehicle/Vessel' Incident and you will then need to create the 'Located Vehicle/Vessel – Recovered' Incident.

Stolen Motor Vehicle Registration (Number) Plates/Engine Not Recovered

In the case of the recovery of a stolen motor vehicle it is identified that the registration plate/s &/or the engine are still outstanding. When creating the 'Located Vehicle/Vessel –

Recovered' Incident ensure that the `Recovery Details' field is updated and in the `Missing Parts' field flag whether the `Engine' &/or `Plates' are still outstanding.

Stolen registration plates are often used to be placed on other motor vehicles to commit other offences including failure to pay for petrol.

The Roads & Maritime Services may re-issue registration plates (such as personalised plates) that are recorded as stolen.

Stolen Motor Vehicle Accessories, Parts & Panels Not Recovered

In the case of the recovery of a stolen motor vehicle it is identified that motor vehicle accessories, parts & panels have been stripped and stolen from the motor vehicle consideration should be given to creating a `Stealing – Steal From Motor Vehicle' Incident with the applicable Object Type/s `Vehicle Part' and/or `Vehicle Accessory' being completed.

It is important to record what has been stolen, consider forensic examination opportunities and upload photographs of the motor vehicle onto VIEW IMS. Offender/s may be stripping or partially stripping motor vehicles of their parts & panels for re-birthing purposes and the accurate recording of what has been stolen will assist in future investigations.

Property Not Recovered in Stolen Motor Vehicle/Vessel

In the case where identifiable property or property of value was in the stolen motor vehicle [vessel] at the time of theft [vessel] and this property has now been recovered create a `Located Property – Recovered Property' Incident.

In the case where property was in the stolen motor vehicle [vessel] at the time of theft and was not initially reported but discovered stolen at the time of recovery create a `Stealing – Steal From Motor Vehicle' Incident to record this property.

Notification of the Owner of Recovered Motor Vehicle/Vessel

When you recover a stolen motor vehicle [vessel], you need not contact the original police station where the theft was reported unless there was a specific `Warning' created by that LAC.

You are responsible, however, for having the owner informed. If you cannot contact the owner directly; make arrangements with the police station nearest their home or work for the owner to be advised.

Confirm with the owner that they are still in fact the owner (it may be the case that an insurance company has paid out on an insurance claim and are now the rightful owner of the vehicle – refer Subrogated Notices section). If this is the case the insurance company needs to be contacted.

If the owner, or a person nominated by the owner, cannot be located or cannot attend the scene, you may consider it necessary to take possession of the recovered motor vehicle [vessel]. Consideration for taking possession of the recovered vehicle [vessel] would include the circumstances and location of recovery, whether forensic examination is required but

cannot be conducted at the scene and whether the recovered vehicle [vessel] can be appropriately secured.

Arrangements for towing and storage of recovered motor vehicle [vessel] will be made in accordance with local command procedures regarding contracted towing. Bearing in mind that if a recovered motor vehicle [vessel] is to be forensically examined, continuity and security of exhibit/s is of paramount importance.

The recovered motor vehicle may be towed to a location nominated by the owner, at the owner's expense, if authorisation was obtained at the time the theft was reported or if the owner is contacted and authorises the towing of the vehicle [vessel].

If the recovered motor vehicle is obstructing traffic or is likely to block a Clearway, make arrangements to move the vehicle to the nearest side street or other nearby safe location.

Subrogated Notices - Insurance Companies Claim of Ownership

A Subrogated Notice is a claim forwarded to the police by the vehicle's [vessel's] insurer notifying the police that the insurer has a financial interest in the motor vehicle (this is normally the case when the insurer pays out the insured). In the case of a Subrogated Notice being received at a police station the original COPS Event containing the 'Stolen Vehicle/Vessel' Incident is to be updated to include a Narrative outlining the insurer's financial interest.

When a stolen motor vehicle [vessel] is recovered enquiries need to be conducted to confirm the current owner of the vehicle [vessel]. Review the original COPS Event to determine whether there are insurance company details or whether the insurer has recorded a financial interest in the vehicle [vessel]. It may be the case that the insurer is now the owner of the vehicle [vessel]. Remember the original owner may not declare the fact that he has been paid out by the insurer.

Stolen Motor Vehicle Recovered by the Owner

Do not accept a report of a recovered motor vehicle [vessel] over the telephone. If the owner contacts police and notifies them that the motor vehicle has been located it is important to verify the owner's identity and conduct enquiries with the owner to verify the circumstances of the recovery. The circumstances may be that the owner forgot where the motor vehicle was parked or the circumstances may be that offender/s stole the motor vehicle to commit other offences and returned the vehicle without the owner's knowledge or the owner was aware the vehicle was being used to commit other offences and reported the motor vehicle stolen to mislead police.

Note: An Incident should only be classified as 'REJECTED' if verifiable information is available which indicates that the crime / matter did not occur – refer Crime Recording Standard Section 4.3 – Rejected Incidents.

In any case the procedure for recovery should be the same as outlined in the **Recovery of Stolen Motor Vehicles [Vessels]** section.

Stolen Motor Vehicle Recovered by Police Before the Report of Theft

There may be circumstances where a motor vehicle has been stolen and is used in the commission of other offences.

Bearing this in mind, when police locate a motor vehicle [vessel] that is suspected of being stolen but has not yet been reported, conduct enquiries (such as `Vehicle Enquiry`) on COPS to determine if the vehicle [vessel] has `Warnings` placed on it or matches the description of vehicles that have been circulated for recent crime/s or other incidents. If the vehicle has `Warnings` or matches the description, before contacting the owner, contact police involved in these investigations for advice or speak to your Supervisor if they are not available.

In any case the procedure for recovery should be the same as outlined in the **Recovery of Stolen Motor Vehicles [Vessels]** section.

Create a COPS Event and create the `Stolen Vehicle/Vessel` Incident and a `Located Vehicle/Vessel – Recovered` Incident.

Motor Vehicle/Vessel Stolen after being Recovered by Police

In the case of a motor vehicle [vessel] being stolen again after it has been recovered by police a further `Stolen Vehicle/Vessel` Incident needs to be created including a description of the vehicle at the time it was recovered by police including the status of the vehicle's identifiers (registration plates / VIN or Chassis Number & Engine Number).

Abandoned or Fire Damaged Motor Vehicle/Vessel Recovered by Police

In the case police recover a motor vehicle [vessel] that appears abandoned or has sustained fire damage they should attempt to establish the vehicle's [vessel's] identity by conducting COPS enquiries `Vehicle Enquiry` to confirm that the registration plates (if attached) match the VIN / Chassis / Engine Number (if locatable) and match the description of motor vehicle [vessel]. If the motor vehicle [vehicle] is not reported stolen or the identification of the vehicle cannot be established create an Event with the Incident Type `Located Vehicle/Vessel – Abandoned` or `Fire – Vehicle-Aircraft/Motor Veh/Train/Vessel` as applicable.

It is important to establish the identification of the motor vehicle [vessel] as it may be stolen or it may have been used in the commission of a serious offence. Consideration should be given to having a forensic identification examination carried out on the motor vehicle [vessel] – refer to procedures outlined in the **Recovery of Stolen Motor Vehicles [Vessels]** section regarding general forensic examination and towing procedures.

The Forensic Services Group has an Engineering Investigation Section with experienced motor vehicle [vessel] identification examiners who can provide specialist advice.

If it is established that after examination the motor vehicle [vessel] is in fact a stolen motor vehicle [vessel] then update the original COPS Event containing the `Stolen Vehicle/Vessel`

Incident and create a 'Located Vehicle/Vessel – Recovered' Incident and link the Event regarding the abandoned or fire damaged motor vehicle.

In the case where an owner subsequently makes a report that the motor vehicle [vessel] was in fact stolen update the COPS Event with the 'Located Vehicle/Vessel – Abandoned' or 'Fire – Vehicle-Aircraft/Motor Veh/Train/Vessel' Incident and create a 'Stolen Vehicle/Vessel' Incident and a 'Located Vehicle/Vessel – Recovered' Incident.

If a vehicle is located burnt out before it is reported stolen or before the vehicle it is identified as stolen, Police are currently unable to complete a 'Stolen/Recovered' Event without creating a 'Fire' Incident in this Event if they indicate that the recovered vehicle has sustained 'Fire' damage in the 'Recovery Details/Damage Type' field. Once this 'Damage Type' is updated to 'Fire' the Event auto-creates a 'Fire' Incident in the 'Stolen/Recovered' Event. If a 'Fire' Incident has been created in another Event then both Events need to be linked. Either indicate that the auto created 'Fire' Incident in the 'Stolen/Recovered' Event is a 'Duplicate' Incident or do not update the 'Recovery Details/Damage Type' to 'Fire' to avoid a duplicate incident being created.

Motor Vehicle Repossession Procedures

If called to a disputed vehicle repossession remember, your primary role is to prevent a breach of the peace. Do not offer advice, except to inform each party to seek their own legal advice, and do not adjudicate in what is a civil matter. However, if the person who is attempting to repossess the vehicle has in their possession a court order authorising the repossession, allow the person to take the vehicle but only after satisfying yourself:

- the vehicle is the vehicle mentioned in the order
- the person is either named in the order or is a bona fide representative of the person named as the owner.

Where the person is not in possession of a court order, the vehicle should remain with the person contesting the repossession.

Motor Vehicle/Vessel Search Functions

COPS Search Functions Regarding Motor Vehicles/Vessels

There are a number of search functions available to police on COPS to assist them in identifying motor vehicles including:

- **Vehicle Enquiry ('VEHENQ'):** This allows police to search for motor vehicles [vessels] based on registration number, VIN, HIN [vessel], Chassis Number or Engine Number. The searcher can use the 'Wildcard' symbol '*' to conduct partial searches
- **Object Enquiry ('OBJENQ'):** This allows police to search for property including vehicle plates, engines, accessories and parts

- **Vehicle Hot List (`HOTLIST`):** This report will display the most recent 60 stolen vehicles [vessels] (depending on the search criteria) that remain outstanding on the system at that time.
- **Vehicle of Interest (`VEHINT`):** This allows police to conduct a general search for motor vehicles [vessels].

Your local analyst can also assist you in conducting various other searches of COPS to identify motor vehicles [vessels].

From time to time issues arise regarding the accuracy of motor vehicle [vessel] data which has been recorded on COPS. This may occur when vehicle identifiers are not known, or have been incorrectly inputted, at the time a COPS Event is created, or when there is conflict between interstate and COPS records regarding motor vehicles stolen interstate or when duplicate identifiers such as Engine Numbers have been recorded on COPS.

In circumstances where you have concerns regarding the accuracy of COPS motor vehicle [vessel] data contact either the COPS Data Management Team or the Motor Unit, Property Crime Squad, State Crime Command

Roads & Maritime Services 'Drives' Database

Police have access to searching functions of the Roads & Maritime Services through the RMS `Drives` database. The menu for the RMS database is located on the `Eagle` Main Menu on WebCOPS.

- **Decoded VIN (`DV`):** This allows police to enter a 17 character VIN (Vehicle Identification Number) which will be decoded and provide certain manufacturer's specifications regarding that unique VIN.

National Vehicle of Interest (NVOI) and the National Exchange of Vehicle & Driver Information System (NEVDIS)

The National Vehicles of Interest (NVOI) system allows police throughout Australia to record stolen or wanted vehicles. By interfacing COPS with the NVOI system police officers can determine whether a vehicle is wanted in another state.

Police have access to searching functions of the NVOI. The menu for the NVOI database is currently located through the `CrimTrac Enquiry` Menu on the `Eagle` Main Menu (Mainframe).

- **Enquire Vehicle:** This allows police to search nationally for motor vehicles [vessels] based on registration number, VIN, HIN, Chassis Number or Engine Number.
- **Partial Search Report:** This allows police to make a general `Wildcard` search nationally for motor vehicles [vessels].

The NVOI is also linked to the National Exchange of Vehicle & Driver Information System (NEVDIS). NEVDIS is the national database of driver and vehicle information maintained by

each jurisdiction's road authority. It also maintains the national Vehicle Identification (VIN) database and the national Written-Off Vehicle Register (WOVR) database.

When conducting a 'NVOI Enquire Vehicles' police can establish whether a motor vehicle is recorded on the WOVR.

Uncollected Goods Act

Uncollected Goods Act - Section 31 Certificate

The Uncollected Goods Act 1995 provides for the disposal of goods held by persons on a bailment in circumstances where the owner of the goods fails to retrieve the goods in accordance with the bailment. If the property is a motor vehicle, the bailee is required to obtain a certificate from the Commissioner of Police prepared pursuant to Section 31 of the Act. This often occurs when a motor vehicle repairer repairs a motor vehicle but the owner fails to pay for the work.

The issuing of a Section 31 Certificate has been de-centralised to the local area command where the motor vehicle is located.

On receipt of a notice (letter) from a person (applicant) seeking a Section 31 Certificate in connection with an application to the local court for an order to dispose of an uncollected motor vehicle, conduct the following inquiries:

- COPS 'Vehicle Enquiry' and 'Object Enquiry' using the VIN or chassis number; registration number and engine number provided by the applicant;
- National Vehicle of Interest 'Vehicle of Interest' enquiry (to determine whether there are interstate warnings of the motor vehicle).

Attend the location where the motor vehicle is stored and inspect the vehicle. Check that all the identifiers on the vehicle match those on the application and from COPS / RMS records. Check that there are no signs of tampering to the vehicle's identifiers or surrounding areas. If you find any discrepancies conduct further investigations.

Should the inspection reveal no anomalies, return to the police station and complete an Uncollected Goods Certificate (using the template available on the intranet). On receipt of the prescribed fee (refer to the NSWPF Cost Recovery and User Fees Charges Schedule (Account No: 400810, Tax Code R1) provide the applicant with the certificate.

File a copy of the certificate with the original application at the station.

Loss or Theft of Marine Craft

Circulate the loss or theft of marine craft by entering details on COPS, and when applicable, include the following:

- craft type eg: canoe, dinghy, rowing/sailing skiff, motor launch, speedboat, runabout, catamaran, trimaran, yacht, wind surfer, jet ski etc

- for yachts, show whether sailing, motor or auxiliary, sloop, yawl, cutter, ketch or schooner rigged, centre board or fixed keel
- length and beam
- build eg: planked, plywood, clinker, carvel, diagonal, fibreglass, flat or round bilge, V bottom, snub nosed or straight
- design eg: full or half cabin, flying bridge, windscreen, trolling poles, game fishing boat, flush deck, open cockpit, raised deck, guard rails or bulwarks
- make, model and serial numbers of motors, and whether engine is inboard, outboard, outboard/inboard
- colour of hull, deck, wheelhouse, cabin
- registration number, if a registered vessel, and any other forms of identification eg: clubs
- mast or radar on mast
- hull or 'Identiboat' number and location.
- Disseminate the event to the Marine Area Command

Subpoenas

Subpoena for witnesses

Issue a subpoena for any witness you require to attend court to give evidence, who if you have any reason to suspect is reluctant or unwilling to go to court, or where the witness requests one.

Subpoena to the Commissioner in Criminal and Civil proceedings

A subpoena is an order issued by a Court at the request of a party to a proceeding currently before the court. It will seek one of two things – produce documents and/or require your attendance to give evidence. If you do nothing in response to either one there can be a penalty imposed. At the extreme, a warrant can be issued for the arrest of the named recipient. Fines are another possible penalty. Be mindful that delays in complying without lawful and good reason can also result in cost applications against the Police.

A subpoena in any proceedings must be served on the Commissioner in a number of ways:

- in person (by placing the subpoena and associated fees in the subpoena box located at Police Headquarters, 1 Charles Street, Parramatta NSW 2150);
- sent by post with the associated fees to The Commissioner of Police, Subpoena Unit, Locked bag 5102, Parramatta NSW 2124;
- via facsimile (only by consent) to the Subpoena Unit Fax No. 9768 0797.

If the subpoena is served directly at a Police Station, contact and inform the Subpoena Unit immediately, fax a copy and forward the original subpoena to the Subpoena Unit. If payment was received at the time of service, issue the server with a receipt, and forward a copy of the General Receipt Book to the Subpoena Unit to acquit their records. ([Refer to FAQs](#) on Subpoena Unit Intranet site)

Commanders/Managers

Accept service of a subpoena/summons addressed to your staff/LAC/Unit and ensure the subpoena/summons is complied with.

It is your responsibility to ensure compliance with all subpoenas issued to staff in your commands. In the event the officer in charge of the matter is unavailable (leave, sick etc) and will not be able to comply with the return date, delegate the duty of complying with the subpoena to another officer.

Subpoena to produce documents (copies of original document to be produced)

If you receive a subpoena to produce documents/material, ensure that action is taken to identify, locate and gather them. Once you have gathered the documents, consider whether a claim of public interest immunity (PII) or Lack of Legitimate Forensic Purpose (LFP) should be raised to all of the documents or part thereof.

In deciding whether such material might be subject to a valid claim of PII; LFP; statutory Immunity; and/or Legal Professional Privilege, consider whether the information, documents or things relate to, or might disclose matters falling into the categories as outlined below:

- deal with national security
- contain sensitive police intelligence
- disclose the identity of a police informer, (including registration details on the NSW Police Force Informant Management Plan) or a 'community source' particularly where fears are held for the safety of the informer or source and/or their families if their identity and the nature and extent of the assistance to police were disclosed
- disclose the identity or whereabouts of a witness who or whose family might be in danger of assault, intimidation or threats if the witness' identity and/or whereabouts became known. This includes witnesses and their families under the Witness Protection Program.

NB: Information regarding participants in or applications for participation in the Witness Protection Program is privileged and immune by statute from disclosure.

- Disclose the identity of a covert undercover operative with an assumed identity or the existence of the covert undercover operative in an ongoing investigation.

NB: The identity of an undercover operative with an assumed identity is immune by statute from disclosure.

- Contain details which if they became publicly known, might facilitate the commission of other offences or allow offenders to avoid detection by taking evasive action (eg, commercially sensitive information provided by car manufacturers to assist police in the identification of stolen vehicles)
- are statements supplied only on condition that the contents will not be disclosed
- relate to serious allegations against the accused or other persons who are the subject of an ongoing investigation
- might create the risk of domestic strife by encouraging the commission of offences against the laws of the State
- contain information provided by a witness informer in relation to offences that are not yet subject to any charges
- disclose the location of covert police premises or surveillance sites
- reveal police investigative equipment, techniques or methodologies not normally known to the community (eg, location and technical specifications/capabilities of the devices and associated technology such that if provided would enable offenders to conduct counter-surveillance)
- would be likely to adversely affect the security, discipline or good order of a correctional centre

- would be likely to compromise any ongoing investigation or operations and/or the safety of the law enforcement officers involved
- would disclose the sexual history of a complainant or witness
- material provided by another investigative agency on an undertaking of confidentiality
- material relating to the identity of a participant in a controlled operation.

Also consider whether the documentation contains material of such a nature that operational police effectiveness depends on it remaining confidential.

If you or the NSW Police are represented in the court proceedings, also discuss the receipt of the subpoena with the person who is representing you or the NSWPF.

If you or the NSW Police are not a party to the court proceedings and you are not sure whether any of the documents attract a claim of public interest immunity (PII), a Lack of Legitimate Forensic Purpose (LFP), Legal Professional Privilege, seek advice from your Commander, the Office of the General Counsel, Operational Legal Advice and/or the Subpoena Unit.

If you think it might become necessary to object over the production of the subpoenaed documents, immediately contact the Team Leader, Subpoena Unit. All objections raised should be submitted through the Team Leader, Subpoena Unit, who will review the issues raised. If the objection is substantiated, the Team Leader will instruct a designated law firm (ie Crown Solicitor) to act for the Commissioner. ([Refer to FAQs, 'How do I raise any of these objections?'](#))

When you are satisfied there are no issues of secrecy, sensitivity or confidentiality, which are likely to arise through producing the documents, then, and only then, you are to produce the documents to the court (clerk of the court or The Registrar, etc).

Advise court if you wish for the documents to be returned back to you or destroyed at the conclusion of the proceedings. Get a receipt from the court.

Ensure that you keep a list of all documents produced together with details of date produced. TRIM should be updated accordingly and a scanned copy of the produced documents could be uploaded in TRIM.

DO NOT give the documents directly to the party who issued the subpoena or their legal representative. Documents produced in response to a subpoena should be produced direct to the court.

Commanders/managers

It is your responsibility to ensure compliance with all subpoenas issued to staff in your commands. In the event the officer in charge of the matter is unavailable (leave, sick etc) and will not be able to comply with the return date, delegate the duty of complying with the subpoena to another officer.

Subpoena to the Commissioner in Criminal and Civil proceedings - where the State of New South Wales (SNSW), the Commissioner of Police or the NSW Police Force is listed as a defendant to the proceedings

All police should note that the process when responding to subpoenas in these proceedings varies from the usual process mentioned above. Police **must** adhere to the instruction letter accompanying these subpoenas.

All enquiries regarding subpoenas in these proceedings should be made with the nominated **Claims Officer** mentioned in the instruction letter. All documents requested by the subpoena should be returned to the nominated **Claims Officer** and not to the court.

Note: If you have any concerns over the production of documents, caught by the subpoena, contact the nominated Claims Officer with carriage of the matter and discuss your concerns.

Any objections raised should be forwarded (by way of report) to the Office of the General Counsel, care of the nominated Claims Officer, with the carriage of the matter.

If you are in doubt, please contact the Team Leader, Subpoena Unit for direction.

(Under no circumstances should documents be produced directly to court when the subpoena relates to these proceedings) ([Refer to FAQs](#))

Accepting service of subpoena/summons – to attend court and give evidence

Accept personal service of the subpoena/summons. Do not direct the server elsewhere. Find out the actual date you are required to attend or arrange to be supplied with the date by the solicitors or court before the hearing. ([Refer to NSWPF Handbook Chapter, 'Witnesses'](#))

Commanders

Accept service of a subpoena/summons addressed to your staff and ensure the subpoena/summons are complied with.

It is your responsibility to ensure compliance with all subpoenas issued to staff in your commands. In the event the officer in charge of the matter is unavailable (leave, sick, etc) and will not be able to comply with the return date, delegate the duty of complying with the subpoena to another officer.

Attendance while on annual leave

If you will be on annual leave on the hearing date, contact the legal representative of the party issuing the subpoena/summons and negotiate for the hearing to be altered or for you to be excused. If negotiations are unsuccessful, attend court. ([Refer to NSWPF Handbook Chapter, 'Witnesses'](#))

Attendance not required - Subpoena to attend and give evidence

If a solicitor tells you that you need not attend court, send a report to the issuing court through your Chain of Command. If a solicitor informs you that an officer is no longer required, ensure the officer is informed or leave a message at the officer's home. Record your actions on the general station pad.

Personal Service of a Subpoena on Foreign Dignitaries, Heads of State and Foreign Representatives visiting New South Wales

Under the Vienna Convention and international law, the Australian Government has granted various levels of rights, privileges and immunities to heads of foreign States, diplomatic agents, consular officers, some members of international organisations and overseas missions and in some cases depending on the status of office, their dependents and staff in the performance of their official duties.

They may be immune from jurisdiction of the court in Australia in a criminal prosecution and may be under no obligation to give evidence and/or produce documents in a criminal or coronial matter or any other judicial inquiry.

There are various Commonwealth Acts including the Foreign States Immunities Act, Diplomatic Privileges and Immunities Act, Consular Privileges and Immunities Act, Crime (International Protected Persons) Act and the International Organisations (Privileges and Immunities Act) that afford certain rights, privileges and immunities in Australia.

The Diplomatic Privileges and Immunities Act 1967 provides full immunity to the head of a foreign State and includes a President, Prime Minister and Minister for Foreign Affairs of a foreign State and their spouses who are deemed to be the "Head of their Mission" while in Australia. Ministers of an executive government of a foreign State and heads of a political sub state may have immunity in certain circumstances under the Foreign States Immunities Act. However, as recently advised by the Department of Foreign Affairs and Trade (DFAT) essentially this is a matter for determination by the issuing court on a case by case basis, given the nature of the proceedings and the status of the entity or person against whom the proceedings have been issued. A minister of a foreign government, head of a foreign government department/agency or governor or mayor of a foreign city, their dependents and staff do not have personal or individual immunity under the Foreign States Immunities Act in regard to criminal and traffic offences and the jurisdiction of the court. They may be immune in some circumstances in their capacity as a member of the foreign government, most specifically in matters involving proceedings on their foreign State.

Before you issue any court process (CAN or subpoena) or you are required to serve a subpoena that has been issued by the court in any criminal or coronial matter upon a diplomatic agent, consular officers, member of an international organisation or overseas mission or any visiting foreign dignitary or foreign government representative, their dependents or staff, contact the Commander, Protection Operations Unit, Counter Terrorism & Special Tactics command (Ext 69300 / 9919 9300 or (M) 0409 918 849) during office

hours or in urgent matters outside office hours contact the DOI. The Commander, Protection Operations Unit or the DOI shall seek advice from DFAT regarding the protocols to be observed in compliance with these Commonwealth Acts. In appropriate cases where immunity does apply, as advised by DFAT, police are to seek further advice and instructions from the issuing court before serving the subpoena.

Police generally

Are reminded to be polite, courteous and to exercise diplomacy in performance of their duties that involve contact with all foreign government officials/ representatives and visiting overseas dignitaries, their dependents and staff.

Read this paragraph in conjunction with 'Subpoena for production of documents', within this Section.

Tax information

Obtaining information from the Commissioner of Taxation

The Commissioner of Taxation has discretionary powers under Section 355-70(1) (table 1 item 1) (formerly section 3E) of the Taxation Administration Act 1953 (Commonwealth) to disclose information to authorised law enforcement agency officers in relation to serious offences or proceeds of crime orders.

Section 355-70(1) (table 1 item 1) of the Taxation Administration Act 1953 stipulates that ATO records or disclosures can be made for law enforcement and related purposes if the record is made for, or the disclosure is to, an authorised law enforcement agency officer, or a court or tribunal, providing the record or disclosure is for:

- investigating a serious offence; or
- enforcing a law, the contravention of which is a serious offence; or
- the making, or proposed or possible making, of a proceeds of crime order.

A "serious offence" means:

- An offence against an Australian law that is punishable by imprisonment for a period exceeding 12 months.

A "proceeds of crime order" means:

- An order relating to an entity's commission of a serious offence, under: Chapter 2 (about confiscation of property in relation to certain offences) or Division 1 of Part 3-1 (about examination orders) of the Proceeds of Crime Act 2002 or under Part II or III of the Proceeds of Crime Act 1987 or under a corresponding law of a State or Territory; or
- an order under Division 3 of part XIII of the Customs Act 1901; or
- an unexplained wealth order (within the meaning of the Proceeds of Crime Act 2002) or under a corresponding State law or Territory law.

Where taxation information is requested for proceeds of crime purposes only, but the crime order proceedings are only possible because the person has not been convicted, it is expected that charges will have been laid, or will shortly be laid for the serious offence to which the crime order relates. The application will need to include evidence that the information is genuinely required for a proceeds of crime investigation, this includes consulting with State Crime Command - Assets Confiscation Unit to obtain a Suspect Financial Profile Questionnaire number.

Application procedures

Applications for information from the Australian Taxation Office (ATO) must be made electronically via the iASK system. The applicant must ensure that all the pre-defined fields within the iASK request are fully completed.

To satisfy the Commissioner of Taxation that the requested information is lawful, applicants will need to be specific about the kind of information sought and explain how that information is to be used for the purposes referred to in Section 355-70(1) (table 1 item 1). It is unlikely that all the information held by the ATO for a taxpayer could be regarded as relevant to those purposes. Accordingly, the iASK request should specify:

- The names, dates of birth, last known addresses and any other relevant details of the persons (and associated parties) to whom the offence relates;
- The nature of the offence being investigated or in relation to which a proceeds of crime order might be made;
- The legislative provision which determines the offence as a 'serious offence';
- The penalties attached to the relevant offence;
- For proposed or possible proceeds of crime order proceedings, the legislative provision under which such an order will be made;
- The precise nature of the information sought, the reason it is needed and its relevance to:
 - investigating a serious offence; or
 - enforcing a law, the contravention of which is a serious offence; or
 - the making, or proposed or possible making, of a proceeds of crime order.

Each iASK request must be authorised by an Inspector or above. Once authorised, the iASK request will be forwarded to the Client Liaison Team, Operational Information Agency, where it will be reviewed against the requirements of the Taxation Administration Act 1953.

The application will be rejected if all the required aspects are not adequately addressed, or if the criteria are not met.

If the application meets the criteria under the Act, it will be forwarded to the ATO by an authorised law enforcement agency officer. The authorised law enforcement agency officers within NSW Police Force are:

- Manager – Information Services, OIA
- Manager – Assets Confiscation Unit, Fraud Squad, SCC
- Team Leader – Client Liaison Team, OIA
- Coordinator – Tactical Intelligence Unit, PSC
- or any person, from time to time, acting in those positions.

Information provided by the ATO in response to an iASK request will be returned electronically to the OIA via the ATO Bulk Data Exchange system. The information will then be uploaded into the iASK system where it may be retrieved by the applicant.

For information on the use of the iASK system, please consult the iASK Support Intranet site located under Systems on the NSW Police Force Intranet.

Types of information available from the ATO

The ATO are able to provide taxation records relating to both individuals and businesses. The following is a brief summary of what can be requested from the ATO:

- ATO Profile Report (includes previous six years up to the current financial year). This Report contains the following information: Address details (current and historic), BAS details for ABN (summary), CAC Posting Data, CAC Electronic Funds Transfer, Client and Spouse details, Compliance activity notations (if any), Dividend Income, Employer details, Income and deduction details for tax returns including any supplementary information, Interest income, Interest/Dividend Deductions Schedule, IT Posting Data (up to 21 January 2010), Links to other entities, Lodgement History, Names History, Rental Property Data, Salary and Wage Income, Tax Agent details;
- Bank Account Details for Electronic Funds Transfer for income tax ;
- Other: Tax information prior to the ATO Profile report period. ATO Profile report period is 7 financial year periods prior.

NOTE: ATO records are only kept for approximately 18 years. Any records prior to this period are generally destroyed and may no longer be available.

ATO Statement/Affidavit

An ATO statement/affidavit can only be requested after the initial Section 355-70(1) (table 1 item 1) of the Taxation Administration Act 1953 is returned to the applicant. To obtain an ATO Statement/Affidavit after receiving the original request, the applicant will need to select "Create a new court statement" request via the iASK system.

Secrecy and 'on-disclosure' provisions

Where protected tax information is passed by the ATO to an authorized LEA officer under Section 355-70(1) (table 1 item 1), secrecy obligations are imposed on the recipient and other officers receiving the information. Anyone that lawfully receives taxpayer information is prohibited from making a record or making an on-disclosure of the information they receive, unless it is for the original purpose or in connection with the original purpose.

Contravention of the secrecy provisions renders an officer liable to severe penalties including fines of up to \$10,000 or imprisonment for two years, or both.

In accordance with Section 355-70(1) (table 1 item 1) of the Taxation Administration Act 1953, ATO records obtained under Section 355-70(1) (table 1 item 1) may be used for evidentiary purposes in court and may therefore form part of an investigator's Brief of Evidence.

Tow trucks

Tow truck contracts

Local area commander

Arrange with Strategic Procurement and Fleet Services to tender and award contracts for 'police to pay' and 'police organised, owner to pay' tows for your command. Do not issue or award contracts yourself. Ensure a copy of the contract is supplied to station police for their reference.

The PAB 71 Register of Contract Tows and Motor Vehicles Received at holding yards are no longer to be used for recording tow movements and storage of motor vehicles. All motor vehicles coming into police custody are to be entered into the Exhibits Forensic Information and Miscellaneous Property System (EFIMS).

Where disputes or complaints arise in relation to the conduct of the tow truck operator contracted to supply services, the Local Area Commander should seek advice from Strategic Procurement and Fleet Services in the first instance.

Depending upon advice, local resolution should be sought to address the nature of dispute or complaint. Any such attempts at resolution should be documented by the Local Area Commander.

Where a dispute or complaint cannot be addressed locally, a written report should be made to the General Manager, Strategic Procurement and Fleet Services. The report should detail the nature of the complaint, any incidences of recurrence and what actions have been undertaken locally to resolve the issue.

The current contract relating to the provision of towing services is non-exclusive. An alternative tow provider may be used as an interim measure where service delivery is not being met. Prior to any such action being undertaken, (unless in exigent circumstances), advice is to be sought from Strategic Procurement and Fleet Services.

Contracted Towing Agents

Do not use a tow truck roster system without first referring the matter to the Manager, Contracts and Service Delivery, FABS, for review.

Manager, Contracts and Service Delivery

Consider the matter and if you approve a roster system advise which towing firms are to be included.

Towing fees

The NSWPF meets the fee for towing a vehicle to a station or holding yard when:

- it was involved in a fatal collision
- it is needed as an exhibit

- it is needed for fingerprinting, mechanical or scientific examination.

In other circumstances, towing fees are recoverable from the owner. Where the vehicle is being held in a police station or holding yard ensure the fees are paid in cash before releasing the vehicle.

Costs met by the NSWPF

In these circumstances:

- prepare a purchase order (PO) in favour of the towing firm in accordance with the procedures in the [NSWPF Accounts Payable Policy and the NSWPF Purchasing Policy](#).
- attach the account from the towing firm and a report of the circumstances for your Region Commander and Financial Services branch.
- record the PO number in *EFIMS*.

Costs met by owner

In these circumstances,

- when the vehicle is ready for release from a police holding yard or station, notify the owner and advise them to pay the towing fee before collection, when a receipt will be needed
- before release, the station officer will check the receipt, and if necessary, verify with the towing firm
- photocopy the receipt and return the original to the owner
- secure the photocopy in the *Tow book* or *Holding yard register* opposite the relevant entry.

Towing by police authority

For public safety, you are entitled to authorise a vehicle causing an obstruction to be towed away. Record your actions in a COPS Event. The costs of these tows is generally met by the NSWPF.

Inspection of holding yards (private and police)

Quarterly inspections of holding yards must be undertaken to ensure that the holding facilities continue to meet the requirements of the NSW Police Force. Any facilities used must ensure the security and prevention of any unlawful tampering of any vehicle seized as an exhibit or for any forensic purpose.

Inspections are to be carried out by Local Area Commanders or a nominated officer (of or above the rank of Sergeant). All inspections are to be recorded as part of the Command Management Framework.

Commanders

Ensure inspections of holding facilities within your local area are carried in accordance with these guidelines.

Traffic - miscellaneous

Speed Checks – where the target vehicle is travelling behind the Police Vehicle

Police are not to conduct Speed Checks of a target vehicle if that vehicle is to the rear of and following the police vehicle. However police are permitted to ESTIMATE the speed of a vehicle approaching from the rear provided:

- they DO NOT increase the speed of the police vehicle to estimate the speed of the target vehicle; and
- they are aware that these estimations may be unreliable as rear view mirrors may distort the distance between the vehicles.

Police Motorcyclists are not to conduct Speed Checks or estimations of a vehicle to the rear of and following the police motorcycle under any circumstances.

Number plates

When you find or are handed a lost number plate, make an object search on COPS. If a match is found, update the relevant event. Send it immediately to the nearest motor registry with a brief report. If the owner applies for the plate while it is still at a station, which is not a district registry, check the registration certificate and ensure a new plate has not been obtained before returning it. Receipt and acquittal procedures are as per seized number plates.

Seized plates

Officer seizing plates

After you seize number plates, [see *Road Transport Act 2013*, Section 81] record them as miscellaneous property in EFIMS, print and send a receipt to the person involved.

Secure the plates and return them to the Roads and Maritime Services (RMS) at the earliest opportunity. Get a receipt. The receipt should be scanned and uploaded into EFIMS against the relevant miscellaneous property.

When you remove plates from a vehicle, ensure the safety of the vehicle and its occupants and, if needed, help to arrange alternate transport.

Local Area Commanders

Ensure plate security and EFIMS records are satisfactory.

Hazardous road conditions

Take steps to remove, or have removed, any hazard you detect or are made aware of. If this is not possible, minimise the hazard.

Flammable or dangerous chemicals

In the case of a spillage of flammable or dangerous chemicals on public roads, notify other relevant authorities immediately (eg: Fire and Rescue NSW, RMS) if you are first on the scene. Immediately consult MIESOPs.

While all incidents present unique circumstances, the following general precautions are recommended:

- depending on the circumstances, do not use portable radios or SL20 torches within 45 metres of the source of the leak or spillage
- if you are already operating the portable radio or torch, and then become aware of the hazard, do not immediately switch them off. Retreat to a safe distance before switching off or continuing operation
- do not remove the batteries from portable radios or torches in such a situation.

Ensure Sydney Water is contacted immediately if the incident could lead to contamination of any water supply. Maps detailing the catchment areas are held by the DOI.

Ensure other relevant authorities are promptly notified eg: Environmental Protection Agency; WorkCover or Waterways authorities or local council.

Removal of chemicals

The senior fire brigade officer at the scene is responsible for deciding how to remove/deal with the chemical.

If sand is needed to cover the spill on a main road, contact the RMS. The emergency number is staffed on a 24 hour basis. Ensure the number is readily available at stations.

If sand is needed for a council road, make every effort to contact council, including after hours. If you have problems, however, or a lengthy delay is pending, the RMS will supply the sand.

Closing roads

You are responsible for deciding whether a road should be closed. Consider the conditions and any danger to motorists by continued use.

Reopen a road when you consider it safe for use.

Offences

Investigation of serious driving complaints

When in receipt of a complaint from a member of the public regarding a serious driving offence, police will;

When the complainant is prepared to provide a statement and attend Court as a witness, thoroughly investigate the matter and take appropriate action against any offender/s identified.

When the complainant is anonymous, investigate the matter as appropriate and as a minimum submit an intelligence report detailing the matter to assist with further investigations and tasking resources.

Establishing identity of driver

When you have to inspect a licence, consider whether the particulars and photograph (if appropriate) correspond to the driver. When you have doubt, ask searching questions as to date of birth, full name and address etc. When possible, and it is considered necessary, direct the driver to sign their name on a piece of paper and compare with the signature on the licence.

When you find a discrepancy, send a report to the RMS so its records can be amended.

Unregistered vehicles

When you see unregistered vehicles being driven, issue the motorist with an infringement notice. If the driver claims payment for registration, and insurance has already been sent or the vehicle is registered, make further inquiries. If registration has not been renewed, post an infringement notice, if time allows.

If the person is not the owner but is driving with their knowledge/sanction, issue an infringement notice to the driver and also act against the owner.

Although you have the option of proceeding against driver and owner under the *Motor Accidents Act*, if proceeding against the driver (non-owner), use Section 68 of the *Road Transport Act 2013*. If proceeding against the owner (non-driver), use Clause 84(3) of the *Road Transport (Vehicle Registration Regulation) 2007*.

Warnings and cautions

Where appropriate, issue 'on the spot' warnings and cautions. As a guide, restrict these for minor offences. Only in extenuating circumstances, issue a caution for offences involving loss of points. In all instances where a warning or caution is extended, make a brief record in your notebook of the time, date and place, nature of the offence and include the offender's full name, address, licence and vehicle registration numbers.

Do not issue cautions for crashes.

Diplomatic and consular vehicles

See also the section on 'Diplomatic agents and consular representatives'.

Question of fitness reports

Send a report through your local area commander to the RMS if you detect motorists suffering illness or disability, raising concern over their fitness to drive. In due course, the RMS notifies you of action taken. Destroy this advice after perusal.

Disqualified licence

When a suspected disqualified licence is produced, seize it and send to:

Driver Licence Administration
Roads & Maritime Services
Locked Bay 14
Grafton

Attach a covering report giving all particulars.

Ice cream vendors

Ensure vendors comply with the following rules, which have been developed by the NSWPF, ice cream makers and distributors, to minimise accidents involving children. They apply to people selling ice cream, confectionery etc from vehicles in public streets.

Road safety rules to be observed by ice cream vendors:

- park the vehicle, wherever possible, off the street
- park well away from marked crossings and preferably on the departure side
- use the side of the road where most customers can be expected. This avoids unnecessary crossing, particularly by children in heavy traffic
- do not park anywhere near a corner
- always park close and parallel to the left hand side of the road
- do not park near the crest of a hill
- tell children to walk well away from the van towards the rear before crossing so they can see traffic in any direction
- never serve ice cream from the driver's side
- make sure all children are clear before moving off
- when moving at night, turn off all bright exterior lights, other than the vehicle lights
- do not park or drive in any way which will impede traffic flow
- Observe all requirements of the *Road Transport* Regulations and local government ordinances.

Where vendors fail to observe the safety code, interview them and draw their attention to the code. If they are unaware of the code or the approved signs, advise them to get them from their supplier.

Send a report to your commander and include the name, address, registration and licence numbers of the vendor, and particulars of the supplier. Deal with any breach of the traffic laws in the normal way.

Commanders

Decide whether the local government authority should be advised so action can be taken against the vendor's licence.

Defective vehicles

Inspection of vehicles at stations

When a vehicle is brought to a station for inspection, ensure the parts specified in the defect notice comply with the conditions set out in Schedule 2 of the *Road Transport (Vehicle Registrations) Regulation 2007* and are in a thoroughly serviceable condition.

When you find every defect has been satisfactorily repaired or adjusted, remove the defective vehicle label and sign the relevant statements on the back of the notice. Advise the owner of the vehicle it is their responsibility to submit the clearance to the Roads and Maritime Services.

If the defect notice has been lost or cannot be produced, ask the owner what parts were mentioned in the notice and check the label. Inspect those parts to determine whether the necessary repairs or adjustments have been properly made. If there is any doubt as to the nature of any defects or whether the defects have been satisfactorily rectified inspect the vehicle and issue a further defect notice. Note on the notice that a previous defect has been issued and reference the defect notice number of the sticker affixed to the vehicle.

Heavy vehicles involved in crashes

See also the section on 'Motor vehicle crashes'.

Ensure heavy vehicles (4.5 tonnes or more) repaired after crashes are not allowed on the road before inspection at a Heavy Vehicles Authorised Inspection Station (HVAIS).

Removing labels and taking notices

When a vehicle is brought to a station to have a defective label removed, check the notice to ensure the authorised examiner has certified it. If satisfied, remove the label, take the notice and complete the report on the reverse side.

When an owner has been directed to a station for inspection of work carried out, ensure necessary repairs have been done and certify accordingly in the space provided. When satisfied, remove the label.

Seizing vehicles

Vehicles seized from clearways and other prescribed places

If a vehicle is illegally parked in any of the following places police may cause the vehicle to be towed:

- Bus lanes
- Length of road to which a clearway sign applies
- Transit lanes
- T-Way lanes

Where a vehicle is located in one of these areas have VKG contact the Transport Management Centre and arrange for the RMS to remove the vehicle.

Police may issue an infringement for the appropriate offence.

Vehicles seized under the Road Transport Regulations

Police may remove any vehicle which has been abandoned, is causing an obstruction, presents a danger to traffic or has been caused or permitted to be used contrary to law on any part of a road which is sign posted exhibiting or including the words 'tow away area' or 'vehicles impounded' or other words indicating a vehicle is subject to seizure. See Clause 39 of the *Road Transport (General) Regulation 2013 - Seizure of vehicles by Police officers*, to establish your powers and responsibilities in these instances.

Seizure of Unregistered Vehicles

Prior to seizing motor vehicles pursuant to Section 68 of the *Road Transport Act 2013* make all enquiries to ensure that the owner is attempting to evade any payment of registration. Complete all checks on COPS and ensure that the vehicle is not reported stolen. Do not seize any agricultural equipment or any other unregistrable vehicle.

Police generally

Do not seize an unregistered vehicle without consulting your Commander or their delegate to ensure adequate holding facilities are available.

When seizing the vehicle inspect and note the general condition of the vehicle and record any observations in your notebook. The seized vehicle is to be towed to a holding yard and escorted by police. Under no circumstances is the vehicle to be driven.

Upon attending the holding yard complete all relevant holding yard book entries. Complete a COPS event prior and record the vehicle as miscellaneous property in EFIMS prior to the completion of your shift. Issue the EFIMS miscellaneous property receipt to the person who had custody of the vehicle at the time it was seized.

As soon as practicable police are to make an application to the local court for the unregistered vehicle to be forfeited to the crown. The application is to be made pursuant to Section 45 of the *Local Courts Act 2007* and Police are to use the approved form available from the NSW Police Intranet. A copy of this application is to be served upon the person who had custody of the vehicle at the time of the seizure if the person can be found and to such other persons (if any) as the Local Court concerned may direct

Upon a forfeiture order being granted contact the RMS and notify them of the court result and have them collect the vehicle. Record the disposal details in EFIMS.

If the forfeiture order is unsuccessful return the vehicle to the person who had custody of the vehicle when it was seized. Record the disposal details in EFIMS.

Police cannot recover costs in relation to towing and holding of the vehicle.

Vehicle storage

Take the vehicle to a safe place. Ensure it and any property are recorded as miscellaneous property or as an exhibit in EFIMS (whichever applies) or the Register of vehicles received at holding yards.

Unclaimed vehicles

Make inquiries to identify and find the owner of a seized vehicle. If it is not claimed within a week, send a report to your local area commander, setting out the circumstances.

When owners are found, send a notice within two weeks of seizure, telling them where the vehicle is, the reason it was seized and the towing fee. Include a request to have the vehicle removed by a specific date. Advise if it is not taken by then, it will be disposed of. The notice should be in the following form:

Dear sir/madam,

Inquiries reveal you are the owner of (description of vehicle) which was seized by police at (time) on (date) in (street, suburb, city etc) as it was (reason for seizure).

The vehicle is at ... police station and a towing fee of \$...is owing.

If the fee is not promptly paid and the vehicle removed, action will be taken for its disposal.

Yours faithfully, ...

Releasing seized vehicles

Local area commander

To release a vehicle, ensure:

- proof of ownership is supplied
- the towing fee is paid
- a receipt is supplied, or the *Register of vehicles* book is signed.

Fee for release of a vehicle

The fee is set by the Commissioner of Police and must be paid before releasing a vehicle. [See Subdivision 2 - Seizure of Vehicles by Police Officers, Clause 42 (1) (ii) *Road Transport (General) Regulation 2013*] It includes amounts payable in respect of the seizure, taking control of, removal, towing away, impounding or releasing the vehicle.

Owners not on record at RMS

If RMS records do not reveal the owner, check the Stolen Vehicle Index and find out if the vehicle has been stolen or abandoned, is wanted or is suspect.

Local area commander

Arrange a local newspaper ad. If after three months the owner has not paid the tow fee or claimed the vehicle, the region commander may dispose of it. Record the disposal details in EFIMS.

Removal of trespassing vehicles by private firms

Do not authorise any vehicle removal company to represent in any way that the NSWPF endorses its functions.

Investigate any complaint over a removal. Do not assume a report of an imminent impounding will negate the possibility of criminal proceedings, if appropriate.

On receiving a removal notice at a station:

- check the COPS Central Index
- if the vehicle is not recorded, create an 'Abandoned Vehicle Report' from information in the notice
- send the notice to the Stolen Vehicle Unit, as soon as possible for filing.

Removal of vehicles by other government bodies

Government bodies removing a vehicle must serve a notice at the local police station.

Conduct an ownership and stolen vehicle check. If not stolen, send within three business days, a written statement to the local council with the name and address of the registered owner, if known. If stolen, tell the owner (see also the section on 'Stolen vehicles and boats'). You may make urgent notification by phone, however, you must still send the form. Where interstate vehicles are involved, the council makes its own inquiries.

NB: Councils are responsible for removing any abandoned vehicle. If it is causing a danger or an obstruction, however, police can act under Clause 43 of the *Road Transport Regulations (General) Regulation 2013*.

Removal of vehicles by the RMS

Follow the procedures as above for other government bodies.

Complete a written statement in duplicate and send it to the RMS's regional office.

Dangerous or defective roads

Where Police identify or suspect a section of road is/has become dangerous or defective for any reason notification should be made to the relevant roads authority, either council or RMS.

Police Generally

Where the defect is of a minor nature and police wish to report contact should be made to RMS by phone (Phone 131 700). Create a COPS event detailing the nature of the hazard or defect. The event should be created as an 'occurrence only' with further classification of RMS referrals

Where possible police are to obtain photographs of the scene and upload them to CMMS as part of the COPS event.

Traffic / Highway Patrol Supervisor

Verify events of this nature. Ascertain who the responsible road authority is.

RMS Administered Road

Forward the event details to the Police Liaison at the Transport Management Centre #TMC. In addition written notification by way of business letter authorised by the Local Area Commander is to be forwarded to the RMS representative on the Local Traffic Committee. Further the issue is to be tabled as an agenda item by Police for the next Local Traffic Committee meeting. Ensure that any discussion relating to the matter is minuted.

When a reply is received from TMC forward the response including the relevant CMCS reference number to the author of the event. Ensure that this information is included in their event.

Council Administered Road

Written notification by way of business letter authorised by the Local Area Commander is to be forwarded to the Council representative on the Local Traffic Committee. Further the issue is to be tabled as an agenda item by Police for the next Local Traffic Committee meeting. Ensure that any discussion relating to the matter is minuted.

Police Liaison TMC

Daily – check the SMAC box for reports. Where a report is submitted for an RMS road, ensure that the defect is recorded on RMS Central Management Computer System (CMCS). Reply to the submitting officer and provide the relevant CMCS reference number.

Traffic and parking offences

Generally, do not submit a Future Service CAN when you can issue a penalty notice for any of the offences set out in the *Fixed Penalty Handbooks* (P23).

When handling traffic offences involving diplomatic agents or consular representatives, see also the section on '[Diplomatic agents and consular representatives](#)'.

For on the spot warnings and cautions for minor infringements not resulting from a collision, see also the section on '[Traffic - miscellaneous \(Warnings and cautions\)](#)'.

For Future Service CANs or penalty notices issued against NSW Police Force members or student officers involved in accidents while driving police vehicles, see also the section on '[Police vehicles - police vehicle accidents](#)'.

Penalty notice books

The books are accountable. On receipt:

- check them for numbering and printing errors and report any defects to the State Debt Recovery Office (SDRO)
- record particulars in the accountable forms' register
- record date and to whom issued, and date completed.

Report lost, stolen or missing penalty notices to SDRO.

Keep completed and defective books for audit purposes for 12 months.

Control of penalty notice books

HWP officers

You are responsible for *Traffic/General and Radar Penalty Notice Books* on issue to you, when not handed to the senior HWP officer at the end of your shift.

Senior HWP officer/Shift supervisor

Ensure the:

- internal security of the books
- daily clearance of notices (see 'Sending part `A` later in this section)
- cancelled notices are regularly checked against the SDRO report
- books are not interfered with by any unauthorised person.

Driver handing over vehicle

When you hand over the vehicle to which the books are on issue, ensure all notices are completed and Part `A` notices are removed.

When the vehicle is not immediately handed over, hand the books to the officer performing station duty for safekeeping.

Driver receiving vehicle

Ensure penalty notice books are received in good order and condition.

Officers generally

Report any discrepancy in any penalty notice book to your commander.

Daily record of penalty notice books

Keep a record of penalty notice books, left at your station or office for safe keeping, in a book and include for both when the books are taken out and returned:

- the book number
- the time and date taken/returned
- the next penalty notice number
- signatures of issuing, receiving and returning officers.

Issuing a penalty notice

Ensure you are satisfied with the identity of the offender. Check the licence to ensure it is valid and if doubts exist or the offenders identity cannot be established, consider arresting the person for the offence.

Ensure the correct notice is used for the offence. Print legibly using a black biro and if available, use a rubber stamp to complete offence details on Part `A`.

Make sure unusual circumstances, sightings and/or conversations are recorded on Part `A`. If you have any doubt as to the correctness of an offence, do not issue a notice on the spot. Take all relevant details and consult a senior officer. If the offence is verified, complete the notice and post it to the offender within 1 calendar month.

In cases of exceeding the speed limit, insert the speed category immediately under the area where the short title of the offence is recorded (ie: Exceed speed over 10km/h). Be careful you do not encroach on the area allotted for the penalty amount. The actual speed you checked the vehicle at should be included in the proofs of the offence (part A & B).

Operator codes

Ensure you use the correct operator code:

- highway patrol officer - S
- general duty police and other - X.

Distributing the notice

Follow these procedures:

- hand or post Part `C` to the offender (traffic and parking offences) or place it on the vehicle or post it to the registered owner/responsible person (parking offences)

- remove Part `A` at the station during your shift and send it to SDRO. See also 'Sending part `A` of infringement notices', this section
- leave part `B` in the book.

Penalty notices for multiple offences

You may issue up to four on the spot penalty notices to an offender at any one time. If you issue one for 'not produce licence', this is not counted in the total. Count unregistered and uninsured vehicle as one offence.

When you detect more than four offences, and those not the subject of a penalty notice are minor, endorse the front of part `A` of the last notice issued as follows: 'also spoken to in relation to...' and sign. This applies regardless of whether the extra offences are included in *the Fixed Penalty Notice Handbook*. Make a similar note on Future Service CANs for minor offences.

Licence details

If an offender fails to produce a licence, make a notation LNP (licence not produced) in the licence details column of all other notices issued. You may issue an extra notice for 'not produce licence'. In these circumstances, issue separate notices for each offence.

If an offender gives an address which differs from the licence, place an `X` in the box to the right of the address.

If an interstate/international driver, use the number shown on the licence.

When a licence is produced and the offender is unlicensed, disqualified, suspended or cancelled, record the licence number and date of birth shown. Record the class as unlicensed and code 'U'.

Licence class codes

When submitting a penalty notice or Future Service CANs, use the correct driving licence codes:

C – Car

LR – Light Rigid

MR – Medium Rigid

HR – Heavy Rigid

HC – Heavy Combination

MC – Multi Combination

R – Rider

06 - Learner

For offences other than traffic, enter the licence class code on the penalty notice as 'U' even though the offender may have a licence.

Use the following double character codes for interstate and international offenders:

Queensland - IQ

Victoria - IV

Tasmania - IT

South Australia - IS

Western Australia - IW

Northern Territory - IN

Australian Capital Territory - IA

International - II

Remember, record also on the penalty notice, the interstate or international licence number.

Recording date of birth

Record the date of birth as DDMMYY eg: 25/10/54. Where it is recorded differently on an interstate or international licence, convert it to the sample format.

Driver not the holder of a licence or permit

When a driver fails to produce a current licence, find out if they have previously held a NSW licence. If they have never held a licence, or have not held a licence in the last 5 years, issue a Field CAN/charge for 'unlicensed driver'.

Determine how long and approximate time since expiry. In addition, get the registration number of any vehicle owned or previously owned by them.

Vehicles fitted with premium number plates

Premium plates have three alphabetical characters followed by two numeric and then one alphabetical character. To eliminate confusion with standard NSW plates, place a box around the alpha character at the end of the plate.

Circumstances when penalty notice not issued

Do not issue a notice but submit a Future Service CAN, in the following circumstances:

- a fatal collision warrants action other than a charge
- the offence is not included in the *Fixed Penalty Handbook*
- it is an injury collision or involves a negative blood test and you cannot complete inquiries within 3 calendar months
- other cases when you cannot complete inquiries within 1 calendar month
- children under 16 are involved

- the actions of a driver/rider (non collision) are brought to your notice
- the driver of an ambulance or fire vehicle on urgent duty commits an offence. In these cases, remember to:
 - Stipulate in the Future Service CAN that a fire engine / ambulance is involved and indicate whether the best possible warning was being given to clear the way for such vehicle. Consider also Rule 306 of the Road Rules 2008 which specifies the exemption for drivers of emergency vehicles from provisions of the Road Rules
- the offender is a police officer on duty

However, an officer of the rank of Superintendent or above may direct that an infringement be issued to a police officer on duty if the offence does not involve serious injury or death.

Issuing parking penalty notices (PIN)

When a Commonwealth vehicle is involved, identify it with the code letter A for ACT as the state of origin.

For an interstate vehicle, circle the appropriate square. The identification codes for the other states and territories are:

- IA - Australian Capital Territory
- IN - Northern Territory
- IQ - Queensland
- IS - South Australia
- IT - Tasmania
- IV - Victoria
- IW - Western Australia
- II - International

Service of notice by post

If the penalty notice cannot be served personally or left on a vehicle, you may post it. Mail late notices within 1 calendar month except:

- when an injury collision is involved (3 calendar months)
- awaiting results of a blood test (3 calendar months)
- for police on duty collisions or alleged offences to be proceeded by infringement notice (3 calendar months) - see also the section on '[Police vehicles](#)'.

Sending part `A` of penalty notices

Police generally / HWP

Detach part `A`s during your shift. **Part `A`s must reach the SDRO as soon as possible.** Late notices may be posted to offenders within 1 calendar month. Generally, when sending to SDRO, follow the following procedure:

Place part `A' in the envelope provided and send them daily to SDRO. In the country, use the government courier system, if appropriate.

Senior HWP OFFICER/Shift Supervisor

As a quality management measure check at least 75% of all penalty notices and ALL speed related penalty notices prior to dispatch to SDRO.

Penalty notices cancelled

When you make an error preparing a penalty notice, do not issue it, instead:

- endorse all parts with 'cancelled'
- include the reason and action taken
- sign the cancelled notice and write your name, rank, station and date
- cross reference it to any new notice you issue
- have the cancelled penalty notice signed by your supervisor.

Supervisor

Check cancelled notices are correctly endorsed then sign/date and write your name/rank.

Send Parts `A' and `C' to SDRO daily.

Penalty notices issued incorrectly

When you issue a penalty notice incorrectly, do not try to retrieve it. Send a report to your supervisor with Part `A' attached. File a copy of that report with Part `B'.

Supervisor

Send the report and Part `A' to SDRO with a covering memo as soon as possible.

Reporting officer

On receiving advice from the SDRO that an incorrect penalty notice has been issued, seek advice from a senior HWP/traffic officer, prosecutor, or the Traffic Services Branch. If you believe the incident justifies pursuing a prosecution, refer all relevant documents to the traffic supervisor in your LAC (or if you don't have one to your region traffic coordinator) for a decision.

Representations about penalty notices

When the recipient of a notice tries to explain/justify an offence and asks about alternatives to payment or going to court, tell them to contact the SDRO. Do not, under any circumstances, accept the notice or act to cancel it.

Penalty notices against police vehicles

If you are the driver of a vehicle which receives a penalty notice whilst engaged in police duties, forward a report via your Commander to SDRO indicating same and ask that the penalty be waived. Do not delay your response or an enforcement order will be issued by SDRO (see guidelines below).

Commander

If you receive a penalty notice or a reminder notice, respond by the due date. Advise the driver of your actions and if the driver wants to make representations, return them together with your completed statutory declaration.

Remember, unfinalised penalty notices will be referred to Professional Standards Command and may also result in vehicle registration cancellation.

Attempt to waive penalty notice by police officer

Driver

When making representations to waive a penalty, follow these guidelines:

- make the representations to your Commander
- the offence must have been committed while performing urgent or essential police duty
- your representation must be for an individual offence only
- your representations must be supported by your Commander
- your explanation must be consistent with the description of the offence
- your representations must be made by the due date of the Penalty Notice.

Commander

You must certify the driver was engaged on urgent or essential police duty and send your recommendation to the Manager, State Debt Recovery Office. The representations or evidence (i.e. COPS events) are not to be forwarded to the SDRO.

Completing Future Service CAN

When it is inappropriate to issue a penalty notice, use a Future Service CAN and send it to your traffic officer / representative for adjudication. Use a Future Service CAN for a breach arising from a collision when you think the circumstances, and the issue of process, should be considered by your commander.

Submitting statements and plans

When you submit a Future Service CAN for a fatal/injury collision:

- record in your notebook any statements from people at the scene
- attach copies of the signed statements and a detailed plan of the scene
- set out the nature of injuries
- note whether they were admitted to hospital.

In other collisions, do not include typewritten copies of signed statements with Future Service CANs. Attach, however, concise extracts from the statements, sufficient for adjudication purposes, plus names and addresses. Include a sketch plan on the reverse side of the Future Service CAN showing the same particulars as on the COPS entry.

State whether any driver, witness or passenger refused to make a statement.

Preparing plans

See also the section on '[Photos and plans - preparation of plans](#)'.

Brief of evidence in indictable offences

When you believe an indictable offence has been committed, prepare a full brief of evidence including:

- Future Service CANs
- your statement
- chronological statements of other police in the investigation
- statement by the accused or record of interview
- statements of other witnesses
- doctor's certificate when injury is an ingredient of the charge
- certificate from the vehicle examiner, if applicable
- plans drawn to scale
- photographs of the scene.

Advising action proposed

When you interview an offender about a traffic offence and you intend to submit a Future Service CAN, tell them of the planned action. Endorse the report that they were told the matter would be reported.

Prompt submission of Future Service CANs and correspondence

As traffic prosecutions are limited to six months, submit all Future Service CANs and correspondence about notices promptly to allow adjudication.

Recording addresses on Future Service CANs and correspondence

When recording the address of an offender on a Future Service CAN or penalty notice, ensure you take the complete address. Do not accept business addresses or post office box numbers.

If the offender claims to live permanently overseas, take a contact address here and check their claim with the RTA.

If the offender lives at a large institution eg: university, military establishment etc. include extra detail eg: unit/rank, college/dormitory name etc.

Collisions involving police vehicles - submitting Future Service CANs

For direction on submitting Future Service CANs for crashes involving Police vehicles, whether they are against the public or police, see also the section on '[Police vehicles - police accidents](#)'.

COPS entry not to be attached to Future Service CANs or penalty notice

When submitting penalty notices or Future Service CANs, do not attach a copy of the COPS event.

Filing reports and notices after court

Ensure Future Service CANs and penalty notices dealt with at court are filed at the station of issue.

Penalty notices - offences by children

You may issue self enforcing penalty notices to children 16 and over for offences outlined in the *Fixed Penalties Handbook*. Before issuing, however, establish their identity and address.

New traffic/parking restrictions

Generally, do not enforce new standing or parking restrictions and facilities, such as stop; give way, no right turn signs etc for the first seven days.

Transport investigations

Crimes/incidents affecting public transport authorities

Investigating officer

In all incidents relating to public transport, safety is the first concern. Ensure safe working practices in accordance with available training and protocols such as Track Safety e-Training Package on line and road safety practices.

Refer to the 'Disruptions to the Rail Network - Guidelines' (for further information regarding rail disruption procedures).

Train Incidents

For urgent needs, such as shutting down trains or where other rail infrastructure (eg, bridges) is damaged contact via VKG:

Rail Network (where train overhead wires are present) – The Sydney Trains Rail Management Centre on 9379 4444.

For all other lines in NSW contact the ARTC's NSW Network Control; for South & West of Sydney – Junee Network Control:

- (02) 6930 5311

For North & North West of Sydney – Broadmeadow Network Control:

- (02) 4902 9410

Bus Incidents

The initial responsibility for notifying the Office of Transport Safety Investigations (OTSI) rests with the operator. However, OTSI has legislative authority to conduct investigations in regards to Bus (and rail) incidents and may seek the assistance of Police during and following an incident.

For more information go to the OTSI website at <http://www.otsi.nsw.gov.au/> or phone 9322 9200.

Taxi and Hire Car Incidents

Promptly advise the Manager, Intelligence and Compliance, at Roads & Maritime Services, on (02) 8849 2656.

For all taxi incidents, contact NSW Taxi Council on (02) 9332 1266.

Transport Stakeholder Liaison

For any assistance regarding transit related crime and liaison with transport authorities, contact the Police Transport Command Operations Manager on 9215 6606 or go to the [PTC intranet site](#).

Travel

You may travel free on government operated buses, trains and ferries (other than JetCats) whether on duty or proceeding to and from work, provided you are in full uniform.

Obtain a ticket or rail pass if you are on escort duty.

Travel pass

Plain clothes police

If you are required to wear plain clothes when on duty apply, through your commander, to be issued with a travel pass by the Staff Unit.

Return your travel pass when you are no longer entitled to use it (eg: required to wear uniform when on duty).

Travelling on duty

Commanders

Approve the most economical means of transport when officers travel on duty. If in doubt over allowances and entitlements, please contact Employee.

1st Class Rail Fares or Private motor vehicle mileage

Under the existing business rules, an officer is entitled to a 1st class rail fare if a police vehicle is not available for travelling.

If the officer wants to take his own private vehicle rather than the train, the Commander can approve the Travel Request, but only reimburse them up to the value of the 1st class rail fare.

Private vehicle's details must be entered to certify:

- the officer has permission from the Commander to use the private vehicle in travelling;
- that the vehicle is registered,
- it has a compulsory Third Party Personal Insurance policy; and
- a Comprehensive Damage Insurance policy, valid until the last day of travel, or later.

Air travel

Book through the contracted agent. If unavailable, make direct reservations with the airline and refer accounts to your commander for payment.

Immediately after the flight, send the duplicate of the purchase order to your commander to avoid delay in paying the account. If your booking is cancelled, notify the airline as soon as possible and return the ticket to the agent from which it was bought. Prepare a report which includes:

- date and time of cancellation

- person taking the cancellation
- person at the agency who received the cancelled ticket.

Attach the report to the duplicate purchase order and send to your commander.

Chartering private aircraft

Do not charter a private aircraft for police business unless you have approval from your region commander.

Overseas and interstate travel

General overseas travel

Send your application (which must identify the objectives and how they link with the NSW Police Force strategic objectives and how it will benefit you, the NSW Police Force and NSW) with costing or an estimate through the normal channels to the Deputy Commissioner, Specialist Operations who determines the source of funding.

You need Ministerial approval for all overseas' travel after funding has been determined.

Speaking at a Conference

The request process and considerations of travelling costs are covered in the 'Policy for Speaking at or Attending Conferences'.

Operational overseas travel

If you want to travel overseas for operational purposes, contact the Deputy Commissioner's office for guidelines and procedures which must be followed for the investigation and/or your entry into another country.

Interstate travel

Unless you are a border officer, do not leave the State without the authority of your region commander. Ensure the Commissioner of the relevant state is notified of your intended visit.

When interstate visits are for highly sensitive matters, you may modify these procedures with the authority of your region commander to avoid breaching confidentiality.

Use of Force

The goal of promoting a safe and secure community necessitates the application of force by police officers on a daily basis, at a range of levels. One of the challenges you will face lies in balancing the need to bring situations to a safe and effective conclusion with the need to avoid excessive applications of force.

To avoid excessive application of force and maintain an effective incident response you should use the minimum amount of force that is appropriate for the safe and effective performance of your duties and proportionate to the risks you face.

As part of the *National Guidelines For Incident Management, Conflict Resolution and Use of Force: 2004*, you are required to record details of instances where force is used by a police officer, against a police officer, or in other situations (as appropriate).

In these circumstances complete the RESISTANCE fields on the Event General Details screen in Computerised Operational Policing System (COPS).

These details include:

- Level of POI Resistance
 - POI WEAPONS
 - POI ACTIONS TOWARDS OFFICER
 - STATE OF PARTIES
 - OFFICER ASSISTED
- Place of Resistance
- Officer Response to resistance
- Effect of Response on POI
- Was the POI Detained?
- Was the Officer Injured?

Level of resistance and POI details are mandatory for RESIST/HINDER/ASSAULT OFFICER incidents, however may be recorded for other incidents where force is used by a police officer or against a police officer.

Record all officers involved in the use of force.

Vehicle search powers

Overview

The Law Enforcement (Powers & Responsibilities) Act 2002 allows a Police officer who suspects on reasonable grounds that a vehicle is being, or was, or may have been used in or in connection with an indictable offence may make any one or more of the following requests:

- a request that the driver of the vehicle disclose his or her identity and the identity of any driver of, or passenger in or on, the vehicle at or about the time the vehicle was or may have been so used or at or about the time the vehicle last stopped before the request was made or a direction was given under Division 2 of Part 3 of LEPR to stop the vehicle,
- a request that any passenger in or on the vehicle disclose his or her identity and the identity of the driver of, or any other passenger in or on, the vehicle at or about the time the vehicle was or may have been so used or at or about the time the vehicle last stopped before the request was made or a direction was given under Division 2 of Part 3 of LEPR to stop the vehicle,
- a request that any owner of the vehicle (who was or was not the driver or a passenger) disclose the identity of the driver of, and any passenger in or on, the vehicle at or about the time the vehicle was or may have been so used or at or about the time the vehicle last stopped before the request was made or a direction was given under Division 2 of Part 3 of LEPR to stop the vehicle.

A police officer may, without a warrant, stop, search and detain a vehicle if the police officer suspects on reasonable grounds that any of the following circumstances exists:

- the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, anything stolen or otherwise unlawfully obtained,
- the vehicle is being, or was, or may have been, used in or in connection with the commission of a relevant offence,
- the vehicle contains anything used or intended to be used in or in connection with the commission of a relevant offence,
- the vehicle is in a public place or school and contains a dangerous article that is being, or was, or may have been, used in or in connection with the commission of a relevant offence,
- the vehicle contains, or a person in the vehicle has in his or her possession or under his or her control, a prohibited plant or prohibited drug in contravention of the Drug Misuse and Trafficking Act 1985,
- circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.

“Relevant offences” for the purposes of this power are defined in section 35 of LEPR.

A police officer may, without a warrant, stop, search and detain a class of vehicles on a road, road related area or other public place or school if the police officer suspects on reasonable grounds that:

- a vehicle of the specified class of vehicles is being, or was, or may have been, used in or in connection with the commission of an indictable offence and the exercise of the powers may provide evidence of the commission of the offence,
- circumstances exist on or in the vicinity of a public place or school that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.

Powers to stop vehicles and erect roadblocks

A senior police officer (an officer of or above the rank of inspector) may authorise another police officer to exercise any or all of the vehicle roadblock powers in respect of any specified vehicle (or class of vehicles) on a road, road related area or other public place or school if the senior police officer suspects on reasonable grounds that:

- the vehicle (or a vehicle of the specified class of vehicles) is being, or was, or may have been, used in or in connection with the commission of an indictable offence and the exercise of the powers may provide evidence of the commission of the offence, or
- circumstances exist on or in the vicinity of that road, road related area, place or school that are likely to give rise to a serious risk to public safety and the exercise of the powers may lessen the risk.

A police officer may exercise vehicle roadblock powers without obtaining an authorisation by a senior police officer if the police officer suspects on reasonable grounds that it is necessary to exercise the powers and that the seriousness and urgency of the circumstances require the powers to be exercised without obtaining the authorisation.

A police officer who acts must notify a senior police officer as soon as practicable and obtain an authorisation for any ongoing action.

Vehicle search powers

If you use your vehicle search powers, record the vehicle's registration number and the identity of the people spoken to and what, if anything you located and seized. Create a COPS entry under the incident category 'Powers - Vehicle Search' and list the location of where you used the powers, why you used them, the number of vehicles checked and the number of people spoken to.

Vehicle road block powers

If you want to use vehicle road block powers under the Act seek permission from a senior police officer.

Senior Police officer

Before authorising the use of vehicle road block powers under the Act confirm an indictable offence has been committed and a vehicle may have been used in or in connection with it and exercising the powers will provide evidence of the offence, or that circumstances exist that are likely to give rise to a serious risk to public safety and that establishing a road block may lessen the risk.

Before authorising the use of the powers consider:

- the time elapsed since the offence
- the possibility of success
- the vehicle type and class
- the threat posed by the vehicle's occupants
- the risk to people's safety from different ways of stopping vehicles (random stop, use of traffic calming devices or a road block by any available means)
- the time necessary to set up a road block and as much information about the site as is possible - refer also to 'Site selection criteria' below.

Your authorisation should be in writing if time allows.

When authorising the use of these powers make a record of your authorisation (notebook if in field) including:

- time and date of making it
- the powers conferred by the authorisation and the indictable offence or serious risk to public safety in respect of which they were given
- the road/s, road related area/s or other public place/s to which the authorisation applies
- the vehicle or class to which it applies
- the period of the authorisation (if less than six hours)
- the name of the officer you nominate as the site commander of a roadblock site
- in urgent circumstances, if a verbal authorisation is given make a written record as soon as reasonably practicable of the authorisation

NB: each site requires a separate authorisation.

Create a COPS event, select the incident type 'Powers - Vehicle Search' and make it a significant event. Select the further classification 'Vehicle search powers' and record your authorisation, including the above details. For each authorisation on the one event create a separate incident. Verify the event and transfer it to the site commander's work priority.

If you do not authorise use of vehicle search powers create the COPS event and select the further classification of 'Refused vehicle search powers'. Include in the narrative the reasons why you refused the request.

Site commander

Record and confirm the nature of the authority given by the authorising officer.

The final decision to establish a road block rests with you. You are accountable for your actions and should bear in mind the potential consequences. The type of road block should be proportional to the offence or risk. Remember, blocking a road by using vehicles or objects has the potential to create major traffic chaos and can increase the risk of injury through the offender attempting to avoid it or crashing through.

In establishing your site refer to the 'Site selection criteria' below.

Remember to ask for a further authorisation, if you require one, before the end of your current one (authorisations last six hours unless otherwise stated).

After the incident conduct a debrief and take any necessary action. Update the COPS entry started by the authorising officer and include the number of vehicles stopped, number of people identified, how you set up the roadblock (type, location etc) or why you didn't use the powers and link the event to any event when charges arise from the initial incident. Ensure the event has been flagged as a significant event.

Audit requirements

Duty officer (or specialist equivalent) at site commanders LAC/area

Review the event to ensure the site commander did not exceed the authorisation. Record this in the actions of the event. Report any deviation from the authority to your commander.

Site selection criteria

When selecting a site:

- look for physical features which help slow down, channel and stop traffic eg: bridges, culverts, cuttings and underpasses
- if possible do not choose one visible from an intersecting street unless the access is part of a trap
- allow approaching motorists at least 300 metres clear vision of the site. Consider possible escape routes, view of traffic in both directions and ability to see vehicles reversing or turning away
- ensure radio communication from the site is possible.

General procedures

Site commander

Adopt the following when possible:

- use at least six police
- ensure police observe officer safety procedures
- have uniformed police direct traffic

- ensure police carry out assigned duties, do not congregate or render themselves easy targets
- consider using the TOU and region/local support groups as covering officers
- park marked vehicles in prominent positions and illuminate light bars when possible
- at night, light the area
- if traffic is to be stopped in both directions, set the search points 75 metres apart
- do not allow police or private vehicles or other obstacles to obstruct traffic
- position covering police to protect colleagues and ensure their line of fire is not obstructed by other police or vehicles
- ensure the practices on the discharge of firearms are strictly observed. See the section on '[Arms and appointments](#)'
- ensure radio contact is maintained between all vehicles
- when finished, immediately tell all police involved and ensure equipment is collected and returned without delay.

Duties

Site commander

Ensure police are properly briefed and understand their duties. Appoint:

- a uniformed vehicle control officer
- a searching officer
- two covering officers
- two observation officers to each searching officer.

Vehicle control officer

Stop the specified vehicles or class of vehicles and direct them forward one at a time to the searching officer. Wear a reflective vest and use a torch if directing vehicles at night. Use 'Police Stop' signs to stop traffic when available.

Searching officer

Ensure drivers turn their engines off on reaching the search point. Remember to identify yourself, provide your name and station etc. Search vehicles and occupants thoroughly. Explain the purpose of the operation and seek their cooperation. Do not allow a vehicle to pass through merely because its driver is known to you; a concealed fugitive could be directing the actions of the driver.

Covering officer

Ensure your vehicle is parked just off the road about 10 metres from the searching officer, so it can be driven away immediately. Investigate any vehicle, which fails to stop.

Stand beside the nearside of the vehicle and closely observe proceedings at the searching point. Your principal role is protecting the searching officer. The second covering officer is in the driver's seat, ready to drive off immediately.

Observation officer

Park your vehicle on the approach side of the search point, on the opposite side of the road, about 150 metres from the searching officer.

Investigate vehicles turning from the search point, people abandoning cars, attempts to dispose of property etc.

Victims

Defining a victim

The NSW Police Force plays a vital role in responding to and providing support to victims of crime. Both the Victims Rights Act 1996 and Victims Support & Rehabilitation Act 1996 were repealed and replaced with the Victims Rights and Support Act 2013 (the Act) on June 3, 2013.

The Act states that the [Charter of Victims Rights](#), as far as practicable and appropriate, governs the treatment of victims by an individual or agency exercising official functions in the administration of the affairs of the State.

The Act defines a victim of crime as:

"A person who suffers harm as a direct result of an act committed, or apparently committed, by another person in the course of a criminal offence in New South Wales."

A person suffers harm if, as a result of such an act:

- The person suffers actual physical bodily harm or psychological or psychiatric harm, or
- The person's property is deliberately taken, destroyed or damaged.

If the person dies as a result of the act concerned, a member of the person's immediate family is also a victim of crime for the purposes of this Act. If a person dies as a result of the act concerned and there is more than one member of the person's immediate family, members of the immediate family may nominate a representative for the purposes of interacting with service providers under the Charter.

The definition of a victim of crime extends to children and young people harmed as a result of a criminal offence. In this case, a parent or guardian may be the contact person. This is providing that the person is not under investigation or has been charged in relation to the criminal offence of which the child or young person is the victim.

NSW Code of Practice for the Charter of Victims Rights (the Code)

[The Code](#) describes clearly what victims of crime should expect in relation to each of the Charter rights, who is responsible for meeting it and when and how it should be implemented. Whilst the Charter applies to all victims of crime, some Charter rights only apply to victims of serious personal violence offences.

Officer in Charge

Ensure that at all times your victim is treated in accordance with the Charter of Victims Rights and you fulfil your responsibilities as described in the Code for each Charter Right. All victims that report face to face with Police should be provided with a fully completed [Victims Card](#) . The OIC should ensure that the victim receives the following minimum service:

1. Police will explain to the victim how they will deal with their matter. Some victims or witnesses may require an interpreter.
2. Police will provide the victim with a Victims Card when an incident or crime has been reported to police face-to-face. The card will show the name of the police officer in charge of your matter, contact details for this officer, the time/date of the report and the COPS event reference number.
3. Police will provide victims with information about support services. Victims are to be referred to the Victims Access Line (VAL) who can provide the victim with information, referral and support to a range of services for victims of crime. The contact details for VAL appear on the reverse of the Victims Card.
4. Police will encourage victims to make contact with them if they need or have any further information. If the officer in charge of their matter is not available, the victim can ask to speak to the supervising Sergeant.
5. Police will keep victims informed throughout the investigation unless information puts the investigation in jeopardy, in which case, police will tell the victim that this is the reason why they cannot release some information. This includes contacting the victim within 7 days of the incident being reported. If police proceed with an investigation the OIC should update the victim at least every 28 days or at particular milestones. This includes: informing the victim of the decision to proceed, or not proceed with an investigation; the decision not to charge or release a suspect; the decision to caution, reprimand or give a final warning to the suspect; the decision to arrest a suspect and informing the victim of the status of the investigation right to the very end, including where an investigation cannot progress any further without additional information or evidence.
6. Police will consider any concerns about a victim's safety and protection in any applications for bail. Police will tell the victim if the offender is given any special bail conditions and what the victim should do if bail conditions are breached. If the victim is a victim of sexual or other serious assault, police will tell the victim if the offender gets bail or not.
7. Police will give victims information about being a witness, how the court works and what the victim has to do. They will tell the victim the date, time and place of the court hearing, what the charges are and any changes to the charges or the withdrawal of the charges. Police will tell the victim the final court result and explain any appeal or gaol sentence.
8. Police will tell the victim of their right to make a Victim Impact Statement if you they want to tell the court how the crime has affected them. As the court does not accept Victim Impact Statements for all crimes before the court, police will refer the victim to support services who can tell the victim if the court will accept a Victim Impact Statement for their matter. A police officer may provide the victim with information on how to ensure the Victim Impact Statement complies with legislation, but they may not suggest the content of the victim's statement. Police will also tell the victim about the existence of Victims Registers.
9. Police will look after the property that is needed as evidence and keep it safe and secure. In many cases police can photograph, fingerprint or analyse property without seizing it. When police are able to return the property, they will give it back as soon as practicable.

Police may refer victims to the NSW Police Force web page: <http://www.police.nsw.gov.au/victims> where information from reporting a crime, victims registers, return of property through to the end of the justice journey can be found in Fact Sheets in English, translated into Easy English, 16 different languages and Auslan.

Commander

Ensure that all sworn and unsworn staff in your Command are fully aware of their obligations to victims of crime under the Charter of Victims Rights and the NSW Code of Practice for the Charter of Victims Rights. This includes the requirement to provide victims with accurate and timely information about: the decision to proceed or not to proceed with an investigation, the progress of their matter, specifically 7 day follow up, 28 day follow up (where the event becomes a case) and the decision to close or suspend a case.

Releasing records to victims

Victims or their legal representatives should be supplied with the COPS event number and copies of their statement. Do not charge for this service.

Modifying or withdrawing serious charges

In serious personal violence matters the victim will be consulted where the prosecutor has received an offer from the offender to a plea of guilty to an offence other than the offence(s) which the offender has been charged or committed for trial. In these instances a certificate must be signed and presented to court noting that consultation with the victim took place, or if consultation did not occur, the reasons why consultation did not occur. The certificate must certify that the statement of agreed facts has been amended to the offence to which the offender pleads guilty. The victim will be consulted if the matter is withdrawn or charges are not to be proceeded with, although there is no requirement to produce a certificate to the court.

Witness Assistance Service- ODPP

Police generally

As soon as you become aware that a matter is to be prosecuted by the Office of the Director of Public Prosecutions (ODPP) and your victim/witness falls within one of the following groups:

- A child or young person under 18 years of age
- A person with disabilities
- An elderly person
- A person who speaks a language other than English
- A person of Aboriginal or Torres Strait Islander background, and/or
- Any person who is experiencing trauma difficulties about attending court

Notify the Witness Assistance Service who can provide specialist support to minimise the stress and potential re-traumatisation for victims and witness related to involvement in the

criminal legal process and to enable prosecution witnesses to have the opportunity to give their evidence to the best of their ability, in the interest of justice.

Notifying the Witness Assistance Service – ODPP of victim/witness contact details

If you are the officer in charge of a case that is to be, or is being, prosecuted by the ODPP, you must, at the time of charging the accused person or as soon as possible thereafter, send the Witness Assistance Service – ODPP the full contact details of any victim/witness of the crime.

The Witness Assistance Service – ODPP is to be immediately informed of the contact details for a victim of crime, or in the circumstances where the victim is deceased, the Next of Kin details through the WebCOPS action – “Notify DPP of all victim/s or NOK details”. This action automatically occurs whenever a CAN charge for a strictly indictable offence is accepted, whenever a Future CAN charge service details, with strictly indictable offence, is updated to “SERVED” and charges with Table-1, Table-2 or Summary offences referred to ODPP are subsequently elected by the ODPP to prosecute.

Details that the Witness Assistance Service – ODPP require for victims/witnesses are: name, date of birth, address, phone – land line, mobile phone number, workplace (if any) and phone number, name and number of an alternative contact person who would most likely know where the victim is, identify which victim support service is applicable (e.g. Child or young person under 18 years etc) and if the matter is domestic violence related.

Warrant Cards (Identification Certificates)

Carrying, production and display of Warrant Cards

Carry your Warrant Card at all times when on duty unless you have permission from your commander to do otherwise. Produce it when necessary to confirm identity.

Identification must not be copied for display or carrying purposes. Original warrant cards only are to be utilised. Identification contains the Corporate Brand and in accordance with the NSW Police Force Corporate Branding Policy, any part of the corporate brand must not be used on any non-standard issue NSW Police Force uniform or equipment.

When off duty, carry your identification except when outweighed by the risks of losing it. In these circumstances, place it in a secure area. (In accordance with CPN 10/06)

Do not use your identification to obtain any financial advantage through free travel or admission.

Return all identification certificates and entry passes to your supervisor on your last day of duty.

Plain clothes police

Display your Warrant Card and badge as the need arises eg: at a crime scene, disaster, demonstration, bomb threat and/or restricted area. Duplicate copies of warrant cards are not endorsed for this purpose and would be in breach of the NSW Police Force Corporate Branding Policy.

Chaplains

Wear your identification certificate when attending a disaster or other emergency.

Promotion

On confirmation of appointment, visit the Security Management Unit to be issued with a new Warrant Card. A new replacement card will only be issued upon receipt of the old one. Old Warrant Cards must be returned and cannot be retained as they are an accountable item and must be secured and or destroyed.

Re issue of Warrant Cards

If you need a replacement Warrant Card send a report, through your commander, to the Commander Security Management Unit, stating the reasons for replacement. If the card has been lost or stolen this report must be accompanied by an Event number and follow the Lost and Found section within this page.

Wearing identification on police premises

Voluntarily present your official NSW Police identification when entering police premises if you are wearing plain clothes or if so requested.

Display your identification or any official access device issued for entry into premises at all times while on the premises.

Commanders

Ensure staff who transfer or cease employment with the NSW Police surrender all access cards, Warrant Cards and badges to the Security Management Unit, Sydney Police Centre. Return, by hand or registered mail within a week, to the Security Management Unit, using the EFIMS system. A receipt will be given to acquit records.

Loss or theft

Immediately report in writing the loss or damage of your Warrant Card and Badge and create a lost or stolen event on COPS. A report via the chain of command can then be sent to the Security Management Unit for a replacement.

Be aware of the importance of securing NSW Police Warrant Cards, access cards, keys or other devices with the seriousness with which one secures police appointments. While the items cannot reasonably be secured in an equivalent way officers are to realise considerable care must be taken.

The loss of police identification certificates, access cards, keys or other devices will be subject to a report to the Commander for consideration and appropriate action. The replacement cost of police identification certificates, access cards, keys or other devices is to be borne by the individual officer unless such loss can be shown, to the satisfaction of his/her commander, not to be the result of negligence on the part of the officer.

Commanders

Inquire into the loss or theft. Ensure a COPS event is created.

Send the report with your submission for reissue of cards or certificates issued by the Security Management Unit to the Commander of that Unit.

Retention of Warrant Cards and Badges

Officers who may be separating from the police force are to return all Warrant Cards, Access Passes and Badges to the Security Management Unit via their Command. This must be on the officer's last date of duty. Commands should supply the Security Management Unit with a 'Notifications of Separation' when staff separate from the NSW Police Force.

Those officers wishing to retain their warrant card are to submit a report for approval through their Commander to the Commander of the Security Management Unit. The laminated warrant card will be stamped using a hole punch with the word VOID in the signature line, before being acquitted and returned to the officer.

Renewal of Warrant Cards

Warrant Cards (Identification Certificates) must depict a photograph that reflects an employee's current appearance. All Warrant Cards are to be reviewed each quarter as part of CMF and that all Duty Officers are to ensure that the employee is clearly identified by their

picture. If the picture is old or the employee's appearance significantly changes then the person is to be directed to renew their Warrant Card. All renewal requests are to be forwarded to the Security Management Unit, via a Godfrey report. All old Warrant Cards are to be sent back to the Security Management Unit to be acquitted.

Warrants

Warrant Unit (WU)

The Warrant Unit, Operational Information Agency (OIA) is available for all enquiries regarding warrants..

If you believe a warrant has been issued by the court and subsequently it is not appearing on the COPS system call the Warrant Unit immediately.

Warrant creation

The court will automatically issue an arrest warrant if the offender has failed to appear at court.

When the service of a CAN is not successful the informant may apply for the issue of an arrest warrant through the court.

The majority of warrants are now entered in near real time by court staff, appearing on the COPS system almost instantaneously. Twenty percent of warrants are still entered manually by staff at the Warrant Unit at police headquarters. These include revocation of parole warrants which are issued by the Parole Board and not a court.

New Warrant appearance – signature not required

On 12 April 2014 the NSW Police Force in conjunction with the Attorney General's Office of NSW updated the NSW arrest warrants system which is now enforced by new legislation. This new legislation stipulates that an electronic signature will now replace the old written signature in about 90% of warrants. This is because the warrant system is now fully electronic.

Parole Warrants

When an offender is to be transferred to a correctional centre obtain a copy of the warrant from Court Notice Service Management System to accompany the prisoner.

Court Notice Service Management

When a person is arrested on an arrest warrant the informant is automatically notified by Court Notice Service Management

When you execute a warrant retrieve a copy of the warrant from the Court Notice Service Management.

Warrant execution

When you arrest an offender on an arrest warrant obtain a copy of the warrant from the Court Notice Service Management. Execute the warrant via BAIL CAN and have the particulars inserted as a charge.

If executing a prison warrant, a copy of the warrant accompanies the prisoner to gaol. Create a BAIL CAN and when required to 'select a court' select 'correctional centre'.

Warrant execution through Custody Management

There are certain types of warrants that when executed will need to proceed through the Custody Management system. These are:

- Mental Public Health: Forensic patient & public health order
- Defence Force: AWOL
- Child care: Child in need of care
- Conduct Forensic Identification: Conduct forensic procedure

All other warrants go through the Bail CAN process.

Warrant of Apprehension (Interstate monetary fine)

If you receive these warrants direct from other jurisdictions, immediately send them to the Warrant Unit. Do not issue a receipt or attempt to serve them.

Revocation of warrants

If a warrant is issued from a local court and is over ten years of age and all enquiries to locate the person prove negative there are provisions for the Local Area Commander to examine each case, on its merit, and recommend that revocation take place under Section 240 of the Criminal Procedure Act 1986.

A report is then submitted via the Local Area Commander to the commander of Operational Information Agency (OIA) to have the warrant revoked by local court registry through the assistance of the staff at the Warrant Unit, OIA.

Suspending warrants (temporarily exclude)

If there is a problem with the legality of executing a warrant contact the warrant unit immediately and the warrant will be suspended pending further investigation and revocation.

In extreme circumstances a warrant can be taken off the system for a period of time during a criminal investigation. In these cases a manuscript report is to be submitted via the respective commander to the commander of OIA outlining the reasons why the offender is not be apprehended by police including a detailed copy of the offender's criminal history.

Offender is deceased

If you have information that an offender wanted on a warrant is deceased notify the warrant unit via email.

Offender arrested outside the state - Extradition

When you wish to extradite an offender from interstate contact the Warrant Unit and send an email to #WU with the extradition details to obtain a copy of the warrant. Once you have a copy of the warrant the extradition can be organised.

If the offender is arrested by interstate police and bailed to a NSW court the Warrant Unit need to be notified, by way of completing a form which is included with the copy of the warrant. The interstate magistrate will need to sight the copy of the warrant.

If the offender is arrested and refused bail interstate the magistrate will also need to sight to the warrant and the arresting police organise for the return of the offender to NSW.

See police handbook – [Extraditions](#) for further details.

Watercraft

Hull identification number (HIN)

When investigating matters concerning boats or equipment with HIN markings, check the status of the number with the Marine Area Command.

Roads and Maritime Services infringement notice books

When operating police vessels, you may use the Roads and Maritime Services *Infringement Notice Books*. They are accountable and must be handled in accordance with instructions for accountable/receipt books.

Report any discrepancy, loss or destruction of a book immediately to your commander.

Keep completed books for 12 months, then return them to the Roads and Maritime Services.

Issuing infringements

Issue a warning or an infringement for offences.

If the offence is not listed in the infringement book, submit a Maritime Breach to the Marine Area Command. Include enough information so a decision can be made on whether to prosecute.

Children under 10 are protected from prosecution so only issue a caution. Juveniles 10 to 18 normally receive a caution for the first offence.

Issue a separate infringement for each offence and explain the method of payment.

When a licence is not produced, verify its existence with the Marine Area Command.

Police who commit offences

If an officer in charge of a police vessel commits an offence, do not issue an infringement notice. Send a comprehensive report to the Roads and Maritime Services and a copy to the Commander, NSW Marine Area Command, Sydney who recommends to the region commander whether remedial training is needed.

If an officer is off duty and in charge of a private vessel, deal with the matter the same as for any member of the public.

Accidents

Complete a Boating incident report if you investigate an accident or incident involving a vessel.

Fax the completed form to Roads and Maritime Services. Download the form from:

http://www.maritime.nsw.gov.au/docs/forms/vessel_incident_report.pdf

For further information, call Maritime NSW on 13 12 56 (a 24 hour service).

Refer to IESOP, 'Marine Incidents & Emergencies Including Search and Rescue' for additional information.

Boating Deaths

(Refer to section '[Boating Deaths](#)' in the chapter on 'Deceased Persons' in this Handbook.)

Stopping a vessel - care and security

When stopping a vessel, consider the care and security of it and people aboard. In particular, consider the prevailing conditions including:

- weather
- tide/current
- traffic
- size and type of vessel
- depth of water
- wharf/mooring facilities/requirements
- ownership
- capabilities of crew/passengers to take charge.

When considering action, think about the effect your decision might have on the safety of:

- the remaining crew/passengers
- the vessel
- other property eg: wharves, moorings, other moored craft.

Similarly, if someone returns a positive breath test, do not allow them to operate the vessel. You have responsibility for the safety of the vessel, the passengers and crew.

Welfare

Counselling - trauma

You are entitled to counselling when involved in a major crisis or traumatic event. Your commander will organise for a trauma response for the following incidents:

- critical incidents
- fire arm incidents
- major disasters
- deaths in custody and other deaths or serious injury during police operations
- other incidents at the discretion of the local area commander or delegate.

Local area commanders/ section managers

Contact the trauma team at our Employee Assistance Program provider on 1300 667 197, following any of the incidents listed above or if you consider your staff might be personally affected by a work related incident.

Also arrange for longer term monitoring of affected staff, as needed.

Counselling - general

Contact the Employee Assistance Program on 1300 667 197 for confidential counselling services or assistance regarding:

- work related difficulties
- emotional, psychological/psychiatric illnesses and conditions
- terminal illness
- matters affecting your ability to function properly at work
- conflict and relationship issues
- referral for psychological assessment.

Commanders/managers

If you are concerned about a staff member's capacity to fulfil their duties because of a psychological condition, refer the officer to the Psychology Section or the Police Medical Officer for evaluation by an independent mental health professional.

Death of employees

Promptly report the death of any NSW Police Force employee (serving or retired) to the Commander, Welfare Section, who will notify all appropriate agencies.

Refer to the Protocol Manual for requirements and procedures.

Chaplaincy

Police Chaplaincy offers pastoral ministry and care to all members of the NSWPF. Three Senior State Chaplains, representing all denominations, along with two Senior Specialist

Chaplains (Specialist Operations and Education & Training) are supported by approximately 100 part-time (honorary) Regional Police Chaplains working throughout the State.

You can contact the police chaplaincy at any time through the DOI.

Threats against police employees

If you receive a threat, immediately report it to your supervisor, commander or manager.

Supervisor

On being notified of a threat against a NSW Police employee immediately consider their welfare and safety interests. Ensure a COPS event has been created using the 'Threats against police' incident type. Advise your duty officer or equivalent of the threat.

Duty officer/equivalent

Immediately assess the threat and take action to ensure the safety of the officer. Give the officer a copy of the 'Information guide for officer who are threatened'. Inform your commander of the threat.

Commander

It is your responsibility to respond to the threat. Refer to the 'Threats against NSW Police Employees' policy.

NB: If the threat arises from an inmate at a correctional facility, ensure:

- The governor of the relevant facility is advised;
- The matter is reported to the commander, Security & Investigation, Corrective Services;
- The offender's name is placed on Corrective Service's Victims Register (contact the community liaison officer).

Copies of documents

Commanders/managers

Copies of the 'Threats Against NSW Police Employees Policy' and the 'Information Guide for Officers who are Threatened', can be obtained from the Protective Security Group command.

Caring for a child where the parent/guardian has been hospitalised, arrested or deceased

Please refer to '[Chapter C - Children](#)'

Witnesses

Witnesses' expenses

Complete a Claim for Payment of Witness Expenses form (P559) for Crown witnesses giving evidence at local, children's, licensing, district, supreme and Coroner's courts. Follow the instructions on the form, as incomplete forms will not be processed. Either you, as the OIC of the case, or the instructing ODPP solicitor must certify the court attendance and recommend payment.

The officer in charge of the case will lodge the P559 with the court registry where the matter was heard. Where possible you should seek the bank account details of the witness, for inclusion on the form to enable electronic funds transfer. Where the witness requires urgent payment in cash a cheque is to be drawn. Court registrars are to ensure their staff are aware of the correct procedure and that "Open Cheque Register" is maintained in accordance with Treasurer's Direction 216.01.

Send claims for payment as an agent for the NSW Police, which cannot be paid at the court, to:

Attorney General's Department, GPO Box 6 Sydney 2001

In the case of Supreme or District Courts send the claim to the Budget and Finance Branch, Office of the DPP. Do not make representations to these agents seeking a review of the payments.

Former police subpoenaed to give evidence in connection with their previous duties are only entitled to claim ordinary witness expenses at the scale approved by the Attorney General.

NB: There is no provision to claim above the prescribed amounts. Rates are not intended to fully compensate losses and expenses, but to minimise hardship. The use of Certificates of Expert Evidence might avoid unnecessary attendance of expert witnesses.

Travelling expenses witnesses living a long way from court

A Crown witness, other than a serving member of the Australian Military Forces or current serving NSW police officer, who lives far from the court, is entitled to claim the cost of their fare (with the exception of air travel) from the registrar of the court.

If the witness insists they cannot pay for travel, seek an advance witness expense payment through the Witness & DPP Liaison Unit, provided a minimum 7 days notice is available. If the notice is within 7 days of the court hearing, provide it through the case officer's command.

Manager, Witness & DPP Liaison Unit

Ensure the OIC of the case is told of the cost of travel.

Officer in charge

Ensure the witness includes the amount in the P559 form.

Costs for Interstate and intrastate witnesses

When an interstate civilian is needed as a Crown witness in a matter conducted by a police prosecutor at a Local, Children's Licensing or Coroners' court, the NSW Police meets the cost of the airfare.

JusticeLink under the Department of Police and Justice is an agent for NSW Police for the payment of claims made by witnesses for the loss of wages, sustenance, accommodation and incidentals at scale rates. However, it will not reimburse Crown witnesses the cost of airfares. Do not, under any circumstances, request the witness to pay for their own fare. The witness should be advised that NSW Police will arrange and pay for their air travel.

If the Office of the DPP has carriage of the prosecution, a travel approval number is to be obtained from the instructing solicitor, authorising travel assistance for the witness.

Travel arrangements (and costs thereof) for interstate police witnesses are the responsibility of NSW Police. Allowances, such as travelling allowances, meals and incidentals are to be met by their home jurisdiction.

If travel assistance is required for a witness, complete a '[Witness Request Form - P736](#)'. Contact the Witness and DPP Liaison Unit, the Office of the General Counsel to confirm travel arrangements.

Manager, Witness & DPP Liaison Unit

When you are advised of an intrastate or interstate Crown witness requiring travel assistance, ensure a '[Witness Request Form - P736](#)' has been received with appropriate authorisation. Confirm return, economy class travel, liaise with the witness and advise the OIC when these arrangements have been confirmed.

Where necessary, liaise with local police if difficulty is experienced in making contact with the witness.

Officer in Charge

If requested, arrange to meet and assist an interstate Crown witness on arrival.

Accommodation expenses for Crown witnesses

It is customary for Crown witnesses to organise their own accommodation. However, if you have to arrange it, ensure the witness and proprietor clearly understand the witness pays. The witness is entitled to claim reimbursement from the court office in accordance with the current rate for subsistence.

Depart from this procedure only when witnesses insist they cannot pay. In these circumstances, in Local, Coroners' and Children's Courts:

- prepare a Purchase Order for cost of accommodation only
- ensure the witness includes the amount of the Purchase Order in the P559 form.

In the Supreme Court and District Court:

- an advance on the witness' entitlement for sustenance can be obtained from the registrar of the court (through the instructing solicitor).

NB: Do not, under any circumstances, book accommodation in the name of a police officer, NSW Police, or Office of the DPP.

Bank officers as witnesses

A bank officer attending a Local court as a Crown witness is not entitled to expenses when the interests of the bank are involved.

When such an officer has to go to a distant court as a Crown witness, give as much notice as possible to allow the bank to arrange relief.

Government analysts as witnesses

When a government analyst is needed to testify, advise the hearing date as soon as possible. Arrange, as far as possible, for their evidence to be taken that day or as early as possible in the proceedings, and for the witness to be excused.

Subpoena for interstate witnesses to attend lower Courts

If you require an interstate witness to attend the Local, Children's or Licensing Court, arrange for the issue of an interstate subpoena (P703A). Ensure a Form 2 to is also issued under the Commonwealth Service and Execution of Process Regulations.

Before a subpoena is issued, contact the witness and ascertain the best address for service.

The subpoena, Form 2, witnesses' phone number/s and witnesses' statement (if appropriate) should then be forwarded to the Witness & DPP Liaison Unit at least 30 days prior to the hearing. Contact the Witness & DPP Liaison Unit where the hearing is within 30 days. Do not post the interstate subpoena directly to the witness as this renders it unenforceable and could result in travel not being organised for the witness. All interstate subpoenas must be served by the local interstate police with a minimum of 14 days prior to the hearing date. NB: Overseas witnesses can not be subpoenaed.

If you believe the witness may be hostile towards police or may attempt to avoid service, inform the Witness & DPP Liaison Unit by way of report.

For Coroner's matters, the Coroner will issue his/her own subpoena. Follow the above procedure when you come into possession of a subpoena issued by the Coroner.

Specialist and/or support services - ODPP

See Chapter V - Victims - Specialist and/or support services - ODPP

Overseas witnesses

When a witness living overseas is needed in a matter being prosecuted by a police prosecutor, send a report, via your chain of command, to the Prosecutor's office of the court of hearing seeking a recommendation as to whether the witness will be required. Include in your report the evidence the witness is able to give and attach a copy of the court brief.

Contact the Witness Liaison Unit for assistance. Along with the P736, prepare a covering report highlighting the fact that a witness resides overseas and that you are seeking a recommendation as to whether the witness is essential to the prosecution brief and therefore required to attend court and give evidence. A copy of the brief should be attached to the report. Bearing in mind time constraints, it is essential that action be instigated as soon as possible to avoid excess air travel costs when confirming travel at short notice. The preference is to allow 30 days plus, to set up an itinerary. The report should be walked through the line of command being Commander, Area Prosecuting Coordinator (APC) for the cluster of courts in that jurisdiction. If the recommendation is that the witness will be required to give evidence, the reason for this is to be set out in writing on the file, then directed to the coordinator, Witness and DPP Liaison Unit – Office of the General Counsel, to set up suitable travel.

If the Office of DPP has carriage of the matter, get a travel approval number from the instructing solicitor, prepare a '[Witness Request Form - P736](#)' from the police intranet and contact the Witness & DPP Liaison Unit to arrange travel.

If requested by the witness, meet/assist the witness from the airport. Organise accommodation (the costs of which are to be met by the witness).

Manager, Witness & DPP Liaison Unit

When advised of the need to organise travel for an overseas witness by way of report, ensure a '[Witness Request Form - P736](#)' is included with appropriate authorisation and recommendation by the police prosecutor. This report is to be approved by the Area Prosecuting Coordinator (APC) for that cluster of courts.

If the Office of the DPP has carriage of the prosecution, ensure the OIC submits a '[Witness Request Form - P736](#)' from the police intranet with the appropriate travel approval number. Liaise with the nominated instructing solicitor to obtain confirmation of their request in writing from the Group Managing Lawyer from the Office of the DPP.

If unable to liaise with the witness by email or STD phone, liaise with Interpol and confirm availability of the witness.

In due course, subject to approval by the Manager, Operational & Special Advice Unit or the DPP, organise air travel for the witness. Inform the witness and the OIC of the case of the flight details.

NSW resident needed as an interstate witness

Serve subpoenas and warn witnesses to attend interstate courts on behalf of other interstate police and justice departments, as requested.

Local Area Commander

When someone living in your area or an officer is asked to give evidence for the Crown interstate, that State/Territory will be responsible for the travelling arrangements and costs.

Certifying witness attendance at District and Supreme Courts

For matters at the Supreme or District Courts, have the instructing solicitor certify the completed P 599 form for Crown witnesses.

Warning witnesses not to attend court

Notify witnesses when they are no longer needed. If the witness has had their travel confirmed ensure the Witness & DPP Liaison Unit, the Office of the General Counsel is informed as soon as practicable.

Approval for travel

As soon as you become aware a witness will need travel assistance to attend a local, children's or Coroners' court and the proceedings are being conducted by a police prosecutor, seek initial approval by contacting the Witness & DPP Liaison Unit, the Office of the General Counsel.

A [`Witness Request Form - P736'](#) should be prepared by the OIC from the 'Request Forms' site of the police intranet. This form and a copy of the brief of evidence is to then be given to the police prosecutor requesting a recommendation to authorise travel assistance.

Police Prosecutor

After ensuring the evidence of the witness is essential, endorse the recommendation on the ['Witness Request Form - P736'](#) and fax it to the Witness & DPP Liaison Unit.

Manager, Witness & DPP Liaison Unit

If approval is granted confirm travel assistance as follows: refer to [`Interstate and intrastate witnesses'](#) and [`Overseas witnesses'](#) whichever is relevant.

Urgent air travel

Local Area Commander

Issue enough purchase orders to your nominated supervisor for urgent air travel for police of police under your command.

For all Crown witnesses, make contact with the Witness & DPP Liaison Unit, the Office of the General Counsel. Outside business hours, do this via the DOI.

Manager, Witness & DPP Liaison Unit

If approval is granted make arrangements to organise the travel.

Cancelling reservations or tickets

OIC of case

Contact the witness as soon as the need for travel is no longer required. Also contact the Witness & DPP Liaison Unit and advise that the travel confirmed for the witness is no longer required. Advise that the witness has been notified not to travel. Failure to notify accordingly may result in costs for the travel being forfeited for the travel sectors

Manager, Witness & DPP Liaison Unit

Cancel the reservation for witness air travel and endorse the voucher accordingly.

Application to the court to recover costs

When advising the court of witness expenses, tell the police prosecutor when part has been met by or charged to a government department. Ask that the court award expenses to the department.

Witnesses from Department of Transport (DT), Roads and Maritime Service (RMS), State Rail Authority (SRA) and State Transit Authority

When such officers need to attend a court or inquiry as a police witness, phone:

- DT - Office of Director, Regional Transport Operations
- RMS - Prosecution Services
- SRA and STA - Division Revenue Protection Managers.

When employees of these authorities attend a court or inquiry as witnesses on behalf of each other in an official capacity, the employing authority arranges attendance and pays expenses. An officer attending during normal hours of duty, whether in an official or private capacity, tells you of the wages and out of pocket expenses incurred. Advise the prosecutor to ask the court to award these to the officer's employer.

Employees attending in an unofficial capacity, and in their own time, inform you of the costs. Apply for the court to reimburse the witness.

Police as witnesses

For Commonwealth departments

If you are a witness for any Australian Government department, you are regarded as on duty. If applicable, claim travelling allowance.

The Manager Court Unit, the Office of the General Counsel, sends a report to Financial Services to recover any costs from the department concerned.

For SRA and STA etc

When in court in your official capacity as a witness for one of the above authorities, NSW Police meets your out of pocket expenses, sustenance or fares. The authority applies to the court to award any expenses incurred to NSW Police.

Giving evidence in private capacity

If you are to give evidence in a private capacity, which does not relate to your official duties, attend in your own time. Do not wear uniform and tell the court you are giving evidence in a private capacity. If asked to state your occupation you may do so.

Where you are to give evidence:

- in support of a person who is being prosecuted by the NSW Police Force,
 - in support of a person whose licence or application is being opposed by the NSW Police Force,
 - of character on behalf of an accused and in particular if that person is a known criminal,
 - in support of a police officer or unsworn officer subject to management or disciplinary action, or under consideration of such action,
 - which is not compatible with the interests of the NSW Police Force,
- report it to your commander.

Include in your report:

- the name of the party you are to give evidence for,
- your relationship to the party you are to give evidence for,
- your own knowledge of the facts relevant to the case,
- the person's antecedents (where relevant).

When preparing your report, you should not include in it the terms of any conversations between you and the other party's lawyers, or any information which you only became aware of by reason of discussions with them.

Discussions at a conference with legal representatives in relation to Court proceedings are ordinarily confidential unless that confidentiality is waived.

Such communications should be considered and treated by you as confidential unless the confidentiality is waived by the other party's lawyers.

If you are given a copy of any statement that you have made to the other party's lawyers you are at liberty to provide that statement to the NSW Police Force unless that other party's lawyer has told you that it is subject to a claim for legal professional privilege. In those circumstances that statement is confidential.

Legal representatives acting on behalf of the NSW Police Force may contact you as part of normal case preparation procedures and ask if you wish to confer with them about the evidence you can give and provide a statement.

Remember: as a witness you may be cross examined in relation to your own character record as well as on the evidence you have provided, and any reference or evidence content may be subject to review by the NSW Police Force for any breach of the Code of Conduct or policy. For guidance on providing character references and related evidence, see Character References in this document.

Collecting expenses

Remember Expenses you incur are to be resolved with the party requiring your attendance or in accordance with the rules of the court.

Travel allowances/incidentals

This relates to payment of travel allowances/incidentals to former NSW Police who are now employed interstate as a Police officer including Australian Federal Police.

Police Circular 05/06 states in part, "*In situations where an interstate police officer, who was formerly a member of the NSW Police, is required to give evidence in a matter prosecuted by NSW Police arising from that officer's former employment, it will be incumbent upon the Local Area Command responsible for conducting the Court matter to provide for all meals, accommodation and incidental entitlements*".

Local Area Managers

Prepare and submit a 'Vendor Creation Form'.

Evidence relating to official duties

Evidence for party other than the NSW Police Force

Report any request, or the receipt of a summons/subpoena issued by a defendant or a party other than the NSW Police to your commander. Set out your knowledge of the case and the person's antecedents.

Commander

Notify the DPP officer or the police prosecutor that a police officer will be a witness for the opposing party. If a matter is being prosecuted by police and there is potential for a conflict of interest to arise it might be desirable to arrange for the prosecution to be conducted by a DPP officer.

Interstate matters

If you are required to give evidence interstate, the requesting jurisdiction will be responsible for the travel arrangements (and the cost thereof). Incidental expenses such as travelling allowances and meals will be met by the NSW Police.

Reporting at end of case

When the case ends, report any relevant issues arising, to your commander. Set out the amounts received for expenses etc, the number of hours spent at court, travelling to and from court and what period was in NSW Police time.

Commander

Validate the expenses collected and decide whether the officer concerned retains the whole or any portion of the amount collected and direct accordingly. If you authorise the officer to retain the whole amount, file the papers in your office after the miscellaneous receipt book is acquitted.

When all or a portion of the expenses collected are due to the NSWPF, attach the amount involved to the file and send it to the Accounts Branch.

Civil matters

Conflicts of interest

If you consider a conflict of interest might arise consult your commander.

Collecting expenses

When you receive a subpoena/summons in a civil matter and you are required to give evidence in an official capacity as a sworn officer, collect expenses in advance for four hours or part thereof, claim the equivalent of four hours salary, calculated at an hourly rate based on a 38 hour week. If more than eight hours, claim a day's salary for each 24 hour period. Payment is claimed and payable to the command where the officer is attached.

You may be issued petty cash for rail fares. If issued, claim the cost of the rail fare from the firm/party issuing the subpoena/summons.

Use public transport whenever possible. If you use a motor vehicle solely for convenience, limit your claim to the cost of the journey by public transport, or the casual rate prescribed for private motor vehicle use.

Claim meal costs, if expenses are incurred, when the case is finished in one day. Claim accommodation expenses when the case extends beyond one day and you are away from home.

Do not collect/be credited with overtime/ travelling time when at court in civil proceedings.

You are regarded as attending in NSWPF time when giving evidence in an official capacity. Remember the command claims and is paid, not the officer.

If subpoenaed/summonsed by both parties, collect expenses from one only. It is your responsibility to collect expenses at the conclusion of the case.

Refusal to pay expenses

If the party requiring your attendance in a civil matter refuses to pay expenses, you do not have to attend. If this arises, seek advice from your commander in the first instance. If considered necessary, your commander might consult with The Office of the General Counsel. Remember, this does not apply to criminal cases. When the only expenses are fares, the court can compel you to give evidence.

Attending civil cases when sick

Unless your medical condition prevents you, attend the hearing in plain clothes when on sick leave. You are regarded as attending in NSW Police time. If you are unable to attend, notify the solicitors who served the subpoena /summons as soon as possible (before the proceedings).

Legal Aid/Crown Solicitor

If you are subpoenaed/summonsed by Legal Aid when it is acting in a civil case for the litigant, or by the Crown Solicitor (or other solicitor representing the State), attend in NSW

Police time and do not collect expenses. Send a report, through your commander, to Accounts Branch setting out the result of the case and the expenses involved.

Attending conferences before hearing

When you are a witness on behalf of the NSWPF you may be required to attend conferences with the Crown Solicitor (or other solicitor representing the State). In these circumstances you are to attend in NSW Police time. Do not collect expenses. Send a report through your commander to the Accounts Branch setting out your attendance and the expenses involved.

Reporting at end of case

Report to your commander in line with the practice for Evidence for party other than NSW Police.

Reporting non-attendance of prosecution witness

Police prosecutor

Advise an informant's commander, in writing, if a prosecution witness fails to attend a local court hearing, including any explanation given.

When a police officer or a prosecution witness fails to attend Court, record this in the "Failed Prosecution" report form within COPS.

Officer in Charge

Notify your commander in writing when one of your witnesses fails to attend a hearing, including any explanation for the non-attendance.

Commander

On being notified (by either the DPP, police prosecutor or informant) of the failure to appear, satisfy yourself the informant made all reasonable efforts to secure attendance.

If you are not satisfied or believe non-appearance was due to action or inaction by the informant, take appropriate action.

Specialist and/or support services - ODPP

[See Chapter V - Victims - Specialist and/or support services - ODPP](#)

Work Health and Safety

NSW Police Force Work Health and Safety

NSW Police Force commitment is demonstrated by considering safety as core business and integrating it into our activities. This commitment extends to actively identifying hazards, assessing them and reducing risk utilising an endorsed risk management process.

The management of safety should not be seen as a separate activity or responsibility, nor should it be viewed by individual Commanders/Managers as an extra responsibility. Safety systems must be integrated into normal business activities and become part of the way the organisation's work is normally done. Considering the nature of policing, the issue of the "safest way" to get the job done must always be of primary importance.

Staff should familiarise themselves with Work Health and Safety Act 2011.

Safety Management System (SMS)

For information on all requirements of health and safety in the workplace, refer to the SMS in the NSWPF Intranet.

Report on resuscitation procedures

NSW Police Force reports recommendations for outstanding acts for official awards through the chain of command to the Office of the Commissioner, Protocol Unit.

Smoke Free workplace policy

Personnel generally

The NSW Police Force has a policy of prohibiting smoking in the workplace (including vehicles). Provision exists within the policy for commanders to designate specific outdoor areas where, under certain circumstances, smoking can be permitted.

Commanders

Extenuating circumstances may allow you the discretion to permit smoking in specific outdoor areas by a person in custody or otherwise detained within police premises.

You are to exercise your discretion after taking into account the circumstances, including the ventilation of the proposed area, whether other persons will be affected by the smoke, the time the person has been in custody and the fact that the health or employees of the Police Force will not be placed at risk.

Where possible, alternatives to smoking should be considered (i.e. nicotine patches).

Working in and around stormwater channels

Stormwater channels fall into two categories:

- Channels open to the air

- Enclosed channels such as tunnels, culverts and pipes, (these are classified as confined spaces).

Risks

Entering both types of stormwater channels can carry significant risks including:

- Drowning due to flash flooding (i.e. rain/storm events)
- Hazardous gases especially in enclosed sections
- Illegal dumping of hazardous material such as chemicals, asbestos and syringes

Stormwater systems are often difficult to access which means evacuation of an injured person can be difficult.

Immediate actions

Never enter an enclosed stormwater channel when rain is forecast. Channels can be affected by rain falling in another area, so do not consider it safe even if it is not raining in the immediate area.

Report to senior police officers immediately if you believe unauthorised persons have accessed an enclosed stormwater channel.

Call NSW Fire and Rescue Hazmat if you think there is toxic or hazardous material in the channel.

Call the Sydney Water Contact Centre on 13 20 90 if you require assistance or advice.

To discuss plans and risk management regarding stormwater channels in your area, contact the Service Delivery Officer on 8849 4374.

Young Offenders

Starting proceedings against children and young people

Before starting criminal proceedings against a young person take into account the requirements of the *Young Offenders Act 1997*. Where a young person is suspected of committing an offence, which may be dealt with summarily the young person, is entitled to receive the least restrictive sanction (a warning, a caution, a youth justice conference). Section 8 of the Act details excluded offences. **From December 2012, graffiti offences are no longer available to be dealt with under the Young Offenders Act.** The Graffiti Legislation Amendment Act 2012 will require young offenders to appear before the court for a graffiti offence.

Where it is not appropriate to impose one of the sanctions you must commence proceedings in accordance with *the Children (Criminal Proceedings) Act 1987*. When you deem the matter not appropriate for a warning or caution you must refer the person to the Specialist Youth Officer, (S.Y.O.) whether or not the person has admitted the offence. A referral to court or youth justice conference can only be made by a SYO.

Warnings

Refer to the *Young Offenders Act, 1997* for your obligations.

Investigating officer

Remember a **young** offender is entitled to a warning for summary offences:

- unless the offence is excluded by section 8 of the Act,
- involves violence
- you believe it is not in the interests of justice to give one.

When you give the warning, explain it and ensure the **young person** understands its purpose, nature and effect.

Recording warnings

When you give a warning, record the offence details on COPS, including:

- time, date and place of incident,
- name, age, gender and Aboriginality of the young person

Cautions

Refer to the *Young Offenders Act* for your obligations.

Do not caution a young person unless you have been authorised by the Commissioner to give cautions under the *Young Offenders Act, 1997*.

If you, as an authorised officer, believe a respected member of the community should give a caution, make the necessary arrangements for this to be done.

Investigating officer

If the young person has admitted an offence covered by the *Young Offenders Act* (in accordance with s10) you may issue a formal caution. The young person must be eligible to receive a caution and must give consent.

When deciding whether to caution a young person, consider the following criteria:

- the offence is one which is able to be dealt with by way of caution (section 8 *Young Offenders Act*)
- the seriousness of the offence
- the degree of violence involved in the offence
- the harm caused to any victim
- the number and nature of any offences committed by the young person and the number of times the young person has been dealt with under the *Young Offenders Act*.
- any other matters you think appropriate.

Limits to cautions

The number of occasions where a young person can be dealt with for an offence by caution, under the *Young Offenders Act*, is limited to three. Refer to the *Young Offenders Amendment Act 2002* for details.

Notice of intention to caution

When you decide to caution a young person:

- record the full details of the young person and incident on COPS.
- generate a *notice of intention to caution*,
- Give the notice to the young person, explaining what it is and providing details about the offence and caution process. Refer to s24 for details.

Right not to proceed with caution

If you decide it is not in the interests of justice for the young person to be cautioned:

- record full details of the young person and the incident on COPS
- refer the matter to the Specialist Youth Officer
- Inform the young person that the matter will be referred to a SYO.

NB: A Specialist Youth Officer is a police officer appointed to this role by the Commissioner of Police for the purposes of making determinations under the *Young Offenders Act*.

Specialist Youth Officer

Review all matters referred to you and make a determination on the most appropriate way to proceed. Remember to update COPS with your decision.

If you decide a caution is the most appropriate intervention and the young person agrees to it, proceed according to the section on Cautions

If you do not consider a caution sufficient or the young person does not agree to a caution, refer to a youth justice conference or court.

If a matter is sent back to you, you must follow the accompanying instructions, and deliver a caution.

Youth justice conferences

(updated 5 February 2013)

The Youth Justice Conferencing Directorate of the Department of Juvenile Justice (DJJ) is responsible for conducting youth justice conferences in NSW.

Refer to the *Young Offenders Act, 1997* for your obligations.

Specialist Youth Officer

A young person may have a matter dealt with by a youth justice conference if:

- it is not appropriate to caution,
- the offence is one for which a youth justice conference may be held (section 8 *Young Offenders Act*), and
- the young person admits the offence, and
- the child consents to the holding of the conference, and
- the child is entitled to be dealt with by holding a conference

When deciding if a young person is entitled to be dealt with by way of a youth justice conference, the Specialist Youth Officer must consider section 37 of the *Young Offenders Act*:

- in the interests of justice it is more appropriate to deal with it by commencing proceedings against the child.

The onus is on you to justify your belief.

When deciding whether to refer the young person to a youth justice conference, considerations for the interests of justice include:

- the seriousness of the offence
- the degree of violence involved in the offence
- the harm caused to any victim
- the number and nature of any offences committed by the young person and the number of times the young person has been dealt with under the *Young Offenders Act*.
- any other matters you think appropriate.

If you decide to refer the young person to a youth justice conference:

- explain your decision to the young person

- tell the young person they are entitled to have the matter dealt with at court if they wish
- complete a *conference referral form* for the young person and DJJ, printed from COPS (ensure the investigating police have included full details of the young person and incident, including the young person's carer/responsible person and victim's details)
- give the young person a youth justice conference referral notice
- send the conference referral form to the DJJ's appointed conference administrator for your LAC.

If you decide to refer the young person to a youth justice conference, you are responsible for liaising with the conference administrator/convenor about conferencing arrangements.

Investigating officer

If you are asked to attend a youth justice conference talk with the youth liaison officer at your LAC for advice on your role at the conference.

If you are notified a conference has been discontinued (for example, at the request of the young person), start proceedings to bring the matter before court.

Arresting and interviewing young offenders

Refer to the *Code of Practice for CRIME* regarding arresting and interviewing young offenders. Also refer to the *Evidence (Children) Act and the Children (Criminal Proceedings) Act*.

Custody of young people

Refer to the *Code of Practice for CRIME*.

Intoxicated children or young people

(Refer also to the section on 'Dealing with Intoxicated Persons in Public Places'.)

A child who is detained as an intoxicated person under Part 16 of LEPRA is to be taken to, and released into the care of, a responsible person who is willing to immediately take care of them.

A responsible person includes any person who is capable of taking care of the child, including:

- a) a friend or family member, or
- b) an official or member of staff of a government or non-government organisation or facility providing welfare or alcohol or other drug rehabilitation services.

Detaining a child at an authorised place of detention (such as a police station) is a last resort. The child may be detained in an authorised place of detention if:

- it is necessary to do so temporarily for the purpose of finding a responsible person willing to take care of the child, or

- a responsible person cannot be found to take care of the child, or the child is not willing to be released into the care of a responsible person and it is impracticable to take the intoxicated person home, or
- the child is behaving or is likely to behave so violently that a responsible person would not be capable of taking care of and controlling the child.

A child who is detained in an authorised place of detention under Part 16 LEPR may be detained there by any detention officer, and:

- must be given a reasonable opportunity by the person in charge of that place to contact a responsible person, and
- must, as far as is reasonably practicable, be kept separately from any person detained in connection with the commission or alleged commission of an offence, and
- must not be detained in a cell unless it is necessary to do so or unless it is impracticable to detain the child elsewhere at that place, and
- must be provided with necessary food, drink, bedding and blankets appropriate to the child needs, and
- must be released as soon as the child ceases to be an intoxicated person.

An intoxicated person who is apparently under the age of 18 years must, as far as is reasonably practicable, be kept separately from any person over that age detained at that place.

Always consider the need for medical treatment.

Record all steps taken to contact a responsible person. Also, section 209 of LEPR requires a record, containing the particulars prescribed by clause 39A of the regulations, to be made whenever a person is detained as an intoxicated person.

Escorting young offenders

Department of Juvenile Justice (DJJ) will assume responsibility for the guarding and transporting of young offenders from NSW as part of a staged process of four years commencing 2003. This will not completely release police from these responsibilities.

To detention centres

Local Area /Commander

In the Sydney, Newcastle, and Wollongong areas and those country stations close to detention centres, arrange the escort of a young person offender from a station to a centre by road.

In country areas less than 250 kilometres from a detention centre, arrange road transport and escort.

For distances of more than 250 kilometres, the Commander, Transport Unit coordinates the escort and transport. Give the Transport Unit as much notice as possible.

In the metropolitan area, contact the Manager, Transport Unit, between 8.30am and 5.00pm.

At other times, contact the centre nearest the station before escorting the offender.

Department of Juvenile Justice (DJJ) personnel are responsible for finding and taking the offender to alternative accommodation.

When you have young offenders in custody at a country station, which is not near a detention centre, contact the Transport Unit.

Detention centres to courts

When escorting young offenders from a detention centre to a court, the following documents must be provided before they can be transported:

- remand warrant, court order or charge sheet
- information sheet
- offender's possessions (if any) and property docket.

When escorting young offenders from a station to a centre, you will require:

- a remand/committal warrant or
- copy of the charge sheet, and
- a transfer note and
- property docket.

When a young offender, on fresh charges and refused or unable to find bail, is transferred from a station to a nearby centre during the night, place them before the next available children' court.

Outer metropolitan area

When a young person must be returned to a detention centre at the end of court proceedings (eg: when appearing by virtue of a s42 order), find out the likely time the matter will be finalised through the prosecutor. If there is no excessive delay, stay and return the young person.

If a considerable delay is likely, or the young person is appearing due to bail being refused or on remand, and there is no certainty they will be returned to the centre, do not stay with them if it causes overtime or other expense.

After transferring the young person to local police, the local area commander is responsible for providing a guard while they attend court.

Air travel to and from country areas

Commander, Transport Unit

If the distance exceeds 250 kilometres, coordinate the transfer of young people from:

- country stations to metropolitan or country detention centres
- between metropolitan stations or centres and country courts.

Take into account the cost effectiveness of the travelling arrangements, with the availability of air travel

Supplying meals

When the young person is likely to be detained at a court or station during the lunch adjournment, inform, at the first opportunity, the senior police or prison officer of the cell complex that a meal will be needed.

Court issues

Required dress

Dress in plain clothes when attending a children's court.

Court action by citation notice, charge or summons

If court action is taken via a citation notice, charge or summons, enter details on COPS.

Warrants of commitment - young fine defaulters

Do not execute warrants of commitment on young fine defaulters unless immediate access to, and placement of, them in a detention centre has been guaranteed by the superintendent.

See also the section on 'Warrants - executing warrants on children'.

Traffic penalty notices to children

You may issue infringement notices to children over 14. See also the section on 'Breach reports and infringement notices (infringement notices - offences by children)'.

Underage drinking

Powers

Police generally

Under s11 of the Summary Offences Act 1988 you have the power to deal with underage drinking in public places, including the confiscation of liquor, the issue of cautions and penalty notices.

A person may not be arrested for an offence of underage drinking in a public place except as may be necessary for the purposes of issuing a caution

You may seize any liquor in the possession of a person in a public place, if you suspect on reasonable grounds, that the person:

- is under the age of 18 years,
- is not under the supervision of a responsible adult, and
- does not have a reasonable excuse for possessing the liquor.

Responsible adult

The words "responsible adult" are not defined under the Act. You are required to make a subjective analysis of all the facts at the time. An adult who is affected by alcohol is not a responsible adult.

Demanding name and place of abode

You may require a person, who you reasonably suspect has committed an offence under s 11 (1) to:

- state his or her full name and residential address, and
- produce then, or at a police station within a reasonable time, documentary evidence that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age.

It is an offence for the person to:

- refuse to state his or her full name and residential address, or
- state a false name or residential address, or
- without reasonable excuse, refuse or fail to produce evidence of age as described in the previous paragraph

Confiscating liquor

Clause 4 of the Summary Offences Regulation 2010 requires you to give reasons to a child for confiscating the liquor. Clause 5 empowers you to dispose of confiscated liquor at the time of seizure if it is either:

- in a container which is unsealed or from which part of the contents have been removed, or
- likely soon to become, unfit for human consumption.

Do not dispose of any liquor which, in the circumstances, makes the disposal unreasonable or undesirable. As a general rule, keep bottles which can be sealed by a cork or screw top lid. Dispose of unsealed cans or bottles which cannot be sealed, at the time of seizure

Ensure that any liquor disposed of does not remain or become available for consumption by any person.

When liquor is not disposed of at the time of seizure, inform the child of the following:

- the name of the police station where the liquor will be held
- that the liquor will be kept for at least 24 hours
- that a claim may be made for the return of the liquor at the police station.

Record the liquor as miscellaneous property in EFIMS and issue a receipt to the person from whom the liquor is seized. A receipt can be issued at the time of the seizure if required.

Returning confiscated liquor

Station officer

If a claim is made for the return of seized liquor it must be returned to the person from whom it was seized if

- the person establishes s/he was at least 18 years old at the time of the seizure, or
- the person establishes s/he had a reasonable excuse for possessing the liquor, or
- the return of the liquor is justified in all the circumstance

You may refuse to return the liquor to a person under the age of 18 years if the person is not accompanied by a responsible adult.

Before seized liquor is returned satisfactory proof of entitlement to the liquor may be required including the production of the receipt issued for the seized liquor. Record the disposal details in EFIMS.

Disposal of seized liquor forfeited to the Crown

When it is no longer intended to keep seized liquor at a police station, dispose of it in the manner as for liquor forfeited to the Crown. Record the disposal details in EFIMS. See also the section on '[Exhibits – Liquor Exhibits](#)'