

# Drugs - Prohibited Drugs and Plants

**OFFICIAL: Sensitive**

**Corporate Sponsor: Drug Related Crime**

**Chapter Owner: State Crime Command**

**Content NOT for public release - check each linked item for its status.**

(Chapter updated 18 October 2022 – [Mandatory Review])

## **Administration**

PAB18 plastic drug exhibit bags should not be used for securing new exhibits as they are being phased out of operation. All drug exhibits should now be secured in new single seal polyethylene exhibit bags.

### **Auditable drug exhibit bags**

Use polyethylene drug exhibit bags (see below); or PAB24 (multi ply paper bags) at all stations and exhibit holding locations to secure suitable drug exhibits.

### **Use of Polyethylene (Plastic) Drug Exhibit Bags**

Polyethylene Drug Exhibit Bags are available for issue in the following sizes:

- Size A4 - PAB1501
- Size A3 - PAB1502
- Size A5 - PAB1503

1. Check the seal of the bag is intact with the officer in charge.
2. Remove the instruction sheet and place the exhibit in the open end.

- name of the OIC
- name, Registered Number and signature of the person who sealed the bag
- date, time, offender's name (if known) and the exhibit bag EFIMS number

3. In the white boxes use a black pen and enter in each box on the front of the exhibit bag:
4. Remove paper liner from the seal and press both sides firmly together over the whole length.

**NOTE:** An obvious 'tamper' message appears if the seal is interfered with. If a 'tamper' message is detected, follow the procedures outlined in "Broken or tampered seals on plastic drug exhibit bags and PAB24 drug exhibit bags"

### **Opening Plastic Drug Exhibit Bags**

**WARNING:** Drug exhibits can be hazardous. Substances such as fentanyl may be fatal on exposure. Risks must be considered prior to opening any drug exhibit and considerations made of appropriate location, PPE and presence of medical aid. Specialist advice including from Crime Scene Services should be sought where there is any doubt.

- Do not open sealed bags prior to analysis unless exceptional circumstances exist and only with the written approval of the police commander (or delegate)

- removal of the drug exhibit from the drug exhibit bag for use during an interview will not normally be allowed, except in exceptional circumstances
- fingerprinting and/or DNA testing is usually performed at FASS prior to testing
- when an exhibit is entered into EFIMS, the exhibit officer is authorised to open a sealed drug exhibit bag to weigh, identify and record the contents. This is to take place in front of the case officer and usually only occurs in exceptional circumstances
- use the special cutter to open the bag if practicable
- open it in front of the person needing access, the officer in charge or the case exhibit officer. Record in EFIMS why a drug exhibit bag was opened and the seal number which was opened. Record the names of all witnessing officers
- record the same information on another unused drug exhibit bag with the names and signatures of people present, then reseal the exhibit and the original drug bag into the new drug bag. A new sub-exhibit will need to be created on EFIMS and the original barcode disposed of with reference to the new barcode. (Please be guided by your exhibit officer and Supervisor).

### **Opening Plastic Drug Exhibit Bags at court (special cutter used)**

If you must open the drug exhibit bag at court, take a special cutter with you.

### **See: SMS 4.3.4 Fact sheet: Personal protective equipment.**

- After examination, record your name and signature and the name and signature of the court officer on a new drug exhibit bag, insert the exhibit and the previous drug exhibit bag that was opened and seal them within the new bag. A new sub-exhibit will need to be created on EFIMS and the original barcode disposed of with reference to the new barcode. (Please be guided by your exhibit officer and Supervisor)

When you return to the station with the drug exhibit bag, tell the exhibit officer why it was opened then record this information on EFIMS and COPS, include those present or likely to be affected.

### **Exhibit Officer**

Check the exhibit, seal and signatures in the front of the officer returning it. Record the new drug exhibit bag number on EFIMS.

### **When cutter is unavailable**

Where there are no cutters available, cut below the last seal. After the exhibit is examined, place the exhibit, the previously opened drug exhibit bag and the cut off seal into a new drug exhibit bag and seal it.

On returning to the station with the exhibit, complete a report and have it endorsed by the Duty Officer. Hand a copy of that report and the drug exhibit bag to the exhibit officer.

### **Exhibit Officer**

Check the exhibit in front of the person returning it.

Record your name and signature, and the name and signature of the returning officer on the front of the drug exhibit bag. Record the details of the new drug exhibit bag in EFIMS and ensure the officer has updated COPS and EFIMS with the circumstances of why the drug exhibit bag was opened.

### **Use of PAB24s**

When large seizures of Cannabis leaf are brought to the station, issue a PAB24 (multi ply paper bag) and:

- pack the drug loosely
- seal the bag with evidence tape
- place an EFIMS barcode reference on the front of the PAB24 drug exhibit bag and fill out all relevant details on the front of the PAB24 drug exhibit bag. Include:



- exhibit Number
  - Officer in Charge details including name, registered number and Command
  - signature of the person who sealed the exhibit bag
  - date and time
  - offender's name (if known) and
  - the drug exhibit bag and EFIMS number
- 
- weigh and mark for identification
  - store in a cool dry place.

### **Opening the PAB24**

Do not open sealed PAB24 drug exhibit bags prior to analysis unless exceptional circumstances exist and only with the written approval of the police commander (or delegate).

If you need to open a PAB24 drug exhibit bag, cut the evidence seal in front of the person wanting access, and if possible, the officer in charge. If that officer is unavailable, ensure an independent NSW Police Force member such as the commander, or exhibit officer is present. Never open PAB24 drug exhibit bags when only one person is there.

Reseal the PAB24 drug exhibit bag in the same way, folding and using evidence tape. If the seal has been cut off, insert it into the PAB24 drug exhibit bag prior to resealing.

Record on the PAB24 drug exhibit bag and in EFIMS - the time, date and reason for opening. Everyone present must sign the seal on the PAB24 drug exhibit bag and ensure an appropriate entry is recorded in EFIMS.

If the PAB24 drug exhibit bag is opened at the Forensic and Analytical Science Service (FASS), the analyst cuts the PAB24 drug exhibit bag below the original seal in front of escorting police; the analyst then selects a sample and places the contents into a plastic bag. This bag is then placed and sealed into a separate plastic bag along with the empty PAB24 drug exhibit bag for audit purposes. Similar entries, as set out previously, are made on the PAB24 drug exhibit bag and, on return to the station, in EFIMS.

If the PAB24 drug exhibit bag is opened by an agronomist/botanist, they cut the original seal in front of escorting police, selects a sample, and then reseals the PAB24 drug exhibit bag. Similar entries, as set out previously, are made on the PAB24 drug exhibit bag and, on return to the station, in EFIMS.

### **Opening PAB 24s at court**

If the PAB24 drug exhibit bag is required to be opened at court, warn all people of the likelihood of compositional changes to the substance which may affect their health and safety and use PPE including gloves, eye protection, a face mask and protective clothing.

Cut the evidence seal in front of the court officer and once finished, reseal the PAB24 drug exhibit bag using evidence tape. If the seal is cut off, insert it into the PAB24 drug exhibit bag prior to resealing. Record on the seal the time, date and reason for opening, your name and signature, and the name and signature of the court officer.

### **OIC**

When you return to the station with the PAB24 drug exhibit bag, tell the exhibit officer why it was opened then record this information on EFIMS and COPS, include those present or likely to be affected. Complete a report and have it endorsed by the Duty Officer. Hand a copy of that report and the bag to the exhibit officer.

If you need to use a new PAB24 drug exhibit bag; place the old bag (and contents) into the new bag. Follow the procedures for sealing PAB24 drug exhibit multi-ply paper bags set out in this Section.

In addition, record on the bag the reason for the new PAB24 drug exhibit bag, your name and signature, and the name and signature of the witnessing exhibit officer.

In EFIMS, record why the PAB24 drug exhibit bag was opened and details of the returning and opening officer.

### **Exhibits seized by other authorities**

Authorities such as National Parks and Wildlife and the Armed Services may use police facilities to record and keep prohibited drug exhibits which they have seized. Responsibilities for the exhibits are passed onto a member of the NSW Police Officer who will take carriage of the exhibits and arrange analysis and timely disposal.

### **Forfeiture of drug related articles**

Keep in mind legislation dealing with confiscation of profits/proceeds of crime when dealing with people involved in serious drug offences.

Keep in mind the civil action available for confiscation of assets from drug trafficking under the *Confiscation of Proceeds of Crimes Act*, and *Criminal Assets Recovery Act 1990* (CARA). Help is available through the Civil Forfeiture Division, NSW Crime Commission.

### **Scene and Seizure**

#### **Handling and recording exhibits**

##### **OIC/Case Exhibits Officer**

Appoint an officer, where practicable, for "planned" operations who is independent to the investigation (i.e. an officer who has not played any part in the inquiry) to be the case exhibits officer.

##### **Case exhibits officer**

Take with you and keep control of auditable drug exhibit bags.

When drugs are found, ensure they are placed in a drug exhibit bag and sealed as soon as possible before leaving the scene. Only place the drug and its immediate wrapper in the drug exhibit bag.

Place drugs found at different locations (e.g. bathroom and kitchen) in separate drug exhibit bags.

Additionally, place drugs in separate drug exhibit bags according to analysis needs. Treat any other item or container associated with the drug as a separate exhibit.

**PLEASE NOTE: If you seize Cannabis along with another drug substance, you MUST package these items in separate polyethylene or PAB24 drug exhibit bags.**

Keep the exhibits in your possession until you hand them to the station/exhibit officer. Record:

- description
- where found
- who located it and when
- EFIMS number of the drug exhibit bag into which the drug is placed.

Before placement in the drug exhibit bag, photograph and/or video the drug, at the scene, if possible. After leaving the scene, go to an appropriate station and have them entered into EFIMS.

## **Overdoses**

### **Non-fatal overdose**

When you attend the scene of a non-fatal drug overdose you are encouraged to exercise your discretion to not take action for self-administration offences and minor possession offences (for the victim and anyone else at the scene). Exercising your discretion might remove the fear of prosecution and encourage people present at overdoses to call for assistance without delay.

Your primary role is to ensure the safety of ambulance officers, the victim and anyone else present. You are to seize any prohibited drug which is obviously present and deal with it as per normal exhibit procedures. After this and obtaining brief particulars it is usually appropriate to leave.

In exercising your discretion, you will obviously consider the circumstances of each case.

To ensure accountability, record your attendance on COPS. Select the 'Associated factor option – Drug related – and then the further classification non-fatal drug overdose. Record any exercise of your discretion in the narrative.

### **Fatal overdose**

At a fatal drug overdose or where death is imminent from a drug overdose investigate the matter as for any other sudden or suspicious death (refer to Coroner's matters guideline). Seize any drugs, articles or other exhibits which might help your investigation.

You may still exercise your discretion for minor drug offences as indicated for non-fatal overdoses.

To ensure accountability, record your attendance on COPS. Select the 'Associated Factor' option – Drug Related – then the further classification Fatal Drug Overdose.

Refer to the [NSWPF Drug Overdose Guidelines](#) for further information.

## **Handling needles and syringes**

### **All Police Officers**

- Be careful to avoid injury when handling uncapped, used hypodermic needles and syringes.
- To minimise risk, use the sharps containers provided.
- Only use single needle/syringe containers to store them for evidence, further inquiries or examinations.
- Use multiple needle / syringe containers when not needed for evidence or other purposes.
- Ensure these needle / syringe containers have warning labels about their contents.
- Do not transport uncapped syringes not stored in an appropriate needle / syringe container

### **Exhibit Manager / Officer**

Ensure all needles / syringes are stored in a needle / syringe container at the time of receipt. If the syringe contains a suspected prohibited substance, ensure that the syringe container with syringe is then placed into a plastic drug exhibit bag.

### **OIC's / Supervisors**

Before sending syringes to the FASS for examination, ring them as they only accept exhibits of this nature in exceptional circumstances.

### **Disposal**

Destroy only by incineration.

### **Safety precautions**

Wear disposable nitrile gloves, a face mask and eye protection. For further guidance on safety issues refer to the NSW Police Force Infectious Diseases Control Policy.

### **Cannabis**

#### **More than 250 plants**

Contact Drugs and Firearms Squad, State Crime Command whenever you find 250 or more prohibited plants, or where there is evidence of organised crime. The Drug Squad will advise on the preferred investigation, analysis and destruction procedures.

#### **Less than 250 plants**

When you discover smaller plantations, decide whether to remove and destroy the plants or commence an investigation to detect the offenders. Consider the following:

- remoteness
- number, size and maturity of plants
- potential value of the crop
- condition of plants and whether supported by irrigation or in need of water
- evidence of frequent attendance
- investigation methods available, excluding surveillance
- risk of plants being harvested by offenders.

#### **Mature plants not to be left unattended**

Mature plants are not to be left unattended except in exceptional circumstances.

When organised crime is not suspected, and surveillance is not needed, have plants photographed, identified/analysed by an 'appointed person' (before deterioration) and destroyed. Follow normal exhibit handling and destruction procedures.

Store in PAB24 multi ply paper drug exhibit bags, or destroy on site if appropriate, or transport for destruction if appropriate.

#### **Lawful Low-THC Hemp Cultivation**

Before any plants are removed, if on a private property, consider contacting Department of Primary Industries (email: [REDACTED]) to determine if the **location** is a **licensed property for the lawful cultivation of low-THC hemp** under the *Hemp Industry Act 2008*. Alternatively, contact is the Drug & Firearms Squad for specialist advice.

If the property **is** subject to such license, and you are lawfully on the property, consider conducting an inspection for compliance with the licensing conditions, & report any breaches to the Department of Primary Industries.

#### **'Appointed people' under the Drug Misuse and Trafficking Act**

#### **Region Commander**

Ensure your police commands keep an up to date record of 'appointed people' who can be called on to identify prohibited plants and issue certificates.

#### **Precautions for handling Cannabis**

Observe the following precautions:

- wear nitrile gloves and other reasonable protective clothing as common sense dictates e.g. overalls, P2 Carbon Mask and eye protection
- use tools where possible
- keep quantities and storage time to a minimum
- stay upwind when plants are being burnt.

Wherever possible, use PAB24 multi ply drug exhibit bags. Do not use plastic exhibit bags (PAB1501, PAB1502, PAB1503) for moist substances, including green Cannabis plants and leaf (the bags are airtight and cause exhibits to deteriorate). If condensation or mould is detected in the PAB24 drug exhibit bag, isolate the item and seek a disposal order from your Commander immediately.

### **Cannabis Cautioning Scheme**

Officers have the discretion to issue a cannabis caution rather than proceed to a charge for adults found in possession of not more than 15 grams of dried cannabis and / or possession of equipment and who meet all other eligibility criteria.

Refer to the [Cannabis Cautioning Guidelines](#) for information on eligibility and how to issue a caution.

### **Medicinal Cannabis Compassionate Use Scheme**

The NSW Government has developed the [Medicinal Cannabis Compassionate Use Scheme](#) (MCCUS) to extend compassion to adults with a terminal illness. This Scheme was formerly known as the Terminal Illness Cannabis Scheme (TICS).

This Scheme is in operation state-wide. The NSW Government has published information about the Scheme at:

<https://www.medicinalcannabis.nsw.gov.au/patients/medicinal-cannabis-compassionate-use-scheme>

The NSW Government Terminal Illness Cannabis Scheme ‘ [Guidelines for NSW Police](#)’ have been developed to provide assistance to police in determining under which circumstances it would be appropriate to exercise their discretion in not taking legal action against terminally ill adults who use cannabis to alleviate their symptoms, or against their nominated carers who are in possession of an eligible quantity of cannabis for the purposes of the MCCUS. A decision not to take legal action where eligibility criteria are met would be in accordance with the intent of the government’s Scheme.

If you detect a person committing an offence who indicates they are a registered terminally ill person or a nominated carer, you must verify:

1. the weight of the drug is not more than a half small quantity of cannabis leaf, resin or oil;
2. the person is registered with the Scheme; and
3. the nature of the offence is consistent with the intent of the Scheme.

The Guidelines provide further information about which offences under the DMTA may be relevant to the Scheme. Cannabis offences under other pieces of legislation (e.g. drug driving offences under the Road Transport Act 2013) are not relevant to the Scheme.

COPS has been amended to allow the recording of incidents in relation to the Scheme. See the COPS [Tips & Tricks](#) for assistance with recording.

If you have any queries about the Medicinal Cannabis Compassionate Use Scheme at any time, please contact the Manager, Drug and Alcohol Coordination, SCC Drugs and Firearms Squad.

### **Clandestine Drug Laboratories**

Clandestine drug laboratories are inherently dangerous environments and can cause death or grievous bodily harm to personnel exposed to their contents. Clandestine drug laboratories contain precursor chemicals, other chemical reagents, solvents, equipment and apparatus used to manufacture prohibited drugs.

A priority of the NSW Police Force is to ensure that Work Health and Safety standards are observed at clandestine drug laboratory sites. It is for this reason that the necessary procedures be followed by law enforcement and ancillary personnel at these sites are effectively managed and coordinated.

In respect of matters relevant to clandestine drug laboratories or drug precursor chemicals, Police Area Commands / Police Districts or specialist units must contact the State Crime Command, Drug and Firearms Squad, Chemical Operations Team in the first instance for advice on [REDACTED] (e/n 29800). After hours contact is through the State Coordinator (State Coordination Unit).

Non-Specialist Law enforcement personnel **shall not**, in any circumstances:

- Attempt or orchestrate an entry into a suspected drug laboratory site
- Remain in a suspected drug laboratory site
- Remove heat sources or turn off any power or water supply
- Use mobile phones or police radios in the near vicinity
- Remain where there is a strong smell of chemicals
- Attempt to dismantle an active, stored or suspected drug laboratory site in the absence of qualified and trained personnel from either the Drug and Firearms Squad or the Forensic Evidence and Technology Services (FETS), Clandestine Laboratory Unit utilising suitable personal protection equipment.
- Transport contaminated or hazardous exhibits, chemicals, equipment or any other item suspected of being utilised in an illicit drug laboratory within a NSW Police Force vehicle unless expert advice and assistance has been obtained from the on-call Chemical Operations Team Supervisor and an approved safe storage/transport vessel is used. This option would be used for small quantities of liquids in accordance with Dangerous Goods transport legislation.
- Handle or store any contaminated or hazardous exhibits on police premises without appropriate, approved, safe and suitably labelled storage receptacles (generally HAZMAT approved drums) following expert advice from the on-call Chemical Operations Team Supervisor. This storage should only be for the minimal period required prior to removal by qualified hazardous waste handlers. Storage of such items should be pre-approved by the Police Area or District Commander and only be done so in a suitable area (ventilated and restricted) of the police premises.

Police locating a suspected Clandestine Laboratory should:

- Remove all persons from the Laboratory
- Identify and note the items present that give an indication that a clandestine laboratory has been identified. This will include any glassware, chemicals (type and volume) heat sources and other relevant paraphernalia.
- Note if the process is active (heat source is being applied to any equipment/chemicals or if there are chemical vapours or fuming)
- Exit the area and establish a crime scene guard around the area.
- Commence a crime scene log and notify a Supervisor/Duty Officer.
- Inform police radio of the situation.
- If there is imminent danger notify NSW Fire and Rescue (HAZMAT response).
- If in business hours contact the Chemical Operations Team – E/N 29808
- If out of business hours contact Chemical Operations Team on-call supervisor through the State Coordination Unit – E/N 54408
- Be available to provide oral briefing to Chemical Operations Team on-call Supervisor.
- Arrange for a crime scene warrant to be obtained.

- isolate and secure the site.

Police locating a suspected Clandestine Laboratory should **NOT**:

- Touch any items
- Sniff or smell any items
- Remove any lid or container seal
- Inspect containers or any other items
- Remove heat sources or turn off any power or water supply
- Use mobile phones or police radios in the near vicinity
- Remain where there is a strong smell of chemicals
- Move or transport any chemicals

Procedures to be followed **IN ALL CASES** where a Clandestine Laboratory is identified or suspected:

The following Commanders should be immediately notified:

- PAC/PD Commander
- If in business hours contact Chemical Operations Team – E/N 29808
- If out of business hours contact Chemical Operations Team on-call supervisor through the State Coordination Unit – E/N 54408

### **Crime Scene Guard**

Police Area Commands / Police Districts are responsible for the provision of sufficient personnel to secure any crime scenes located within their area when Clandestine Drug Laboratories or other crime scenes are located, regardless of the agency locating the scene.

### **Contaminated Waste Contractors**

**~ Do not bring Contaminated Waste / Precursor Chemicals to a Police Station unless expert advice and assistance has been obtained and an approved safe storage / transport vessel is utilised. ~**

'Contaminated exhibit / waste' generally means any contaminated or hazardous materials, contaminated or hazardous substances, waste chemicals, waste containing controlled substances, contaminated debris, equipment, apparatus, etc seized at the site of a Clandestine Drug Laboratory.

To meet with the requirements of the Work Health and Safety Act, Dangerous Goods Act and other legislation relating to the removal, packaging, transportation and storage of contaminated waste the service will be provided by a qualified contaminated waste disposal service, contracted to the NSW Police Force.

**Do not** ever seize, attempt to handle, or dispose of chemical precursor substances.

**Do not** transport chemicals, equipment or any other item suspected of being utilised in an illicit drug laboratory within a NSW Police Force vehicle unless expert advice and assistance has been obtained and an approved safe storage / transport vessel is utilised. This option would be utilised for small quantities of liquids in accordance with Dangerous Goods transport legislation.

**Do not** store any contaminated or hazardous exhibits on police premises without appropriate, approved, safe and suitably labelled storage receptacles (generally HAZMAT approved drums) following expert advice from the on-call Chemical Operations Team Supervisor. This storage should only be for the minimal period required prior to removal by qualified contaminated waste handlers. Storage of such items should be pre-approved by the PAC / PD Commander, and only be done so in a suitable area (ventilated and restricted) of the police premises.

Fire and Rescue NSW HAZMAT officers can provide advice, assistance and storage containers for the storage and transport of contaminated or hazardous exhibits. This is only to occur when NSWPF contracted (or otherwise approved) contaminated waste handlers cannot attend in the first instance. An appropriate risk assessment should be conducted prior to any such activities being conducted. Advice regarding this course of action can be obtained from the on-call Chemical Operations Team Supervisor.

When precursor chemicals are to be disposed of, you may contact the Drug and Firearms Squad to determine costs associated with the storage and destruction of the chemical and seek compensation via a court.

The qualified Contaminated Waste Contractor can be utilised for the transport and interim holding of large amounts of cannabis plant exhibits. The Contaminated Waste Contractor will store cannabis exhibits using 660 litre bins with plastic linings. Bins must be secured with zip tags which bear unique serial numbers to maintain the integrity of the exhibit whilst in storage.

Police have until close-of-business the next business day following seizure to arrange destruction via incineration. Once the booking is made, the Contaminated Waste Contractor is to be advised in writing so that destruction occurs as scheduled.

## **Transport**

### **Transport to another Station**

#### **Commander**

If necessary, due to quantity &/or size you are unable to secure the drug exhibit, arrange for the drug exhibit to be transferred to the [REDACTED], where there are special facilities.

During business hours, enquiries should be made with the [REDACTED] Manager for assessment. Outside of business hours, inquiries should be directed to the Duty Officer who will either make arrangements for acceptance of the exhibit via the [REDACTED] or assess the necessity for an exhibit officer to be recalled.

#### **OIC**

At stations where drug exhibits are not kept, record a comprehensive description in your notebook and on EFIMS. The exhibit is transferred in accordance with the section 'Exhibits – non-charging stations'.

If this cannot be done immediately, secure it in the station safe and transfer it at the first opportunity.

#### **Station / exhibit officer**

On receipt of an exhibit in a sealed drug exhibit bag (transferred from another station in accordance with these Guidelines), inspect it in front of the transporting officer to ensure the seals are intact and there has been no interference.

Endorse against EFIMS.

## **At Station**

### **Booking in Exhibits**

#### **Station/exhibit officer**

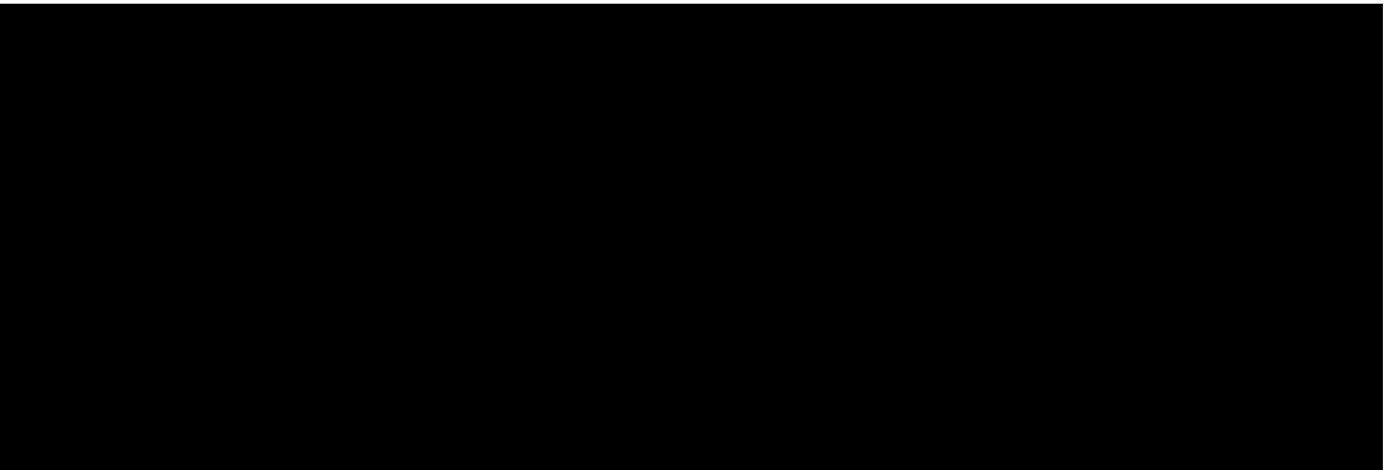
When necessary, weigh and/or count the exhibit in front of the case exhibits officer and, where possible, the alleged offender.

Weigh drugs as they are (e.g., in foil, capsule or other container) to minimise handling. The exhibit officer estimates the weight of the container and assesses the net weight of the drug. If either of you are unable to make an assessment, seek help from a more experienced officer.



Avoid removing drugs from their wrappers/containers; place the drug exhibit 'intact' into a suitable drug exhibit bag. Drugs are only to be removed from their wrappers/containers in extenuating circumstances.

Record a detailed description of the exhibit, including weight, last signed seal number and drug exhibit bag serial number in EFIMS.

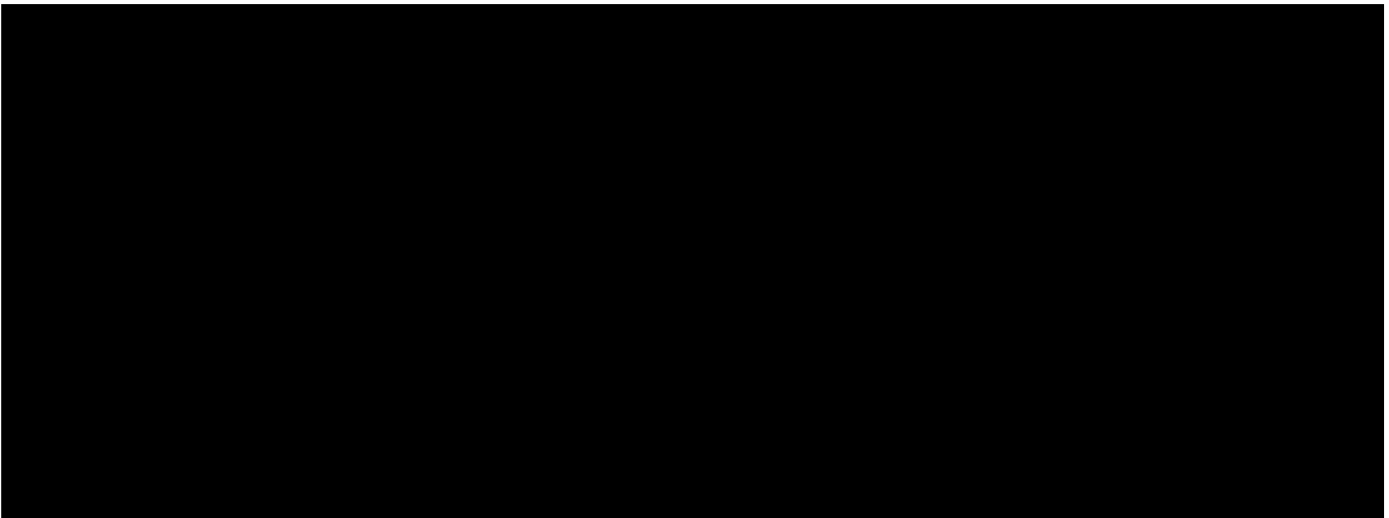
**Lodging exhibits****Movement of duplicate keys**

Never hand both duplicate keys to the one officer. When the keys are returned, record the time, date and signatures of the returning and receiving officer.

**Loss of keys**

If keys are lost, make an occurrence only entry on COPS.

Include details on the station summary and immediately notify the PAC / PD Commander.





### **Inspecting and checking drug exhibits**

#### **Station Officer / Exhibit Officer / Exhibit Manager**

When an exhibit is needed for any reason, check it in front of the officer requiring it. If interference is detected, the transfer must not take place until a determination is made by the PAC/PD Commander.

Examine the drug exhibit bag for signs of interference. Compare the serial number with that recorded in EFIMS. Inspect the seams and pay particular attention to the seal at the top of the bag by holding it up to light. If a 'tamper' message is detected follow the procedures outlined in 'Broken or Tampered seals on plastic and PAB 24 drug exhibit bags' (below).

#### **Broken or tampered seals on plastic and PAB24 drug exhibit bags (trafficable quantities or greater)**

If a member of the NSW Police Force becomes aware that a plastic drug exhibit bag seal or PAB24 drug exhibit bag seal has been opened or tampered with, an assessment should be made as to the integrity of the drug item by the Duty Officer and the Exhibit Manager.

1. Where the drug exhibit has previously been analysed by FASS an assessment of the inner FASS heat sealed exhibit bag is to be undertaken to determine if it has been compromised.
2. Where the drug exhibit has not been analysed by FASS an assessment of the exhibit bag is to be undertaken to account for the contents of the exhibit and determine if access to the drug substance may have occurred.

If the plastic drug exhibit bag or PAB24 drug exhibit bag seals have been compromised but the inner FASS seals are intact or the broken seal wasn't large enough to allow access to the drugs, seal the opened exhibit within a new plastic drug exhibit bag or PAB24 drug exhibit bag. Update the exhibit record in EFIMS and record a note with the appropriate details.

However, if the integrity of the drug item has been compromised or access to the drug substance has occurred, you must immediately notify your PAC/PD Commander. Seal the opened or tampered exhibit within a new plastic drug exhibit bag or PAB24 drug exhibit bag and arrange for the exhibit to be conveyed to FASS for analysis then returned after being sampled and re-sealed. Do not destroy the exhibit until you receive further notification from the Commander. Update the exhibit record in EFIMS and record a note with the appropriate details.

## **Police Area Command/Police District Commander**

Upon notification that a drug item has been compromised or access to a drug substance has occurred, a full investigation is to be launched with appropriate action taken.

### **Missing exhibits**

If you find a drug exhibit missing, immediately notify your commander and confirm the details in writing. Update the exhibit record in EFIMS and record a note with the appropriate details.

## **Police Area Command/Police District Commander**

Have the matter placed before your Complaint Management Team to determine if it is a local management issue or one which is to be notified to the Law Enforcement Conduct Commission (LECC). In any event, record the matter on IAPro.

### **Fingerprinting drug exhibits**

Local FSG hub sites can be contacted to arrange fingerprinting of drug exhibits. This is performed just prior to analysis. An EFIMS analysis job must be requested before the exhibit can be fingerprinted.

To request fingerprints, create an analysis job on EFIMS

- SERVICE TYPE – Fingerprints – Fingerprint Exhibit Examination
- SERVICE PROVIDER – FASS SOCO Team (listed on second page)

To request fingerprints and/or DNA (only for more serious offences and must be approved by Sergeant or above), create an analysis job on EFIMS.

If deemed appropriate, the SOCO team may refer the drug packaging to be examined by the Evidence Recovery Unit, Pemulwuy.

### **Analysing Drug Exhibits**

There are two types of drug analysis available, presumptive testing and/or confirmatory (full) analysis.

Presumptive Testing – is a preliminary forensic chemistry technique used to detect the presence of an illicit substance or classify a substance into general categories (known as classes of drugs). This testing is now performed by FSG personnel who will issue a Presumptive Test Certificate via EFIMS.

Please Note: Presumptive Testing can only be conducted where the drug is in chemical or powdered form (including pills/capsules suspected of containing MDMA, amphetamines etc). Drug exhibits within the following categories are deemed unsuitable for presumptive testing:

- Cannabis or other plant material,
- Liquids,
- Dark coloured substances (powders or pills),
- Pharmaceuticals/branded tablets.

Confirmatory (full) analysis – is a forensic chemistry technique used to confirm/verify the category/class of a prohibited drug. This testing is conducted by FASS personnel at Lidcombe who will issue a full analysis certificate including purity via EFIMS.

Drug exhibits for matters involving less than the trafficable quantity of drug where:

- The accused enters a plea of guilty; or
- Defended summary matters where the element of drug is not in issue;

will **not** be accepted by FASS or FSG for analysis.

**PLEASE NOTE:** If you seize Cannabis along with another drug substance, you **MUST** package these items in separate drug exhibit bags. Two separate EFIMS analysis requests must be made to analyse these two categories of drugs.

### **Presumptive Testing – Prior to charge**

Presumptive testing prior to charging a suspect can only be requested under the following circumstances:

- drug exhibit must be less than the trafficable quantity
- a suspect has been identified
- the suspect will be charged upon the substance being identified as an illicit drug.

**PLEASE NOTE:** Pre-charge analysis requests should be limited to those matters where the OIC has met all aspects of the charge i.e. possession, with the only element requiring satisfaction being the illicit substance.

### **Presumptive Testing – Local Court matters**

After a charge has been preferred, Presumptive testing will only be carried out on drug exhibits that meet all of the following criteria:

- the drug exhibit must be less than the traffickable quantity
- the accused enters a plea of not guilty
- the police prosecutor has established that the element of prohibited drug is in issue
- the court has issued an order for the conduct of a presumptive test.

A 28-day adjournment will be ordered by the Local Court to allow presumptive testing to be completed.

At the first available opportunity, the Police Prosecutor will disseminate information to the informant, the relevant Crime Manager (or equivalent), and the Brief Handling Manager advising of the adjournment and order for a Presumptive Test Certificate.

At the first opportunity the informant is to raise a presumptive test analysis job in EFIMS and make arrangements for the drug exhibit to be conveyed to FASS or a regional FSG site for presumptive testing. Should the informant be unavailable the Crime Manager (or equivalent) will make alternate arrangements.

The informant will provide the Presumptive Test Certificate to the Police Prosecutor prior to the adjournment date. The informant will serve the Presumptive Test Certificate upon the defence or the accused at the first available opportunity and in any event prior to the adjournment date.

In the event the analyst determines that the sample is unsuitable for presumptive testing or returns a negative/inconclusive presumptive test, the drug exhibit may proceed to Confirmatory (Full) Analysis to support the charges. An 'Illicit Drug identification' job will need to be created on EFIMS and the exhibit conveyed to FASS (if not already at FASS).

The informant will notify the Police Prosecutor immediately of the following circumstances:

- the Presumptive Test Certificate is unable to be provided within the 28-day adjournment period
- the drug exhibit has been submitted to FASS for a Confirmatory Analysis Certificate which is unable to be provided within the 28-day adjournment period.

**OIC**

Record the drug as an exhibit in EFIMS. Ensure it is taken for analysis as soon as possible when you have been informed by the Prosecutor that a plea of not guilty has been entered and the court has ordered a presumptive drug test. Create the relevant analysis job on EFIMS as follows:

- SERVICE TYPE – Exhibit Examination - Drugs
- SERVICE PROVIDER – (Drug Sampling Unit – Pemulwuy; Sydney (SPC) or other FSG hub site: Albury; Dubbo; Lismore, Newcastle and Wollongong).

Complete the following mandatory questions under Additional Information tab:

- Less than Trafficable
- Pre-Charge Presumptive Testing required?
- Test Certificate – Requested by Police Prosecutor
- Suspect Name
- Suspect CNI

**Note:** Presumptive testing cannot be performed on dried plant material (Green Vegetable Matter such as Cannabis), which requires full analysis by a Botanist. If FASS advises that they are unable to provide an Analysis Certificate for this category of drug within the 28 days adjournment period, advise the prosecutor accordingly.

**Transporting officer**

After the analyst has performed the presumptive test return the exhibit to the originating drug exhibit station. However, if the presumptive test result is negative or inconclusive, the exhibit can be progressed to Confirmatory (Full) Analysis (for current court matters only).

- SERVICE TYPE – Exhibit Examination - Drugs

**Presumptive Testing – Negative, Inconclusive or Unsuitable Results**

The Raman presumptive test device used by FSG personnel has some inherent limitations which should be considered when determining the course of action following negative, inconclusive or unsuitable for testing results. Some of the limitations include;

- highly fluorescent substances within the mixture can “mask” and prevent the detection of illicit drugs
- if the purity of the drug is low then illicit substances may not be detected;
- the Raman detection device has a limited library and does not contain all prohibited substances listed in the Drug Misuse and Trafficking Act.

**1. PRE-CHARGE (Negative, Inconclusive or Unsuitable for testing)**

Confirmatory analysis will only proceed with the written authority of the Commander or delegate (Supt or Commissioned Officer). The OIC is to provide justification for the sample to be subjected to further analysis by FASS.

- Senior Officers must be made aware of the limitations of the presumptive testing equipment (purity levels, limited drug library, masking agents), and where legitimate circumstances exist, full analysis should occur.

**2. POST-CHARGE (Negative, Inconclusive or Unsuitable for testing)**

Officers who have already proceeded with charges and for matters currently before the courts, will be entitled to request confirmatory analysis, without authorisation, to support their case.

### **Confirmatory (full) analysis**

Confirmatory analysis is a full analysis of a substance to confirm and verify its category/class of drug.

Confirmatory analysis will only be performed on:

- All amounts greater than or equal to the trafficable quantity of a prohibited drug.
- Less than trafficable quantities with negative/inconclusive/unsuitable presumptive testing result provided
  - i. Written authority is obtained from a commissioned officer for all Pre-Charge matters OR
  - ii. Charges have been preferred. Drug exhibits in matters for which the element of drug is still in issue following receipt of the Presumptive Test Certificate.
- Drug exhibits arising from controlled operations
- Prescribed Restricted Substances such as pharmaceuticals or medications, provided that:
  - i. A person has been charged and the nature of substance is in issue
  - ii. The substance was found outside of its original labelled packaging
- Drug exhibits arising from controlled operations
- Prescribed Restricted Substances such as pharmaceuticals or medications, provided that:
  - i. A person has been charged and the nature of substance is in issue
  - ii. The substance was found outside of its original labelled packaging

Amounts greater than or equal to the indictable quantity of a prohibited plant or greater than or equal to the trafficable quantity of a prohibited drug must be conveyed for analysis as soon as possible (but in no case later than 14 days).

In EAGP committal briefs, where the amount of the prohibited drug is greater than the commercial quantity, or the OPP has elected to prosecute a lesser quantity on indictment, the drug must be conveyed for analysis as soon as possible (but in no case later than 7 days) to meet the brief service timetable.

For less than trafficable quantity matters where a Presumptive Test Certificate has been issued and the element of drug remains in issue for a defended hearing, the following will apply.

At the first available opportunity, the Police Prosecutor will disseminate information to the informant, their Crime Manager (or equivalent), and the Brief Handling Manager advice that the matter has been adjourned to a defended hearing and that a drug analysis certificate will be required in order for the prosecution to prove the element of prohibited drug.

Upon receipt of this advice the informant will make arrangements for the creation of an EFIMS analysis job and the conveying of the drug exhibit to FASS for full analysis.

### **OIC**

Record the drug as an exhibit in EFIMS; ensure it is taken for analysis as soon as possible (but in no case later than 14 days). Create an analysis job on EFIMS SERVICE TYPE – “FASS” - Illicit Drug Identification

### **Transporting officer**

After the analyst has taken the necessary samples, take the sealed bag/s containing the bulk drug back to the originating station unless previous arrangements have been made for storage at the Surry Hills Exhibit Centre. For further advice refer to "Transport to another station" section within these guidelines.

### **Multiple exhibits with multiple offenders**

FASS only supply one analyst's certificate for each analysis job received (not for each exhibit). Please ensure you request separate analysis jobs for each drug exhibit you require an analyst's certificate for and ensure they are packaged separately. This ensures a separate certificate is issued for each amount as it relates to different defendants.

### **Notifying analyst of hearing date and case completion**

When a case involving a drug exhibit analysis is listed for hearing (defended) or the court has fixed a 'deadline' for the analysis to be completed, promptly notify the FASS in writing of the date. Include the FASS reference number. If a case is completed, before the analysis, promptly advise FASS whether the analysis is still needed.

### **Analysis of Cannabis plants**

When you find Cannabis plants:

- count and photograph them, when possible, and pull them out with the root system intact.
- have them analysed immediately or as soon as practicable and while fresh, by a person of a class prescribed by the DM&T Regulation (being an Agronomist or an authorised police officer for matters with a likelihood of prosecution; or a Certified Plant Identifier where there is no likelihood of prosecution) and obtain a certificate. Keep the original certificate and make an entry on COPS.

### **Analysis of Cannabis seeds**

Deal with seeds in the same way as prohibited drugs but take them to the Plants Diagnostic Laboratory, Department of Agriculture, Elizabeth Macarthur Agricultural Institute, Woodbridge Road, Menangle (4640 6333).

## **Destruction**

### **Drugs – Prohibited Drugs and Plants**

Destroy drug exhibits as soon as possible after seizure.

All officers have an obligation to ensure this is done and to comply with legislation dealing with drug destruction.

### **Superintendents / Police Area Command / Police District Commanders**

Exercise your authority and, at every opportunity, order destruction in accordance with the Drug Misuse and Trafficking Act and the Law Enforcement (Powers and Responsibilities) Act.

A police officer of or above the rank of Superintendent may order the destruction of drug exhibits as outlined in the document 'Application for Disposal of Substance or Plant' under any of the following conditions pursuant to the following sections and clauses:

### **Drug Misuse and Trafficking Regulation**

#### **Clause 11**

- a. 60 days has expired since a Mass Certificate was served on the defendant, and
- b. the defendant has not made an application for a quantity review order (clause 11); or
- c. an application has been made but has been withdrawn or refused, or
- d. the application has been granted and a certificate has been provided by a court to the defendant authorising retention of the drug exhibit

**Note:** (c) and (d) above do not prevent the destruction of a substance if destruction is necessary in the interests of health and safety, or because the substance cannot reasonably be securely retained.

#### **Clause 16I(2) – Destruction of sample material**

- a. a part of any substance retained (e.g.: B sample) for which analysis is not carried out, and
- b. 28 days has expired since the end of any proceedings for an offence relating to the substance (including the end of any appeal proceedings or if no appeal, the end of the period within which an appeal may be made)

#### **Drug Misuse and Trafficking Act**

##### **Section 39G - No likelihood of prosecution – regardless of the amount of the substance**

- a. no person has been or is likely to be charged with an offence relating to the substance, including:
  - when a caution has been issued under the Cannabis Cautioning Scheme; or
  - a caution/warning/conference has been or is to be administered under the Young Offenders Act 1997, and
- b. 21 days has expired since seizure of the substance (excluding prohibited plants), and
- c. the substance has been photographed, and the mass of the substance has been recorded (this is not required if the drug is less than the trafficable quantity)

**Note:** It is not necessary for a drug exhibit to be sampled or analysed prior to disposal when there is no likelihood of prosecution

##### **Prohibited Plants - No likelihood of prosecution**

- a. obtain a certificate from a person prescribed by the Regulation (e.g.: an Agronomist or Certified Plant Identifier) identifying the plants as specified prohibited plants, and
- b. ensure the plants have been photographed
- c. record the height (if practicable) and
- d. number of plants

**Note:** A certified plant identifier is a police officer who has completed the Cannabis Identification Workshop portion of the Exhibit Managers Course and whose name has been published in the Government Gazette.

##### **Section 39H – Destruction of prohibited plants after identification**

- a. a person of a class prescribed by the Regulation (being an Agronomist for matters with a likelihood of prosecution; or a Certified Plant Identifier where there is no likelihood of prosecution) has issued a certificate identifying the plants as specified prohibited plants, and
- b. the plants have been photographed, the height (if practicable) and number of plants has been recorded

##### **Section 39I – Destruction where analysis takes place (greater than trafficable quantity)**



- a. any samples have been taken and retained as required by the regulation, and
- b. a mass certificate has been served on the defendant in accordance with the provisions of clause 11 of the DM&T Regulation
- c. a certificate of analysis of one of the samples has been served on the defendant, and
- d. a written 'Notice of Proposed Destruction' by a qualified police officer (superintendent or above) of the proposed destruction has been served on the defendant, and
- e. 28 days has expired since the 'Notice of Proposed Destruction' was served on the defendant, and
- f. the substance has been photographed, and the mass of the substance recorded.

#### **Section 39J – Destruction of drug where less than trafficable quantity**

28 days has expired since the end of any proceedings for an offence relating to the substance (including the end of any appeal proceedings or if no appeal, the end of the period within which an appeal may be made)

#### **Section 39K – Destruction of dangerous substance or articles**

- a. the substance or article has been seized and is being retained for the purpose of proceedings for an offence under the DMTA, and
- b. an analyst has certified in writing that, in the interest of health or safety, the substance or article is required to be destroyed, and

In the case of an article or substance (other than a plant)

- c. the substance or article has been photographed and the mass of the substance has been recorded (if safe and practicable)
- d. samples of any substance have been taken and retained (if safe and practicable)
- e. written notice by a qualified police officer of the proposed destruction has been served on the defendant
- f. 28 days has expired since the notice of proposed destruction was served on the defendant (unless an analyst has certified in writing that, in the interests of health or safety, the substance or article is required to be destroyed before the expiry of 28 days)

In the case of plants

- the plants have been photographed, and
- if practicable, the height and number of the plants has been recorded

#### **Section 39L – Immediate destruction where security or other issues**

Because of the amount of the substance, or for any other reason, the substance cannot reasonably be securely retained for the period of time that would otherwise be required by the relevant provision.

#### **Coronial Matters**

Refer to the NSW Police Force Handbook chapter 'Coroner's Matters' - Coroner's exhibits

#### **Plea of guilty or element of drug not an issue – less than minimum amount**

If the defendant pleads guilty or the element of drug is NOT in issue, there is no need to have the prohibited drug analysed. A qualified police officer (superintendent or above) can authorise destruction of the drug exhibit 28 days after the end of any proceedings for an offence relating to the substance (including the end of any appeal proceedings or if no appeal, the end of the period within which an appeal may be made).

#### **Authorised Destruction**

A table of incineration facilities accredited by the Environmental Protection Authority (EPA) to dispose of drug exhibit waste contained within the new single seal polyethylene drug exhibit bags in PAB1501 (size A4), PAB1502 (size A3) and PAB1503 (size A5) drug exhibit bags.

Commands or specialist units must not seek to use accredited facilities located within another Command, without first ensuring that the PAC/PD Commander responsible for that area gives consent to do so. Contact should then be made with the relevant facility by the PAC/PD representative to arrange for the attendance of personnel from an external Command or Specialist Unit. This is to ensure one facility is not overly relied upon by multiple Commands.

To assist in the process of issuing these orders and the disposal of these exhibits, a new ‘ [Application for Disposal of Substance or Plant](#)’ form is now on the NSW Police Force intranet.

### **People present during destruction**

Destroy the exhibit in front of an officer of or above inspector rank, an independent witness and an officer who can identify the exhibit.

### **Fees incurred**

Any costs for destruction are met from the budget of the police command.

### **Destruction procedures**

Before destruction, all three parties check the drug against the EFIMS record. Do not destroy if there is evidence of interference or identification is doubtful. Immediately report any irregularity to your commander. After destruction, all three parties sign a certificate of destruction as provided on EFIMS.

**OFFICIAL: Sensitive**