

Replaced 20 September, 1990

INSTRUCTION 33

EXHIBITS

- 33.01 DEPARTMENTAL POLICY
- 33.02 PROPERTY REMOVED FROM PERSON
- 33.03 RECEIPTING PROCEDURES - PERSONS OTHER THAN OFFENDER
- 33.04 RECEIPT OF EXHIBITS AT POLICE STATIONS
- 33.05 RETENTION OF VALUABLE EXHIBITS
- 33.06 PATROL COMMANDER'S SAFE
- 33.07 SUBMISSION OF EXHIBIT REPORT
- 33.08 EVALUATION OF INFORMATION/DISPOSAL OF EXHIBIT
- 33.09 PHOTOGRAPHING EXHIBITS - PROCEDURES
- 33.10 MONEY EXHIBITS - PROCEDURES
- 33.11 PHOTOGRAPHING AND RETURN OF PROPERTY - STEALING FROM RETAIL STORE
- 33.12 PHOTOGRAPHING OR PHOTOCOPYING MONEY - EXHIBITS - LEGISLATION
- 33.13 PHOTOGRAPHS - PAPER COMMITTALS
- 33.14 EXHIBIT REQUIRED FOR PRODUCTION AT COURT
- 33.15 RETURN OF EXHIBITS FROM COURT
- 33.16 COURT DETAILS TO BE RECORDED
- 33.17 WARRANT IN FIRST INSTANCE - NUMBER TO BE RECORDED IN EXHIBIT BOOK
- 33.18 TRANSFERRED EXHIBITS - FORWARDING STATION
- 33.19 TRANSFERRED EXHIBITS - RECEIVING STATION
- 33.20 PERIOD OF TIME FOR LODGEMENT OF APPEAL
- 33.21 COMPLETED RETENTION/DISPOSAL REPORTS
- 33.22 INSPECTION OF EXHIBITS
- 33.23 SUMMARY OF UNCLEARED ITEMS
- 33.24 RETURN OF EXHIBIT TO OWNER AT DISTANT CENTRE OR INTERSTATE
- 33.25 MOTOR VEHICLE EXHIBITS
- 33.26 ANIMALS RETAINED - CARE
- 33.27 BATTERY OPERATED EQUIPMENT - REMOVAL OF BATTERIES
- 33.28 EXHIBITS SEIZED UNDER RADIO COMMUNICATIONS ACT
- 33.29 NON-CHARGING STATIONS - RETENTION OF EXHIBITS
- 33.30 PROCEDURES AT SYDNEY POLICE CENTRE
- 33.31 EXHIBITS - NO COURT ORDER - RIVAL CLAIMANTS
- 33.32 DISPOSAL OF EXHIBITS BY TENDER

- 33.33 DISPOSAL OF FORFEITED EXHIBITS
- 33.34 AUCTION PROCEDURES
- 33.35 PROCEEDS FROM AUCTION SALES
- 33.36 EXHIBITS FOR POLICE MUSEUM
- 33.37 COUNTERFEIT CURRENCY
- 33.38 DRUG EXHIBITS
- 33.39 FINGERPRINTS
- 33.40 HANDWRITING OR OTHER DOCUMENTS
- 33.41 INDUSTRIAL GAS CYLINDERS
- 33.42 WHEAT EXHIBITS
- 33.43 CONFIDENTIALITY OF MEDICAL RECORDS
- 33.44 POST MORTEM EXAMINATIONS - INSTRUCTIONS FOR GOVERNMENT MEDICAL OFFICERS
- 33.45 SPECIMENS/EXHIBITS IN CRIMINAL CASES
- 33.46 CORONER'S MATTERS
- 33.47 NON-CORONIAL MATTERS
- 33.48 P.377 SPECIMEN/EXHIBIT EXAMINATION FORM
- 33.49 DOCTOR'S POST MORTEM REPORT TO ACCOMPANY EXHIBIT IN CERTAIN CASES
- 33.50 EXHIBITS/SPECIMENS CONVEYED TO LABORATORY
- 33.51 AVOID DELIVERY AT WEEKENDS/PUBLIC HOLIDAYS
- 33.52 COLLECTION OF EXHIBITS FROM LABORATORIES
- 33.53 POISONING - SAMPLES FOR ANALYSIS
- 33.54 HOMICIDES AND SUSPECTED HOMICIDES (INCLUDING ALL DEATHS IN CUSTODY)
- 33.55 MEDICINES - COLLECTION AND HANDLING OF
- 33.56 AUTHORITY TO TAKE BLOOD SAMPLE - SECTION 353A CRIMES ACT
- 33.57 BLOOD SAMPLES PROVIDED VOLUNTARILY
- 33.58 SAMPLING PROCEDURES
- 33.59 MCCARTNEY BOTTLES FOR BLOOD SAMPLES
- 33.60 PLASTER CASTS
- 33.61 PHYSICAL EVIDENCE
- 33.62 CROWN SOLICITOR'S ADVISING
- 33.63 CROWN SOLICITOR'S ADVISING WHERE RIVAL CLAIMANTS
- 33.64 INDEMNITY MAY BE OBTAINED
- 33.65 FORM OF INDEMNITY WHERE TWO OR MORE PERSONS AS JOINT OWNERS
- 33.66 FORM OF INDEMNITY - INDIVIDUAL CLAIMANT
- 33.67 SECTION 358A CRIMES ACT

INSTRUCTION 33

See 90/113.
also 90/69

EXHIBITS

33.01 DEPARTMENTAL POLICY

While patrol commanders are accountable for the security, retention and disposal of exhibits, police generally have an obligation to assist them to carry out this function.

Exhibits are not to be retained longer than absolutely necessary and patrol commanders will keep this firmly in mind. Exhibits will be photographed, fingerprinted or analysed as required, and returned to the owner or disposed of.

The prosecution may satisfy its onus of presenting evidence to the court by tendering photographs of such property, attested by the photographer and its existence corroborated by sworn testimony.

The actual property seized need not be tendered to the court as an exhibit unless there is some feature which makes its production imperative, for example:

Murder weapons.

Implements used in armed hold-ups or serious assaults.

Documents, defective motor vehicle parts, money or other article with unique or distinctive characteristics.

On occasions something seized as an exhibit may prove not to have any evidentiary value. In such circumstances there is no need to tender the item in court and it should be returned to the lawful owner.

Where doubt exists the patrol commander or officer in charge of the case should consult the local police prosecutor or Commander, Region Legal Services.

See paragraph 33.61 for the Crown Solicitor's advising on the right of police to take exhibits and their responsibilities while the property is in police custody.

33.02 PROPERTY REMOVED FROM PERSON

When an exhibit is taken from a person, at the first possible opportunity, it will be checked or counted in the presence of the person from whom it has been taken. Exhibits should remain in the custody of the senior arresting officer or, in large operations, the officer assigned to handle the exhibits until entered in the exhibit book.

33.03 RECEIPTING PROCEDURES - PERSONS OTHER THAN OFFENDER

When police seize property as an exhibit from:

- (a) A person who is not a suspect, or is unlikely to be charged with an offence relating to the exhibit, (such as where the property was purchased lawfully and subsequently found to be stolen) and who is likely to claim ownership of the property, or;

- (b) a person who is not immediately charged with a criminal offence, (such as where the property is to be scientifically examined or pending the outcome of further inquiries), and/or when that person is not the actual offender, or;
- (c) any person from whom exhibit property is seized and who requests a receipt;

that person will be issued with an official receipt drawn from the exhibit book.

Where property is seized by police who are away from their station, sufficient particulars to clearly identify the property are to be recorded in their official notebook. When taken from a person, that person is to be given the opportunity of signing the entry to signify correctness and to record any dispute. On returning to the station an official receipt will be despatched.

33.04 RECEIPT OF EXHIBITS AT POLICE STATIONS

The member performing station duty is responsible for:

Checking the exhibit in the presence of the person charged where practicable,

Immediately recording a comprehensive description of each item in the exhibit book and the identity of the owner/s, if known.

Ensuring the senior arresting officer or the officer assigned to attend to the exhibits in large operations signs on the line immediately under the description of the exhibit.

Tagging and securing the item in the exhibit room.

In addition, entries will show:

All movements from the time of receipt to ultimate disposal.

How disposed of and authorising officer.

If destroyed, the manner, by whose authority, and the signature of the officer witnessing the destruction.

33.05 RETENTION OF VALUABLE EXHIBITS

Should an exhibit need to be retained and there is concern for its continued security, the patrol/district commander will be consulted.

Where large amounts of money or large quantities of drugs come into police possession, the district commander is to be informed. Arrangements will be made with the Commander, Sydney District, to transfer the exhibits to the Sydney Police Station, Exhibit and Property Section, where special security is provided.

33.06 PATROL COMMANDER'S SAFE

The safe will be located in the exhibit room and the patrol commander will retain the keys.

For instructions concerning the safe custody of safe keys and/or exhibit rooms, see Instruction 60.

33.07 SUBMISSION OF EXHIBIT REPORT

After completing the entry, the member performing station duty will ensure the officer in charge of the matter immediately completes the report on the reverse side of the duplicate exhibit sheet.

33.08 EVALUATION OF INFORMATION/DISPOSAL OF EXHIBIT

The patrol commander will evaluate the information on the duplicate exhibit sheet and determine whether the actual exhibit needs to be retained for presentation to the court or whether photographs will suffice. If the information is inadequate, the papers will be returned to the officer in charge of the case for further report.

Where the actual exhibit is not required and:

The owner is known.
There are no rival claimants.
The property has been photographed; and
return of the property will not prejudice court proceedings,

the patrol commander will direct the property be returned to the owner and acquitted.

When approval is given for an exhibit to be retained, at the conclusion of court proceedings and, in the absence of a court order regarding disposal, the patrol commander will:

Direct the return of the property to the owner; or
dispose of it as unclaimed property by auction or other appropriate means.

The return of property should not be delayed merely because appeal provisions exist.

Should the court make an order regarding disposal, it is to be obeyed forthwith.

At the Sydney Police Centre, the Controller, Exhibit and Property Section, will exercise the authority of the patrol commander.

33.09 PHOTOGRAPHING EXHIBITS - PROCEDURES

The officer in charge of the case will arrange for the exhibits to be photographed. The photographs will be taken by a member of the Physical Evidence Section nearest to the patrol where the exhibit is held, or by another officer appropriately trained.

The exhibit book will be endorsed and the photographer will maintain a record. The film will be processed at the Physical Evidence Section and returned, unprinted, to the photographer for storage. If developed prints are required, the officer in charge of the case will arrange with the photographer for the required number to be provided.

If an alleged offender absconds on bail, the photographs should be attached to the brief of evidence filed at the Information Section, Modus Operandi Unit, State Operations Support Group.

The negatives will be retained by the photographer at the centre concerned.

33.10 MONEY EXHIBITS - PROCEDURE

Money will be retained at the station concerned and entered in the exhibit book in the following manner:

Number and denomination of all notes will be shown and peculiarities, if any, identified.

If there is no specific evidentiary feature, the exhibit may be photographed in bulk i.e. bundles, and then lodged in the Special Deposits (Exhibit Moneys) Account or returned to the owner. The photographs attested by the photographer and its existence corroborated by sworn testimony will be used in evidence.

Where the money has specific evidentiary value, e.g. serial numbers, dye etc., it will be photographed or photocopied, as appropriate and the entry endorsed. The patrol commander will then evaluate the need for its retention.

If exhibit money is paid into the Special Deposits (Exhibit Moneys) Account, the officer in charge of the case will, when the appeal period has expired, report the result of court proceedings. Any order by the court or reasons for any dismissal must be included in the report and the papers referred to the patrol commander for decision respecting disposal.

The patrol commander will forward the papers to the Accountant, Ferguson Centre, Parramatta, directing the method of disposal of the money either by return to a person or by transfer to Consolidated Revenue.

If the money is to be returned to an individual, the report should include the full address to which the cheque should be posted or whether it should be forwarded to a particular police station to ensure its safe return.

Should there be doubt about the legal entitlement to money held in the Special Deposits (Exhibit Moneys) Account, the matter is to be referred to the district commander.

Where an offender fails to appear, the forwarding of papers to the Accounts Branch may be deferred pending inquiries. Deferral should not exceed twelve months as moneys are not to remain indefinitely in the Special Deposits (Exhibit Moneys) Account.

33.11 PHOTOGRAPHING AND RETURN OF PROPERTY - STEALING FROM RETAIL STORE

When property is alleged to have been stolen from a retail store and the retailer requests the immediate return of the property, it is to be photographed.

For this purpose, the proprietor will provide a Polaroid camera and police will photograph the property in the presence of the alleged offender.

It may then be returned to the proprietor, unless disputed ownership or evidentiary considerations prevail. In the latter case, the property should be retained by police as an exhibit.

When it is not possible for photographs to be taken, normal exhibit procedures apply.

Photographing procedures are as follows:

Police will take two identical photographs of each item and, if necessary, place a ruler next to the article to indicate size.

Ensure the photographs are accurate.

Endorse the time, date and name of photographer on the back of each photograph ensuring the details cannot be erased or rendered illegible.

The police photographer and employee, who detected the offence, will each retain a copy of the photograph/s.

Where particulars such as price, brand, store name, garment size, etc., are not clearly defined in the photograph, details are to be recorded in the police officer's notebook.

33.12 PHOTOGRAPHING OR PHOTOCOPYING MONEY - EXHIBITS - LEGISLATION

Section 19 of the Crimes (Currency) Act, 1981, sets out the requirements for persons wishing to make representations of banknotes for any purpose. The representations (including photographs and photocopying) must not be capable of leading a person to believe that they are genuine notes. In order not to offend this legislation, the following guidelines must be observed:

The representations should be at least one-third larger or smaller than the genuine note.

The legal tender clause and signatures should be partially covered.

The negatives should be retained by the photographer.

There is no restriction in photographing coin and this can be done showing the total amount.

This legislation repeals the provisions of the Reserve Bank Act 1959, where approval was required to photograph or photocopy money.

33.13 PHOTOGRAPHS - PAPER COMMITTALS

The use of photographs as exhibits under the provisions of the Justices (Paper Committals) Amendment Act 1987 has been agreed to by representatives of the Director of Public Prosecutions, Solicitor for Public Prosecutions and Attorney General's Department.

33.14 EXHIBIT REQUIRED FOR PRODUCTION AT COURT

When an exhibit is required for production at court or for any other purpose, the article must be checked with the exhibit book by the station officer and by the member receiving it. The latter will sign for the exhibit in the space provided in the book.

33.15 RETURN OF EXHIBITS FROM COURT

At the conclusion of a court hearing, the officer in charge of the case will return all available exhibits to the station at which they had been held.

On each occasion, the member performing station duty will check the property against the entry in the exhibit book and sign the book in the space provided.

33.16 COURT DETAILS TO BE RECORDED

Court remands or finalisation date are to be endorsed in exhibit book.

It is the responsibility of the officer in charge of the case to report on the exhibit file immediately there is any change in the remand date or the matter finalised.

Reports by police not attached to the patrol, will be referred to the patrol commander in order that the station's exhibit records can be maintained properly.

The report at the completion of proceedings should set out any direction the court may have given respecting the disposal of the property.

Should the member responsible resign or be absent on sick report for a lengthy period, the patrol commander will ensure that the matter receives proper attention.

33.17 WARRANT IN FIRST INSTANCE - NUMBER TO BE RECORDED IN EXHIBIT BOOK

When a warrant in the first instance is issued for an offence connected with an exhibit, the warrant number should be endorsed on the exhibit book entry.

33.18 TRANSFERRED EXHIBITS - FORWARDING STATION

Full details are to accompany the article in order that appropriate entries can be made in the exhibit book at the receiving station.

3.19 TRANSFERRED EXHIBITS - RECEIVING STATION

The officer responsible will enter comprehensive details in the exhibit book and endorse on the top left hand side of the entry, above the word PARTICULARS, "Received from the Patrol Commander,....." and sign immediately under the entry. The duplicate exhibit sheet will be sent to the forwarding station to acquit the entry in the exhibit book there.

The exhibit file, which accompanied the property, will be used to record all developments. The patrol commander at the receiving station will be responsible for the ultimate disposal of the exhibit and the papers will be filed there.

33.20 **PERIOD OF TIME FOR LODGEMENT OF APPEAL**

The normal time for lodging an appeal notice under section 122 (1) of the Justices Act is 21 days from date of conviction. However, section 122 (1A) allows an application to be made to the district court within a period of 3 months from conviction seeking leave of that court to lodge a notice of appeal out of the time stipulated. If there is any indication that an appeal will be lodged, the duplicate exhibit sheet should be resubmitted by the officer in charge of the case to the patrol commander advising this fact and seeking a direction.

The existence of these provisions in the Justices Act should not preclude the return of property to rightful owner(s) unless there is an indication an appeal is to be lodged.

33.21 **COMPLETED RETENTION/DISPOSAL REPORTS**

When the matter is finalised all relevant papers will be filed at the station concerned. If an exhibit has been transferred to another station, the papers are to be filed there.

33.22 **INSPECTION OF EXHIBITS**

The patrol tactician/nominated supervisor will make a two monthly inspection of all entries in the exhibit book. A check will be conducted of outstanding exhibits against the entries appearing in the book. Any outstanding matters will be reported to the patrol commander.

The patrol commander will conduct an annual inspection.

Police conducting two monthly/annual inspections will ensure that each entry is recorded correctly, reports required have been submitted, and exhibits are not being retained unnecessarily.

33.23 **SUMMARY OF UNCLEARED ITEMS**

Summaries of all uncleared items will be prepared after each inspection. The summary, to be made in the back of the exhibit book, will include:

Date and exhibit number of uncleared items:

Signature of inspecting officer; and
reference to date of later disposal.

At Sydney Police Station, inspections will be recorded in an independent register showing the date of inspection, exhibit book and entry numbers, signature of inspecting officer and remarks.

33.24 **RETURN OF EXHIBIT TO OWNER AT DISTANT CENTRE OR INTERSTATE**

In these circumstances, the exhibit is to be forwarded to the police station nearest the owner's residence or other mutually acceptable arrangements made. When returned, a receipt is to be obtained.

33.25 **MOTOR VEHICLE EXHIBITS**

When a motor vehicle is in the possession of police as an exhibit, care should be taken to prevent deterioration, as far as possible, and to ensure its security. Immediately the vehicle is no longer required, it will be returned to the owner or otherwise disposed of.

33.26 **ANIMALS RETAINED - CARE**

When it is necessary to retain an animal as an exhibit and there is a likelihood that police will be responsible for its care, a written undertaking should be obtained from the owner or representative, to pay any cost incurred. See Instruction 40 for directions on caring for animal exhibits at courts.

33.27 **BATTERY OPERATED EQUIPMENT - REMOVAL OF BATTERIES**

When battery operated equipment comes into police possession, the batteries are to be removed to prevent corrosion damage unless there is good reason for not doing so. Some electronic equipment, e.g. radio scanners, may contain vital information programmed into the equipment or retained in memory which may be lost if the batteries are removed. When equipment is to be examined by a departmental radio communications expert in connection with criminal proceedings, the question of battery removal will be resolved by the expert.

Any batteries removed will be retained and marked for identification. The exhibit book entry will show:

Whether the article contained batteries, and whether they were removed or left in the equipment to preserve data, etc.

33.28 **EXHIBITS SEIZED UNDER RADIOCOMMUNICATIONS ACT**

When police seize articles under the provisions of the Radiocommunications Act, 1983, the Deputy Manager, Commonwealth Department of Communications, North Sydney, is to be informed of the date, place and circumstances of the offence. A confirmatory report is to be submitted.

If court proceedings are not instituted within 60 days of seizure, or if the article is not to be used as evidence, then it should be returned to the owner unconditionally. However, before doing so the State Manager, Radiocommunications Operations Branch, should be consulted.

If upon conviction a court orders forfeiture of the article seized, then the forfeited equipment becomes the property of the Commonwealth and should be handed over to the Department of Transport and Communications for disposal. A receipt will be issued to acquit this Department's records.

33.29 **NON-CHARGING STATIONS**

Exhibits may be retained at non-charging stations at the discretion of the patrol commander bearing in mind security and convenience.

At stations where exhibits are not retained, a comprehensive description will be recorded in the note book of the arresting/reporting officer. The exhibit will be taken to an appropriate station for safe keeping and entered into the exhibit book. The note book will be signed and dated by the receiving officer.

33.30 PROCEDURES AT SYDNEY POLICE CENTRE

Separate audit procedures are included in the position descriptions and statements of duties and accountabilities for the Commanders, Sydney District, Sydney Police Station and the Controller, Exhibit and Property Section, Sydney Police Station.

Prior to the transfer/retirement of the Controller, an inspection of all exhibits is to be made by an officer nominated by the District Commander.

Lodging money/drugs after hours:

When the Exhibit Section is closed, large amounts of money and indictable quantities of drugs will be secured in a safe having a revolving deposit shute.

The key will be retained by the Station Controller and a book maintained to record date and time of receipt, exhibit number, description, signature of officer depositing exhibit and signature of Station Controller.

When Exhibit Section staff resume duty, they will remove the exhibit from the safe, check it with the entry, transfer it to the Exhibit Section and acquit the Station Controller's records.

33.31 EXHIBITS - NO COURT ORDER - RIVAL CLAIMANTS

When there are rival claimants to property or complex legal issues exist, the patrol commander should refer the matter to the district commander for a direction.

Where there is doubt regarding the proper course to adopt, Region Legal Services can be consulted.

See also paragraph 33.62 for Crown Solicitor's advising and procedures to be followed.

33.32 DISPOSAL OF EXHIBITS BY TENDER

The patrol commander may dispose of property by tender when it is inappropriate or uneconomical to dispose of it by public auction; damaged motor vehicles, boats, etc., could be in this category.

Tenders will be sought, however, should the patrol commander consider the tenders unacceptable, the property may be advertised for sale in the press circulating in the area.

After disposal, the papers are to be filed at the station concerned.

33.33 DISPOSAL OF FORFEITED EXHIBITS

Exhibits forfeited by a court should be disposed of in accordance with any direction. However, in the absence of an order and when it is not intended to return property to an offender, the patrol commander may authorise disposal. When approval is given for immediate destruction, the authorising officer will supervise the destruction or arrange for another officer to do so.

When authorising disposal, patrol commanders should endorse their approval on the relevant papers, which should be forwarded with the exhibit to the appropriate section.

Firearms and Dangerous Weapons

Firearms, air rifles, unlicensed pistols, and all other types of offensive or dangerous weapons, are to be conveyed, with a short report of the details, to the Ballistics Unit.

A receipt will be issued to acquit the entry in the exhibit book. The Commander, Ballistics Unit, will arrange for the destruction of the property.

Liquor Exhibits - General

Liquor unfit for human consumption will be destroyed in the presence of the patrol commander.

Liquor seized in after-hours trading offences is the property of those from whom it was taken. At the conclusion of court proceedings, the defendant should be informed that the liquor will be returned forthwith. The exhibit book will be endorsed by the owner.

Liquor Exhibits - Metropolitan Area

Liquor, fit for human consumption, which has been forfeited to the Crown, and unclaimed liquor following after-hours trading offences, will be collected by Police Property Office staff.

A short report of the details is to be provided. The Property Office will issue a receipt and the liquor disposed of by auction.

Liquor Exhibits - Country

Patrol commanders in country areas will approve the disposal of liquor exhibits, fit for human consumption, which have been forfeited to the Crown.

Written tenders may be obtained from persons licensed to sell liquor or it can be auctioned by an auctioneer licensed to sell liquor.

All proceeds are forwarded to the Accounts Branch.

Money Exhibits

All money forfeited is to be forwarded, with a covering report, to the Accounts Branch for payment to the Treasury. When an offender is convicted of "offer bribe" and no court order is made for the return of the money, it is to be dealt with in the same manner.

Instruments of Gaming

Gaming instruments which have been forfeited or ordered to be destroyed, are to be destroyed in the presence of a commissioned officer. Destruction should be on police premises, if possible, and in the most effective manner.

Prohibited amusement devices, poker machines and other mechanical devices are to be destroyed in the most effective manner. If a large number of devices is involved, arrangements should be made for the destruction at a council tip using the most effective means. It is essential that the circuits/logic boards are destroyed in the process. The debris should be buried.

Cassette Sound Recordings and Videos

All cassette and video sound recordings, except items which are to be destroyed, are to be forwarded to the Metropolitan Exhibit and Property Centre, Zetland.

Cargo Exhibits Subject to Customs Control

When cargo, subject to Customs control, is no longer required as an exhibit, it should be handed to the Collector of Customs or his agent and a receipt obtained.

Credit Cards

Credit cards are the property of the organisation which issued them and are to be returned to that organisation when no longer required. A receipt will be obtained.

33.34 AUCTION PROCEDURES

Country patrols:

When exhibits are to be disposed of by auction, the patrol commander will consult the district commander on whether the auction should be conducted locally or at the district centre.

The exhibits will be transferred from the exhibit book to a miscellaneous property and receipt book, endorsed "auction book". A receipt from this book will acquit the entry in the exhibit book.

The frequency of sales will be at the discretion of the commanders concerned, as will be the date, time, and location.

Metropolitan patrols:

Property for auction will be collected by the Metropolitan Property Office staff, receipts issued and property disposed of.

The Electricity Development (Amendment) Act, 1984, requires the inspection of electrical goods by authorised officers of the energy authority prior to disposal. If an article is deemed faulty, it will be destroyed in the presence of the patrol commander or commissioned officer.

33.35 PROCEEDS FROM AUCTION SALES

After each sale, an itemised list, showing particulars of the property sold and the amount obtained for each item, should be submitted to the Accounts Branch, with a bank cheque for the net proceeds of the sale. The proceeds of the sale (if not claimed within 12 months of the sale) are to be paid into the Consolidated Fund. (Regulation 66 (4) Police Service Act 1990).

33.36 EXHIBITS FOR POLICE MUSEUM

When it is considered that an exhibit should be placed in the Police Museum, a report should be forwarded to the Commissioner for a direction.

33.37 **COUNTERFEIT CURRENCY**

When no longer required, counterfeit Australian Bank Notes are to be forwarded by security post to the Officer in Charge, Australian Federal Police, Reserve Bank Note Printing Branch, P.O. Box 21, Craigieburn 3064. The notes should be accompanied by a report setting out the circumstances and requesting the issue of a receipt.

33.38 **DRUG EXHIBITS**

See Instruction 56 for directions on the recording, retention, destruction etc. of drug exhibits.

33.39 **FINGERPRINTS**

See Instruction 71 for directions on the examination of exhibits bearing fingerprints.

33.40 **HANDWRITING OR OTHER DOCUMENTS**

See Instruction 70 for directions on handwriting or documents.

33.41 **INDUSTRIAL GAS CYLINDERS.**

See Instruction 63 for directions on the identification of industrial gas cylinders.

33.42 **WHEAT EXHIBITS**

When wheat is to be seized as an exhibit, the Investigations and Security Officer or the Secretary of the Grain Corporation is to be consulted. The officers may be contacted on telephone (02) 2689696, (facsimile (02) 2689611).

33.43 **CONFIDENTIALITY OF MEDICAL RECORDS**

Should medical records be sought as an exhibit, and police have difficulty in obtaining them, the Medical Secretary, New South Wales Branch, Australian Medical Association, is to be contacted. A panel of medical practitioners exists and will advise police in any action which may involve professional records and/or the professional relationship between the panel, practitioner and patient. The confidentiality of these records is to be strictly observed.

33.44 **POST MORTEM EXAMINATIONS - INSTRUCTIONS FOR GOVERNMENT MEDICAL OFFICERS**

The Department of Health, New South Wales has issued a "Handbook for Government Medical Officers" which sets out procedures to be followed when conducting post-mortem examinations and the taking of specimens.

The Commander, Physical Evidence Section, will liaise with that department to ensure the handbook is amended to meet altered legislation or police procedures.

33.45 **SPECIMENS/EXHIBITS IN CRIMINAL CASES**

In criminal investigations, the Physical Evidence Section should be contacted for advice on handling procedures for exhibits requiring forensic examination.

Ca11/35

33.46

CORONER'S MATTERS

In every case exhibits must be accompanied by four copies of form P.377 (specimen/exhibit examination form) and one copy of form P.79A and a copy of doctor's post mortem certificate. Any additional forms required are set out below.

Analysis requiredBy whom conducted

Toxicological analysis -
poisons, drugs and/or alcohol
in organs or blood.

Division of Analytical
Laboratories, Lidcombe
Hospital, Joseph Street,
Lidcombe.

(In addition, accompanied by a copy of Health Department form "Request for Toxicological Analysis". This form is supplied to all Government Medical Officers by the Health Department. It must be completed by the doctor where poisons or drugs are suspected of being the cause of death).

Histopathological examination
- study of diseased tissues.

Division of Forensic Medicine,
42-50 Parramatta Road, Glebe.

Forensic biology - examination
and identification of seminal
and blood stains, and blood
grouping.

Forensic Biology Laboratory,
Division of Forensic Medicine,
42-50 Parramatta Road, Glebe.

Bacteriological and
virological examinations

Institute of Clinical
Pathology and Medical
Research, Westmead Hospital.

33.47

NON-CORONIAL MATTERS

In these cases specimens are accompanied by four copies of form P.377 only.

Swabs, smears, clothing and
other exhibits concerning
sexual offences for testing
the presence of spermatozoa,
blood, saliva and stained
articles for blood grouping.

Division of Forensic Medicine.

Blood samples submitted for
testing for alcohol, carbon
monoxide, drowning, addictive
drugs (non-fatal), flammable
liquids, soil, paint, glass
and other physical or chemical
comparisons.

Division of Analytical
Laboratories.

Flammable liquids.

Division of Analytical
Laboratories will conduct
chemical analysis and the
certificate will be issued by
the Dangerous Goods Branch of
the Departmental of Industrial
Relations and Employment.

Explosive residues	Division of Analytical Laboratories.
Textiles	School of Textile Technology, University of New South Wales.
Plants, leaves and grasses.	Botanic Gardens.
Timber.	Forestry Commission of New South Wales.
Teeth, dentures.	Division of Dental Services.
Electrical equipment.	Electricity Authority.

33.48 **P.377 SPECIMEN/EXHIBIT EXAMINATION FORM**

It is essential all relevant sections of the form are completed in detail. Each item will be numbered consecutively and followed by a brief description. All specimens and exhibits are to be packaged and labelled properly to coincide with the information on the form.

The date the specimen/analysis is required for court will be set out on the form. If the date is not available at the time the exhibit is delivered, the laboratory staff should be advised by telephone as soon as possible.

One copy of the form will be retained and filed at the Physical Evidence Section. When the exhibits are delivered to the laboratory concerned, a copy will be signed by the person receiving them and returned to the escort and filed at the forwarding station.

33.49 **DOCTOR'S POST MORTEM REPORT TO ACCOMPANY EXHIBIT IN CERTAIN CASES**

When a doctor's post mortem report is required to accompany exhibits submitted for analysis, the report should contain:

Full clinical history.

The naked-eye features of organs from which portions are taken; and

details of the condition noted in other organs of the body.

The exhibits will not be examined by the pathologist until this report is received.

33.50 **EXHIBITS/SPECIMENS CONVEYED TO LABORATORY**

When a charge is not laid or likely to be laid, specimens, with relevant papers, will be lodged at the Physical Evidence Section and taken to the laboratory concerned. However, if a charge is pending, the escort will deliver the specimens direct to the laboratory. They are not to be posted or delivered by courier. The escort should be well acquainted with the circumstances of the investigation as questions may be asked by the analyst or later by the court.

All biological samples must be kept chilled and delivered as soon as possible to the laboratory.

See Instruction 94 for the procedure in forwarding blood samples for analysis to determine the presence of alcohol in connection with offences under the Motor Traffic Act.

33.51 AVOID DELIVERY AT WEEKENDS/PUBLIC HOLIDAYS

Unless absolutely necessary, exhibits should not be lodged in Sydney on weekends or public holidays.

Police arriving on these days, or after office hours, will report to the Shift Commander, Sydney Police Station. The following action will be taken:

When the exhibits are parts of the human body, arrangements will be made for escorting police to place them in the refrigerator at the Physical Evidence Section, in order to preserve them.

Exhibits which do not need to be refrigerated will be handed to the Shift Commander, Sydney Police Station, who will secure them.

Where no charge is laid, or likely to be laid, the exhibits will be delivered to the laboratory by the Physical Evidence Section.

If a charge is pending, the exhibits will be secured by the escort in a locked compartment in a refrigerator at the Physical Evidence Section.

The escort will retain the key and on the next day of business retrieve the exhibits and papers and convey them to the laboratory. The key is to be returned to the Shift Commander.

33.52 COLLECTION OF EXHIBITS FROM LABORATORIES

When the laboratory certificate is received, police in charge of the inquiry should arrange for the exhibits, other than blood or organs, to be removed and if not required, to be destroyed.

33.53 POISONING - SAMPLES FOR ANALYSIS

When a person is suspected of having been poisoned, a 24 hour specimen of the person's urine should be taken for analysis as well as all vomit. A search is to be made for any glasses, bottles etc., likely to have contained poison. Before sending samples for analysis, the Senior Forensic Toxicologist, Division of Analytical Laboratories should be consulted on telephone 02-646.0429.

33.54 HOMICIDES AND SUSPECTED HOMICIDES (INCLUDING ALL DEATHS IN CUSTODY)

The Director, Division of Forensic Medicine, is to be contacted immediately in these circumstances (Telephone 02-6605977).

In country areas, arrangements will be made for either a forensic pathologist to attend the mortuary to conduct the post mortem or the body will be transported to the City Morgue for that purpose.

33.55 MEDICINES - COLLECTION AND HANDLING OF

When a person was on medication at the time of death and there is suspicion regarding the medicine, the investigating police will contact the Senior Forensic Toxicologist, Division of Analytical Laboratories on telephone 02-6460429 for guidance.

33.56 AUTHORITY TO TAKE BLOOD SAMPLE - SECTION 353A CRIMES ACT

Section 353A of the Crimes Act 1900 sets out the circumstances in which a person in lawful custody may be medically examined to obtain evidence of the offence charged. The section authorises only an examination which is reasonable in order to ascertain facts which may afford evidence of the commission of the crime or offence.

This section does not authorise a general practice of obtaining blood samples from persons in custody or subjecting them to an invasive medical examination.

Whether the examination is reasonable is a question of fact and degree which depends on all the circumstances of the case. Accordingly, before a medical practitioner is requested to undertake an invasive medical examination or take a blood sample, the investigating police will confer with the Commander, Region Legal Services.

While this section gives police authority to have a person in lawful custody medically examined, the person charged may voluntarily submit to a blood sample being taken. If voluntary, an authority is to be completed using the format set out in the following paragraph.

33.57 BLOOD SAMPLES PROVIDED VOLUNTARILY

Where the taking of a blood sample would be of assistance in the investigation of other crimes, police must first obtain the written authority of the person from whom the blood sample is sought.

When persons have been arrested following a murder or serious assault and it is considered an analysis of the their blood group would be valuable, they should be asked whether they are prepared to authorise the taking of blood for examination/analysis.

It is essential that consent be freely and voluntarily given and they should be informed they are not obliged to allow a specimen of blood to be taken for testing/analysing without their permission. In the event of consent being given, an authorisation in writing and, as near as practicable, to the following form should be obtained from the defendant:

"I,..... do hereby authorise Doctor..... to take sufficient blood from my body for the purpose of testing/analysing the same or causing the same to be tested/analysed or grouped. I give this authority freely and voluntarily, no inducement, threat or promise having been held out to me.

Signed

Witness.....

In the metropolitan area, between 0800 and 1600 hours the office of the Director, Medical Services is to be contacted. Outside these hours, the Duty Operations Inspector, Police Communications Branch, will arrange for the duty medical officer to attend. In country areas, the government medical officer is to be contacted, or if absent, another qualified medical practitioner.

33.58 **SAMPLING PROCEDURES**

The doctor will take a sample of not less than 10 mls of unclotted blood or any other samples as determined by the situation. The doctor will provide a container for the sample. It will be sealed and labelled by the doctor in the presence of the person from whom it was taken and handed to an officer for delivery to the Division of Analytical Laboratories. In no circumstances is an officer conducting the investigation to handle the sample.

33.59 **MCCARTNEY BOTTLES FOR BLOOD SAMPLES**

McCartney bottles are to be used for collecting blood samples for analysis of post mortem exhibits and samples resulting from offences under the Motor Traffic Act.

Each bottle contains a preservative and an anti-coagulant in the proportions of 1.0 per cent sodium fluoride and 0.25 per cent potassium oxalate. These chemicals have been added by a qualified chemist and the bottles capped and sealed with a pink sealing label bearing the words "Preservative Added" and initialled by the chemist.

Police will ensure that while the bottles are in their custody, sealing labels are not cut, removed, written on or defaced in any manner.

They must be intact when handed to the medical practitioner taking the blood sample as evidence may be required in court as to the condition of a bottle when taken into use. When a bottle or label is damaged, it should not be used.

Prior to taking a blood sample, the medical practitioner will cut the pink label below the screw cap on both sides. The doctor will not remove the coloured pieces which will remain on the bottle and the cap as an indication that preservatives have been added. The remaining pieces of the label will also bear the chemist's initials which should not be obliterated. After the sample has been taken and the cap replaced, a white sealing label, signed by the medical practitioner, will be placed over the cap at right angles to and across the coloured label and stuck to the sides of the bottle. A white identifying label will then be completed and wrapped around the bottle. These additional seals and labels must not be interfered with or defaced in any manner.

A supply of bottles is to be held at each patrol command. All bottles are to be stored in a safe and accessible place. Supplies at sectors should be replenished by the patrol command which, in turn, will obtain replacement bottles from the Physical Evidence Section.

See Instruction 94 on blood samples for the purposes of the Traffic Act.

33.60 **PLASTER CASTS**

When it becomes necessary to take a plaster cast of a footprint or other impression, it should be preserved and the Physical Evidence Section consulted.

33.61 PHYSICAL EVIDENCE

Physical evidence taken from crime scenes, e.g. soil, arson debris, vegetable matter etc., will be entered in a specimen/item register maintained at the Physical Evidence Section.

At stations where a specimen/item register is not maintained, an entry will be made in the exhibit book. The specimen will be transferred to the Physical Evidence Section observing normal exhibit procedures. A receipt will be issued from there to acquit the exhibit book.

The safe-keeping of the article will be the responsibility of the Physical Evidence Section concerned and exhibit inspecting procedures apply.

33.62 CROWN SOLICITOR'S ADVISING

In respect of the retention as evidence of exhibits, including motor vehicles, the Crown Solicitor has advised that the police are empowered, and it is their duty, to retain things which may be evidence of a crime which come into their possession without any wrong on their part. Once the need to retain the article or vehicle passes, it should be returned to the person from whom it was taken. However, when no arrest has been made and inquiries are continuing, certain requisites have to be satisfied in order to justify the taking of the articles as an exhibit. These requisites are as follows:

The police officer must have reasonable grounds for believing that a serious offence has been committed - so serious that it is of the first importance that the offender should be caught and brought to justice.

The police officer must have reasonable grounds for believing that the article or vehicle in question is either the fruit of the crime (as in the case of stolen goods) or is the instrument by which the crime was committed (as in the case of the axe used by the murderer) or as material evidence to prove the commission of the crime.

The police officer must have reasonable grounds to believe that the person in possession of the article or vehicle has himself/herself committed the crime, or is implicated in it, or is an accessory to it.

The police must not keep the article, nor prevent its removal, for any longer than it is reasonably required to complete the investigations or preserve it for evidence. If a copy will suffice, it should be made, and the original returned. As soon as the case is over, or if it is decided not to go on with it, the article should be returned. The lawfulness of the conduct of the police must be judged at the time, and not by what happens afterwards (in other words, whether in fact the article is used as an exhibit or not).

Where there are reasonable grounds existing for the belief that a vehicle will be useful evidentially, then the detention of such vehicle is lawful and any action commenced for damages for normal deterioration and depreciation could be successfully defended.

The measure of legal responsibility for a bailee (the Police Department) requires such bailee to ensure, so far as possible, against damage or theft to the extent that a reasonable owner would deal with his/her property. If this standard of care is not met, then an action in negligence may lie against the Department.

33.63 CROWN SOLICITOR'S ADVISING WHERE RIVAL CLAIMANTS

The Crown Solicitor has advised that where there are rival claimants for any property in the possession of police and it has been decided to dispose of such property to the person considered to have the greatest claim to it, all other claimants should be given adequate notice (say 6 weeks) of that intention to so dispose of the property unless action for recovery of it is instituted by them in the time stated. When such property is handed over, indemnity should be obtained.

Notification of such intention should be served on the rival claimants in the following terms:

NOTICE OF INTENTION TO DELIVER PROPERTY
RETAINED IN POLICE CUSTODY

TO:

OF:

TAKE NOTICE that the, Commander,Patrol, proposes to deliver (description of property) to (name and address)

Should you wish to oppose such action you will be allowed forty two (42) days, from the date of service of this notice, in which to commence legal proceedings.

If at the expiration of the forty two (42) day period the Patrol Commander has not been served with written notice that you have commenced such legal proceedings to prevent the delivery then the subject(description of property)..... will be delivered to(name)

Signed
Patrol Commander

The address at which all notices and documents may be served on the Patrol Commander is:

(Address of Patrol Command Headquarters or a particular police station if considered more convenient for all parties concerned.)

NOTICE SERVED

The day of 19 at
in the State of New South Wales.

Signed:
Name:
Rank:
Station:.....

33.64 INDEMNITY MAY BE OBTAINED

When a direction is given to give an exhibit to a claimant(s), an indemnity may be required. When the indemnity is executed under hand, a 50 cent adhesive duty stamp must be used. The stamp must be cancelled by the officer executing the indemnity by writing in ink on or across the stamp, name or initials and the date.

In rare cases, when the indemnity is executed under seal, the completed document is to be returned to Police Headquarters. Arrangements will then be made to forward it to the Office of State Revenue, Stamp Duties Division, 132 Marsden Street, Parramatta, 2124, for impressing with a \$10.00 duty stamp. A penalty clause exists under the Stamp Duties Act and the document is to be presented within two months. This department will pay all stamp duty.

33.65 FORM OF INDEMNITY WHERE TWO OR MORE PERSONS AS JOINT OWNERS

The following form of Indemnity is to be obtained when handing over exhibits to two or more persons as joint owners:

EXHIBIT NO.....

In consideration of the Commissioner of Police of the State of New South Wales at our request handing over to us which were taken possession of by police of the State of New South Wales in connection with the case gainst(or as the case may be, e.g., which were found by police of the said State in the possession of.....on or about the..... day of.....19...) (the receipt whereof is hereby acknowledged by us), we..... of.....in the State of New South Wales andof.....in the said State hereby jointly and severally undertake to indemnify and at all times keep indemnified the said Commissioner of Police and each and every police officer of the State of New South Wales, the Police Board of New South Wales and Her Majesty the Queen, Her Heirs, and Successors from and against all claims and demands whatsoever that may at any time be made in respect thereof and from and against all actions, suits, proceedings, costs, charges and expenses whatsoever that may at any time arise in connection therewith or be brought or incurred by reason of the said Commissioner of Police so handing over to us the said money/property.

Dated at.....this.....day of..... 19.....

Signed by the abovenamed in the presence of..... (I n s e r t w i t n e s s ' s a d d r e s s)

Signed by the abovenamed in the presence of

..... (I n s e r t w i t n e s s ' s a d d r e s s)

33.66 FORM OF INDEMNITY - INDIVIDUAL CLAIMANT

The following form of Indemnity is to be obtained when handing over exhibits to individual claimants:

EXHIBIT NO.....

In consideration of the Commissioner of Police of the State of New South Wales at my request handing over to me (which were taken possession of by Police of the State of New South Wales in connection with the case against (or as the case may be, e.g.) which were found by police of the said State in the possession of on or about the day of, 19..) (the receipt whereof is hereby acknowledged by me), I,of..... in the State of New South Wales hereby undertake to indemnify and at all times keep indemnified the said Commissioner of Police and each and every police officer of the State of New South Wales, the Police Board of New South Wales and Her Majesty the Queen, Her Heirs, and Successors from and against all claims and demands whatsoever that may at any time be made in respect thereof and from and against all actions, suits, proceedings, costs, charges and expenses whatsoever that may at any time arise in connection therewith or be brought or incurred by reason of the said Commissioner of Police so handing over to me the said money/property.

Dated at.....this..... day of..... 19....

Signed by the abovenamed in the presence of:

..... (Insert witness's address)

33.67 SECTION 358A OF THE CRIMES ACT

DISPOSAL OF PROPERTY IN CUSTODY OF POLICE.

358A.(1) A court may, on the application of any person, make an order that any property which is in the custody of a member of the police force in connection with any offence whether punishable on indictment or summarily, be delivered to the person who appears to it to be lawfully entitled thereto.

(2) If any property referred to in subsection (1) has not been delivered to the person lawfully entitled thereto, whether pursuant to an order under subsection (1) or otherwise, within one month after the determination of proceedings against a person for an offence with respect to the property, the property, if money, shall be paid to the Treasurer for payment into the Consolidated Revenue Fund or, if not money, may be sold by public auction and the proceeds of the sale shall be paid to the Treasurer for payment into that Fund.

Police should be aware of these provisions, particularly, jurisdiction and an owner's right to recover the money after it has been paid into the Consolidated Revenue Fund.

INSTRUCTION 63

CRIME - GENERAL

63.01 RESPONSIBILITY FOR DETECTIVE AND PLAINCLOTHES POLICE

The Region Commander will be responsible to the State Commander for the work of detectives and plainclothes police in the investigation of crime within each Region.

63.02 SERIOUS CRIME - SUPERIOR OFFICERS TO BE INFORMED

Where a serious crime has been committed, police will give it attention as soon as possible. When uniformed police attend before plainclothes police, they will arrange for assistance by plainclothes members without delay. The senior detective taking part will, after making initial inquiries and where the circumstances warrant, inform the senior detective in the Patrol and the Patrol Commander. In accordance with the degree of gravity of the offence, the following should also be informed:

The District Commander

The Duty Operations Inspector, Police Operations Centre

The Region Commander

The State Commander

The Commissioner.

In like manner, appropriate police should be promptly advised of any other serious or unusual occurrence.

At times when duty officers and/or on-call officers are performing duty they should be kept informed of matters in like manner to Patrol Commander and District Commander at other times.

63.03 OFFENDERS DESCRIPTIONS, ETC. - CIRCULATION IN METROPOLITAN/COUNTRY AREAS

When it is necessary to circulate descriptions of suspects, offenders or other information messages relating to criminal offences police will:

In the metropolitan area:

Forward a telex/teleplex message or Wang message switching direct to the Radio Operations Unit, Police Operations Centre using the following format:

Context of message, description, etc., to be circulated. To include name, rank and station of police in charge.

Type of occurrence/crime/incident

Time and date

Location

Brief details - additional to message

Action taken

Police in charge

Transmitting officer

Vetting officer.

The Radio Operations Unit will then circulate the message to all required areas.

In country areas:

Forward a telex message direct to the Radio Operations Unit, Police Operations Centre, using the format set out in the previous clause, if the message is required to be circulated within the metropolitan area, all country areas or interstate.

If the message is required only within the district of origin or adjacent districts the circulation will be undertaken from the station of origin.

63.04 SERIOUS CRIME-UTILIZATION OF INVESTIGATIVE RESOURCES

In cases of serious crime with special features or where complicated and protracted inquiries are necessary, the Commander, Region Crime Squad, will, with the approval of the Region Commander, assign sufficient members in order that the matter may be properly investigated.

In situations requiring a major investigation and/or specialist assistance the procedure as set out in the "Major Investigation Plan" as indicated in Instruction 127, "Police Force Plans", is to be followed.

63.05 REPORT ON EXAMINATION OF SCENE OF HOMICIDE

In cases of murder or other very serious crime, it will be the duty of the member of the Physical Evidence Section who attends the scene to complete form P.72 (report on examination of scene of homicide). These reports will be filed at that Section.

63.06 DISTRICT/PATROL COMMANDERS RESPONSIBILITIES

Officers will:

Take a keen personal interest in all criminal cases in their Districts/Patrols, or areas, closely follow the action taken and thereby know at any time how a case stands.

Ensure that police zealously pursue investigations and maintain interest in them until completed.

Ensure that crime is circulated promptly in accordance with Instruction 64, "Crime Reporting, Crime Information and Intelligence System".

Ensure that any police officer who supplies information leading to the arrest of an offender is not deprived of any due credit.

63.07 GENERAL PARTICIPATION

Every police officer will do the utmost to prevent or detect crime and arrest offenders. To ensure that this is done effectively, there will be:

Complete co-operation between all branches of the Service.

Free interchange of all available information, and information regarding an offender will not be withheld from the Commander.

An absence of all jealousy and suspicion of each other's loyalty; and

Activity, adoption of fresh and unexpected measures, and determination to effect a speedy arrest.