



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 2007 - 2011

Commanders

For strategic and local objectives and strategies which you need to address in relation to Aboriginal issues refer to the *Aboriginal Strategic Direction 2007 - 2011*. 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 the chapter on '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 '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 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 supports the harm minimisation approach to alcohol-related incidents and is committed to ethical and respectful policing.

NSW Police 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.

Use by Employees

You must comply with Police Regulation 2000 Code of Behaviour relating to alcohol consumption and the Organisation's Drug and Alcohol Policy, which set an alcohol limit of 0.02 for all police while on duty. You must not perform your job, visit or remain at work or undertake any NSW Police Force related activity if you are impaired by alcohol. You may consume alcohol in connection with your duties only when approved by your commander.

NSW Premier's Department Alcohol and Other Drugs Policy and Guidelines (August 1998) bind non-sworn officers in the NSW Police Force.

Practices and customs that advocate, glamorize or popularise the use of alcohol are to be discouraged.

For employees experiencing alcohol related problems there is a wide range of professional support programs available (at the expense of the NSW Police Force) through the Drug and Alcohol Counsellors.

No adverse action will be initiated against any officer as a result of personal admissions of past abuse who voluntarily seeks assistance and complies with the rehabilitation program agreed to by the Drug and Alcohol Counsellor.

Sworn police officers may be subjected to random alcohol testing and Commanders may direct targeted alcohol testing in accordance with the Police Act. The Drug and Alcohol Policy requires mandatory alcohol testing of police involved in Critical Incidents involving death or serious injury.

The Drug and Alcohol Policy sets out the roles and responsibilities of individuals involved in alcohol testing.

Police Officers who choose not to voluntarily seek help and who subsequently test positive to either an alcohol or drug test must expect to be dealt with in a more formal manner.

Alcohol on Police Premises

Except in connection with your duties, do not take alcohol onto police premises without the permission of your commander.

Except at social functions approved by your commander/manager, do not consume alcohol on police premises.

Commanders

You may authorise functions, on police premises, at which alcohol is available.

You will:

- approve who attends the function
- ensure the function is not held in view of the public or prisoners
- arrange adequate supervision
- ensure proper behaviour is maintained by those attending.

For more information on your responsibilities about alcohol, see also the:

- Police Act 1990 No 47
 - Police Regulation 2000
 - Code of Conduct and Ethics
 - NSW Police Force Drug and Alcohol Policy
 - Alcohol Policy Statement 2003-2007
-

Appearance

Local area commanders/equivalent

Ensure police under your command present an acceptable standard of appearance (neat, clean and tidy). You may exempt police in plain clothes from these guidelines where the nature of their duty warrants it.

See also the section on 'Uniform'.

Hairstyles and Grooming

Whilst in uniform, hair should be neatly groomed and comply with regulations. Extreme hairstyles, radical/unnatural/combo colours and stepped cuts are not permitted. Hairstyles should not interfere with the wearing of service headdress.

Do not let the hair on the back of your head extend below the collar or show at the front on the forehead under the hat/cap.

Male officers

All male personnel should be clean shaven at the commencement of a shift unless wearing a beard or moustache. These should conform to policy and be neatly trimmed. If you wish to start a beard or moustache, you must do so only while on leave or otherwise absent from duty. A minimum three weeks' growth is necessary before resuming duty. If your duty requires you to wear breathing apparatus, do not wear a beard.

Ensure hair on the back of your head is gradually tapered in a line from the earlobes to shirt collar.

Female officers

If you have long hair, secure in a 'bun' below the hat or arrange hair so it is up/under the hat. Ponytails/free swinging plaits are not allowed. If hair is braided in plaits, secure them to your head.

Dark blue grooming aids such as hair combs, clips, hairnets and 'scrunchies' may be worn with long hair when it is formed into a bun.

Cosmetics

Female officers may wear makeup and nail polish in moderation.

Stockings/Pantihose

While in uniform, female officers should wear only near black stockings or pantihose.

Jewellery, watches and piercings

Whilst on duty, only wrist watches, engagement, wedding and eternity rings and approved emergency medical bracelets may be worn. A single, conservative ring is also permitted. No earrings, visible trinkets, jewellery or piercings of any kind should be worn while in uniform.

Personal hygiene

All staff must present for duty in a clean, hygienic manner and all effort should be made to maintain hygiene through a shift.

Smoking in Uniform

Do not smoke in public places in uniform.

Embellishments

Ribands, decorations and medals to which a member is entitled should be clean, neat and tidy and worn in the correct order of appearance. Listed below are the only badges authorised to be worn on a police uniform and these should be positioned in accordance with departmental policy:

- Water Police anchor
- The Aircrew badge (pilot or observer)
- Peer Support badge
- Mental Health Intervention Team badge

Armoury

Refer to Chapter "State Protection Group" sub-heading "Police Armoury" within this Handbook.

Arrests

Refer to s99 of the Law Enforcement (Powers and Responsibilities) Act for your basic powers of arrest. See also the Code of Practice for CRIME for arrest, investigation and detention requirements.

Remember, arrest is an extreme action. Keep in mind other means of getting someone to court (eg: Field CAN, Future Service CAN, and CAN).

If proceeding by Field CAN or Future Service CAN, immediately record the particulars of the offender and do not detain them unnecessarily.

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

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 their name, date of birth, the offences as well as the name and station of the officer in charge of the case.

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 the person arrested denies they are the person named in the warrant consider the following to establish identity:

- check the person is on record
- take fingerprints from both thumbs
- call the shift supervisor at Fingerprints and tell that officer of the dispute
- follow the advice of the officer as to how best to have the prints checked (taking them to Fingerprints if you are close enough, by faxing an enlarged copy or by other means).

When you arrest someone for an offence involving violence, firearms or narcotics, See also the section on 'Firearms, prohibited weapons and security'.

Arresting Members of Parliament (MPs)

MPs are exempt from arrest while the House is sitting if attending to Parliamentary duties. This does not extend to criminal proceedings. Take any required action outside the precincts of the House. If possible, report to your region commander beforehand.

If a MP is arrested, notify that commander and the following 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 State Legislative Assembly - Office of the Speaker, Sydney
- a member of the State Legislative Council - Office of the President, Sydney.

Supply the following information:

- name of the member
- type of action
- particulars which initiated the action.

The region commander then provides formal written notification.

Arrest by warrant

Try to effect arrest immediately a warrant is issued, or as soon as possible thereafter. When executing, state your authority and, if requested, produce a copy of the warrant when the warrant is available to do so.

For further information, see also the Chapter on 'Warrants' in the Police Handbook.

Power to stop, search and detain

See also the Code of Practice for CRIME for requirements about stop, search and detain.

Multiple charges

Do not lay multiple charges against offenders when it is unlikely lesser ones will be pursued. Secondary charges are frequently desirable as an alternative to a major charge, but beforehand, consider the following:

- whether the charges can be established to a prima facie degree
 - the likelihood of proceeding to a hearing
 - whether the charges are appropriate.
-

Interstate offences and arrests

See the section on 'Extraditions' for arrests of offenders outside NSW.

Reference should also be made to s104 Law Enforcement (Powers and Responsibilities) Act 2002 Power to arrest for interstate offences and s82 Service and Execution of Process Act 1992 (Cth)

Persons subject to warrants may be apprehended

Care when stopping/ arresting motorists

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

Arrest teams

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, which officers made the arrest and what the brief facts of the offence are (consider using a field arrest form and photographing the offender with the arrest team before transporting to the station).

Also, tell those officers who will advise the arrest team leader that arrests might be made to:

- tell the team leader what the offence is and what the actions were which constitute the offence
- make contemporaneous notes about what they observed.

Arrest team leader

When you identify to your arrest team a person to be arrested, tell them briefly of the offence for which the person is to be arrested and the actions of the person which justify the arrest.

Prisoners' property - bulky items

Before being taken to a station, a prisoner might have property of substantial bulk eg: a vehicle, television, radio or animals in their immediate charge.

Help them make reasonable arrangements for security, safekeeping or disposal of the property. This could include, but not be limited to, locking vehicles, engaging security systems etc. Do not confine help to actions at the scene. For example, you may let them contact a third party to arrange safekeeping. Record actions in your notebook.

Aviation Support

Aviation Support Assistance

The services provided by the Aviation Support Branch should be considered as a scarce resource, however, if you believe that aviation support would benefit your operation contact the Aviation Support Branch Operations Controller for assistance and/or guidance.

NB: There is no cost to the requesting Local Area Command or organisational unit for support with the exception of ensuring the security of the Police Helicopter at remote locations

For aviation support during business hours, contact the Aviation Support Branch Operations Controller. After hours requests can be made via the Duty Operations Inspector (DOI).

Further information and guidance material can be found on the Aviation Support Branch (ASB) 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. OC spray is not to be taken on board an aircraft.

Stand to the front of the helicopter, in full view of pilot and crew, in 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

Automated Bail Reporting System (ABRS)

ABRS is a web-based application accessible from the NSW Police 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.

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 eg: 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, nature, seriousness, strength of evidence, severity/probably penalty

- any specific evidence, whether or not probably person will appear in court.
- The interests of the person, in regard only to:
 - period in custody if bail refused and conditions in which 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
 - under 18yrs or Aboriginal or Torres Strait Islander, intellectual disability or mentally ill and any special needs arising from that
 - if Section 9B (3) applies (charged with indictable offence and previously convicted or indictable offence/s) criminal history, nature and seriousness of any indictable offences, number and length of time between those offences.
- The protection of:
 - victims
 - victims 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 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 upon the form, if not, place it upon the top right corner.

Conditional bail

When you consider unconditional bail is 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 eg: 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 ie: 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 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
- subject to conditions 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.

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 amongst other things, may include 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 including 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

Enter the details of any passport surrendered to police in the Miscellaneous Property Book 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.

The Australian Passport Surrender and Cancellation Request forms [Annex 18 and 19 as prescribed in the Australian Passports Act 2005 (Cth)] 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 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.

Specimen signature of accused

Station officer

Part two of the form provides for a specimen signature from the accused. If not obtained, attach a copy of the bail undertaking to provide officers at the reporting station with a specimen signature. It is essential the signature is provided for identification purposes.

After the form has been completed, treat it as an item of correspondence, record particulars and send to the station of report.

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.

Commanders

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.

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 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 facilities for the child to use the toilet
-

Commonwealth Offences

Commonwealth Office of the Director of Public Prosecutions

The Commonwealth DPP, Sydney, has a preferred practice of being consulted by police during the investigation and BEFORE proceedings are instigated to ensure the sufficiency of evidence and that the charge(s) is appropriate. That office will not appear in an appeal to the District or Supreme Courts where it did not have carriage of the prosecution in the Local Court or that office was not consulted before the proceedings were commenced. In such circumstances, Office of the General Counsel is obliged to appear in the appeal matter.

The proof and the sufficiency of evidence and the prosecution of Commonwealth offences under the Financial Transactions Reports Act 1988 and in particular the Trades Marks Act 1995 and Copyright Act 1968 can be complicated and difficult to prosecute.

It may involve overseas enquiries with expert and other witnesses who may be required to give evidence in a prosecution concerning copyright or trademark 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 gathering all available evidence to establish the proof of the evidence.

OIC of the case

If in any doubt, 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 (ie. 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 evidence and/or whether the charge(s) is 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
- get a search warrant and execute it before you take or open the article
- 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 Aborigine 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
- Customer Assistance Unit (1800 622 571)
- Corruption Hotline (Police Only)
- Alarm monitoring Direct Access Service
- ATM Robbery Hotline
- Injury Management Hotline
- 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 despatch and radio communications of Triple Zero (000) calls to Police.

Request for Information by police

Police requesting copies of Triple Zero (000) calls and/or statements for court should, after obtaining the call, direct their request to the relevant VKG Centre (Sydney, Newcastle, Penrith, Warilla or Tamworth) or PoliceLink Command Centre Manager (Lithgow or Tuggerah). The form for requesting information can be located on the Communications intranet site - Request a copy of a Triple Zero 000 call.

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](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

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 '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 staff. The majority of these requests will come from LAC staff or support areas within the NSW Police 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. 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: planet@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

For Police Use Only:

Police Switch
131 444

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 NSW Police email functions is to comply with the NSW Police Electronic Mail (Email) Policy, the NSW Code of Conduct and Ethics, applicable Local, State and Federal Laws, and other NSW Police 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 NSW 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 to talk (PTT) button and pause for 1 second. Transmit messages in short, concise, operationally relevant sentences of six to eight seconds duration. Release the PTT for approximately two seconds at the end of each sentence to allow a response from the VKG dispatcher, or another vehicle to call 'urgent' if necessary. Keep transmissions as brief as possible and press the transmit button only when you are talking to the VKG dispatcher. Allow one half second after pressing the transmit button before you commence your transmission to avoid the first word of your transmission being cut off.

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 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's) 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 Communication 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 1 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.

Incident where:

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 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 and vehicle to be towed), 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

Complaints under Part 8A of the Police Act

What is a complaint under Part 8A of the Police Act 1990?

Part 8A of the *Police Act 1990* deals with the conduct of police officers, not administrative officers. Under the Act, the conduct of a police officer means any action or inaction (or alleged action or inaction) they did or didn't do, either on duty or off duty. The conduct can occur outside NSW and can also involve civilians or 'non police participants'.

Complaints can be made against former police officers but the conduct must have occurred while they were employed as sworn police officers within NSW Police.

To be classified as a complaint, the information must allege or indicate conduct of a police officer that is:

- An offence (under the Crimes Act or other Act of Parliament)
- Corrupt (including, but not limited to the definition under the ICAC Act)
- Unlawful, but not an offence or corrupt (eg searching a vehicle/person without lawful authority or taking a forensic procedure from a person without following the letter of the law)

not unlawful but:

- is unreasonable, unjust, oppressive, improperly discriminatory (this includes a law, system or process issue that has an unreasonable effect)
- arises from improper motives (eg giving priority to jobs such as alarms at business premises to gain a personal benefit, conflicts of interest)
- arises from a decision that has taken irrelevant matters into consideration (eg domestic violence incident where an officer 'sides' with a party because of the officer's personal circumstances and declines to take action)
- arises from a mistake of law or fact
- is conduct of a kind for which reasons should have, but have not, been given (eg an officer failing to take appropriate action against a person of interest and not giving justifiable reasons to the victim).

Summary

To be a complaint under Part 8A, a complaint must:

- relate to the conduct of a NSW police officer
 - on or off duty
 - in or outside NSW
- be made in writing
- be made to an investigating authority such as COP, PIC or Ombudsman
- be of a kind described in s.121 to s.123 of the Police Act 1990

The same criteria apply to information you have been given verbally or something you have personally seen. To become a complaint under the *Police Act 1990*, the conduct must fit the criteria. Many situations will just be customer service issues, not complaints as defined under the Act.

The following scenarios give examples of what is and is not classified as a complaint.

Scenario 1

A member of the public approaches the front counter in an agitated state and says to a police officer, "How much longer do I have to wait here before someone comes and talks to me? I've been here for 30 minutes and haven't got all day."

This is a customer service concern, not a complaint under Part 8A. Although the person is complaining about how long they have waited, they are not complaining about the conduct of a police officer. They want some immediate attention or some indication of how much longer they may have to wait for their problem to be addressed. This concern should be dealt with appropriately at the time.

Scenario 2

A member of the public stops a police officer in the street and tells them they saw another police officer talking with a known local drug user at the hotel last Friday night. They then saw the officer take a packet of something from the other person before they both left the hotel.

This is a complaint. It is information that alleges criminal or other misconduct by a police officer that may result in 'reviewable' action under s.173 or s.181D. Criminal conduct speaks for itself (an offence under the Crimes Act or other Act of Parliament) and includes offences such as drug supply, bribery, assault or perjury. Misconduct in this sense could include action such as misuse of office, improper search or unauthorised detention.

Although the information in this scenario was given verbally, the conduct alleged is of a criminal nature. The officer who received the information should report the matter to a senior police officer as soon as possible. You can either submit a written report yourself or inform a senior officer and they will prepare and submit a report. This is an obligation under Clause 20 *Police Regulation 2000*.

Scenario 3

An off duty officer is told by a friend at a barbeque that someone they know in the detectives office told them that there is an operation planned on the bikies clubhouse next week. The person feels that it's not right that the detective divulged this information to them.

This is a complaint. It is information that alleges criminal or other misconduct by a police officer, i.e. release of confidential police information. Although the information was given to the officer verbally while he/she was off duty, the alleged conduct is such that it may result in 'reviewable' action under s.173 or nomination for removal under s181D. As in Scenario 2, the information must be reported to a senior police officer as soon as possible.

Categories of Complaints

The definition of 'conduct of a police officer' is very wide. This means that complaints can range from those about relatively minor misconduct through to serious forms of criminal and corrupt behaviour. The legislation, and class or kind agreements made under it, distinguishes various categories of complaints being notifiable complaints and complaints that fall within section 122 (2) of the Police Act.

Notifiable complaints

The definition of "notifiable complaint" in section 121 of the Police Act allows the Police Integrity Commission and the Ombudsman to agree, after consultation with the Commissioner of Police, that only some types of complaints must be notified to the Ombudsman.

The Police Integrity Commission and the Ombudsman, after consultation with the Commissioner of Police, hereby agree that complaints alleging the following conduct (whether by a member of the public or an internal police complainant) must be notified to the Ombudsman.

- Criminal conduct.
- Corrupt conduct.
- Conduct which is of a nature that, if substantiated, might warrant the taking of action under section 181D or section 80(3) of the Police Act or “reviewable action” as defined by s.173 of the Police Act. This includes complaints referred for consideration by a Commissioner’s Advisory Panel or Internal Review Panel which have not previously been notified.
- Conduct indicating a lack of integrity.

Conduct causing or contributing to a failed prosecution, where the conduct is unreasonable or indicates serious incompetence. Factors to consider include:

- the seniority of the involved officer
- the reasons for failure or withdrawal of the prosecution
- whether there are multiple failings on the part of the officer or a pattern of conduct involving a number of failed prosecutions
- whether the proceedings concerned more serious criminal matters
- whether there was a costs award made against the prosecution.
- whether any adverse comment was made by a court about the conduct of police officers involved in the prosecution.

Unauthorised secondary employment in high-risk industries. [Note: These industries are nominated in the NSW Police Force’s Secondary Employment Policy and Guidelines and include Security, Liquor, Commercial and Private Inquiry Agents, Gaming and Racing and Transport industries.]

Harassment, victimisation or unlawful discrimination of a member of the public.

Harassment, victimisation or unlawful discrimination of a member of the NSW Police Force, where the police officer(s) alleged to have committed the conduct has previously had similar complaints made against them, unless it is otherwise required to be notified to the Ombudsman under this agreement.

Detrimental action or reprisals (including possible payback complaints) against a police officer or other person making a protected disclosure, a protected allegation or a protected report.

Any unreasonable conduct (including a failure to provide customer service):

- resulting in death
- resulting in injury
- resulting in significant financial loss
- involving the discharge of a firearm.

[Note: In assessing whether a loss is significant for the purposes of 10c. above, factors to be considered include the value of the goods, property or money involved and the financial position or means of the person who has sustained the loss. For example, a loss of goods of a small monetary value may be significant to a person who is without an income or who is on a pension.]

Any unreasonable conduct resulting in and/or from the search, arrest or custody of a person.

Complaints by complainants or subject officers about the way that matters dealt with in accordance with section 122(2) of the Police Act have been handled, but only where the Ombudsman requires they be dealt with as notifiable complaints.

Any complaint dealt with in accordance with section 122(2) of the Police Act, which the Ombudsman or Police Integrity Commission, following consultation with the Police Commissioner, requires to be notified.

Section 122(2) matters

Section 122(2) matters are those which, by agreement between the Police Integrity Commission and the Ombudsman, after consultation with the Commissioner, need not be treated in accordance with Part 8A.

Under the current agreement, section 122(2) matters comprise complaints other than notifiable complaints which must be notified to the Ombudsman. Accordingly, these complaints need not be dealt with under Part 8A, provided the conditions set out in the agreement are met. The section 122(2) agreement is included in appendix D.

Although they are Part 8A complaints, section 122(2) matters are considered to be relatively minor and agreement has been reached that they do not need to be reported to the oversight bodies. They are however recorded in c@ts.i and require the appropriate action/outcome to be taken before they can be closed. These complaints can also be subject to audit by the oversight agencies.

Notification of complaints to oversight agencies

Section 130 of the Police Act imposes an obligation on the Commissioner of Police to cause a copy of all notifiable complaints to be sent to the Ombudsman. Agreements have been made between these agencies to ensure complaints of interest can be oversighted and subsequently reported on by both the Ombudsman and the Police Integrity Commission.

In practice, the requirements under section 130 are fulfilled by notifying each of the oversight agencies of relevant complaints via c@ts.i at the completion of assessment. The notification function will generally be performed by Executive Officers, acting on instruction of the CMT. In all cases the CMT should address the issue of which, if any, of the oversight agencies must be notified.

Complaints that must be notified to the Ombudsman

In accordance with section 130(2) of the Police Act the Ombudsman must be notified about all notifiable complaints. Notifiable complaints are defined by an agreement made under section 121 of the Act. The agreement is discussed above and is reproduced in appendix C.

How can a complaint be made?

Complaints can be made verbally or in writing. Part 8A states that a complaint must be about the conduct of a police officer and must be made in writing to an investigating authority. This includes the Commissioner of Police, the Ombudsman or the Commissioner of the Police Integrity Commission.

Written complaints can be delivered in person, by post, facsimile or email. The author of the written complaint can choose to lodge the complaint anonymously. This will not affect the management of the complaint, but obviously means you can't contact the complainant to find out more about their allegations.

Complaints made verbally must then be reported in writing before they can be legally considered a 'complaint'. If a complaint is made verbally, you need to check if the conduct being complained about fits certain criteria.

These criteria are:

- the complaint must be about the conduct of a police officer

- the conduct complained of must involve criminal or other misconduct that might result in 'reviewable action' under s.173(2) or nomination for removal from NSW Police under section 181D of the *Police Act 1990*.

Reviewable action occurs if an officer is served with an order under s.173(2). He/she may apply to the Industrial Relations Commission (IRC) for a review of the order. Reviewable action may include reduction in rank, reduction in seniority or deferral of salary increment.

If you receive a verbal complaint and the conduct being complained about fits these criteria, you must report the matter to a senior officer. This is an obligation under clause 20 of *Police Regulation 2000*. The senior officer will then prepare a written report containing the relevant information and refer it to the local complaint management team.

If the information in the verbal complaint does not fit the criteria, it is not a complaint and should be treated as a customer service concern. These types of concerns can usually be resolved at the time by the person receiving the inquiry or by a supervisor/duty officer. For example, a person may say to a police officer that, based on what happened at the Royal Commission, they believe that many police are still corrupt. This is not a complaint. It is not information about the conduct of a police officer. It is the personal opinion of the person making the statement and does not need to be written down or treated as a complaint.

If you have any doubt about whether information is a complaint under Part 8A or not, you should ask a senior member of staff for advice. Make sure you do this before entering the possible complaint on c@ts.i because matters incorrectly received as complaints onto c@ts.i by authorised users can't be deleted.

Summary

- Complaints can be made verbally or in writing.
- Verbal complaints must be reported in writing if they allege conduct of a police officer that involves criminal or other misconduct.
- The complainant, the police officer who first received the information or the senior officer that the information was reported to can prepare the written report.
- Personal opinion that does not involve the conduct of a police officer is not a complaint

Mandatory Notifications

Prior to taking any type of appealable management action, it is **mandatory** that Commanders have the matter discussed with the Internal Review Panel or the Commissioner's Advisory Panel ("the Panel"). A Notification **MUST** be submitted to the Process Unit, Employee Management when:

- The Police Integrity Commission makes a recommendation for appealable management action; or
- A Commander believes, having regard to an officer's conduct or performance, there are sufficient grounds for taking dismissal action under section 80(3), reviewable action under section 173 or removal action under section 181D; or
- An officer has been suspended whether with or without pay; or
- A probationary constable has not fulfilled NSW Police Force requirements (may be suitability, performance, conduct or education requirements including exclusion for a period of 2 years or more from completing their studies with Charles Sturt University); or
- An officer has previously had some form of reviewable action taken in respect to his/her conduct or performance; or

- An officer has previously been issued with a Warning Notice with respect to his/ her conduct or performance; or
- An officer has entered the criminal justice system including being charged, summonsed, or having received a Field Court Attendance Notice or Court Attendance Notice (whether under Commonwealth, State or Territory Legislation); or
- An officer's behaviour, whether on or off duty, constitutes (or would constitute) a criminal offence under Commonwealth, State or Territory Legislation; or
- Matters where the DPP has found a prima facie case of criminal behaviour irrespective of whether the DPP exercises its discretion to prosecute or not.

The Commander, Professional Standards Command will make the final determination as to whether a matter will proceed to the Panel or whether the matter may be returned for local action.

Despite a Panel recommendation for management action not incorporating section 181D removal, the Chair of the Panel, after having regard to the individual circumstances of a matter, may refer such matter to the Commissioner for his consideration under section 181D.

Commanders

As an adjunct to the policy regarding Mandatory Notifications and to assist Commanders in determining what types of matters will be required to be notified to the Process Unit, Employee Management, the following examples are provided. The examples are provided as a guide only and are not exhaustive.

Please note that only **sustained findings** will be discussed by the Internal Review Panel or Commissioner's Advisory Panel.

- corruption issues
- serious misconduct
- assaults (including domestic violence)
- drug offences
- PCA and like offences
- any criminal act where charges have not been laid, including matters where the DPP declines to proceed based on discretionary grounds
- professional distance issues
- breach of Education Services Code of Conduct for students, staff and course participants
- sexual harassment and sexual misconduct issues
- improper association
- failed remedial performance program
- positive drug test
- ongoing victimisation
- dishonesty/ lack of integrity
- inappropriate use of police resources including appointments, vehicles and failure to appropriately secure firearms
- unauthorised access, use or disclosure of confidential information
- previous reviewable action taken
- previous Warning Notice issued
- probationary constable has not fulfilled NSW Police requirements

Commanders are reminded that Notifications must be submitted to the Process Unit once the brief of evidence (either for a criminal matter or departmental matter) is available; it is not necessary to await the outcome of criminal proceedings before submitting a Notification. The

P762 Notification Form is available on the Intranet "Organisational Units – Professional Standards – Forms". Any enquiries regarding Notifications may be made to the Process Unit.

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*.

The following conduct issues are addressed by the NSW Police Force *Code of Conduct and Ethics*. References to legislation and policy are provided for further information. Additional information may also be found on the Professional Standards Command Intranet site.

If you require further guidance, seek advice from a more senior officer.

Confidential information

The community places significant trust in NSW Police Force to appropriately manage confidential information.

Employees must only access NSW Police Force information for purposes that are directly relevant to their duties.

This information can only be used and/or disclosed for a lawful purpose and in accordance with legislative requirements and NSW Police Force policy. Before disclosing information you must be satisfied that you are authorised to release the information.

All NSW Police Force information must be managed securely.

Conflicts of interest

NSW Police Force must effectively manage conflicts of interest. This ensures we provide the community with fair and impartial services, maintain public confidence, prevent corruption and manage allegations of misconduct.

You are responsible for identifying and avoiding conflicts of interest that relate to your employment with NSW Police Force. These conflicts may be actual, perceived or potential.

You must report in writing any conflict of interest that cannot be avoided and co-operate in managing it appropriately.

All conflicts of interest will be managed in favour of the public interest.

Criminal convictions

A criminal conviction could result in your removal from NSW Police Force.

In the case where a confirmed police officer is charged, a mandatory notification will be made to the Internal Review Panel. The Panel will consider management action under the Police Act 1990. This may include reviewable action under s173 or dismissal under s181D.

In the case of probationary constables, Corporate services will be notified for consideration of action under s80(3).

For unsworn employees, such matters are dealt with under the provisions of the *Public Sector Employment and Management Act 2002*.

Customer service

NSW Police Force guarantees a satisfactory level of service to any person or organisation we have contact with - our customers.

Customers have a basic right to be dealt with promptly, with courtesy and without discrimination. Always provide your name, position and the command you are attached to. Keep customers informed of the progress and outcome of their matter.

Customers are entitled to lodge a complaint if unsatisfied with the level of service. Many customer service complaints occur simply due to a lack of effective communication.

By following the principles of good customer service many complaints can be avoided.

Discrimination and Harassment

(see also Handbook 'E' Equity and Diversity and 'H' Harassment, Discrimination and Bullying)

All NSW Police Force employees must act with fairness and impartiality to other employees and customers. Employees must show tolerance to all individuals and their traditions, beliefs and lifestyles provided that such are compatible with the rule of law.

Discrimination, harassment, vilification, victimisation or bullying in any form will not be tolerated. Any established breach of the relevant legislation, policy or the *Code of Conduct and Ethics* will constitute misconduct or even serious misconduct and may lead to dismissal.

Drugs – alcohol and prescribed

(see also Handbook 'D' Drugs and Alcohol)

As a NSW Police Force employee, you must not work or undertake any NSW Police Force related activity if you are impaired by alcohol or other drugs, including those prescribed by a doctor.

If you are off duty and impaired to any degree by these substances, you are not permitted to visit the workplace.

If you are taking medication and have any doubt about your ability to perform any or all of your duties, you must consult your doctor or pharmacist and notify your supervisor.

If your medication carries a warning that it has the potential to impair normal functioning, you must inform your supervisor.

Drugs – illegal

(see also Handbook 'D' Drugs and Alcohol)

The possession, use or sale of illicit substances by any NSW Police Force employee, whether on or off duty is a criminal act which may incur both criminal and management action, including removal from NSW Police Force.

Police officers are subject to random, targeted and critical incident drug and alcohol testing.

If you are aware of any NSW Police Force employee who uses, possesses or sells illegal substances, you must notify your commander, manager or supervisor.

Ethical decision making

When faced with making ethical decisions, ask yourself the following questions.

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with NSW Police Force and Government policy, and the NSW Police Force *Code of Conduct and Ethics*?
- What will the outcomes be for you, other employees, NSW Police Force, and other parties?
- Do these outcomes raise a conflict of interest or lead to private gain at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

If you are unsure, seek advice from a more senior officer or a Professional Standards Manager.

Gifts and benefits

In most circumstances, as a NSW Police Force employee you must refuse any gift or benefit offered in relation to your duties.

You must never use your position or authority as an employee of NSW Police Force to solicit a gift or benefit for you, a friend, family member or any other person or organisation.

The NSW Police Force *Receipt of Gifts and Benefits Policy and Guidelines* provide direction on what constitutes gifts or benefits and under what circumstances you may accept them.

It is your responsibility to make a decision about the acceptance of a gift or benefit. Remember, you are accepting the gift on behalf of NSW Police Force, not yourself. Your decision must be consistent with the policy and guidelines and you are responsible for justifying your decision to accept a gift or benefit. If you are unsure, seek advice from a more senior officer.

Any gift(s) that you do accept must be entered into the gifts register and direction sought from your commander as to the outcome of the gift(s).

A register of accepted gifts must be maintained at the local management level. This register is subject to audit and can help protect both you and NSW Police Force against allegations or perceptions of corrupt behaviour.

Improper associations

An improper association is a personal association that is deemed to be a conflict of interest. As such, it must be reported and managed at the first opportunity. It is the responsibility of the officer with the improper association to report the matter.

An improper association is deemed to exist when a NSW POLICE FORCE employee is associated with a person, group of people, or organisation involved in (or perceived to be involved in) activities incompatible with upholding the law. These associations create a conflict of interest (actual or perceived) between the employee's responsibilities to the NSW Police Force and their private activities.

The *Conflicts of Interest (Improper Associations) Policy and Guidelines* identify an association to be any interaction with members of the community unrelated to your duties as an employee of the NSW Police Force. Associations include interactions with:

- members of your family
- friends and close personal acquaintances
- people you meet regularly, or irregularly, outside of work even if the interaction is casual -such as a friend of a friend or a team mate
- clubs, societies and other organisations you are formally involved in. For example, a club you are a member of, or a second employer, and
- any club, society or other organisation if you participate in their functions or activities even if you are not a member.

All NSW POLICE FORCE sworn and unsworn employees are bound by the *Conflicts of Interest (Improper Associations) Policy and Guidelines*. Should an employee fail to comply with this Policy, it is a breach of the *Code of Conduct & Ethics* and therefore can be subject to management action.

Reporting an improper association

- Take all reasonable steps to **identify** and **avoid** them
- **Report** the conflict of interest **in writing** to your commander, manager or supervisor
- If you are unsure about an association, report it
- Assessment of the improper association is the responsibility of the commander, manager or supervisor
- All employees must **work cooperatively** with their commander, manager or supervisor **to resolve or manage** an improper association.

Management action

Any NSW Police Force employee who is found to have acted contrary to the *Code of Conduct and Ethics* will be subject to management action proportionate with their actions and the circumstances surrounding those actions.

Depending on the circumstances, management action may mean informal discussion, or even a decision to take no action. However, serious misconduct can lead to transfer, loss of income or removal from NSW Police Force.

NSW Police Force has a specific statutory regime in place under the *Police Act 1990* to deal with complaints about the conduct of sworn employees, whether on or off duty. Similar provisions apply to administrative employees under the *Public Sector Employment and Management Act 2002*.

Media comment

(see also Handbook 'M' Media Policy)

As a NSW Police Force employee you may be approached by the media to make comment about an incident or internal policies and procedures. When responding you must do so in accordance with the *Media Policy* which will provide you direction on the information you are authorised to release.

Incidents

Under certain circumstances it may be appropriate for you to release limited details of an incident, such as a car accident where you are the senior officer at the scene.

While you may have that authority, in such cases, you must follow the guidelines provided in the NSW Police Force Media Policy. Specific legal obligations must be observed when releasing information to the media. These include the protection of an individual's right to privacy, the rights of victims and their families to minimal stress and the right of any accused to a fair trial.

Policy and procedure

Most employees are not permitted to comment on policy and procedure issues. Only the Commissioner, Deputy Commissioners, Assistant Commissioner or Executive Directors are permitted to comment.

Contacting the media

You are not permitted to contact the media in your capacity as a NSW Police Force employee to make comment about any incident, policy or procedure, without prior approval. This includes contacting talk back radio and letters or emails to the editor.

You are not permitted to contact the media anonymously, while identifying yourself as a NSW Police Force employee, to discuss incidents or NSW Police Force policy or procedure.

Off duty conduct

As a NSW Police Force employee any behaviour, whether on or off duty, which has the potential to bring NSW Police Force into disrepute is unacceptable.

Such behaviour is not restricted to criminal offences.

Any activity which adversely affects your work performance will be regarded as a work related issue.

Professional conduct

Professional conduct is demonstrated by taking care and pride in your work, your presentation and your behaviour.

Professionalism is reflected in your demeanour, grooming, punctuality, driving, interactions with the public, your language and in many other ways.

If you are ever unsure as to the level of professionalism expected by NSW Police Force, seek advice from a more senior officer.

Public comment

(see also Handbook 'M' Media Policy)

Public comment includes public speaking, comments on radio and television, letters to newspapers, and expressing views in books, journals or notices. As a private citizen you are entitled to make public comment and enter into public debate on political and social issues. However you must not make or appear to make statements on behalf of NSW Police Force or in your capacity as an employee.

You must seek prior approval before accepting speaking engagements which relate to your work or position with NSW Police Force. If you receive a fee for such an engagement (other than for approved secondary employment) that fee must be paid into an appropriate NSW Police Force bank account. You cannot personally retain the fee.

Reporting misconduct

All NSW Police Force employees must report misconduct. This includes criminal offences, corrupt or unethical conduct, serious mismanagement and substantial waste of public resources. Further, employees are encouraged to challenge inappropriate behaviour.

You can report misconduct to any employee senior in rank or grade to you, or through the Corruption Hotline.

Police officers have specific legislative obligations to report corrupt or unethical conduct under the *Police Regulation 2008*. In doing so certain protection from reprisal is available under legislation including the *Police Act 1990*, and the *Protected Disclosures Act 1994*.

All commanders and managers must ensure they understand internal reporting procedures.

Secondary employment

(see also Handbook 'Secondary Employment')

All NSW Police employees must have written approval before engaging in any form of employment outside NSW Police. Secondary employment which is considered to be 'high risk' will attract greater scrutiny.

Secondary employment becomes a conduct issue when a NSW Police employee works a second job without approval and/or there is conflict between their position as a NSW Police employee and their secondary employment.

Use of (police) resources

As a NSW Police employee you have an obligation to safeguard police property, to avoid waste and excessive or inappropriate use of resources. This includes email and the Internet.

You may only use official NSW Police resources for private use if used in a limited capacity, without disruption to normal business and without controversy or offence. This could include (but are not limited to) the following:

- short private telephone calls and emails
- limited use of facsimile and photocopy equipment

Any circumstances more substantial must be negotiated with your supervisor, manager or commander.

In situations warranting your legitimate private use of a police vehicle, such information must be recorded in the official police vehicle diary. This is a legislative requirement. This documentation is also subject to regular supervisor checks and audit.

Where you are required to use official NSW Police equipment you are not permitted to abuse, damage the equipment, facilities or property. This includes unlawful or unauthorised modification.

To protect yourself against allegations or perceptions of misuse, seek advice and permission from your supervisor, manager or commander.

The information contained on this page is intended to provide general guidance only. You should refer to the relevant legislation and/or policy and guidelines for more detailed information and direction on this issue.

If you require further guidance, seek advice from a more senior officer.

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 and disseminate it through your local intelligence officer to the Information & Intelligence Centre (IIC) for recording. Endorse it 'Warned for Consorting'.

Director, IIC

Maintain a record of all consorting bookings and notify the appropriate region commander when an individual has sufficient bookings for action to be taken. Provide the necessary documentation and record when proceedings begin.

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.

Court Attendance Notice System (CANS)

CAN or Future Service CAN

Do not arrest someone for a minor offence when a Field CAN or Future Service CAN would get them before court. When you go to an incident, gather the facts at the time, and if appropriate, proceed by Field CAN or Future Service CAN.

Charge Entry

Make a COPS entry. Where charge books are used make an abbreviated entry and include:

- case number
 - time and date of arrest and recording of charge
 - the defendant's date of birth and height
 - occupation
 - nationality.
-

Serving a CAN

Refer to Local Court Reform SOPS on the intranet.

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 *NSW Police Force Informant Management Manual* for similar procedures for police informants.

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. 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 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 Force 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 can not 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 effect 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 orders 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 police informant, community 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. (Refer to Law Notes 02/22, NSW Police Informant Management Manual (Source Management System) and the April, 1999 Edition of the Policing Issues and Practice Journal).

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 on going. 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 the NSW Police Force.

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 "BRIFMON" 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.

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 plea 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 importance of taking accurate and comprehensive notes in your notebook regarding what you individually did, saw, heard and know about an incident at the time or soon after for the purpose of preparing a statement in the brief of evidence is stressed in the 'Giving Evidence' video training package. Your notes will refresh your memory in recalling the incident and in giving evidence in proceedings before the court. The training package touches upon the risks and pitfalls associated with inadequate note taking. Refer to Procedures for the Evidence Act regarding "Using statements and other notes when giving evidence" on the Law intranet site.

Corroboration and collaboration between police in the preparation of their individual statements and access to another officer's notes are accepted practices, provided each statement is that officer's own individual account of the incident. No statement between police officers or any other witness should be identical, as it is expected each witness will give their own independent version of the incident and in their own words. Be prepared to withstand scrutiny under cross-examination in court as a credible and reliable witness and to rebut any suggestion that your statement and evidence may be tainted, inaccurate or untruthful. If you do require someone to refresh your memory, you access contemporaneous notes of the incident from another officer's notebook or you are assisted in preparing your statement, you should make reference to this fact in your statement. Never sign a statement on behalf of another police officer, including any other witness. Avoid using PC word processing as a means of duplicating and preparing several statements, varied or otherwise, if each statement is not their own individual account of the incident. Refer to the January, 2000 edition of the Police Issues & Practice Journal regarding "Police Statement: Corroboration or Collaboration".

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

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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 Act*.

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

In the prosecution of summary proceedings, ensure the police prosecutor is told of all relevant information or material, not contained in the brief of evidence, which might reasonably be expected to assist the case for the prosecution or be relevant to the innocence of the accused.

In summary matters prosecuted by the DPP, you have a similar duty to disclose to the DPP all 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 defence. Follow the guidelines in this section regarding disclosure of that material to the DPP as if the matter was an indictable offence when submitting the brief for prosecution or advice. Do not complete a disclosure certificate or schedule. However, you must disclose the existence of that material to the DPP if it is impracticable to provide a copy with the brief. 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.

In accordance with your statutory duty, disclose to the DPP whenever a brief of evidence is submitted for advice or for the prosecution of an indictable offence(s) all relevant information, documents or other things obtained during the investigation that might reasonably be expected to assist the case for the prosecution or the case for the accused person. Do this by completing a disclosure certificate (P.516), and if appropriate, the schedule (P.517). Only complete the schedule if you are disclosing relevant non-sensitive material to the DPP. Send the certificate and if applicable, the schedule with the brief of evidence through the brief manager to the DPP. Also send a copy of any relevant non-sensitive material listed in the schedule, unless it is impracticable to do so. **Do not serve a copy of the certificate, schedule and/or the non-sensitive material on the accused or legal representative. However, be aware that completed forms (P.516 and P.517) may be disclosed by the DPP to the defence.**

If you possess any information relevant to the reliability or credibility of any witness eg, criminal history etc, you must disclose it as non-sensitive information on the disclosure certificate. List the relevant information on the schedule and attach that information to the schedule (eg, full computer printout of the relevant criminal history including convictions and non-convictions, excluding `spent convictions`).

Continue to disclose relevant material to the DPP until the DPP decides the accused will not be prosecuted, the accused is found guilty or acquitted, or the prosecution is terminated.

Urgently notify the DPP in writing when you become aware of any new relevant material which has not previously been disclosed to the DPP. Allow the DPP access to all relevant non-sensitive information, documents or other things, if it was impracticable to send copies with the disclosure certificate and schedule to the DPP.

Police generally

Your duty of disclosure within this guideline applies irrespective of whether you are involved in the actual investigation or on secondment to another law enforcement agency and you come into possession of relevant information, documents or other things that might reasonably be expected to assist the case for the prosecution or the accused. Where appropriate, immediately bring the material to the notice of the DPP in writing through the OIC of the case. Exercise care by following the `Sensitive material' section in this guideline where the information might be subject to a bona fide claim of privilege, public interest immunity or statutory immunity. If appropriate, seek a conference with the relevant DPP lawyer.

Sensitive Material

OIC of the case

If you are asked to attend a conference with the DPP lawyer to discuss the nature and relevance of sensitive material, it is paramount before attending that you identify any material which might attract bona fide claims of privilege, public interest immunity or statutory immunity. If you are unsure, seek advice or guidance (refer to the `Legal advice' and `Witnesses - Subpoena to produce documents' guidelines in the NSW Police Force Handbook regarding sensitive material that might attract a bona fide claim of public interest immunity) before the conference. If you are advised that a claim may be available, submit your report through your commander to the Office of the General Counsel, without delay, identifying the documents for which you consider the claim should be made and drawing attention to any applicable legislation.

At the conference with the DPP, **do not disclose** specific details of the sensitive material or provide sensitive information, documents or things to the DPP which are or may be the subject of a bona fide claim of privilege or public interest immunity. You can describe the material in general terms, as this may enable the DPP lawyer to indicate that it is not relevant and does not need to be disclosed. Where the DPP wishes to access the sensitive material and you consider that privilege or immunity applies to it, the issue will be determined, on a case by case basis, by your application through your commander to the Office of the General Counsel, and if applicable, to the Crown Solicitor. The DPP lawyer will allow you a reasonable opportunity to seek advice as to whether there should be claim for immunity or privilege. If you do not make a formal application for immunity within that reasonable time, the DPP lawyer will request that you disclose the material to the DPP. If unresolved at that level, the matter will be raised by the DPP with the Office of the General Counsel.

If the material originated from another government agency, (eg Department of Corrective Services) seek advice from that agency's legal branch regarding access and any claim of privilege or public interest immunity by that agency. Be guided by that advice and inform the DPP lawyer of the outcome.

When you provide any relevant material (sensitive or non- sensitive) to the DPP, give copies only. In the case of sensitive material, record this in your notebook and get a receipt from the relevant DPP lawyer next to your notebook entry. Record the return of the copies in your notebook and shred them when no longer needed.

If at any time the DPP lawyer or Crown Prosecutor expresses a view to you that sensitive material should be disclosed and you disagree with that view (eg, you think the information or material might be the subject of a bona fide claim of privilege, public interest immunity or statutory immunity), advise the DPP lawyer or Crown Prosecutor that you will seek urgent legal advice. Do so by submitting an urgent and confidential report to your commander. Seek similar advice if the sensitive material relates to legal advice given to you by a legal practitioner within the Office of the General Counsel and you are claiming legal professional privilege. The DPP should allow you time to seek that advice (Refer to the ODPP Prosecution Policy and Guidelines regarding 'consultation with police prior to disclosure').

If the Office of the General Counsel advises that your claim of privilege, public interest immunity or statutory immunity does not apply, you must allow the DPP access to that material.

Where the sensitive material does not attract a claim of public interest immunity or legal professional privilege but you have justified concerns about handing copies of this material to the DPP or about it being disclosed to the defence, you can request to have the matter determined at a higher executive level within the DPP. In cases being prosecuted by counsel, the Director of Public Prosecutions or a deputy director and in cases being prosecuted by ODPP lawyers, the Solicitor for Public Prosecutions or a deputy solicitor, will determine the issues of relevance of that matter and access by the prosecution and the defence. If your concern relates to document security or access within the DPP, refer to the ODPP Prosecution Policy and Guidelines regarding 'security of documents and other material'.

Commanders

Urgently refer any confidential reports regarding a bona fide claim of privilege, immunity or legal advice to the Office of the General Counsel.

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 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 co-ordinator, 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 on going 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* (PI2OA) 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

Subdivision 7A of the *Justices Act* 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 s48 of the *Justices Act*.

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* and provide your comment and recommendation to the head of court (senior police prosecutor) where the case is listed. You may delegate this function to your crime manager.

On receiving a final determination advise the OIC of the case and if appropriate, the solicitor or defendant. Use the appropriate format reply from the Law intranet site.

Head of court

Refer to the Legal Service'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. 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. 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.

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 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 230 Certificates - Road Transport (General) Act 2005

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 an 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, PSC 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 and Guidelines*.

Our Commitment

All employees of the NSW Police Force comply with the *Customer Service 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

Telephone and message enquiries

- Ensure victims receive an event number.
- Ensure messages are followed up.
- Use interpreter services and the TTY (text telephone) number where appropriate
- Try to resolve the customer's matter at the first point of contact.

Front counter enquiries

- Ensure victims receive an event number and a victim's card.
- Use interpreter or disability services where appropriate.
- Ensure initial victim follow-up occurs within seven days and that all ongoing follow-up occurs within seven days and that all ongoing follow-up complies with the *Charter of Victims' Rights*.
- Try to resolve the customer's matter at the first point of contact.

Attending an incident enquiry

- Ensure victims receive an event number and a victim's card.
- Ensure victim follow-up within seven days.

Victim follow up

- Ensure victims receive an event number and a victim's card.

- Ensure victim follow-up within seven days.

Dealing with a difficult customer

- Ensure you are always professional and helpful with customers.
 - Listen to and acknowledge customer enquiries.
 - Tell the customer when no further action can be taken and why.
-

Crime Scene Cleaning

Police generally

Under the *Victim Support and Rehabilitation Act 1996*, 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.

Damaged Notes

The Reserve Bank of Australia (RBA) aims to have only good quality 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.

It is not possible to remove damaged notes from circulation immediately any damage becomes obvious – nor is it necessary when the damage is only minor. Minor damage does not prevent ongoing use of a note or affect its value. The RBA works with banks, other authorised deposit-taking institutions such as building societies and credit unions, and cash centre operators such as armoured car companies to remove damaged notes from circulation as soon as practicable.

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 or defaced. These notes can continue to be offered and accepted in transactions because they are worth full face value. The RBA asks banks, other authorised deposit-taking institutions and cash centre operators, to remove unfit notes from circulation when they are returned to them by their customers.

When damage to a note is such that a piece of the note is missing, i.e. the note is incomplete, the RBA needs to take into account the possibility that both pieces may be presented for value separately. It is clearly not sustainable to exchange each of the pieces for full face value. If two people have two pieces of the same note, the RBA's policy is that the most equitable outcome is for each person to receive a share of the value equal to the proportion of the note they hold. The combined value paid should be the face value of the original note.

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 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. An Incomplete/Badly damaged/Contaminated Australian Note(s) Claim Form must be completed when badly damaged/contaminated notes are accepted for on-forwarding to the RBA.

Incomplete and badly damaged/contaminated notes may also be presented at the RBA's branches in Canberra and Sydney or they may be sent to the RBA at the following address accompanied by a completed Incomplete/Badly damaged/Contaminated Australian Note(s) Claim Form.

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, Newcastle 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. Phone only in exceptional circumstances, with the approval of the senior officer on duty.

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.

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.

Bodies to be examined on site by forensic pathologist

Have the scene examined/recorded by Crime Scene Section investigators.

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 on site 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.

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 send 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. 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.

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 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 the Miscellaneous Property Book 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). Have them examined and kept by Physical Evidence for production at court. 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'.

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 you have doubts, contact the coroner.

If you want to destroy the exhibit, send the original notice with your commander's approval to DAL. File and replace it by pasting the original opposite the entry on its return from DAL.

If you want to keep the substance as an exhibit, collect it within four weeks.

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, ambulances 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 Coroner's Morgue/DoFM – not a private Morgue/DoFM. 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 comes 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 anyone or organisation is willing to pay for the burial.

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 Public Trustee's Office about the deceased's Estate).

Report this information on a Destitute person deceased bury/cremate 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)

Attend urgently to suspected SIDS 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 cases for specialist autopsy

SIDS 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 cases, seek help from the Workforce Safety Command.

Commanders

Initiate counselling yourself if you think it is needed.

SIDS 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 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.

Ask relatives and friends about the deceased's mental condition before death.

Search for a suicide note or correspondence, 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.

Do not release the contents of any suicide note to any unauthorised person. See also the section on 'Media Policy – Apparent or suspected suicides'.

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.

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.

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
- The Director, Resuscitation Unit, Medical Services Branch, Avery Building – the duplicate.

Private pool drowning of children up to five

When investigating a drowning of a child up to five, complete a P530 form with P79A.

Deceased wearing diving equipment

When investigating the death of someone wearing a compressed air apparatus and weight belt, take them 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. Have photos taken of the apparatus in its original condition, if possible.

Send the apparatus and belt, with a covering report, to the Diving Section.

Commander, Diving Section

Arrange for the Government Analyst to test a sample of the gas and a qualified diving section member to carry out a physical test. Have the belt weighed by the Department of Weights and Measures and get a certificate.

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 occurs in a coal mine, promptly advise the District Inspector of collieries, and in other mines, the District Inspector, appointed under the Mines Inspection Act. Tell these officers the date and time of the inquest.

Mines include quarries, dredges and other places referred to in the Act.

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 *Coal Mines Regulation Act*, the local Inspector of Mines 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 Mines Inspectorate and mining company officials. Adopt team investigative approach.

Investigation

Notwithstanding the role of the Inspector of Mines, 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.

Management undertakes rescue operations and body retrieval in consultation with police (acting on behalf of the Coroner) and the Mines Inspectorate. Do not go underground until the scene has been declared safe.

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. 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.

There is no objection to family viewing the body at the scene or the mortuary.

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 are 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 police officer.

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. 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 on site 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.

See also the *Incident Emergency Standing Operating Procedures (IESOP)*.

Boating Deaths

When you investigate an incident resulting in death, notify the Waterways Supervisor for the area. Also make contact with the Legal Officer.

The Commercial Vessels Branch, Waterways Authority, investigates all incidents involving commercial vessels (as per the Navigation Act). Cooperate with and help its investigators.

For a death involving a commercial vessel, notify the Manager, Commercial Vessels Branch as a Marine Court of Inquiry might follow.

Ensure close shared communication between you and BSOs in coronial and other serious matters. In such cases, the BSO will update the Waterways Authority on the progress of the court case/ investigation.

Complete a Boating incident report if you investigate an accident or incident involving a vessel. Fax the completed form to the Waterways Authority (a 24 hour service).

Local commands which have commercial vessels operating in their area are to fax the same form to the Authority.

Refer to MIESOP, Part two, Section 29, 'Marine Accidents' for additional information.

Identifying bodies with possible altered features

Where identification is impaired, (eg: by burning, facial injury, decomposition) contact the duty officer, Institute of Forensic Medicine, Glebe or the coroner for advice. Do not rely on visual identification as the sole means.

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 LEPPR. Arrange for an officer from the Forensic Services Group to attend and examine the scene. Police MUST ensure that all evidence that may assist in determining identity and cause of death is preserved and collected.

The officer in charge of a deceased matter is responsible for ensuring a deceased body is identified as soon as possible using the most appropriate method (See below). Advice and assistance may be sought from the Sergeant Assisting the Coroner for matters which are reported to the State Coroners Court at Glebe, the local Coroner in other areas or the local pathologist. The Investigative Support Team at the Missing Person unit currently holds records for all unidentified deceased in this state and are also available to give advice and to assist in identification of a unidentified deceased or remains.

In situations where bodies or skeletal remains cannot be immediately identified, police must enter details on the Computerised Operational Policing System (COPS) as a Deceased incident event and contact the Missing Persons Unit. The Morgue/DoFM reference number should also be included.

Ensure the COPS event contains a complete description of the deceased, clothing worn and approximate time or date of death. Also include a full description of any jewellery or other property found on or near the body.

Local Area Command Police provide the initial response to the discovery of an unidentified person or body which includes the following:

- Searching COPS and the Missing Persons Database for possible matches to reported missing persons
- Recording the particulars of the person on COPS by creating a 'Deceased' incident on COPS using the status as 'Unidentified body' of 'Unidentified Remains.'
- Contact the Missing Persons Unit for assistance.
- Photograph the unidentified person. This is normally done at the Morgue/DoFM. (Contact Forensic Services Group for Assistance)
- Record and photograph distinguishing features of the Unidentified person eg: tattoos, scars, marks
- Collect fingerprints for comparison on AFIS (Contact Forensic Services Group for assistance)
- Forensic Odontological charting of the Unidentified Person – this is an examination of the unidentified persons' teeth and jaw by a Forensic Dentist (Forensic Pathologist and/or Forensic Services Group can assist to arrange this)
- Recording and photographing of jewellery and clothing worn etc by the Unidentified Body
- Collection of Biological samples including bone for future DNA testing (Collected by Pathologist at time of Post Mortem Examination)
- Obtain a copy of the P79a, all photographs, Post Mortem Report and other relevant reports and forward copies to the Missing Persons Unit.
- Complete a P79a as normal and attach the following
- dental chart, if available
- Photographs of the deceased (with approval of the coroner) as below
 - a full-length photo of the body
 - close up photos of the head, from directly above (full face) and one of the side of the head (profile). Ensure these are taken before the post-mortem examination. Ensure the face is cleaned, eyes opened and hair tidied beforehand. These actions should be done with the assistance of Forensic Service Group. Include photographs of distinctive features such as scars, tattoos, marks as well as items such as spectacles, jewellery, clothing and other property.

See also Section (M) Missing Persons – Identification of deceased bodies and skeletal remains.

Police photographer

Try to take the photos before the post mortem examination. Ensure the face is cleaned, hair tidied and eyes opened to help identification. Enlarge the photos to a reasonable size.

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.

Action when someone charged over death

Advise the coroner as soon as possible when someone is charged with an indictable offence (eg: murder or manslaughter etc) over a death or arson.

Enter the details on the P79A and COPS.

Do not proceed with summary offences connected with a death or fire until the finalisation of any indictable offences, laid by police or which might stem from an inquest or inquiry.

Human Organ Donor Coordinators (HODCS)

Promptly go to a hospital to identify a body in cases involving proposed organ retrieval surgery and find out the circumstances surrounding death.

If approached by a HODC for information about the donor, inspect the person's photographic identification card, and if satisfied of their bona fides, phone the DOI. This officer is responsible for supplying the HODC with the required information. Cooperate with the transplant coordinator and help next of kin as appropriate. After organ retrieval surgery, follow the usual coroner's case procedures.

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.

Death of Foreign National

(See section 'Notifying Death or Other Urgent Circumstances' in Chapter on 'Immigration' in this Handbook).

Diplomatic agents, consular representatives, heads of State etc.

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 can not 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 consults 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 consults, 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 following 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.

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.

Domestic & Family Violence

Please refer to the [*Code of Practice for CRIME \(Custody, Rights, Investigation, Management and Evidence\)*](#) on the New South Wales Police Force Internet site.

Drugs and Alcohol

The NSW Police Force Drug and Alcohol Policy has been developed to protect the welfare of all NSW Police Force employees and contractors, as well as the integrity, reputation and effectiveness of the NSW Police Force.

It aims to articulate the procedures and implications of drug and alcohol testing of sworn NSW Police Force employees while rostered on and off duty.

The policy has been designed to strengthen the NSW Police Force approach to the use of illegal drugs by employees.

The policy seeks to facilitate the health, safety and welfare of all NSW Police Force employees and contractors by:

- promoting personal responsibility in relation to the consumption of alcohol,
- prohibiting the use of illicit drugs by all employees, and
- prohibiting the use of anabolic steroids by police unless prescribed by a suitably qualified medical practitioner.
- promoting responsible and lawful use of prescribed and over the counter medication.

Random, Targeted and Mandatory drug and alcohol testing of NSW Police officers is aimed at deterring and detecting prohibited drug use by police officers at any time or impairment by alcohol whilst undertaking police duties. The testing program serves to identify those police who are impaired by alcohol at work or use prohibited drugs and/or non prescribed steroids on or off duty.

The policy reiterates the condition of employment by all NSW Police Force Officers that drug and alcohol testing is a standard procedure and abstinence from using prohibited drugs is mandatory.

All NSW Police Force employees and contractors are expected to comply with the NSW Police Force Drug and Alcohol Policy.

Random, Targeted and Mandatory drug and alcohol testing only applies to sworn employees.

Code of behaviour

All NSW Police Force employees and contractors are expected to present operationally fit for the commencement of any rostered duty and remain so, free of impairment by alcohol or any other form of drug.

Police Regulation 2008, Part 5, Division 2, sets out a standard of conduct expected to be observed by police officers in relation to the use of alcohol and other drugs and all police are expected to familiarise themselves with the provisions of this legislation.

Employees and contractors must not perform their job, remain at work or undertake any police related activity if impaired by alcohol, general medications or drugs prescribed by a suitably qualified medical practitioner. This includes attending any training functions or seminars. The use of prohibited drugs and or non prescribed anabolic steroids is not permitted at any time on or off duty.

Employees and contractors are not permitted to visit the workplace if they are off duty and impaired to any degree by any of these substances.

Civilian Officers and Special Constables

Civilian or non-sworn officers and special constables are expected to understand and comply with the requirements of this policy. Whilst these officers are not subject to drug and alcohol testing, it is expected that they will comply with the same requirements as sworn officers, namely:

- Civilian Officers and Special Constables are expected to present to work, fit for duty and free from the impairment by alcohol or any other form of drug.
- an employee of the NSW Police Force must not use any prohibited drug at any time.
- all employees of NSW Police Force are expected to use prescription and other medication in accordance with the law and the instructions of qualified health professionals

Where a supervisor considers that a civilian officer is impaired by alcohol or other substances, they will request a qualified police BAS operator to make an assessment of that employee and may direct the officer to leave the workplace for a period. Disciplinary action may result in these circumstances.

Alcohol consumption

All NSW Police Force employees and contractors must not:

- be impaired by alcohol while rostered on duty irrespective of the type of duty performed;
- consume alcohol while on any police premises, regardless of whether they are on or off duty, unless prior written approval by their Commander or Manager is given;

Police generally

You must not consume alcohol while wearing a police uniform or any identifiable part of a uniform easily recognisable as being from the NSW Police Force.

All NSW Police Force employees and contractors who consume alcohol off duty are encouraged to do so in a responsible manner and are to avoid its misuse.

All Random, Targeted and Mandatory alcohol tests of police officers, will test for a blood alcohol limit of 0.02.

Prohibited Drugs

NSW Police Force employees and contractors must not use any prohibited drug at any time. There is no place for any person within NSW Police Force who uses, sells or supplies prohibited drugs.

Consistent with the Code of Conduct and Ethics, an employee of the NSW Police Force must comply with the law whether on or off duty. Irrespective that an illicit drug has been decriminalised in another state or country, this does not absolve an officer of the NSW Police Force from being subject to drug testing on or off duty when in NSW and the consequences of any positive test results as outlined in this policy.

Random, Target and Mandatory drug testing of police officers, will analyse samples for prohibited drugs that are listed under the Drug Misuse and Trafficking Act 1985.

Pharmaceutical Medication

All NSW Police Force employees and contractors must not work or undertake any NSW Police Force related activity if impaired by general medications or prescription drugs.

If a NSW Police Force employee or contractor has any doubt about their ability to perform any or all of their duties they must consult a suitably qualified medical practitioner and notify their supervisor. If the medication carries a warning that it has the potential to impair normal functioning a supervisor must be informed.

Ceasing to take medication that is required on medical grounds could impair performance. In these circumstances, individuals must consult a suitably qualified medical practitioner and notify their supervisor who will discuss alternative work options.

Steroids

NSW Police Force employees and contractors are not permitted to use anabolic steroids unless prescribed by a suitably qualified medical practitioner. If an employee or contractor has been prescribed anabolic steroids, they are required to produce written documentation certified by a suitably qualified medical practitioner if requested by their Commander, Manager or an Authorised Officer.

There is no place for any person within the NSW Police Force who unlawfully uses, sells or supplies anabolic steroids.

Only targeted drug testing may examine for anabolic steroids.

Support Services

There is a wide range of professional support programs available for individuals experiencing dependency problems and NSW Police Force is committed to providing all reasonable rehabilitation support through these channels for its employees. The procedure for managing officers who disclose personal substance related dependency will be equitable and just.

All NSW Police Force employees are reminded that professional short term counselling for any matter can be obtained by utilising the services of the Employee Assistance Program (EAP) 24 hours a day. This service is available for up to six months after concluding employment.

Drug & alcohol testing program

Provision for random, targeted and mandatory drug and alcohol testing for all police officers of the NSW Police Force lies within the Police Act 1990.

Random testing

All police officers of the NSW Police Force are subject to random alcohol and drug testing procedures as stated in this policy.

Only non sworn testing officers authorised by the General Manager, Health and Wellbeing Unit, are permitted to conduct random testing of NSW Police officers in accordance with this policy.

Random testing may be conducted at any work location on a 24 hour, 7 day week basis.

Random testing of police officers is determined with the assistance of a random number generating computer program. This enables the Authorised Officers to select the time, date, location and / or the police at that location on a random basis. Only high risk work types and officers who are subject to repeat testing, having previously recorded a positive test, are subject to a degree of pre arrangement for the purpose of random testing.

Targeted alcohol testing

A Commander or Manager can direct that a police officer be breath tested and/or submit to a breath analysis if the Commander or Manager has reasonable cause to believe that the officer may be under the influence of alcohol while on duty.

Targeted drug testing

A Commander or Manager may arrange in consultation with the Drug and Alcohol Testing Unit and compliance with the Targeted Drug Testing Procedures, for a police officer to be target drug tested for the presence of prohibited drugs and/or anabolic steroids at any time while the police officer is on duty.

The Targeted Drug Testing Procedures are available in a separate document through the NSW Police Force intranet site. These procedures should serve as a guide to Commanders and Managers when considering a targeted drug test.

Recall to duty targeted drug testing

Section 211A (4E) *Police Act 1990*, provides the legislative basis for police officers of the NSW Police Force to be recalled to duty for the purpose of submitting to a drug test for prohibited substances.

The commander of the investigation or equivalent must obtain approval for a recall to duty targeted drug test from an Assistant Commissioner (or higher ranked officer) before contacting the Drug and Alcohol Testing Unit to arrange the test.

Any police officer who is recalled to duty for this purpose will receive the standard award entitlement as per the industrial award in force at the time. The officer will only be considered on duty for the period of time that it takes for an Authorised Officer to obtain a valid test sample and must not perform any other operational duties at that time. For the purpose of target drug testing, recall to duty will commence from the time the officer is contacted and shall cease at the time the officer is returned to a suitable location after the completion of the test.

NSW Police Force will arrange transport to and from the testing premises for the officer recalled to duty.

Mandatory testing incidents

The provisions of mandatory testing apply to both police officers of the NSW Police Force and any **student police** officers who are undertaking any Constable Education Program related activities.

Mandatory testing requires both testing for alcohol and prohibited drugs.

This section of the policy should also be read in conjunction with the *Guidelines for the Management and Investigation of Critical Incidents* which are available on the NSW Police Force intranet site.

Drug and alcohol testing- Mandatory incidents

Section 211A (2A) of the Police Act 1990, states that an authorised person **must** require any police officer directly involved in a * mandatory testing incident to:

- undergo a breath test, or submit to a breath analysis, for the purpose of testing for the presence of alcohol, and
- provide a sample of their urine or hair (or both) for the purpose of testing for the presence of prohibited drugs,
- in accordance with the directions of the authorised person and the regulations.

Where a mandatory testing incident occurs, the **Senior Critical Incident Investigator** will decide which police and/or student police, are considered to be directly involved in the incident. These police and/or student police will be required by an authorised BAS operator, to submit to a breath test and/or analysis for the testing of alcohol and to provide a sample of their urine as directed by an authorised drug testing officer, to test for the presence of prohibited drugs.

In the event that the Senior Critical Incident Investigator is significantly delayed from attending the incident then, any Duty Officer at the scene can deem who is directly involved in the incident and is required to undergo mandatory testing.

Mandatory alcohol testing should be undertaken as soon as reasonably practical after the incident has occurred. It is desirable that an authorised BAS operator conduct this testing preferably within **2 hours** of any mandatory testing incident occurring.

Mandatory drug testing will only be carried out by authorised drug testing officers, as soon as reasonably practical after the incident and preferably within **24 hours**.

Where a police officer has been hospitalised as a result of the incident and a blood sample has been taken in compliance with any legislation, then written consent may be obtained from the officer to use any such blood sample to comply with the testing requirements of this policy.

*** Mandatory testing incidents are defined in the definitions part of the drug and alcohol policy.**

KEY MESSAGES

All NSW Police Force employees and contractors are expected to be free of impairment by alcohol or any other form of drug including prescription medication in the workplace.

All NSW Police Force employees or contractors are not permitted to use illegal drugs at any time, whether on duty or off duty. This includes so called 'recreational or party' drugs.

There is no place for any NSW Police Force employee or contractor who uses illegal drugs, sells illegal drugs or abuses prescription drugs.

Illegal drug use by a NSW Police Force employee or contractor is in contravention of the Code of Conduct and Ethics and the Statement of Values and a Police Officer's Oath of Office.

Any NSW Police Force employee or contractor who consumes alcohol off duty is encouraged to do so in a responsible manner and avoid its misuse.

All police officers must remain under the prescribed concentration of 0.02 of alcohol while rostered on duty.

All police officers may be subject to random, targeted, mandatory and recall to duty targeted drug testing. This includes targeted drug testing for non prescribed anabolic steroids.

If an employee accidentally ingests any illegal drug they are required to report this to their supervisor immediately.

All employees and contractors must report conflicts of interest, improper associations or misconduct in relation to illegal drug use to a supervisor.

Contravention of the NSW Police Force Drug and Alcohol Policy places the safety of employees and the community at risk and compromises the integrity, reputation and effectiveness of the NSW Police Force.

Dying Depositions and Declarations

Dying depositions

When a witness/victim is able to give material information about an indictable offence and the person is dangerously ill and the person's evidence will probably be lost if not immediately taken (irrespective of whether proceedings have been taken against the accused person); arrange from an 'authorised person' to take the deposition in accordance with s.284 of the Criminal Procedure Act and Regulation.

Services of an 'authorised person'

An authorised person is a Judge, justice of the peace who is a registrar of a Local Court or the Drug Court or a justice of the peace employed and authorised in writing by the Attorney General 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 dying declaration when the requirements for taking a dying deposition cannot be met (eg: you can not get an 'Authorised Person')

Normally, it need not be made on oath or affirmation, however if it is so made, it might be admissible in evidence.

Electronic Mail

The NSW Police Force (NSWPF) encourages the use of email to share information, improve communication efficiency and to exchange ideas. All usage of NSWPF email functions are to comply with the NSW Police Force Electronic Messaging Policy the NSWPF Code of Conduct & Ethics, applicable Local State and Federal laws and other NSWPF policies and procedures.

Personal email should not be considered private and personnel using the NSWPF email system for this purpose do not have the same personal privacy rights as they would using their own private email systems. Personnel reasonably suspected of abusing personal use email may be asked to explain such use (which may be monitored and audited as part of NSWPF's responsibility to implement and maintain appropriate email control mechanisms).

If NSWPF personnel receive material that is considered inappropriate (in accordance with the definitions contained within the NSW Police Force Electronic Messaging Policy and procedures or other associated policies referred to within that document), then it must be immediately reported to your supervisor, manager or Commander. Do not delete, forward or copy the email.

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, rank/grade, classification, proximity to headquarters, marital status and whether or not one has family or other carer responsibilities. It is also about:

- supporting our corporate objectives (refer *NSWPF Corporate Plan 2008-2012* - foster workforce diversity to reflect our community)
- entrenching workforce diversity into our business by aligning it to our commitment to treat everyone with respect and courtesy; and
- recognising and respecting every one's unique attributes and providing a positive and respectful working environment for all.

Legislative requirements

Workforce Diversity is entrenched in the following key legislative provisions:

- Section 15(1) of the *NSW Occupational Health & Safety Act* (s 8(1): "Every employer shall ensure the health, safety and welfare at work of all the employees". This includes a responsibility for providing a positive and productive working environment.
- Section 122 C of the *NSW Anti-Discrimination Act* "to promote equal employment opportunity for women, members of racial minorities and persons who have a disability"

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 Code of Conduct* – in particular point 4 treat everyone with respect, courtesy and fairness
 - *NSWPF Statement of Values* – Leadership - acting as a role model for your colleagues and community; Accountability - acknowledging ownership and being answerable for your actions
 - *NSWPF Harassment, Discrimination and Bullying policy* – ensuring safe and respectful workplaces free from sexual harassment, harassment, discrimination and bullying
 - *NSW Police Force Customer Service Program* - "Treat your (colleagues) as you would like to be treated".
- The diverse talents and experiences of all individuals should be respected and made the best use of in achieving corporate goals.

- All members of the NSWPF have a responsibility to create the work environment that enables everyone to contribute to their potential at work with positive working relationships.
 - Workplace structures and conditions will provide opportunities for flexibility when meeting organisational requirements
 - Decisions affecting employees will be based on facts and people should be consulted on policies and decisions that affect them.
-

What are the benefits of workplace diversity?

Valuing our differences provides us with a greater understanding of the needs of the diverse communities we serve allowing us to provide improved customer service and meet our corporate objectives. A successful Workforce Diversity Plan can help generate positive workplaces which treat everyone with respect, courtesy and fairness and can deliver numerous benefits to all employees through:

- increased morale and reduced workplace stress and conflict
 - improved work attendance
 - an effective means of attracting and retaining staff
 - reduced training costs due to less staff turnover
 - increased efficiency and productivity associated with management time
 - access to a broader range of ideas and approaches through inclusive workplaces
 - reduced social and health costs for individual employees.
-

Why do we still need programs which target specific groups?

To deliver a responsive service not only are the capabilities of our workforce important but also the composition if we are to reflect the community we serve. NSW Government has set benchmarks for public sector agencies with progress for employment of EEO groups benchmarked against their estimated representation in the NSW working age population (ages 15 to 64).

Workplace diversity maintains the basic principles of Equal Employment Opportunity (EEO) and this plan includes measures to address employment-related disadvantage of women, Aboriginal people, people of non-English speaking background and people with disabilities.

Other characteristics of our workforce which need to reflect our community include age diversity, changing family responsibilities, marital status, sexual orientation, education levels, life experience and socio-economic background.

Who is responsible for supporting our commitment?

It is all our responsibility to support workplace diversity.

Each employee is responsible for:

- respecting different ways of thinking and working, treating each other with respect and courtesy (refer also *NSWPF Code of Conduct and Ethics* point 4)

- contributing to a work environment free from discrimination and harassment and inappropriate behaviour upholding the values and the good reputation of the NSW Police Force (refer also *NSWPF Code of Conduct and Ethics* point 1)
- doing their job to the best of their ability and actively balancing their life
- being aware of the *NSWPF Workforce Diversity Plan* and contributing to its objectives.

Each supervisor/manager is responsible for:

Supervisors/managers have responsibilities beyond their individual responsibilities and include:

- ensuring everyone in your chain of command is treating each other with respect and courtesy
- dealing with inappropriate workplace behaviours and workplace issues quickly, sensitively and effectively if they arise - to observe it and do nothing about it is to condone it
- demonstrating and promoting, through role modelling a commitment to the principles of equity and diversity
- identifying, using and developing the diverse skills and knowledge of employees
- genuinely considering requests for flexible work arrangements subject to operational requirements
- supporting employees who require reasonable adjustment in the workplace.

Each Commander/General Manager is responsible for:

Commanders/General Managers are responsible and accountable for workplace equity and diversity in their Command including responsibility to:

- set, demonstrate and communicate expectations
- ensure that supervisors/managers meet their responsibilities
- incorporate workplace diversity requirements in business plans and allocating appropriate resources
- incorporate equity and diversity into the Command's day-to-day business.

The Workplace Equity Unit is responsible for:

- promoting diversity principles and practices and supporting managers/supervisors and staff to adhere to the principles of workplace diversity and respectful workplace behaviour
- understanding the workplace diversity needs of Commands.
- evaluating the *NSWPF Workplace Diversity Plan* and other associated policies and making recommendations
- assisting with maintaining information to managers and staff about workplace diversity and related issues
- developing diversity professional development programs as appropriate
- undertaking all reporting requirements in conjunction with the Commander, Human Resources.

Commander, Human Resources

The Commander, Human Resources is responsible for the co-ordination of this plan and meeting reporting requirements under the *Annual Reports Act 1985*, *NSW Anti-Discrimination Act 1977* and the *Public Sector Employment and Management Act 2002*.

The Director, Human Resources also has responsibility to ensure the Workplace Equity Unit receives appropriate information, professional development and support to enable them to undertake their responsibilities effectively.

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. If you have found explosives contact Bomb Disposal 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).

NSW Police **NO LONGER** deals with the front end of the licensing process. All licences are issued through WorkCover and licence applicants now 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 will be issued over a 5 year period and will be a laminated licence with photos.

NSW Police co-ordinates a number of checks including the criminal history and ASIO checks for licence applicants.

Process

- Applicant contacts WorkCover and is directed to Australia Post. 100 point check completed.
- The application and money are sent by the applicant to WorkCover
- WorkCover has become a Registered Organisation with NSW Police and can send bulk applications via fax to NSW Police. (A monthly fee is paid by WorkCover for the Registered Organisation)
- Applicants sent by WorkCover are received at Criminal Records Section at NSW Police.
- Concurrently the applications are sent to ASIO for checks and to Security Industry Registry (SIR) for criminal intelligence checks.
- SIR will make a determination of 'fit and proper' person to hold a licence based on the criminal checks.
- SIR will then notify WorkCover.
- WorkCover issues or declines to issue the licence.
- WorkCover will inform NSW Police if a license is issued or refused.
- NSW Police will enter these on the COPS system.

Licences

Under the new licensing regime there are 12 licences that are issued by WorkCover. These include;

- Licence to use Security Sensitive Dangerous Substance
- Unsupervised handling licence for explosives or SSDS
- Manufacture/Disposal
- Import
- Supply
- Transport by Vehicle
- Transport by Vessel
- Store
- Blasting licence
- Pyrotechnician's
- Fireworks (Single Use)
- A single licence will authorise multiple activities.

- The fireworks licence is the only licence that does not require a Police criminal history check.
- The first two licences that are most important to police. (SSDS & Unsupervised handling licence)
- All 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

Legislation has been gazetted by Parliamentary Counsel and the Office of State Revenue (OLD IPB) has created offence codes for TINs. WorkCover is providing final approval for Short Titles before any are uploaded into the TIN books for printing.

Disposal of commercial explosives

If you are asked to dispose of commercial explosives eg: gelnite, contact the Bomb Disposal Unit, State Protection Group. If you are unable to contact the Bomb Unit directly, contact the DOI.

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 LEPR (Sect. 133 to 138) for guidance on:

- taking fingerprints
 - preparing instruments and hands
 - handling fingerprints at stations
 - handwriting forms (P59B)
 - 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 (P16)

When a defendant is committed for trial or sentence, immediately complete a P395 in triplicate. Send the triplicate to the Manager, Criminal Records Section.

For the procedure for preparing an antecedent report form, See also the section on '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 Commander, Fingerprint Branch.

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.

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).

When sending exhibits to the FSSB Fingerprint Laboratory, include a completed P377 (laboratory submission form) fully listing and describing each item for examination, and a copy of the Station Exhibit Book entry. A 'Crime Scene Job' request for FSSB Fingerprints must also be created in COPS.

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.

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.

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).

Firearms – render the weapon safe and attach a label indicating this has been done.

Cutting implements – securely pack such items in a way, which ensures the implement cannot penetrate the packaging when being handled.

Objects/vessels containing non dangerous materials – ensure any such container is capable of being sealed to prevent spillages during examination and storage.

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 noted on the P377 form.

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, if possible. Complete all particulars required on the form.

If a P550 is not available, use a normal fingerprint form. Write on the top of the form 'FOR ELIMINATION PURPOSES ONLY'. Send a report with the form and 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 Selection.

At the completion of the elimination comparison process elimination fingerprints will be destroyed in the presence of the relevant Fingerprint Operations Branch Zone Commander 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 Criminal History Records Checks (NCHRC) purposes

NSW Police provides an opportunity for NSW residents aged 16 years and above to apply for a National Criminal History Record Check (NCHRC). NCHRC services are offered for employment, visa, adoption and some occupation related license purposes.

Local Area Commands (LACs) are responsible for processing applications from New South Wales residents who reside within the geographical boundary of their LAC and cannot obtain a NCHRC through a NSW Police Registered Organisation.

Individuals should use Form P799 Application for National Criminal History Record Check (Standard disclosure) unless requiring a check for a category of employment of purpose exempt from the Act, 1991. Such application should be made using Form P800 Application for National Criminal History Record Check (Full disclosure).

Details on which purposes or occupations are exempt from the Act, 1991 are contained on page two of the application form and within Frequently Asked Questions contained on the NSW Police web site / CRS intranet site.

Individuals requiring a NCHRC for visa and adoption purposes as well as some licensing purposes may request a name date of birth and fingerprint check. It is the responsibility of the applicant to enquire with the relevant country or government authority to determine if fingerprints are required for these purposes.

Police employees taking fingerprints for NCHRC purposes may use Livescan devices or the ink and roller process. Police taking fingerprints using Livescan devices should comply with procedures outline 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.

Once processed, NSW Police personnel should:

1. Fax the NCHRC application form (page one only) to the Criminal Records Section
2. Forward the original NCHRC application and the applicant's fingerprint form to the Criminal Records Section
3. Process application fees and enter details onto the dedicated ***Schedule of Daily Banking Details (National Criminal History Record Check)*** available at the ibiz intranet site.

Applications submitted by individuals with more than three (3) aliases must also complete Form P826 Additional information for NCHRC purposes. Form P826 must be attached to the individual's application form and sent via internal mail to the Criminal Records Section. **DO NOT FAX** applications to Criminal Records Section if accompanied by a Form P826.

Full details on NCHRC processes are available at www.police.nsw.gov.au or the Criminal Records Intranet site.

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.

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 station correspondence stamp in the top of the fingerprint form.
- place the documents in the stamped, addressed envelope, and mail it. 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.

Flags

For information on Flags, please refer to the Protocol and Awards Unit Intranet site -> Flag Protocol.

Forced Entry

Damage to private property

Where forced entry is used, repairs to private premises damaged during the entry are not the responsibility of the NSWPF, 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

Where entry is reasonably necessary to arrest without warrant, under 99 Power of police officers to arrest without warrant LEPR, you may use force, but only when two conditions are satisfied. First, you must believe on reasonable and probable grounds the person is on the premises.

Secondly, except in urgent circumstances, announce your identity, claim authority to enter and give the occupier an opportunity to allow you in without force. Forcing entry should be the last resort.

You may force entry, as in the second condition, when you reasonably believe a breach of the peace is imminent or is taking place.

Assess the level of response needed to gain entry. Forced entry without delay might be appropriate where you consider an emergency exists. In less urgent situations, seek alternate methods which will cause the least damage.

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 the NSW Police Force could be liable, refer the claim to the Office of the 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 the 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 is a multi-disciplined unit of the Forensic Services Group that is responsible for capturing and publishing graphic evidence on a range of media. Methodical treatment and documented continuity of these records of forensic evidence is critical to its admissibility in court.

The Forensic Imaging Section is now tasking all jobs through the COPS FSIMS system.

To obtain the services of the Forensic Imaging Section a COPS job must be created and the relevant Request Form must also be completed and forwarded to the Forensic Imaging Section Office.

ComFits, Animations, CAD Plans, Forensic Surveys, Video Operations, Virtual Crime Scene Walkthroughs, Comparison Charts/Posters Jobs will need to have jobs created on the COPS system with the event number and job number recorded on the request form before the job will be completed. The title of the job should include the type of service and the location of the job.

Failure to create the job on COPS may result in the job request being rejected.

Request are available from the Forensic Services Group forms website located at: Organisational Units -> Forensic Services Group -> FSG Forms

Fundraising

Fundraising must only occur with the written approval of the Local Area Commander or Specialist Commander equivalent or above.

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 Police Force, or
- where a risk of favouritism might be perceived by a reasonable member of the public.

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 NSW Police Force Sponsorship Policy, Endorsement Policy and the Code of Conduct and Ethics.

Harassment, Discrimination and Bullying

Harassment, Discrimination and Bullying

Workplace sexual harassment, harassment, discrimination and bullying are serious issues and the NSW Police Force is committed to promoting positive workplaces and ensuring a safe working environment for all staff.

Systems and processes have been set up to encourage reporting and when it is reported NSWPF is committed to acting promptly to:

1. Stop the harassment – this includes looking at secondary harassment through rumours, gossip and innuendo and breaches of confidentiality.
2. Ensure the harassment does not recur - in the first instance by providing employees with an opportunity to improve their conduct unless the conduct was unacceptable to warrant their removal from the workplace.

Standards of behaviour and responsibilities – all staff

The appropriate standards of ethical behaviour, conduct and performance are set out in the:

- *NSWPF Harassment, Discrimination and Bullying policy* – ensuring safe and respectful workplaces free from sexual harassment, harassment, discrimination and bullying
- *NSWPF Code of Conduct* – in particular point 4 treat everyone with respect, courtesy and fairness
- *NSWPF Statement of Values* – Leadership - acting as a role model for your colleagues and community; Accountability - acknowledging ownership and being answerable for your actions
- *NSW Police Force Customer Service Program* - "Treat your (colleagues) as you would like to be treated".

Appropriate workplace behaviour – failure to show respect and courtesy

Should behaviour not reach the threshold of bullying or harassment, appropriate workplace standards must still be met. The behaviour by any officer should remain consistent with the standards set out in the *NSWPF Code of Conduct and Ethics* that is to:

- interact in a courteous and polite manner that is professional and does not intimidate others
- treat others in the way they wish to be treated, understanding that they have pressures and priorities
- communicate clearly, speaking calmly and professionally
- accept that others have differing opinions and views
- be approachable, considerate and sincere when dealing with others
- in the workplace, unlike other social settings, when conflicts arises, there is a higher expectation that all parties will work towards it being effectively settled.

Examples of failing to show respect and courtesy (not a pattern of behaviour) include:

- questioning in a raised voice, accusing others of bias, or claiming they are unprincipled
 - yelling and/or speaking all the time and not allowing others to be heard
 - ignoring and working around some one who should be involved in the process
 - displaying a contemptuous attitude towards others
 - attempting humour by diminishing the dignity of a co-worker.
-

Responsibilities of Managers and Supervisors

Under the *Occupational Health and Safety Act 2000* supervisors have responsibilities for handling and attempting to resolve workplace issues as they occur, particularly as they are usually best placed to act early and take relevant responsibility for themselves and their staff.

Further, under the NSWPF *Harassment, Discrimination and Bullying Policy* supervisors:

- will adopt proactive and preventative approaches to the management of inappropriate workplace behaviour and take all reasonable steps to prevent harassment, bullying and victimisation from occurring.
- take appropriate action in circumstances where they become aware of breaches of this policy even without a complaint or grievance being lodged.

If it is found that managers/supervisors failed to act they may have not met their responsibilities.

Consequences of Breaches

The NSWPF *Harassment, Discrimination and Bullying Policy* sets out the rights and responsibilities of both employees and managers and notes that any breach of that policy by employees will be considered serious and may result in management action, including dismissal/removal.

In addition to management action, a person who has been unlawfully harassed, or discriminated against, might lodge a complaint with an external body, such as the NSW Anti-Discrimination Board. This may mean a public hearing at a tribunal where it may be found that the person discriminating is personally liable for an award of damages. Additionally, some forms of unlawful discrimination may also be offences under the criminal law.

What does the Workplace Relations and Equity Unit do?

The Workplace Relations and Equity Unit is a business unit of Human Resources Command which provides:

1. a consistent response to workplace relations and equity matters.
2. clarification, advice, training and support to employees, Commanders, managers and supervisors in dealing with issues. This may include:
 - assisting the enquirer to:
 - clarify whether the behaviour may constitute a workplace equity matter
 - understand how the matter will be handled and manage their expectations if necessary
 - suggest strategies by which they might resolve the difficulty.

- providing assistance to Commanders, managers and supervisors in:
 - handling matters
 - assessing appropriate action within relevant delegations and
 - meeting their responsibility to ensure reasonable steps are taken to address and prevent inappropriate workplace conduct, that is, responsibility does not end when a matter is resolved.
- 3. an alternative option to raise matters and increase confidence in reporting.

Further detail is set out in the *Workplace Equity Resolution Procedures*.

How are matters handled?

The workplace equity resolution model is based on the underlying principles that:

- the need for formal processes is commensurate to the potential seriousness of the matter and
- wherever possible matters should be resolved at the level where the workplace equity matter occurs. That is, at the lowest level possible.

Further detail is set out in the *Workplace Equity Resolution Procedures*.

Support

Within the WREU a dedicated officer has been allocated to each region and specialist command.

Where a matter is allocated for investigation in addition to the WREU, complainants may be able to access support from the Internal Witness Support Unit of the Professional Standards Command. Complainants are allocated a case officer who:

- maintains liaison with the complainant, investigators and the commander during the investigation process
- monitors and reviews well being throughout the complaint process
- ensures management action is considered concerning any detrimental action that may be consequently experienced by the complainant.

Also Commands can also access a trained psychologist to confidentially work through any range of workplace issues at any time through the ManagerAssist service.

Contacting the Workplace Relations and Equity Unit

Within the WREU a dedicated officer has been allocated to each region and specialist command.

Contacts are available on the Workplace Equity Unit intranet site.

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.

Also consider closing the venue via your powers and obligations at common law to prevent breaches of the peace.

Heritage Matters

When a breach of the *Heritage Act of NSW* comes to your notice, contact the DOI who notifies the Department of Planning. Enforce provisions of the Act and provide help to officers of that department.

Immigration Matters

Under the Migration Act 1958, you can detain an illegal immigrant.

The Immigration Status Service (ISS) conducts immigration status checks of persons who come to the attention of Australian Police agencies and are suspected of being unlawful non-citizens.

When utilising this service, police MUST put their request in writing and either:

- Phone the details and follow up with a written request;
- Fax the request on official letterhead, or
- Email the request.

For urgent matters, police in the field can request a status check via VKG who will undertake the written request and await the response from ISS. This should only occur when the officer is in the field and unable to prepare the written request.

Once ISS officers have established the status of the person of interest as lawful or unlawful, the result will be provided in the same format in which it was received. Where police are informed that the person of interest is unlawful, they will be notified and given further instructions by the DIAC officer. DIAC officers are located at Police Headquarters within the Operational Information Agency.

Advise the following:

- the travel document held ie: passport, seaman's papers etc
- whether married or engaged to an Australian citizen or resident, living in a defacto relationship and if there are children from the relationship
- whether supporting a spouse, defacto or children
- the likelihood of escaping.
- Health/Mental Health Issues

Responsibilities

Investigating officer

Advise detained people of the right to have their consulate informed and record any reply in your notebook. Remember, you might need the services of an accredited interpreter to communicate effectively. Contact the consulate (relevant information on an answering service will suffice) and record details in your notebook.

In all cases of the detention of an illegal immigrant, fax details including COPS reference to the Commander Protective Security Group.

Make a notebook entry. Record the letters N/C under the nationality section of the charge book, and in the case of on line charging, on the forms' screen.

Supplying information to consulates

Investigating officer

Supply the following:

- the station where the person is held and name of detaining officer

- name, address, age and nationality
- bail conditions
- brief particulars of charge
- date of next court appearance
- number of passport, document of identity, entry permit or Immigration Department (Form 56) folder.

Ask the consulate to confirm these details, if possible.

If, within 48 hours, the detainee claims not to be the person liable for detention, ask them to make a statutory declaration and notify Immigration immediately.

Removal of children from Australia without parental consent

Notify Immigration, or after hours the Australian Federal Police at Sydney Airport, if you know of a child being taken out of Australia without parental consent.

Deserters from visiting armed forces

See the section on 'Miscellaneous matters'.

Criminal justice stay certificates

Where an illegal immigrant is needed in court as a witness or defendant, apply through your region commander to the Commissioner for a Criminal justice stay certificate. For further information on Criminal Justice Visas/Stay Certificates please visit the DIAC Liaison Unit intranet site

Ensure you confirm identity and include in any application the Immigration Department dossier number.

Non-citizens convictions

Arresting officer

Complete a P230 in duplicate when an illegal immigrant has been jailed for a year or more.

Police prosecutor

Submit a P230 when proceedings are instituted by someone other than a police officer.

In either case, send the form to your commander for signature.

Commander

Examine the form, and if correct, sign both copies 'for the Commissioner of Police'. Send them to:

- The State Director, Department of Immigration and Multicultural Affairs, Sydney NSW 2000.
 - Send a photocopy to the Commander, Protective Security Group.
-

Specific foreign nationals

Foreign Students

In the event of the detention, serious injury or death of a foreign student in NSW, under the Australian Development Assistance Program or any other scheme, notify Protective Security Group and supply the following information:

- full name and residential address
 - nationality, place and date of birth
 - date of arrival and passport number
 - brief particulars of incident.
-

Notifying death or other urgent circumstances

Australia has concluded bilateral agreements with several countries, which impose additional obligations. These obligations can be viewed in detail on the NSW Police Force Intranet site for the Protection Operations Unit, under Information for Operational Police.

Inform the relevant consulate without delay of the following:

- The death of someone who is not an Australian citizen (foreign national) or holds dual citizenship
- A foreign registered vessel has run aground or been wrecked in NSW waters
- A foreign registered aircraft
- A guardian or trustee is appointed for an illegal immigrant who is a minor or has limited capabilities.

Where the incident involves unusual or significant circumstances, or media attention is likely, notify the relevant consulate as a matter of urgency as well as contacting the NSW Police Force DIAC Liaison Unit by phone during business hours or email. During business hours send a SITREP via the chain of Command to the Commander Protection Operations Unit (POU), Counter Terrorism & Special Tactics Command.

Outside business hours, contact the Duty Operations Inspector (DOI).

When completing the COPS even ensure you disseminate the information to the POU.

DOI

Ensure the Commander, POU is notified.

Police Generally

Prepare a report, in duplicate, and include the following:

- Last known place of residence
- Place and date of death

- Cause of death (if known)
- Particulars of next of kin
- Date of entry to Australia.

Both copies of the report are to be forwarded to your Region Commander via the chain of Command. The region Commander will retain the copy and forward the original to the relevant consulate.

Assistance in contacting a Consulate or Embassy can be done by contacting the POU or through the DOI.

Death of British seamen

If the deceased was an illegal immigrant seaman on a British ship, notify the Area Manager, Australian Maritime, Safety Authority.

Inspections

Command Management Framework (CMF)

Conduct all inspections in compliance with the *Command Management Framework* (CMF). Refer to the CMF Manual (downloadable from the Intranet) for further details.

Commanders 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).

Intelligence Gathering and Analysis

Intelligence gathering

Get information about postal, telephone services and a range of government and non government information from the Operational Information Agency. OIA is the sole connection for external information access on behalf of the NSW Police Force.

OIA operates within business hours Monday to Friday. The Service Centre, Operational Information Agency is available 24 hours providing advice, however, for urgent enquiries contact the DOI.

Information is available, through the Centre from the following external sources:

- Australian Bureau of Criminal Intelligence (ABCI)
- Australian Customs Service
- Australian Securities Commission
- Business and Consumer Affairs
- Australian Tax Office
- AUSTRAC
- Births, deaths and marriages
- CENTRELINK - Social security, Medicare
- Department of Corrective Services
- Department of Immigration and Multicultural Affairs
- Electricity providers
- Land Titles office
- Law enforcement agency liaison - interstate and overseas
- National Names Index
- New South Wales State Parole Authority
- Rental Bond Board
- State Electoral Commission.

To gather information, make a request via the iASK System. Your request is to be authorised by Inspector or above, and any costs incurred will be attached to the Cost Centre you will be required to quote. 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 use of iASK, the Handbook is available 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.

For intercepting telephone calls refer to the section on 'Warrants - Warrants under the Telecommunications Interception Act'. For the purpose of Triangulating Calls, contact the DOI.

Internal Witness Support

All complaints made by Police employees are referred to as Internal Police Complaints with the person laying the complaint referred to as an Internal Police Complainant (IPC). An Internal Witness (IW) is any person employed or engaged by NSW Police who provides information, (which may include that emanating from questioning or during the course of an investigation) within legislative or organisational guidelines alleging corrupt conduct, maladministration, serious and substantial waste or other serious misconduct by another member of the Police, **and who has been registered as an Internal Witness.**

The Internal Witness Support Guidelines

The Internal Witness Support Guidelines is to be supported by all Police employees and sets out the procedures and guidelines regarding the provision of advice and support to Internal Witnesses within the organisation.

The purpose of these guidelines is to set out the procedures for providing advice and support to internal witnesses within the NSW Police Force and to:

- Contribute to the creation of a professional organisational climate where all employees feel confident to report misconduct and corruption
 - Heighten awareness within the NSW Police Force that individual employees have responsibilities regarding internal witnesses
 - Provide employees reporting these issues with support and strategies to protect them from detrimental action within their workplace
 - Promote strategies to support commanders in providing appropriate support for their staff
 - Provide support and positive reinforcement to NSW Police Force employees who identify and report the misconduct of colleagues
 - Ensure all NSW Police Force employees are aware of, and have access to, if applicable, support available to internal witnesses
 - Ensure all NSW Police Force employees are aware of their responsibilities with regard to internal witnesses
 - Improve the understanding of the need for all NSW Police Force employees to be aware of the conduct of their colleagues and to take positive action
 - To create and maintain an acceptable ethical environment where all NSW Police Force employees can confidently report corrupt conduct, maladministration, serious and substantial waste or misconduct by their colleagues.
-

Avenues for Reporting Information

Police officers are required to report misconduct or corruption and may do so through line command or to any senior officer. Administrative staff, ministerial and temporary employees may use the same channels for reporting.

- Reporting concerns to a senior officer/management
- Professional Standards Duty Officer
- Region Professional Standards Manager
- Region commander/senior manager
- Commander, Professional Standards Command
- Manager Professional Conduct Team (administrative staff)

- Manager IWSU, or Director Corporate Advice and Response, Professional Standards Command (Protected Disclosures)
- Corruption Hotline, where complaints are received and forwarded to the relevant complaint management team for due consideration (can be done anonymously)
- New South Wales Ombudsman and Police Integrity Commission and the Independent Commission Against Corruption (ICAC).

The NSW Ombudsman will normally receipt and forward complaints received to NSW Police Professional Standards Command for appropriate attention. They also notify the Police Integrity Commission (PIC) of all notifiable complaints received.

Similarly, the PIC notifies both NSW Police and the Ombudsman of all notifiable complaints received.

Commanders and Managers

On becoming aware of an IPC/IW under your command you must:

- Acknowledge, support and positively reinforce the propriety of their actions
- Protect them from being victimised or harassed
- Take appropriate management action if an internal witness has been victimised or harassed
- Prevent/eliminate actions against IPC/IW's by other people which might be detrimental or contrary to the *Police Act*, the *Protected Disclosures Act*, the *Public Sector Employment Management Act*, *Code of Conduct and Ethics* or the *Police Integrity Commission Act*.
- Maintain an environment where members of the NSW Police Force are confident they will be supported and protected in coming forward as an internal witness
- Respond promptly, genuinely and sensitively to their needs
- Provide appropriate advice and referral to support services if required

For further information refer to the NSW Police Force intranet site 'IPC – A guide for commander / managers'.

Investigators

Refer to the Complaint Handling Guidelines on the NSW Police Force intranet.

Confidentiality

There is legislative requirement under Section 169A *Police Act* that a police officer must not disclose to any person the identity of a complainant unless certain circumstances exist. The *Public Sector Employment Management Act 2002* guidelines also require confidentiality. However, the IPC/IW must be informed that because of the internal reporting systems confidentiality is limited. Similarly, confidentiality relating to the identity of an IPC/IW cannot be maintained where matters proceed to any court or tribunal.

Responsibilities of all NSW Police Force Employees

It is the responsibility of every employee of the NSW Police Force to refrain from any activity that is detrimental to an employee who has lodged a protected allegation under the *Police Act, 1990* or a protected disclosure under the *Protected Disclosures Act, 1994*. Section 206 *Police Act 1990*, Section 20 *Protected Disclosures Act 1994*, Clause 50 *Police Regulation 2008*, deem it an offence to take this detrimental action. Any such activity must be reported to a senior officer.

Occupational Health & Safety ACT:

The NSW Police Force is committed to ensuring the health, safety and welfare of all employees and others in the workplace. The organisation expects all employees to be aware of their

statutory obligations and to comply with the provisions of the *Occupational Health and Safety Act 2000*.

As an employee you **must**:

- Take reasonable care for the health and safety of people
 - Co-operate with NSW Police Force to enable compliance with any requirement under the Act or regulation that is imposed in the interest of health, safety and welfare.
-

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.

NB: For homicides and other complicated or protracted cases consider using e@gle.i.

Criteria

Case management supervisor

Examine all COPS entries 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 (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 coordinator
- record details on COPS, including your reasons for not investigating on the Work Priority Section of Case Management and disseminate them to your investigations coordinator.

Investigations coordinator

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 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
- 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

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

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

Contact the Department of Transport for procedures involving air navigation offences.

Also refer to the *Commonwealth Air Navigation Act and Regulations*.

Offences at sea

If a foreign ship is involved, get the consent of the relevant Attorney General before prosecuting, except in fisheries related matters.

For further information refer to the Crimes at Sea Act (Commonwealth) and the Crimes (Offences at Sea) Act, NSW.

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 Attorney General's Department (AG). If necessary, the form is 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, conviction or change of address

Promptly report any death, conviction or change of address of any JP to the Manager, Claims, Remissions & Justices of the Peace Section (AG).

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.

Leave

Annual/Recreation Leave

Refer to Division 3 & 4 of the *Police Regulation* and Clause 18 of the *Crown Employees (Police Officers – 2009) Award* for annual leave entitlements.

Apply to your Commander for any period of leave, giving as much notice as possible.

Extended leave

Refer to the *Police Regulation*, Division 2 and Clause 20 of the *Crown Employees (Police Officers – 2009) 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

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 18.12 of the *Crown Employees (Police Officers – 2009) 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

If you are incapacitated while on extended or annual leave, you may apply to have the leave recredited through your commander (refer to Clause 21.3.7 of the *Crown Employees (Police Officers – 2009) Award*).

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

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.

NB: Refer to the *Crown Employees (Police Officers – 2009) Award* Clause 22 And 30 for Personal Carers and FACS leave provisions.

Maternity leave

As soon as you learn you are pregnant, promptly submit a report to your commander so suitable duties may be considered.

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.

For further information, refer to Clause 23 of the *Crown Employees (Police Officers – 2009) Award*

Adoption leave

Provide your commander 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 23 of the *Crown Employees (Police Officers – 2009) Award*.

Parental leave

Provide your commander with a report if you intend applying for Parental leave.

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 for a period of up to one week.

For further information, refer to Clause 24 of the *Crown Employees (Police Officers – 2009) Award*.

Right to request additional maternity, parental or adoption leave

Notify your commander of your intention to request the additional leave prior to commencing maternity, parental or adoption 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 26 of the *Crown Employees (Police Officers – 2009) Award*.

Military leave

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 32 of the *Crown Employees (Police Officers – 2009) 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.

Special Leave

Special leave is granted by the Government in recognition of special services eg: attending Olympic/Commonwealth Games, jury service, emergency volunteer service.

Apply for special leave in writing to your commander.

(Refer to Clause 33 of the *Crown Employees (Police Officers – 2009) Award and Chapter 6 of NSW Premier and Cabinet Personnel Handbook*).

Sick leave

Refer to Clause 21 of the *Crown Employees (Police Officers – 2009) Award*, for sick leave entitlements and the current *Sick Leave Policy available on the Intranet under HR Policy and Projects*.

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.

If you absent yourself from your home/residence while on sick leave you will need to demonstrate that your physician approved your absence, or you were obtaining medicines or medical treatment.

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

A PMO may place an officer on restricted duty. Details are sent to the officer's commander.

Commanders

Arrange appropriate duties for the officer. If you have any enquiries contact their doctor.

Commanders' responsibilities

Supervision of sick leave

Be aware of officers frequently absent on sick report for short periods and ensure they provide medical certificates for any absence.

Send a report at the end of each month to your region commander, giving names and full details of all officers on restricted duties.

Interview any officer absent on more than five occasions in any 12 month period (including those supported by a medical certificate). You may direct the officer to produce certificates for all subsequent absences or you may send them to the PMO.

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. Visit the officer personally when :

1. there is concern for the officer or family;
2. you need to seek the return of arms and appointments;
3. certificates have not been produced or

4. 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.

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.

Leave without pay

Refer Clause 31 of the *Crown Employees (Police Officers – 2009) Award* and the *Full time Leave Without Pay* policy on the Intranet under HR Policy and Projects for leave without pay entitlements.

Submit applications for leave without pay to your commander 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.

Ministerial employees

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.

Investigating officer

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, contact your Local Area Commander (or equivalent), in writing 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.

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.

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 Singh Protocol 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, 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 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 Command or 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@tsi 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 impartiality 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.

Listening Devices

Listening Devices Act and Regulations

Consent to commence proceedings

OIC of case

If you obtain sufficient evidence to warrant the commencement of proceedings against a person for an offence (summary or indictable) under this Act or Regulations, submit the master brief and three copies through your supervisor to your brief manager to conduct a quality review together with a covering report seeking written consent from the DPP.

Brief Manager

If satisfied with the quality standards and requirements of the brief, send one copy of the brief with the covering report from the OIC of the case to the DPP seeking consent to commence proceedings. If not satisfied, process the brief of evidence in accordance with the court matters guideline in the *Police Handbook*. Retain the DPP's consent as proof on the master brief and copies. Advise the OIC of the case of the consent to commence proceedings.

General

After proceedings have started, follow the court matters guideline in the *Police Handbook* in regard to the brief management systems.

Refer to the "Warrants" guidelines in the *Police Handbook* concerning applications for warrants under this Act and Regulations. Law News articles concerning the lawful use of listening devices are on the Law intranet site.

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.

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.

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 Property

Found property

Property handed in at station

When you accept the property:

- examine it in front of the person handing it to you
- enter a comprehensive description in the miscellaneous property and receipt book (MPRB) (one entry per line, rule off unused lines)
- obtain the name, address and signature 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
- sign as receiving officer and hand over part A as a receipt, telling the finder, personal items (keys etc) or those considered dangerous or needing a licence are not normally given back to the finder
- complete part C, circumstances of finding, whether it was on private premises and if the building owner is a claimant
- tag the property with the MPRB reference number and secure it
- make immediate inquiries 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 and the MPB reference number, then write your names and each of you sign in the remaining boxes. Stick the MPB label to the bag then place it in the station safe, ensuring you make an entry in the safe register, including the seal number.

Do not record particulars of exhibits in the MPRB under any circumstances.

Forward the money to the Accounts Branch for lodgement to the Crown Trust (Money Found) account. If possible secure the property in a drug bag and put it in the station safe.

Property handed in away from station

If you accept property while away from your station:

- examine it carefully in front of the finder
- enter details in your notebook and have them sign it to verify correctness
- note whether the finder is a claimant
- take the property to the nearest station, get the property entered in the MPRB (you sign for the finder) cross referencing the MPRB entry 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 the MPRB 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, make a note in the MPRB and record their details in the 'actions' section of the 'located property' event 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 entries in the *Miscellaneous Property Receipt Book* based on risk using the CMF. Check property against the entries and report outstanding matters to your commander.

Ensure each entry is recorded correctly, required reports have been submitted and property is not being kept unnecessarily.

After each inspection, prepare a summary of all uncleared items in the back of the book showing:

- a list of reference numbers of all items on hand
- the total number of uncleared items
- the date, your name and signature.

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 acquit the relevant sections of the MPRB, having the owner sign in the appropriate place. 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. Note their identification type and number eg: licence and licence number.

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
- in country areas, consult your commander on whether an auction should be conducted locally or at the region centre.

Before handing over property listed in the MPRB:

- 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.

In the MPRB, record:

- claimant's identity and address under the heading 'How disposed of'
- time and date, and name of authorising officer.

Complete the relevant sections for disposal/collection of property and have the claimant fill out the corresponding ones for receiving in the MPRB.

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.

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.

Before giving property to a third person, get the written and signed authorisation of the owner. Ensure the authority identifies who is to get the property. Have the third person sign a receipt to finalise the transfer. (Note type and serial number of identification). Clear the entry in the *Miscellaneous Property Receipt Book*.

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:

- 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 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:

- enter details in your MPRB and send part A to the forwarding station
- when handing property over, get a signature, collect all expenses, issue a general receipt and forward costs with a short report to Accounts
- return papers to the forwarding station for filing

- update the original COPS event (if one exists) by completing a 'located property' incident with the sub category 'recovered property'.

Follow these procedures even if the owner/finder lives interstate.

Exceptional circumstances

Confer with the Office of the General Counsel if the finder is not the owner of the premises on which the property was found or is a NSWPF employee.

Rival claimants

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.

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. File it against the relevant entry in the *Exhibit* or *Miscellaneous Property* book.

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.

Recovered passports

When passports are recovered, a COPS event should be created and the passport returned 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.

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 in the MPRB at your station. If the property is seized as an exhibit ensure it is recorded in the Exhibit Book.

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.

For further information on missing persons, see the Policing Issues & Practice Journal, October 2007 and the NSW Police Force Missing Persons Intranet site Missing Persons Policy and Procedure and NSW Police Force Missing Persons Policy and Procedures 2007. A suggested checklist of actions is at the end of this instruction.

Missing person reports

Officer accepting and completing missing person reports

Missing person 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.

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 (eg: need for medication) and to the community.

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 Person's" 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 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) that can later help identify the missing person can often be found at the scene or the missing person's home. 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 all details onto the Computerised Operational Policing System 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 Computerised Operational Policing System 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 Computerised Operational Policing System 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 Missing Persons Unit. The Missing Persons Unit 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 Missing Persons Unit will receive the event from the reporting state and create an event. The event will then be forwarded to the station nearest to the location where the person was last seen for investigation. 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 Computerised Operational Policing System 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 Missing Persons Unit. Keep the original document at your LAC and register it into the Exhibit Book. 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 Missing Persons Unit and a signed authority allowing release of details to the media. Ensure a parent, relative, NOK or guardian signs this Authority for Publicity or attach the photo and authority to COPS Multimedia.

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 Missing Persons Unit.

To minimise delays in arranging publicity, photographs and signed Authority for Publicity documents should be sent to Missing Persons Unit electronically on Computerised Operational Policing System Multi media System.

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 are not to be finalised unless the person is located or the matter has been determined by a Coroner. The will remain outstanding on COPS until the body is located.

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 are required to be sent to the Missing Persons Unit every three months.

Locating missing people

Officer locating missing person

Do not locate a missing person on the word of the person reporting or next of kin. A missing person can 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 Missing Persons Unit.

The locating officer should check that the missing person is safe and well. Provide any assistance where necessary i.e. medical attention.

After locating a missing person, update the Computerised Operational Policing System by creating a new incident as 'Missing Now Located Person' in the original event, remove any Missing Person warning, where a warning had been placed on the system (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 missing person is an adult or above the age of 16 years, notify the person who lodged the missing persons report that the person has been located. If however, the located person does not wish their whereabouts to be disclosed and the matter has been referred to DOCS (under 18ys), do not disclose their whereabouts.

On locating a missing person who is 16 years or under inform the parent/guardian and the person reporting that you have located them. If the missing person does not want to return home, place the child in the care of the Department of Community Services. Tell 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

Enter details on the Computerised Operational Policing System (COPS) as a Deceased/Unidentified Body/Remains (Incident Type/Classification) event and contact the Missing Persons Unit as soon as possible when bodies or skeletal remains cannot be identified.

Once you have identified the remains, you should update the event to Deceased/Identified Remains/Body. Also update the original Missing Person event by creating a new Incident-Deceased/Identified Remains/Body. Include the ID method and link the two events.

Ensure the COPS event contains a complete description of the deceased, clothing worn and approximate time or date of death. Also include a full description of any jewellery or other property found on or near the body and the morgue reference no.

Local Area Command Police provide the initial response to the discovery of an unidentified person or body which includes the following:

- Searching COPS and the Missing Persons Database for possible matches to reported missing persons
- Recording the particulars of the person on COPS by creating a 'Deceased' event on COPS using the status as 'Unidentified body' of 'Unidentified Remains.'
- Contact the Missing Persons Unit for assistance.
- Photograph the unidentified person/body. This is normally done at the morgue if deceased. (Contact FSG for assistance)
- Record distinguishing features of the Unidentified person eg: tattoos, scars, marks
- Collect fingerprints for comparison on AFIS (Contact FSG for assistance)
- Forensic Odontological charting of the Unidentified Person – this is an examination of the unidentified persons' teeth and jaw by a Forensic Odontologist (Forensic Pathologist and/or FSG can assist to arrange)
- Record jewellery and clothing worn by the Unidentified Body
- Collection of Biological sample for future DNA testing
- Complete P79A
- Obtain a copy of the Post Mortem Report and other relevant reports and forward copies to the Missing Persons Unit.

Attach a dental chart to the P79A, if available, with a full-length photo of the body. Take close up photos of the head, from directly above (full face) and one of the side of the head (profile). Ensure these are taken before the post-mortem examination. Ensure the face is cleaned, eyes opened and hair tidied beforehand, with approval of the Coroner. These actions should be done with the assistance of Forensic Service Group.

Send copies of the photos, Post Mortem results and dental chart to the MPU.

When the Coroner has made a finding on the circumstances, send a copy along with the exact burial site to the Missing Persons Unit.

Identification of deceased bodies and skeletal remains

Where an 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. Police MUST ensure that all evidence that may assist in determining identity and cause of death is preserved and collected.

See Also Police Handbook –

- Crime Scenes
- Coroners Matters

The officer in charge of a deceased matter is responsible for ensuring a deceased body is identified as soon as possible using the most appropriate method. Advice and assistance may be sought from the Sergeant Assisting the Coroner for matters that are reported to the State Coroners Court at Glebe, the local Coroner in other areas or the local pathologist. The Investigative Support Team at the Missing Person unit currently holds records for all unidentified deceased in this state and are also available to give advice and to assist in identification of a unidentified deceased or remains.

In situations where bodies or skeletal remains cannot be immediately identified, police must enter details on the Computerised Operational Policing System (COPS) as a Deceased incident event and contact the Missing Persons Unit. The morgue reference number should also be included.

Visual Identification

Visual identification is by far the most common and preferable method of identification of deceased persons. Where a deceased body is visually identifiable, a suitable person should be located to carry out a formal identification of the body. The identification must take place in the presence of a police officer and a P443 Identification Statement is to be completed. The Identification Statement is to be submitted to the Coroner with the P79A Report of Death to the Coroner.

Where a formal visual identification is not able to be carried out at the scene, arrangements should be made to meet the identifying person at the morgue where the body is being held. A P443 Identification Statement is to be completed and submitted to the Coroner. The morgue should be contacted prior to attending so the body can be prepared for the identification to take place.

It is at the discretion of the attending police or the officer in charge as to the suitability of a person to carry out a visual identification. The suitability of the identifying person should be judged by the relationship to the deceased and length of time they have known the deceased. The identifying person can be a family member, a friend, an employer, a health professional or caseworker, or other person as considered appropriate. There is no minimum timeframe the identifying person must have known the deceased to be able to carry out a formal identification.

The Coroner may not accept a visual identification where the identifying person is considered to be inappropriate. In this case, another person must be located to carry out another visual identification or a non-visual identification should be carried out.

Where the face of a deceased has been significantly altered by such means as burning, decomposition, bloating from an extended period in water or significant injuries, DO NOT conduct a visual identification. Due to changes to the features of the face, visual identification may not be reliable and may cause distress to the identifying person.

The Coroner may reject a visual identification carried out due to the condition of the body. Where this occurs, a non-visual identification must be carried out.

Where visual identification is unable to be carried out, fingerprint, Dental, DNA and other methods can be used. Contact MPU for advice.

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 Missing Persons Unit 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 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 Missing Persons Unit 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.

Where after 12 months when a missing persons has not been located and there is no sign of life; or as soon as your investigation leads you to suspect that the missing person is deceased, you are obliged to notify the Coroner. Complete a P79B Form-Report of Suspected Death to the Coroner.

Contact the Missing Persons Unit for assistance with inquiries and statements for inclusion in the Coronial brief. Missing Persons Unit will conduct 'sign of life' checks and complete the relevant statement for inclusion in the coronial brief. These checks should be completed less than 12 months prior to the brief being submitted. Checks will not be conducted without submission of the P79B.

Missing Persons Unit

Keep records of all matters being prepared for inquest and 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 Missing Person is still missing at 3 months, enquiries should be made to gather dental records, medical records and obtaining DNA samples. The Interpol Disaster Victim Identification (DVI) Ante Mortem Form is used as the template to record detailed information concerning outstanding missing persons. The Missing Persons Identification Form is also to be completed. Both forms are located on Intranet/Systems/Missing Persons Applications/Interpol AM Yellow Form and MP Identification Form.

At least one mitochondrial DNA sample in the form of a buccal swab should be obtained from a maternal blood relative of the missing person. A nuclear DNA sample of the missing person should also be obtained. The mitochondrial DNA sample should be forwarded as an exhibit to the Missing Persons Unit. The sample for nuclear DNA testing should be sent to the Division of Analytical Laboratories (DAL) as normal. These items can be returned at a later time upon the missing person being located if required by the family. Contact should be made with the Missing Persons Unit for advice.

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 this.
- keep records of telephone communications.
- ask for Supervisor and/or Duty Officer for assistance if necessary.
- keep all additional responding personnel, including supervisors and investigators up to date by using sitreps and COPS.
- ensure everyone at the scene is identified and interviewed separately (and details are properly recorded, including contact details).
- identify each person's relationship with the missing person.
- ask each where they last saw the missing person and what they think has happened.
- 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).
- treat the area as a crime scene — seal the area and the person's home, arrange collection of evidence and forensic material that might help to identify the person (eg: hairbrush, toothbrush diary, photos, items with person's fingerprints, footprints, teeth

impressions) is not destroyed during the initial search. 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.
-

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.

Mounted Police Charter of Business

General Patrols - Consist of planned rostered patrols to provide high visibility proactive policing. General 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.

Crowd Control – Used to influence and assist in the control of both passive and active crowds. Work in conjunction with the Public Order Riot Squad (PORS). In recent years the demand for Mounted Police resources for crowd control in both passive and hostile crowds has increased dramatically. With the increasing number of protests and demonstration marches the unit is often called out at short notice and on some occasions with no advance notice. Mounted Police regularly participate in OSG and PORS training days with OSG Units from various regions.

Special Operations – Are utilised by LACs for Mounted patrols in conjunction with other resources to target a specific problem. The use of Mounted Police in special operations usually 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. The use of Mounted Units in a Protocol capacity typically occurs for Mandatory Protocol events such as parades, ANZAC day, funerals and escorts. The horses are used to either lead the procession or for a static ceremonial presence.

The Mounted Section also participates in Non-Mandatory Protocol events that include visits to schools, pre-schools, open days and other community events, and work in conjunction with the police band.

Tour Group and museum tours

The Mounted Police conduct tours of the stables and museum every Tuesday and Thursday from 10:30am. Police usually bring work experience students or visiting Police to this section for an insight into the historical background, view the museum and walk through the stables to see the day in the 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

Section 276 of the Act provides that a police officer may 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.

Premises includes a building, structure, land or place (whether enclosed or built on or not), mobile plant, vehicle, vessel or aircraft.

You may under this section:

- i) direct the person whom the authorised person believes to be the occupier of the premises to cause the emission of the offensive noise to cease, and/or
- ii) direct any person whom the authorised person believes to be making or contributing to the making of the noise to cease making or contributing to the making of offensive noise.

Remember when issuing a noise abatement direction you are exercising a power and as such you must comply with the safeguards under s. 201 of the *Law Enforcement Powers and Responsibilities Act 2002*.

Contravening noise abatement directions

Refer to s.277 for circumstances when a noise abatement direction has been contravened.

A person who contravenes a noise abatement direction is guilty of an offence and the maximum penalty is 30 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 give a noise abatement direction s. 280 deals with police powers to enter any premise by virtue of a 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 or to investigate whether a noise abatement direction has been contravened.

The complaint may be made in person or by telephone directly to the magistrate.

The warrant is to be executed as soon as practicable after it is granted, but not later than 24 hours and may be executed by day or night. Upon executing the warrant you may use reasonable force for the purpose of entering the premises and with the aid of assistants as considered appropriate.

Powers of police after entry by warrant

Section 281 provides that a police officer who enters any premises by virtue of a warrant granted under s.280 may take only such action that 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) 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) 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 to give their name and address**, if the you believe on reasonable grounds that the person is the occupier of the premises or is the person causing or contributing to the emission of the offensive noise.

If the person is not the occupier, you may request that person to give the name and address of the occupier of the premises.

Power to seize equipment

Section 282 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

Check subordinates' books weekly. Initial and record the date of inspection, and initial any significant alterations.

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 Professional Standards Command), 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.

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 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.

When off duty avoid involving yourself in neighbourhood disputes, trivial street offences and matters concerning family and friends, unless immediate intervention is justifiable.

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.

Handover the investigation without delay.

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 Directorate.

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
-

Performance Management

The NSWPF will maintain performance management policies and processes to manage and improve individual and organisational performance in order to meet corporate goals and priorities. The NSWPF performance management policy and processes of employees and contractors will reflect the specific needs and objectives of the NSWPF and be consistent with the New South Wales Premier's Department Performance Management and Policy and Guidelines.

The NSWPF Career Management System (CMS) will be the mechanism and process for performance management of most employees and contractors of the NSWPF. CMS will also provide a process for recording Management Performance Review scores and evidence to support the scores for the police promotions process and for the sergeant, senior sergeant and inspector mobility schemes.

The Director, Human Resource Command will approve and 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 police officers and administrative officers within NSWPF, except those at Senior Executive Service level and Probationary Constables. The performance of Probationary Constables is documented in their Practicum Duty Book.
- contractors to the NSWPF where the contract is greater than 90 days.

Commanders/Managers

Ensure scheme processes are carried out at the appropriate time and have in place systems to monitor them.

Participating staff

Keep your commander/manager informed of progress and any problems being experienced.

Personal Matters to be Reported

Changes in domestic circumstances

If you receive a Remote Areas Living Allowance or occupy NSWPF accommodation, report details of any alteration to domestic circumstances, including notification when the age of a child means the person no longer qualifies as a dependent child for the purpose of an Award. Report when officers in receipt of individual Remote Areas Living Allowances form a spousal relationship (including a de facto spousal relationship) which no longer qualifies one officer for payment.

Send the report to your commander for verification and approval of any variations to payments required.

Address details

Advise your commander or manager of your residential address or addresses, contact phone numbers including mobile phone, and personal email address by completing the personal details fields in SAP Employee Self Service.

Your personal email address particulars should be included on line 1 of the mailing address fields. Amend of any change to your contact details within 48 hours.

You are encouraged to provide alternate means of contact in the ESS emergency address field to enable communication during a critical disruption or emergency.

Next of kin and /or Dependants

Provide details of next of kin and/or dependants by completing/updating the personal details fields in SAP Employee Self Service.

Photos and Plans

Photographing scenes

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.

Refer also to the section on Crime Scenes.

Serious accidents

Ensure serious road accidents that might result in proceedings at a district or coroner's court are photographed. NB: **Do not** use *Polaroid* type cameras.

Where possible, ensure the vehicles are photographed in situ. The Photographs may be taken by either the Crash Investigation Unit or the Crime Scene Officer, depending on who attends to record the scene.

Crime scene investigator

If it is necessary to clarify the position of marks on the road with chalk or similar (paint), photograph the area first. Mark the area of interest, so you do not obscure or damage them. Take further photos after marking.

OIC

In serious or fatal industrial and agricultural accidents and suicides, contact the local crime scene investigator.

In all cases of serious accidents, suspicious deaths (including suicides, drug overdoses) inform detectives and crime scene investigators and arrange for their attendance if possible.

You may forward measurements taken at Crime Scenes to the Forensic Imaging Section for preparation using CAD.

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 measurements taken at crime scenes to the Photogrammetry and Drafting Section, Forensic Services Group for them to be prepared on the computer aided drafting system. (CAD)

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.

Police Appeals and Tribunals

Notification to appear

When you want another member of the NSWPF to give evidence on your behalf at the Industrial Relations Commission (IRC), 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 Solicitor.

Request for statements

When you receive a request to supply a statement about a member or former member, who has brought an action under the *Police Regulation (Superannuation) Act*, prepare a statement in triplicate. Send the original and duplicate, with the request and a covering report, through your commander to the Office of the Solicitor.

Attendance concessions

When you attend the IRC, or any other court or tribunal 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, in light of the result.

Wearing of uniform at hearings

If appearing as a witness before the IRC, wear uniform unless normally performing duty in plain clothes.

You may wear uniform or plain clothes when appearing before the IRC as an appellant against a reviewable order.

Proceedings Against Police

Criminal proceedings against officers

Approval must be sought from the commissioner, or delegate, to institute criminal proceedings against a sworn officer. The authority form is self-explanatory and reminds commanders to manage the officer in the workplace and to consult the Director, Management Action and Workplace Services at Professional Standards Command for advice and guidance.

S148 Police Act 1990: Proceedings to be instituted if warranted

If it appears to a police officer conducting an investigation that sufficient evidence exists to warrant the prosecution of any person for an offence, the officer is to cause appropriate proceedings to be instituted against that person. There is no discretion for the police officer conducting an investigation under this part to decide whether or not to institute proceedings against a 'person'. However, approval must be sought from the commissioner to institute criminal proceedings against another police officer.

If there is sufficient evidence to initiate criminal proceedings against a police officer, the investigating officer must report that fact to the CMT and may recommend starting criminal proceedings. The commander must complete the authority to institute criminal proceedings application and report relevant information, including mitigating circumstances, to the delegated officer so that an informed decision can be made. The instrument of delegation identifies the senior officers who consider the application. Further detail on this process is covered in the NSW Police Complaint Handling Guidelines.

Obtaining legal advice from the Police Prosecutions Command and the Office of Director of Public Prosecutions

There are circumstances that will arise during police criminal complaint investigations where the sufficiency of evidence to institute criminal proceedings is ambiguous. Advice should be sought from the Police Prosecutions Command who may choose to seek further advice from the office of the Director of Public Prosecutions (ODPP).

If there is no doubt that there is sufficient evidence to commence a criminal prosecution do not contact the Police Prosecutions Command or the ODPP but seek approval to institute criminal proceedings from the commissioner.

If there is no doubt that there is insufficient evidence to commence a criminal prosecution there is no need seek advice.

If it is not clear whether a criminal prosecution should be instituted seek advice from the Police Prosecutions Command.

If there is sufficient evidence to commence a criminal prosecution but there may be good reasons for the commissioner's approval not to be given, advice must first be sought from the Police Prosecutions Command. If, as a result, it is considered that the commissioner's approval should be withheld, the Police Prosecutions Command must refer the matter to the ODPP for advice. The ODPP will provide advice as to whether there are discretionary grounds for the matter not to proceed. Any request to the ODPP for advice should include the full brief of evidence and copies of all internal advisings.

DPP liaison and disclosure

Investigating officers are required to comply with the NSW Police standard with regard to liaison with the office of the DPP and disclosure of evidence for prosecutions.

Group 6 of the ODPP prosecute all criminal proceedings against serving officers. Investigating police need to liaise with Group 6 solicitors as soon as authority to institute criminal proceedings is approved and provide a copy of the brief of evidence as soon as possible.

Brief of evidence to ODPP

When you institute criminal proceedings against a police officer or NSW Police employee, immediately send a report, together with a comprehensive statement of facts, to the Commander, Police Prosecutions through your commander under confidential cover. In matters where you have issued an infringement notice and you know the person is a police officer or NSW Police employee, take the above action as soon as possible after receiving notification of court election.

Senior Manager, Court Unit

Refer notifications and documents to the Group 6, Office of the DPP.

Disclosure of non-sensitive material

With regard to summary matters investigators are required disclose to the ODPP all relevant information, documents or other things obtained during an investigation, or which come into the possession of the investigator that are not contained in the brief of evidence and that might reasonably be expected to assist the case for the prosecution or the defence. There is no need to complete a disclosure certificate or schedule but investigators must disclose the existence of that material to the ODPP if it is impracticable to provide a copy with the brief.

The same requirements apply for disclosure of material for indictable matters, however the investigator is required to complete and submit to the ODPP a disclosure certificate and if appropriate a disclosure schedule.

Do not serve a copy of the certificate, schedule or the non-sensitive material on the accused or legal representative. However, be aware that disclosure certificate and schedule may be disclosed by the ODPP to the defence.

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

If any information relevant to the reliability or credibility of any witness (eg criminal history etc) is obtained it must be disclosed as non-sensitive information on the disclosure certificate. The relevant information is to be included on the schedule eg full computer printout of the relevant criminal history, including convictions and non convictions but excluding 'spent convictions'. For further details concerning 'spent convictions' refer to the *Criminal Records Act 1991*.

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.

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 the 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.

Protected Disclosures Act 1994

The Protected Disclosures Act 1994 encourages and facilitates the disclosure of corrupt conduct, maladministration, and serious and substantial waste in the public sector. The Act enhances established procedures for making disclosures and protects persons from reprisals.

It is in no way intended to replace the Act and has been compiled with assistance from the NSW Ombudsman. The Act is to remain as the primary reference source for all government employees. [The term complainant is used in preference to 'a person making a protected disclosure' and the term complaint will be used in preference to 'disclosure'].

Protected Disclosure

A protected disclosure is a complaint made in relation to alleged corrupt conduct, maladministration or serious and substantial waste, and must be made by a public official:

- to an investigating authority (Auditor General, ICAC, Ombudsman, PIC, PIC inspector, Director General of the Dept of Local Government or ICAC inspector)
- to the principal officer of a public authority or investigating authority or officer who constitutes a public authority
- to another officer of the public authority or investigating authority to which the public official belongs or to which the disclosure relates in accordance with any procedure established by the authority concerned for the reporting of allegations of corrupt conduct, maladministration or serious and substantial waste of public money by that authority or any of its officers
- to a member of Parliament or to a journalist.

A complainant must be a 'public official' at the time the complaint is made, although protection under the Act is retained even if the complainant then ceases to be a public official. It is not necessary the person complained of is a public official at the time the complaint is made, only that they were a public official at the time of the alleged conduct.

Complaint by a Public Official

To receive the protections afforded by this Act, a complaint must be made by a public official. A public official for the purpose of this Act means;

'a person employed under the Public Sector Management Act 1988, an employee of a State owned corporation, a subsidiary of a State owned corporation or a local government authority or any other individual having public official functions or acting in a public official capacity, whose conduct and activities may be investigated by an investigating authority, and (without limitation), includes a member of the NSW Police Force, a PIC officer or a PICI officer.' A PICI officer relates to an officer of the Inspector, as defined in the Police Integrity Commission Act 1996.

Internal Complaints within NSWPF

A complaint will not be identified as a protected disclosure if the complaint: does not show or tend to show corrupt conduct, maladministration or serious and substantial waste of public money (SS.10, 11 & 12); is not made voluntarily (S.9); is made frivolously or vexatiously (S.16); questions the merits of government policy (S.17); or is made solely or substantially in an attempt to avoid dismissal or other disciplinary action (S.18).

Are complaints made by police under Clause 49 of the Police Regulation considered voluntary complaints? Until recent amendments to the Protected Disclosures Act 1994, complaints made by police were outside the ambit of this Act, as a complaint made under a statutory obligation was not considered to be a voluntary complaint. This meant an officer reporting the misconduct of another officer (as they are bound to do under Clause 49 of the Police Regulation 2008), was not making a voluntary disclosure.

Section 9 subsection (4) of the Protected Disclosures Act 1994 now clarifies that:

"A disclosure made by a member of the NSW Police Force is made voluntarily for the purpose of this section even if it relates to the same conduct as an allegation that the member of the NSW Police Force has made in the performance of a duty imposed on the member by or under the Police Act 1990 or any other Act."

The Act is not a set of guidelines on how to carry out an investigation, it provides protections for internal complainants. Therefore complaints are still investigated in accordance with current investigative processes. However, the Act has certain sections which, while providing protections, are of importance to investigators.

Protection against reprisals

The Act sets out that reprisal or detrimental action against a complainant for having made a protected disclosure is an offence which attracts a maximum penalty of 50 penalty units, imprisonment for 12 months, or both. The onus of proof in a prosecution under this section rests with the defendant to prove detrimental action shown to have been taken against the internal complainant, was not substantially in reprisal for the person making the complaint.

Confidentiality

Section 22 of the Act states the identity of the complainant will not be disclosed unless:

- the internal complainant consents in writing
- it is essential having regard to the principles of natural justice, that the identifying information is disclosed to the person the subject of the complaint
- the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively, or it is otherwise in the public interest to do so.

Section 169A of the Police Act states:

A member of the NSW Police Force must not disclose to any person the identity of a complainant unless the disclosure is made:

- a) in accordance with guidelines established by the Commissioner, or
- b) with the consent of the complainant, or
- c) in accordance with a requirement of or made under this or any other Act, or
- d) for the purposes of any legal proceedings before a court or tribunal.

Notification to person making disclosure

The internal complainant is to receive notification within six months of a complaint having been made of the action taken or proposed to be taken in relation to their complaint. As is currently the case, many protected disclosures are made to an investigating authority and referred to the NSWPF for investigation or other appropriate action. In this instance, the onus falls on the Force to inform the internal witness of the result of the investigation.

Protocol

For protocol and ceremonial procedures, see the *Protocol Manual*. It embraces funerals, parades, saluting and uniform requirements.

Public Expectations

The people of NSW are entitled to expect laws are upheld, public peace is preserved and that police exercise authority responsibly. Treat all people in a fair and impartial manner, regardless of:

- sex
- race
- age
- culture etc.

Balance your commitment to prevent and investigate crime with the need to speak courteously. **Do not** harass or hinder any person.

Treat people under your control properly, remembering no matter what the alleged crime a person is innocent until proven guilty.

When detaining anyone, adhere to the principles of the Code of Practice for CRIME.

When on duty avoid becoming involved in police matters which concern family or friends or in which they have a personal interest unless immediate intervention is justifiable.

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.

Handover the investigation without delay.

As a general rule, do not become involved in civil disputes (particularly over property), unless you have to prevent a breach of the peace.

If you do intervene, use considerable caution. Check COPS in advance for AVOs concerning the parties or location. Ensure you do not facilitate a breach of an AVO and that the parties understand you are impartial and there to keep the peace.

Do not mediate in property disputes. Advise the parties to seek a resolution through court action or a Community Justice Centre if they cannot sort the matter out for themselves.

Do not write a complaint off as a 'civil matter' without satisfying yourself that a criminal offence has not been committed.

Public Trustee

Appointment of police

Officers acting as agents for 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 Public Trustee is carried out, recommend their appointment.

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 Public Trustee as executor
- the deceased was intestate, and if so, full particulars of next of kin
- if they intend to make a claim on the estate.

Do not involve the Public 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 particulars in the *Miscellaneous Property and Receipt Book*.

Do not secure money (coins) by attaching them to strips of sticky tape. Place the coins in a suitable envelope.

Informing the Public Trustee

Advise the Public 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 Public Trustee. Forms are available from agents. Attach a copy to the report of death to coroner (P79A).

Inform the Public Trustee urgently where extra protection is needed for certain assets eg: vacant properties, vehicles etc.

Helping the Public 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 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.

The Trustee is prepared to receive money, jewellery, deeds, bank books etc and may hold them until a *Grant of Probate or Administration* is produced.

If property of little value comes into your possession, which belonged to an intestate person, hand it to the Trustee. Get a receipt and paste it against the entry in the *Miscellaneous Property and Receipt Book*.

Similarly, if you hand money or property to any other government officer or other person, get a receipt for audit purposes.

Burial of intestate people

See also the section on 'Dead, 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 Public Trustee. The commission allowed by the Trustee is enough to cover any expenses.

Direct allowance claims to the 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 Public Trustee for consideration of payment.

Recognisance

Breaches

Do not arrest someone for an alleged breach of a recognisance 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, on finding surety. In line with your normal duties, you may help the prisoner by sending a message to get the security.

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
-

Rural Lands Protection

Administration

Police generally

Rural Lands Protection Boards are the local authorities in their respective districts for administering the Rural Lands Protection Act.

Rural Lands Protection Boards (RLPBs) 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 Rural Lands Protection Board or the Department of Primary Industries.

Role of RLPB in stock movement management

Rural Lands Protection Boards 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 RLPB Stock Permits. All movement of stock must be accompanied by the appropriate form of documentation and meet the necessary 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 their responsibilities when consigning stock. An example of the need for traceability was highlighted in the United Kingdom's Foot and Mouth outbreak.

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 Section 140 of the Rural Lands Protection Act all Police have the power to examine transported stock statements, stock licences and walking stock permits. When you inspect these documents and the stock to which they refer, do the following:

- Enter details on COPS – Rural / Livestock Inspection
- Disseminate to your LAC Rural Crime Investigator. (RCI)

In cases where prosecution is likely and the stock have not completed their journey, record details of the statement, licence or permit.

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 Rural Crime Investigators to assist in the investigation.

Circulate all rural thefts on the Computerised Operational Policing System (COPS) and disseminate to Rural Crime Investigators.

Searching for missing stock

Before making inquiries into reported losses or thefts of stock, obtain the written consent of owners 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 Search Warrant Act. 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.

Doubtful reports

Do not become involved in general musters of properties unless there is some definite evidence to indicate that theft has taken place and you are satisfied that the report is genuine.

Stock Identifiers

From 1st January 2006 there is no requirement to place Tailtags on cattle at point of sale.

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.

Once full transaction recording is in place, a life record of an animal's residency, and which other animals it has interacted with, will be established. It is this centrally stored electronic history of an individual animal's residency that will enable rapid and accurate traceability.

Key benefits for the Australian livestock industry

1. Reduction of the financial and social impact of a livestock disease epidemic or residue incident.
2. Being prepared for international customers demanding whole-of-life, property-of-origin traceability.
3. Maintaining access to restricted markets.
4. Ensuring domestic and export consumers continue to have confidence in Australian beef and dairy products.
5. Upholding Australia's reputation as a quality producer.

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 will be 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).

The introduction of NLIS (Sheep and goats) will assist police in proof of ownership for lost or stolen stock.

From the 1st January 2006 all lambs and farmed kids born after that date and leaving the property of origin will need to be tagged, except for those lambs being consigned direct to an abattoir for slaughter over the hooks. From the 1st January 2006 all sheep and farmed goats leaving the farm will require NLIS (sheep and farmed goats) tag (NLIS, 2005).

Unlike NLIS for cattle it is not compulsory to use electronic tags. The visual tags will be the same as the currently available visual tags but with the property's PIC and preferably the NLIS logo printed on them. It will be possible to use electronic tags also (NLIS, 2005).

Power of entry and inspections

Section 182 of the Rural Lands Protection Act empowers you, and any person call upon for assistance, to enter premises for any function of the Board 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 for further power to enter and search premises.

Note: This section does not empower you to enter residential premises without the consent of the occupier.

Diseased stock

Where you become aware of diseased stock, you MUST notify an inspector authorised under the Stock Diseases Act. Contact the local Rural Lands Protection Board in the district, or the Department of Primary Industry 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 RLPB 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 Rural Lands Protection Board 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 RLPB officers and Police to monitor stock movements and assist with disease control, and creates a paper trail for assisting in tracking stolen stock.

The Rural Lands Protection Act and Regulations requires a person to hold a transported stock statement or stock licence 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 walking stock permit, or grazing permit.

Drover (Walking Stock) Inspections:

Drover's require stock permits to graze cattle along travelling stock reserves in a Rural Lands Protection Board Area. These permits are issued by Rural Lands Protection Board Ranger's, in accordance with section 101 of the Rural Lands Act 1998 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 S.47 Rural Lands Protection (General) Regulation 2001 for offences on stock reserves.

A person walking stock on a journey lasting more than 24 hours must ensure that, during each 24 hour period, the stock travel a distance of not less than:

- 10 kilometres on each day.

It is an offence not to travel the above distance unless:

- the person moving the stock is prevented from travelling that distance by unforeseeable circumstance,
- approval is obtained from the Rural Lands Protection Board or authorised officer to travel at a slower rate.

Refer to S.18 regarding the display a temporary stock zone sign

Refer to S.22 regarding the failure to adequately prevent stock from moving onto carriageways between sunset and sunrise.

Exemptions

A transported stock statement or walking stock permit is not required when:-

- the stock concerned are transported or are to be transported under the authority of:
 - stock is moved in accordance with an order, or a permit issued under the *Stock Diseases Act* and *Exotic Diseases of Animals Act 1991*, e.g. Equine Influenza.
 - stock are moved into New South Wales from another State or Territory and travel up to 30 kilometres before immediately being returned to the other State or Territory.
 - stock are moved across or along a road from one part of a holding to another part of the holding, which is separated by the road.
 - stock are moved to or from a place where they are to be received, or have received, treatment from a veterinary practitioner.
 - horses are being transported to or from any agricultural show, exhibition, gymkhana, pony club meeting or similar function.
 - racehorses or harness racing horses are being transported from one place to another.
 - horses are moved to or from any place for use as working horses.
-

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.

Rating assessment of police paddocks

A Rural Lands Protection Board has no power to make a rate assessment in respect of a public reserve, used as a paddock for police purposes. If an assessment is made, report to your Commander.

Earmarking sheep and goats

Section 58, 59 and 60 refer to Stock identification definitions, schemes and offences. Registered earmarks are used widely in the sheep industry, however the NLIS system is the broader manner of identification.

Future Service CANS

When you detect breaches of the Rural Lands Protection Act or Regulations seek advice from your Rural Crime investigator 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 Rural Lands Protection Act that can be prosecuted by way of Infringement Notices. These offences are listed in Infringement Book.

Saluting

Salute officers senior to you wearing the rank of Inspector and above. Do not salute unless in uniform and wearing your head dress.

It is not possible to specify all occasions when to salute, however, if in doubt, it is better to extend the courtesy than to refrain. It is the responsibility of the more junior officer to initiate the salute.

See also the *Police Protocol Manual* for methods and occasions when all officers should salute.

Secondary Employment

The NSW Police Force requires that all employees seek approval prior to engaging in secondary employment.

The application process and the factors for consideration when submitting or determining an application are outlined in the *NSW Police Force Secondary Employment Policy & Procedures*.

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;
- 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.

See also: Chapter "Public Order Management" sub-heading "Based on your decision begin planning and consider the following matters" in this Handbook.

Tactical Dogs

The primary function of tactically trained police dogs are:

- To work with the TOU to assist in the resolution of high risk situations.

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.

Note: Drug Detection dog teams with Marine Area Command (MAC) and Aviation Support Branch (ASB) accreditations can be deployed by vessel or aircraft where necessary.

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. The request should be submitted as soon as possible.

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 never been fired).

Caveat:

1. FEDD teams will only deploy conditional on an appropriate risk assessment being carried out of a task.
2. Standard FEDD teams will not be deployed in circumstances where an object has been deemed suspicious by virtue of the "HOT" principle. In these instances the services of RBDU should be requested.
3. 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.
4. Any search involving military ordinances should be referred to the Australian Defence Force (ADF).

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, if specifically trained in an off-lead capacity.

Note: FEDD teams with MAC and ASB accreditations can be deployed by vessel or aircraft where necessary.

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. The request should be submitted as soon as possible.

For further information on FEDD capabilities refer to the SPG DOG UNIT INTRANET SITE.

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 screening 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

The primary functions of Cadaver Dogs are to:

- Search for clandestine graves; and
- Search for deceased persons in various states of decomposition.

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. 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 high risk situations, any response, to a request for assistance by police, will entail the deployment of Police Negotiators in conjunction with the TOU.

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.

See also: Sub-heading "Tactical Operations Unit" in this chapter of the handbook for further information relating to police response to High Risk Situations.

See also: Chapter "Armed Hold Ups" sub-heading "Hostage Situations" in this handbook.

Police Armoury

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.

See also: Chapter "Arms and Appointments" in this Handbook.

Collection and Pickup Services

All collection and return of bulk ammunition and police appointments will be by prior arrangement only. 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. Appointments delivered without the required information will NOT be accepted.

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 a state-wide 24-hour service for the NSW Police Force across four core functions or areas of responsibility:

- Rescue Operations;
 - Special Support Tasks;
 - Search and Rescue Operations; and
 - Bomb Disposal Operations.
-

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. There are also eight decentralised rescue units accredited to provide a rescue role within the Newcastle, Goulburn, Wollongong, Katoomba, Springwood, Bathurst and Lismore areas.

The RBDU also responds to major emergencies and disasters across the state as required and works closely with other emergency services.

Typical rescue work includes:

- Motor vehicle, rail and aircraft accidents;
 - Vertical rescue (eg cliffs, bridges and buildings); and
 - Domestic, industrial and structural collapse rescue.
-

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 (SERM) ACT. 1989.

Special support tasks often require RBDU officers to access places and areas which, due to their height, depth and/or confined nature, are difficult for general police to reach. These may include cliffs, rooftops, trees, bridge spans, improvised structures, machinery, caves, tunnels, wells and mine shafts.

Special support tasks include:

- Crime scene access and physical evidence retrieval;
- Body recoveries;
- Apprehension of suspects;
- Removal of protestors;
- Security clearance searches;
- Support of Police Negotiators to restrain persons threatening self harm;
- Gaining entry to premises (where access is hindered by locks or fortification) for search warrants; or
- Gaining entry to premises to assist with the detention of persons scheduled under the MENTAL HEALTH ACT.

Note: If any such situations are deemed high risk consideration must be given to using other SPG resources, such as the TOU.

The RBDU also has a large amount of specialist equipment and technical skills to assist police during operations. This includes:

- Metal detectors;
- Cutting equipment;
- Probes and fibre scope cameras;
- Tarpaulins and inflatable tents;
- Specialist internal and external lighting (e.g. lighting truck and generators); and
- Bomb robot capability for siege situations.

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.

Bomb Disposal Operations

The RBDU provides a comprehensive bomb response capability to all parts of the state. This capability involves response to bomb related incidents including:

- The appraisal and render safe of improvised explosive devices;
- Vehicle and body bombs;
- Chemical, biological and radiological devices; and

- Hazardous commercial explosives.

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.

See also: Chapter “Bombs” in this handbook.

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. 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, and then complete a REQUEST FOR ASSISTANCE FORM.

Request for Assistance Forms

Request for Assistance Forms should be forwarded on completion.

Tactical Operations Unit

The Tactical Operations Unit (TOU) is located within the Sydney Police Centre.

The mission of the TOU is 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 of 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 NATIONAL GUIDELINES FOR DEPLOYMENT OF POLICE TO HIGH RISK SITUATIONS, DEPLOYMENT OF POLICE NEGOTIATORS AND THE USE OF LETHAL FORCE – 2005.

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:

- a. Seriousness of the offence committed by the suspect/offender;
- b. Expressed intention by suspect/s to use Lethal Force;
- c. 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;
- d. The suspect has:
 - a prior history of violence;
 - is exhibiting violence now;
- e. 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.

Exigent circumstances may occur prior to the arrival of the TOU. If a direct threat calls for immediate action responding police must consider using commensurate force to protect human life.

Urgent assistance of the TOU and Police Negotiators can be requested through the Duty Operations Inspector (DOI), Sydney Communications Centre.

See also: Chapter “Armed Hold Ups” in this handbook.

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.

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 STATE PROTECTION GROUP - 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.

See also: Chapter “Operations” sub-heading “Risk Management Policies, SOPS and Training Material” in this handbook.

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, SPG 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.

See also: Chapter “Specialist Groups” sub-heading “Operational Duty” section of this handbook for further information relating to operational duty.

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, using commensurate force, 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.

Uniform

Refer to the uniform checklist at the back of the *Protocol manual* for the type of dress to be worn on specific occasions.

Wear Summer uniform between 1 October and 31 March. (Inspectors and above are not required to wear ties unless attending official functions or where dress standards apply).

Wear Winter uniform between 1 May and 31 August, including leather jackets.

During April and September, wear uniform as set by your local area commander.

During unusual weather conditions wear appropriate uniform.

Do not wear uniform when off duty. If you travel to or from duty in uniform, wear it no longer than necessary.

Do not wear uniform or part uniform when interstate or overseas unless you have written approval from the Office of the Deputy Commissioner through your commander.

Submit written applications for approval to wear uniform interstate or overseas in report form through your commander. Do NOT send directly to the Deputy Commissioner.

Local area commanders/equivalent

During April and September, determine the appropriate dress for police in your command. Ensure consistency in the adopted dress across the command.

Lost or Stolen Police Identification Cards, Badges (including cap badges)

Police Generally

Be aware of the importance of securing NSW Police identification cards, warrant card and badge, as well as cap badges with the seriousness with which one secures police appointments. While the identification items cannot reasonably be secured in an equivalent way officers are to realise considerable care must be taken.

The loss of police identification and/or badges including cap badges will be subject to a report to the Complaint Management Team for consideration and appropriate action. The replacement cost of police identification or badges including cap badges 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.

Commands

Are to conduct random checks to increase greater vigilance and accountability in terms of the uniform order process (particularly cap badges). These checks are to be included in the CMF process.

Non Issue uniform

When on duty, do not wear clothing or equipment which is not on issue to you or authorised for your location or duty type.

Caps and hats

Wear your hat or cap at all times while on duty outside police premises and vehicles, including travelling to and from duty in uniform.

Do not wear it in courtrooms or places of worship etc or in other inappropriate circumstances.

Do not wear it when parading at Government House for investiture ceremonies as either a recipient or a guest.

You may wear broad brimmed hats during daylight hours. Do not interfere with its shape.

Jumpers and vests

Do not wear jumpers or vests outside police premises except under a uniform jacket. If you wear them inside the station, wear a tie.

Care of uniform

After escorting a person suffering an infectious disease to a hospital or admission centre, have your uniform fumigated at the hospital or centre.

Do not interfere with a safety helmet.

Do not alter your uniform for use as private garments.

Name badges

Uniformed officers

Wear name badges on your duty jacket or shirt/blouse, positioned centrally on the right side, with the bottom of the badge resting on the top alignment of your pocket flap - 17 cm below the top shoulder seam (male officers), or in line with the top of the second button (female officers).

Ensure the badge is 5mm above NSWPF ribands or civilian awards, centrally located on the right side of your uniform.

On jumpers, position the badge centrally on the right side with the bottom in line with the valley of the V of the jumper neck band.

Other staff

Wear your name badge centrally located on the right or left of your clothes, about 17 cm below the top of the shoulder.

Exemptions

Plain clothes officers are exempt from wearing name badges outside police premises.

Uniformed police may choose to wear a numbered identification badge outside police premises. This badge will be colour consistent with your rank and include the command.

Commanders

Record the names of officers to which numbered plates are issued.

In rare circumstances, you may exempt an officer from wearing a name plate.

NSWPF ribands

Wear your NSWPF ribands positioned centrally on the left side of your uniform, with the bottom resting on the top alignment of the pocket flap. Wear your civilian riband awards ie: Commissioner's Valour Award etc on the right side of your uniform, with the bottom resting as above.

Do not wear NSWPF ribands on uniform jumpers.

If you have any doubt about the correct position of NSWPF ribands, or name badges on uniforms with breast pockets, use the standards measurement of 17cm below the top of the shoulder.

Specialist uniform

Wear specialist items of uniform only when specifically on duty for that purpose eg: if you are a cyclist performing highway patrol car duty or general duties, do not wear breeches, leggings or leather caps.

Administration and responsibility

Commanders

Appoint a non commissioned uniformed officer at each local command, branch or section where uniformed officers are attached, to be responsible for uniform matters.

Immediately notify the Director, Purchasing and Supply of this officers appointment and details.

Investigate any reported loss of uniform from a station.

Uniformed officers

Refer to s12(2) of the *Public Finance and Audit Act* for your requirement to exercise economy when endorsing uniform requisitions.

See also *Entitlement Catalogue and Commanders' Guide to Uniform*.

Applying for uniform

Submit a P170 to your uniform officer to replace unserviceable items or for those needed for a new class of duty.

Exchanging uniform

Exchange unworn or poorly fitting uniform within 30 days from the date of receipt.

Submit a P170B to arrange exchange and credit.

Remeasuring and alterations

Metropolitan area

Local commanders

Allow staff who need remeasuring to go to Purchasing & Supply on duty.

Uniform officers

Contact Purchasing and Supply to ensure a tailor is available.

Country area

If necessary, ensure staff are remeasured locally and the new measurements are sent to Purchasing and Supply with a P 170 order.

Country commanders

You may approve local alterations to uniforms up to \$20 and a maximum adjustment of 3cm. Treat any alteration exceeding this as poorly fitting uniform.

Do not allow alterations to include sewing on shoulder patches or any other addition to uniforms. Meet any cost locally.

Wearing uniform to and from duty

Do not wear part uniform in public unless travelling to or from duty by private vehicle, all your insignia are covered, and your arms and appointments are secured.

You may ride a privately owned motorcycle in uniform if your style of helmet compliments your uniform.

Wear plain clothes to and from duty if you are on restricted duties.

Plain clothes

Police Transferred to Plainclothes Duty

You are responsible for maintaining uniform and appointments to allow your deployment in an emergency. This should include sufficient uniform to allow full operational deployment.

Ensure damaged or unserviceable items are replaced.

This direction does not relieve you of your responsibility to return special uniform and equipment issued for special duties.

Commanders

Take an active role in ensuring plainclothes police under your command retain and maintain sufficient uniform to allow for operational deployment in an emergency

Maintain records of plainclothes police with sufficient uniform able to be deployed in emergency situations

Ensure checks are included in the CMF process

Wearing plain clothes to and from distant centres

Wear plain clothes when travelling to or from a court at a distant centre which involves staying overnight.

Carry your arms and appointments and wear uniform when at court except when required to appear in plain clothes.

Wear plain clothes while proceeding on transfer, returning from escort duty or taking delivery of a new vehicle.

Special operations

Plain clothes may be worn in special operations with your commander's approval.

Return of uniform

Officers leaving the NSWPF

Return all unworn uniform and government property. If you retire because of age or medical reasons, you may keep worn uniform other than your duty jacket, reflective vest, marked rain suit, leather gear and arms and appointments. If you have resigned or been dismissed, return all uniform.

Retirees

You may purchase your leather duty jacket.

Get the current cost of the jacket from Purchasing and Supply and send a report, which includes your registered number, to that branch (with a cheque payable to the Commissioner of Police) through your commander.

Commander

You may approve the mounting of a retiring officer's cap/identification badge, insignia of rank and shoulder flashes on a commemorative plaque/presentation board. Give the approval in writing. Send a copy to Purchasing & Supply with the return of other specified uniform. File the original at your command.

Worn items

Comply with the condemnation policy found in the *Entitlement Catalogue and Commanders' Guide to Uniform*.

Return motor cyclists' helmets; rain suits and associated cyclist equipment; reflective vests; leather gear; cap badges; identification and name badges; and metal insignia of rank to Purchasing & Supply.

Destroy all worn items of uniform at your station, except those to be returned. If suitable facilities are not available, return items to Purchasing and Supply.

Inventory of returned items

Complete an inventory of all returned items in the *Miscellaneous property and receipt book*. Send the original to Purchasing & Supply with the returned items.

Failure to return all items

If officers fail to return all NSWPF property, send a list to Purchasing & Supply no later than the officer's last working day.

Victims

The Charter of Victims Rights, appearing in the *Victims Rights Act 1996* sets standards for the appropriate treatment of victims of Crime.

Under the Charter, a victim includes a person who suffers physical or emotional harm or loss or damage to property as a direct result of crime. Where the crime results in death, a member of the deceased's immediate family is also included as a victim of crime for the purposes of the Charter.

Officer in charge

Ensure that at all times you treat the victim with courtesy, compassion and respect. Provide the victim with a completed copy of the *Victims Support Card* and advise the victim to contact you for information about the crime.

In particular, ensure that the victim is informed in a timely manner:

- about the progress of the investigation of the crime, unless the disclosure might jeopardize the investigation;
- of the charges laid against the accused or the reasons for not laying charges;
- of any decision of the prosecution to modify or not proceed with charges laid against the accused, including any decision to accept a plea of guilty by the accused to a less serious charge in return for a full discharge with respect to the other charges;
- of the date and place of hearing of any charge laid against the accused;
- of the outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed.

Commander

Ensure that staff under your Command are fully aware of, and comply with the requirement to provide victims with accurate and timely information about the progress of the investigation of the crime.

Releasing Records to Victims

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.

Modifying or Withdrawing Serious Charges

Officer in charge

Where an accused has been charged with a serious crime that involves sexual violence or results in actual bodily harm, mental illness or nervous shock to the victim, you must consult with the victim of crime before any decision is made to modify or not proceed with charges laid against the accused. This includes any decision to accept a plea of guilty by the accused to a less serious charge in return for a full discharge with respect to the other charges.

You do not have to consult with the victim about the modification or withdrawal of serious charges if the victim has indicated that they do not wish to be consulted, or the whereabouts of the victim cannot be ascertained after reasonable enquiry.

Safety of Victims

Officer in charge

During your initial investigation and interview with the victim, assess the victim's need for protection from the accused. Where you have commenced court proceedings against the accused, communicate any concerns about the safety of the victim to the prosecutor.

Inform the victim about any special bail conditions imposed on the accused designed to protect the victim or the victim's family. Inform the victim of the outcome of any bail application, particularly if the accused has been charged with sexual assault or any other serious personal violence offence. Provide advice to the victim about what they should do if bail conditions are breached.

Prosecutor

Inform the court of any needs and concerns in relation to the protection of the victim.

Victims as Witnesses

Officer in charge

Ensure that victims who are witnesses receive clear, accurate and timely information on their role as a witness and what they should expect. Information that you provide to victims on the role of a witness and what to expect can include details about:

- procedures for giving evidence and cross examination;
- people who will be present in the court room and their roles;
- the operations of the court;
- expectations of witnesses in court.

Ensure that the victim is protected from unnecessary contact with the accused or defence witnesses during court proceedings.

Specialist and/or Support Services - ODPP

Police generally

When you are aware that a matter is to be prosecuted by the ODPP and you believe that a witness/victim may require specialist and/or support services within any of the following circumstances: -

- 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 experiencing trauma difficulties about attending court.

Notify the regional Witness Assistance Service (WAS) ODPP by sending WAS the assistance form by downloading the form from the forms site of the Police intranet site.

Warrants

Warrant Unit (WU)

When you seek a warrant for immediate and urgent attention, all warrants are forwarded by the issuing authorities direct to the WU.

Warrant Management System (WMS)

All warrants are given an eight digit computer number when entered on the Warrant Management System (WMS).

A menu is provided to search and update records and each option performs a different function. Information on the various options is available from the COPS Help system.

Prisoner/Intoxicated Persons Note

Warrant/station officer

If a revocation order is executed at your station, always complete a *Prisoner/Intoxicated Persons Note* when the offender is being transferred to gaol, detention centre or another station.

Endorsing station records

Ensure the warrant is still available for execution even though a warrant record appears on the COPS WMS. Make a thorough search of the system and ensure all outstanding warrants are dealt with at that time.

If you have information that a warrant might be outstanding and inquiry through the COPS WMS proves negative, contact the Warrant Unit and ask staff there to perform a full name search.

Offender taken to correction/detention centre – NSW State Parole Authority Warrants

When an offender is to be transferred to a correctional/detention centre, obtain a copy of the warrant from the Court Notice Service Management System. If not available, contact the Warrant Unit and they will fax a copy to you.

The warrant and the prisoner/intoxicated person note accompany the prisoner to the correction centre.

Warrants for people in custody

Do not withhold execution/ finalisation of warrants for prisoners.

Warrants satisfied while prisoner going to gaol

In these circumstances, calculate manually if any pro rata reduction applies and issue a *general purpose receipt* for the outstanding amount.

If in doubt over the amount to be collected, contact gaol authorities.

Such a warrant - not on the CWS or recorded in the *General warrant receipt book*.

Endorse in the margin of the original warrant the time and date of arrest and release, with the number of the receipt issued and the amount of money collected.

Take the warrant and the money to the court clerk. File the receipt issued by the court against the relevant entry in the *general purpose receipt book*.

For other practices on daily warrants, see 'Commitment warrants issued on date of a defendant's court appearance', this Section.

Arrest warrants

Failing to appear

From Bail / No Bail / Field CAN

Court will automatically issue an arrest warrant for the offence/s the Person has failed to appear on.

From Future Service CAN

Where service of a CAN is not successful, the informant may apply for the issue of an Arrest Warrant.

Person arrested - informant to be notified

When a person is arrested on an Arrest warrant the informant is automatically notified by the Court Notice Service Management System (CNSM).

Person arrested - no warrant on hand

When you charge an offender on an Arrest Warrant, retrieve a copy of the warrant from the Court Notice Service Management System.

If copy not available, contact the Warrant Unit.

Arrest in civil matters

When you arrest someone on Arrest warrant and the matter is a private prosecution, notify the informant.

Ask the informant to be at the court on the date of the defendant's next appearance.

Tell the magistrate of your action, either on oath or affidavit, before or at the initial hearing.

Offenders arrested outside the state - Extradition

Please see Chapter "E" - Extraditions in the Police Handbook.

Original Arrest Warrants from court

Police can apply for an Arrest Warrant, but are not to take the original Arrest Warrant from the Court, except for extradition requirements from certain jurisdictions.

Warrant executed

When you arrest an offender on an Arrest Warrant, attach the copy printed from the Court Notice Service Management System to the court papers.

Execute the warrant via Bail CAN, have particulars inserted as a charge (If executing a prison warrant, a copy of the Arrest Warrant accompanies the prisoner taken to gaol and / or other authorities.

Warrants of apprehension

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.

Revoked warrants

The court revokes an Arrest warrant by sending a Notice of Revocation to the Warrant Unit.

Warrant Unit Staff

Update the COPS WMS as soon as a notice of revocation is received from the Court.

Warrants unable to be Executed

If you are unable to execute an Arrest Warrant, it can be updated in the Court Notice Service Management System (CNSM) with one of the following:-

- whereabouts unknown (after sufficient enquires have been made)
- residing overseas
- residing interstate - address
- temporarily absent - Notice Review
- New address to another LAC
- deceased (attach report and include, full name and address, date of birth and how, when, and where death occurred or Event Reference, Reallocation Request via CNSM)
- not identical with (attach report)
- representations (attach report and include a copy of the persons representations)
- other (attach report).

See also 'Withholding execution of warrant' this Section.

Prison and periodic detention orders

Warrant/station officer

When someone is arrested on a Prison warrant, a charge is created in COPS. Do not print charge sheets.

Take the offender to gaol / detention centre together with a copy of the warrant.

Withholding execution of warrant

A manuscript report is required to 'temporarily exclude' the warrant/s from general enquiry pending other enquires/ investigations.

Execute the warrant and do not give advice when someone claims to have been unjustly convicted.

Civil claims warrants

You have no authority to execute warrants for the arrest of judgement debtors. However, if called on by a bailiff, you may help, so they are brought before Registrars for examination. The debtor stays in the bailiff's custody, not police custody.

Report back to authorised officer

Give a written report to the authorised officer within 10 days after it expires or it was executed (whichever comes first). Include in the report whether the warrant was executed and whether an occupier's notice was served and on whom.

If the warrant was executed, give a brief outline of the result including a description of anything seized.

If the warrant was not executed, give brief reasons why.

In the case of telephone search warrant, attach to the report a copy of the search warrant and the occupiers notice, if those documents were not furnished to the person. Include such other particulars as may be prescribed. Send the report back within ten days of the execution of the warrant, or its expiration, whichever comes first. Refer to the back of the warrant.

In the case of telephone warrants, the reverse of the warrant is completed in accordance with the directions of the issuing magistrate. Make a brief note of the return of the search warrant on the general station pad, recording the name and location shown on the warrant, your name and station, together with whether or not the warrant was executed. Also, indicate whether the warrant was obtained personally (form 1 or 2) or by telephone. In the latter case, include the name of the intermediary, if applicable.

Warrants under the Telecommunications (Interception) Act

If you want to intercept a telephone call you must apply for a warrant. To obtain the warrant and ensure resources are available contact the Telecommunication Interceptions Branch (TIB)

and ask for a 'Request for assistance form'. Complete and return it, together with any other information as directed by TIB. For urgent cases during office hours contact the Commander TIB, after hours contact the DOI (who will contact the Commander TIB).

For further legal information about intercepting telephone calls refer to section 7 of the *Telecommunications (Interception) Act* (Cth)

If you want to suspend a telecommunications service because it is reasonably necessary to do so to prevent an act which will endanger life or to prevent a threat to life or serious damage to property contact an officer of or above Assistant Commissioner rank and request them to exercise their power under section 315 of the *Telecommunications Act* to ask that the service be suspended.

For guidance on tracing telephone calls refer to the section on 'Intelligence gathering and analysis'.

Water Police

Getting help

Apply for help, through your commander, to the Commander, Special Services Group or the Commander, NSW Water Police Branch, 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 Water Police directly contact the Commander, Sydney or your local full time water police station.

Mobile response unit

Contact the Commander, NSW Water Police Branch, Sydney for help from the Mobile Response Unit with:

- crime prevention during floods eg: looting
- surveillance
- disasters
- emergencies
- special operations.

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 the 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 Water Police Branch, Sydney.

The Sydney Water Police will coordinate all off shore search and rescue incidents along the NSW coastline in the following circumstances:

- a vessel at sea which could not be classed as being in shore or close in shore
- a vessel overdue or missing between ports
- where local resources are not readily available.

Public help

Volunteers and rescue organisations are specifically excluded from the *Workers' Compensation Act*. Compensation cannot be awarded to an injured volunteer diver who has helped the NSWPF.

Affiliated volunteer rescue squads, however, under the auspices of the State Emergency Services, have personnel qualified in diving.

Region commander

After consultation with the Leader, Police Diving Unit, you may authorise the use of affiliated rescue squads when the Diving Unit is not available, provided:

- all divers hold a valid commercial diver's certificate issued by the Industrial Relations Department
- all divers hold a valid certificate of medical fitness to dive, issued in the past 12 months, by a doctor trained in underwater medicine, and the test conducted to the requirements of Australian Standard AS2299
- all divers operate within the Regulations of the *Construction Safety Act* and AS2299
- all divers have taken out appropriate public liability cover with an approved insurer
- they do not dive deeper than 20 metres
- they are not used for criminal injury or investigation matters.

Unless these requirements are followed, the NSWPF and the diver might be liable to prosecution. Ensure the activities comply with the *Occupational Health and Safety Act*.

Use of divers

Do not use police divers for searches unless they are authorised members of the Police Diving Unit.

Rescues and searches in shore or close off shore

Local area commanders

You are responsible for rescues close to ports or inlets in your area.

Rely on the local accredited search and rescue coordination centre to maintain radio contact and effect the rescue with accredited craft, if possible.

Be thoroughly aware of the capability of local resources. Where the accredited local rescue craft is too small or unavailable, get other resources.

This may be achieved by:

- hiring vessels at LAC's expense
 - transferring coordination to the NSW Water Police Branch, Sydney.
-

Hiring resources

The Sydney Water Police 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 NSW Water Police Branch, Sydney for advice on vessel type, the fee (if reasonable) etc.

Communication between rescue organisations

Volunteer Coordination Centre

On receiving a radio or phone call that a vessel needs help or is missing, the coordination centre will contact local police.

They will notify the NSW Water Police Branch, Sydney except where the incident occurs in shore on smooth waters or close in shore. You might need to discuss responsibility.

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 water police 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 NSW Water Police Branch, Sydney.

Ensure each incident is finalised and communication between organisations is maintained throughout.

On notification of a close in shore incident, advise the local search and rescue coordination centre and establish radio contact. If the incident is off shore, contact NSW Water Police Branch, Sydney. For local incidents, you may go to the coordination centre and monitor proceedings.

NSW Water Police Branch, Sydney

Contact local coordination centres for radio monitoring help.

If a trawler or similar is needed in the search or rescue, contact local police for help.

Also, contact the AMSA and advise or hand over control if necessary.

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.

Deaths

See also the section on 'Death of employees' and refer to the *Protocol Manual* for requirements and procedures.

Chaplaincy

Three senior police chaplains (of different denominations) as well as several part time regional chaplains are available for access by all NSWPF members.

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).

For further information, please refer to Chapter P – Protection and Security Plans.

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 (P599) for Crown witnesses giving evidence at local, children's, 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.

Send claims which cannot be paid at the court to the Attorney General's Department for payment as an agent for the NSW Police. 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, 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, 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 P599 form

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.

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.

The Local Courts Administration 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' from the NSWPF Intranet > Forms > Info/Support Request Forms. 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.

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 a subpoena. 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 subpoena directly to the witness as this could result in travel not being organised for the witness.

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 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.

Send the completed report to the Witness & DPP Liaison Unit for approval by the Commander, Police Prosecutions. Include a copy of a properly authorised 'Witness Request Form - P736' with the report.

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 handed to the Manager, Operational & Special Advice Unit for approval.

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 Office of the DPP.

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.

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 sustenance.

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 P 599 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.

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 of 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.

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 Traffic Authority (RTA), 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
- RTA - 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

Expenses you incur are to be resolved with the party requiring your attendance or in accordance with the rules of the court.

Reporting at end of case

When the case ends, report any issues arising from it, which relate to NSW Police to your commander.

Travel allowances/incidentals

Payment of travel allowances/incidentals to former NSW Police who are now employed interstate as a Police officer including Australian Federal Police.

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 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.

Criminal matters

Collecting expenses

Find out if the accused will guarantee payment of travelling expenses (neither the NSW Police nor the DPP pay travelling expenses). Do not collect expenses in respect of salary in criminal cases or cases where the NSW Police or a government authority institutes proceedings.

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, 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.

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.

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.

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

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 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 following the accompanying instructions, and deliver a caution.

Youth justice conferences

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 is entitled to have a matter dealt with by a youth justice conference if:

- it is not appropriate to caution,
- the young person does not admit the offence or it is not in the interest of justice to do so. The onus is on you to justify your belief. You must justify your decision based on the same criteria for cautions.

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

In the case of children or young people unavoidably detained at a station as intoxicated:

- immediately notify a parent or anyone 18 or over who is responsible for them
- suitably record the steps taken and any reply the parent or responsible person makes
- do not place the young person in a cell or dock
- consider the need for medical treatment.

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's 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 2005 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.

Issue a receipt specifying the details of the seized liquor to the person from whom the liquor is seized. This may be done at the time of the seizure by the seizing officer or at the time the liquor is taken to a police station by any police officer there.

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.

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. See also the section on 'Exhibits – Liquor Exhibits
