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## INSTRUCTION 4

## IN-SERVICE TRAINING COURSES AND EXTERNAL STUDIES,

## 4.01 NEED FOR CONTINUED TRAINING

It is in the interest of the Police as a whole and its members individually, that they should continue to broaden their knowledge of subjects which would improve their efficiency and increase their value to the Service. With this object in view, many facilities have been provided for their participation in courses of study, both within the Department and externally, a summary of which is set out in the following paragraphs.

## 4.02 ON-THE JOB TRAINING SCHEME

The On-the-Job Training Scheme is designed to help keep all Police up to date with social changes, legislative and technical developments and current Police practices and procedures. This is done in Departmental time. Included in the scheme from time to time will be material which will assist Police with their promotional examinations.

The scheme is a continuous Police education programme which includes all ranks from Probationary Constable to Senior Sergeant. It extends throughout the State and each Division/Branch has its own Division Education Officer who has been trained for this task by successfully completing a Methods of Instruction Course at the Police Academy.

## 4.03 LECTURE NOTES

Lecture notes are prepared by the staff of the On-The-Job Training Unit, Police Training Development and Examination Branch. They are then forwarded to the Education Officer who is responsible for the presentation of the lectures. The use and care of such lecture notes is closely monitored by the State Co-ordinator.

## 4.04 COMPULSORY ATTENDANCE ALL NON-COMMISSIONED OFFICERS

Attendance of all Police below Commissioned rank is compulsory and the Division Commander will ensure that Police attend and that a record of attendance is maintained. The only Police exempted from attendance will be those on sick report, annual leave or extended leave.

Because of the shifts and variety of duties Police have to perform and the geographical locations of centres that might be involved, a number of lectures may have to be presented on the same subject, sometimes in different locations.

## 4.05 EDUCATION OFFICERS

The lectures presented by the specially trained Education Officers who employ "Group Discussion" techniques will afford every member the opportunity of making worthwhile and constructive contributions to the lectures and at the same time reduce the possibility of misinterpretation by individual Police. It is stressed that comment and feed-back on the whole system by Police, through the Education Officer, is invited.

## 4.06 TRAFFIC BRANCH, HIGHWAY PATROL

The following courses are provided by the Police Traffic Branch:

Highway Patrol Constables Course - of five weeks' duration for Police newly appointed to Highway Patrol duty. This course provides instruction in all aspects of this duty and is separate from the specialised training in driving and riding given at the Police Driver Training School.

Breathalyzer Operators Course - of three weeks' duration designed to qualify Police for appointment as Breathalyzer Operators. Written and oral examinations are conducted for which the pass rate is set at not less than 75 per cent.

Police Radar Operators Course - of two weeks' duration to qualify Highway Patrol Police as certified Radar Operators for Court purposes.

Traffic Supervisors and Sergeants Course - of two weeks' duration for District Traffic Supervisors and Traffic Sergeants, both Metropolitan and Country. The purpose of the course is to update their knowledge of current traffic developments and Traffic Branch procedures, and is conducted as required at the Police Academy.

## 4.07 TECHNICAL SUPPORT BRANCH

Various segments of the Technical Support Branch provide courses of instruction as set out hereunder:

Police Communications Section - Radio Communications Induction course - of four weeks' duration for Police newly appointed to the Radio Communications Centre. This course also includes instruction in the operating of the teleprinter network.

Central Fingerprint Bureau - training is provided to specially selected junior Police to qualify them as finger-print experts. If satisfactory progress is made, they may be permanently attached to the Bureau after six months and training is then continued in broader detail. Approximately five years elapse before a member is considered qualified as an expert.

## 4.08 PHYSICAL EVIDENCE SECTION

Ballistics Unit - training is provided to specially selected Police to qualify them as ballistics experts. If satisfactory progress is made, they may be permanently attached to that Unit after six months. During their subsequent training, members are required to undergo periods of study at establishments manufacturing firearms and ammunition. Training for a period of five years is necessary to qualify as an expert.

Document Examination Unit - training is provided to selected young Police to qualify them as experts in document examination. If satisfactory progress is made, they may be permanently attached to that Unit after six months. After five years' training and if the required standard is attained, they are appointed by the Attorney-General as document examiners for the State Government and its Departments.

## 4.09 WATER POLICE See CWC 90/132

A Probationary Training Course of six months duration is conducted by the Water Police to train personnel on first appointment, and to assess their suitability for retention. The content of this course and the assessment procedures for both theoretical and practical work shall be as determined by the Commander, Sydney Water Police.

In order to comply with the manning of Government Vessels under the Uniform Shipping Laws Code a number of courses are mandatory for Water Police personnel, and the following conditions shall apply:

That such mandatory courses for Water Police personnel are classed as approved departmental courses in the terms of this Instruction.

All attendance shall be in Departmental time.

That all applications to attend such courses are to be directed to the Commander, Sydney Water Police in whom is vested the authority for determination.

All applications from personnel other than Sydney Water Police, after recommendation by the District Superintendent, shall be directed to the Commander, Sydney Water Police for determination.

The Sydney Water Police shall conduct such courses as the Commander deems necessary to promote, maintain, improve those skills required by Police engaged in Water Police duties or who aspire to duty in this area.

Any applications for courses to be conducted by the Water Police shall be in the form determined by the Commander, Sydney Water Police.

## 4.10 WEAPONS INSTRUCTORS

Weapons Instructors Course of ten full days duration is conducted as required, completion of which is essential to qualify for appointment as a Police Weapons Instructor. Each successful course member will be designated a Police Weapons Instructor and will be skilled in firearms instruction, impact weapons, handcuffing and Officer survival techniques. The designation will no longer apply when that instructor is no longer employed in that area.

## 4.11 POLICE PROSECUTING BRANCH

Courses are conducted at the Police Prosecuting Branch for appointment as Police Prosecutors, for those Police Officers who have had their appointment confirmed. Candidates are selected by the Committee for Court Staff appointments and advanced educational qualifications are advantageous. Successful candidates are attached to the Branch, subject to the satisfactory completion of a probationary period of six months.

Members receive a comprehensive course of training in Criminal Law, Court Procedure, Rules of Evidence, Legal Interpretation and Public Speaking. After approximately three years' study and training, and having exhibited the required standard of proficiency, members may be used as Relieving Police Prosecutors. After a further period of about one or two years, depending on vacancies, they may be appointed as Police Prosecutors.

## 4.12 POLICE ACADEMY

The following courses are provided at the Police Academy:

Detectives Training Programme - consists of two formal courses. The Potential Crime Investigators' Course of four weeks undertaken by Trainee Detectives after approximately nine months duty on permanent Criminal Investigation Duties. Successful students return to the field for approximately fourteen months, at the expiration of which, they are eligible to attend the Detective Training Course of six weeks.

The aim of both courses is to train the student in Criminal Law, Court Procedure and Rules of Evidence, Practice and Procedure. In addition, training is given in oral and written expression and Human Relations. Trainee Detectives are also expected to gain specific skills and abilities of an operational nature under the supervision of the Division Detective Training Officer.

A high standard is required of each student throughout the course and those who successfully complete Detective Training will qualify for the designation of 'Detective', provided all other departmental requirements have been satisfied.

Sergeants' Course - A full time course of four weeks duration for Senior Constables who are qualified by examination to the rank of Sergeant to better equip them to discharge their duties and responsibilities as Non-commissioned Officers. The design of the course relates to instruction and discussion in Command and Supervision, Management, Law, Effective Speaking, Police Ethics and Professionalism.

Senior Sergeants' Course - A full-time course of eight weeks for Police who are Senior Sergeant or who have qualified by examination to that rank and who, by application, signify in writing their desire to undertake the in-service Training Course. The design of the course relates to Executive Management, Command and Supervision with considerable emphasis on Human Relations and Moral Concepts of Law Enforcement, Police Ethics and Professionalism and Complaint Investigation. The communication skills, oral and written, are strongly stressed.

Inspectors' Course - a full time course of three weeks duration. The design of the course relates to instruction and discussion in Command, Management Communication, Police Administration, Police Operational Units, Human Behaviour, Sociology, Police Ethics and Professionalism and Complaint Investigation.

The above courses are assessable and an evaluation is made of the course member's aptitude, application, attitude and skills and of the member's progress and development in the training environment.

A Criminal Assaults Complaints Course and a Commercial Crime Course are also conducted at the Police Academy, on an "as needs basis".

Methods of Instruction Course - a full time course of three weeks duration for Police Officers who, acting as Division Education Officers, are required to train Police within their own Branches or Sections or who, as specialists in some field, deliver lectures. The aim of the course is to produce a knowledge, understanding and effective practice of modern teaching methods, including the use of video equipment.

Induction and Training Officers Course - a course of two weeks duration to prepare Sergeants at Selected Divisions to accept responsibility for the induction, training and supervision of Probationary Constables.

Field Training Officer Course - of 2 days duration for selected personnel acting as "Buddy" trainers in the Probationary Constable Field Training System.

#### 4.13 POLICE DRIVER TRAINING SCHOOL

The Principal shall have full control of the operation of the Police Driver Training School and all associated matters.

Instruction at Police Driver Training School (also available to Probationary Constables):

Standard Course - of five days duration for Police who will be required to drive general duty cars and utilities and light weight trucks up to two tonnes. This course is available to Police during their initial training.

Intermediate Course - of five days duration for Police who will drive vehicles set out in paragraph above but whose driving ability can be improved within this period to the standard required.

Advanced Course - of six days duration for Police who will be required to drive high speed vehicles used by special squads attached to the Criminal Investigation Branch and by the Highway Patrol Police. Police undergoing this course must already be authorised drivers of general duty cars or riders of high speed motor cycles.

#### 4.14 MOTOR CYCLE COURSE

Motor Cycle Course - of four weeks duration for Police who have had no previous motor cycle experience.

Other courses to train Police in the driving of heavy or special type vehicles are arranged to suit the requirements of the Service. Before commencing courses as mentioned in 4.13, Police are required to be the holders of civilian driver's licences. For the method of applying to undergo courses, see Instruction 26.

#### 4.15 LICENSING BRANCH

The Licensing Course, of one week duration is held at the Licensing Branch, Sydney. It is designed to provide instruction to country Non-commissioned Officers who:

Perform licensing duties.

Act as Licensing Sergeants and perform duty on behalf of Licensing Inspectors.

#### 4.16 ON APPOINTMENT OR TRANSFER

Non-commissioned Officers, who by reason of transfer or appointment, are required to perform this type of duty and who are without previous licensing experience, should apply to undergo this course.

## 4.17 COMPETENCY OF POLICE IN FOREIGN LANGUAGES

To test the competency of Police in foreign languages and to conform to the standards set by the National Accreditation Authority for Translators and Interpreters (N.A.A.T.I.) arrangements have been made for all linguistic examinations to be conducted by that authority. The examinations are set at three levels:

Level 1 This is the basic level. Candidates are not accredited separately as interpreters or translators but as "language aides". This capacity may be a useful adjunct in performing their particular duty. Candidates are expected to have a reasonable degree of fluency and literacy in both languages. Candidates must show that they have some basic knowledge of the language and the problems of non-English speakers.

Level 2 This represents a level of ability for the ordinary purposes of general business, conversation, reading and writing. Applicants at this level are classed as Interpreters, Translators, or both. Candidates must have general education equivalent of four to six years of Australian secondary education or overseas equivalent and language capability in both English and other language equal to that level. Acceptance into a Level II course approved by N.A.A.T.I. would satisfy these requirements. To qualify, an applicant must pass in a N.A.A.T.I. test at this level, or successfully complete a course approved by N.A.A.T.I. as appropriate at this level.

Level 3 This is the first of the professional levels for those who undertake the general purpose tasks of interpreting and translating in a wide range of subjects. In some cases candidates may specialise in particular areas or subjects.

The prerequisites and qualifications are supplied on application to the Training, Development and Examination Branch, Police Headquarters.

Police wishing to be tested at any level are to submit applications to the Commander, Training, Development and Examination Branch, Police Headquarters, setting out their experience and qualifications. The applicant will then be informed as to which examination level he/she may attempt and arrangements will be made for examiners from N.A.A.T.I. to conduct the appropriate examinations.

## 4.18 GENERAL PROVISIONS

Police who are required to attend In-service Training Courses, excepting those which consist of on-the job training at the places to which they are attached:

Will not avail themselves of any annual or extended leave during the course.

Will make every endeavour to keep Court attendance to a minimum during that period and any member selected to attend the Detectives' Training Course will immediately notify the Commander, Investigative Group, in the event of their being required for any lengthy Court case while the course is in progress.



Will notify the Station or Section Commander of any outstanding matters requiring attention during their absence in similar manner to Police proceeding on annual leave.

Will receive their normal salary and allowances during the course.

If attached to an outlying Station within the metropolitan area and difficulty would be experienced in making a daily journey to attend the course, may apply to reside in Sydney, each case being dealt with on its merits.

#### 4.19 PERMISSION TO WEAR PLAINCLOTHES WHEN ATTENDING COURSES

When attending In-service Training Courses, uniform will be worn unless permission is granted to wear plainclothes; arms and appointments will then be dealt with as if on annual leave.

#### 4.20 RETURNING HOME AT WEEKENDS

Police attending In-service Training Courses who reside in distant parts of the State may apply to return home during the period of the course by rail at Departmental expense as follows:

In respect of courses of a four week duration after either 2 or 3 weeks.

For courses in excess of four weeks duration after 3 weeks initially and every 4 weeks thereafter,

providing the training of individual Police is not impaired and subject to the concurrence of the Principal, Police Academy.

They will be excused from attendance on a Friday preceding a weekend and/or the Monday following a weekend so as to permit of their spending approximately two consecutive days and nights with their families, on the basis that the time granted off will be the minimum necessary for the purpose. Consideration will be given to permitting a member of the Force to use his private car for the journeys and be paid vehicle allowance at the rate prescribed in Instruction 26 provided vehicle allowance does not exceed the cost of the rail fare involved and that no longer absence from the course is involved than if the journey were made by the normal public means of transport. Each case will be dealt with on its merits. The question of whether travelling allowance will continue to be paid in these cases during absence from Sydney will be considered in the light of the circumstances applying in each particular case.

#### 4.21 RETURN RAIL FARE

Country Police attending In-Service Training Courses who do not reside in distant parts of the State and can return home each weekend and spend a reasonable time with their families, and those Metropolitan Police to whom approval has been given to reside in Sydney during the week in accordance with 4.17, may apply for return rail fare with the proviso that no time is lost from attendance at the course and that there is a saving in travelling allowance payable at least equal to the cost of rail fare.

If desired, consideration will be given to Police Officers using their private vehicle to return to their home, provided that the amount of vehicle allowance involved does not exceed the value of rail fare and that the necessary saving in travelling allowance is effected.

#### 4.22 INSURANCE OF PRIVATE VEHICLES

Where Police are authorised to use their private vehicles for the purposes set out in this Instruction, it will be necessary for the insurance policies respecting the vehicles to be endorsed in accordance with the provisions of Instruction 26 prior to the journey.

#### 4.23 APPLICATION FOR CONCESSION

Police desiring to avail themselves of the concessions provided in this Instruction for returning home at weekends should furnish applications to the Principal, Police Academy, immediately upon commencing the course.

#### 4.24 STUDY ASSISTANCE GRANT SCHEME - METHOD OF OPERATION

The Study Assistance Grant Scheme provides for the reimbursement of compulsory fees to members who have successfully completed a full stage of an approved course, details of which are set out in Instruction 4.28.

Compulsory fees are those payments made to an institution upon enrolment, e.g., Union, Student Council, etc., fees, and reasonable accommodation costs incurred in attendance at compulsory residential schools. Travel costs to these schools, apart from those set out in Instruction 4.28, are not covered by the scheme.

The scheme will apply in respect of courses of study as set out below, provided that such courses may be shown to be relevant to a Police vocation.

Details of conditions of the Grant Scheme are as follows:

Members are expected to complete their own enrolments in appropriate tertiary courses and to meet all payments for any compulsory fees charged by the institution which they attend.

The grant is available on up to seven annual occasions and may be applied to more than one course of study but not to courses taken concurrently. Any member who was previously a part-time scholarship holder has the seven year entitlement reduced by the period of scholarship support.

#### 4.25 REIMBURSEMENT OF COMPULSORY FEES

To be eligible to receive reimbursement of compulsory fees paid, the student must:

Have commenced duty in the Police Service prior to the date of the first final examination attempted in the academic period under consideration and also be a member of the Service on the date reimbursement is received.

Produce evidence of having successfully completed a full stage of an approved course.

Produce receipts substantiating payments made for compulsory fees.

## 4.26 REPEAT STUDIES COMPULSORY FEES

In respect of repeat studies, the costs of compulsory fees for the initial attempt only at the complete stage shall be reimbursed.

Where a member has paid fees in respect of only a single semester, reimbursement may be made on satisfactory completion of that period of study.

Divisional Officers are authorised to approve reimbursement of compulsory fees to Police attending an approved course of external study.

## 4.27 CONSIDERATION OF PAYMENT OF FEES

Under no circumstances will consideration be given to reimbursing any Police Officer in respect of fees or other expenditure incurred where such Officer undertakes a course of external studies at his/her own expense without first obtaining the approval of the Commissioner.

There will be no objection to participants who attend residential schools being relieved of duty and issued with departmental requisitions to cover the cost of train travel to and from the establishments. Attendance at compulsory residential schools which incur accommodation costs, may be reimbursed under the Study Assistance Grant Scheme.

## 4.28 APPROVED COURSES

Without limiting applications to undergo other courses, the following have been approved for the purposes of Instruction 4.23 and 4.31:

Any Australian degree, diploma or associate diploma in a relevant discipline, or equivalent foreign award at a level acceptable to the Education Courses Committee, Police Training Development and Examination Branch, Police Headquarters.

Barristers' Admission Board Course, University of Sydney Law School.

Department of Technical and Further Education,, Management and Supervision related three year Certificate Courses.

Foreign language courses as approved by the Education Courses Committee, Police Training Development and Examination Branch.

Successful applicants to undertake any of the aforementioned courses are to furnish a report through the usual channels to the Police Staff Branch.

When doubt exists as to whether an intended course of study is an approved one, a report containing all relevant information will be forwarded to the Chairman, Education Courses Committee at the Police Training Development and Examination Branch for adjudication, each application being considered on its merits.

## 4.29 EXTERNAL COURSES

A number of external courses have been arranged to provide training in Departmental time for Police and, in particular, for those engaged on duty of a specialised nature, details of which are as follows:

Provided by the University of New South Wales

A full-time course of three months' duration in Traffic Planning and Control conducted by the School of Transportation and Traffic - available to selected members of the Traffic Branch.

A part-time course to qualify for a degree in Electronics Engineering - available to selected members of the Police Communications Section.

Provided by the Department of Technical and Further Education

Radio Trades Course

Full-time - of one year's duration to qualify Police for appointment to the Police Communications Section. The course covers in detail the technical aspects of transmitting and receiving equipment and accessories and their care and maintenance, both in theory and practice. Having successfully completed the course, members receive the Radio Trades Certificate and are qualified to sit for the Commercial Broadcast Operator's Certificate.

Part-time - of three years' duration for members of the Police Communications Section to provide training similar to that given in the Full-time course with less emphasis on practical aspects, experience in which is obtained in the course of their daily duties. Successful students qualify in the same manner as full-time students.

Post Trade Transmission Course - A part-time course of one year's duration for members of the Police Communications Section who have completed the Radio Trades Course to prepare them for the Broadcast Station Operator's Certificate of Proficiency.

Electronics and Communications Engineering Certificate Course - A part-time course of four years' duration for selected members of the Police Communications Section.

Aerial Photography Interpretation Course - A part-time course of eighteen weeks duration or a full-time course of one weeks duration, to train Police to read and interpret aerial photographs.

Photography Certificate Course - A part-time course of four years duration for Police Officers whose duty includes the regular taking and processing of photographs.

Miscellaneous Drafting Course - A part-time course of one year's duration, for selected Police, covering the preparation of accurate scale plans for presentation in evidence.

Intermediate Representation Techniques Course - A part time course of one year's duration, to supplement technical drawing and photographic evidence skills, for Police approved for nomination by Commander, Physical Evidence Section.

Basic Teaching Method Course - For members of the Youth and School Liaison Unit of the Police Community Relations Bureau. The course is designed to train the lecturers in the basic principles of teaching children and adolescents.

4.30 AUSTRALIAN POLICE COLLEGE

Provided by the Australian Police College - an advanced level training course is conducted for selected Officers and potential Officers from the various Police Forces of Australia and the Pacific Region. The course is residential, of about two months duration and designed to broaden the outlook of participants, to improve their professional knowledge and prepare them for executive rank. A Senior Executives' Course is also conducted for selected Officers at a higher level.

4.31 OVERSEAS STUDIES

When consideration is given to the question of sending Police Officers overseas to undertake official studies designed to lead to the introduction of improved procedures or to gain knowledge of overseas development, such members should be of an age which will ensure, as far as practicable, that they will be able, during their remaining service, to impart the knowledge gained to the full advantage of the State. To achieve this purpose, such members should have at least approximately three years' remaining service.

4.32 STUDY TIME - FOR LECTURE STUDENTS AND CORRESPONDENCE STUDENTS

Subject to Departmental convenience, study time may be granted to Police Officers under the following conditions:

For lecture students:

For private study where time is not required for travelling or attendance at lectures during rostered hours of duty - time off up to a maximum of four hours per week, on the basis of 30 minutes face-to-face study time for each hour of compulsory lecture attendance during that time - time off is not to be made up.

Necessary travelling time and lecture attendance during rostered hours of duty.

Necessary travelling time, even if the lectures themselves are held outside rostered hours of duty.

Time off for lecture attendance, and time off in excess of four hours per week must be made up.

Study time may be granted under clauses above or a combination of both. For students attending face-to-face lecture courses, necessary additional time exceeding the four hours can be granted to cover essential attendance and/or travelling time. However, this time must be made up in strict accordance with 4.34.

For correspondence students:

Time off on the basis of 15 minutes study time for each hour of lecture attendance involved in the corresponding lecture course.

Time off to a maximum of four hours per week and time off is not to be made up.

Where the correspondence course involves compulsory attendance at a residential school or practical session:

Time off, including travelling time, if necessary, to attend a compulsory residential school or practical session which is an integral part of the course up to a maximum of five days per subject per annum, in respect of those institutions where the subject(s) extend for one academic year.

In respect of those institutions operating on a semester basis, members involved in attendance at compulsory residential schools, time off up to a maximum of 2.5 days per subject per semester.

A correspondence student shall not be granted weekly study time for any subject in which he/she is required to attend a continuous residential school or practical session. In such, subjects, study time will be granted to cover attendance at the residential school.

#### 4.33 STUDY TIME - GENERAL PRINCIPLES

The basis of the concession is that study time is to be used for private study or for essential travelling time and not for attendance at lectures during rostered hours of duty except where lectures are not otherwise available. Wherever possible, courses selected should be timetabled outside rostered hours of duty.

Study time for repeat subjects is only to be granted in cases where the applicant has not previously been granted study time for those subjects. Police Officers who necessarily attend, in rostered hours of duty, repeat subjects, for which they have previously been granted study time, must make up all time off taken in respect of those subjects. However, a member who is taking a combination of new and repeated subjects is eligible for the grant of study time in respect of the new subjects, the criteria being that study time is given once only for each subject.

#### 4.34 MAKING UP STUDY TIME

The following conditions will apply in respect of making up time:

The maximum time to be made up in any one week is five hours, except for time taken off for a repeated subject, which must all be made up.

As a general rule, time must be made up as soon as possible after it has been taken. However, subject to Departmental convenience, outstanding time may be made up later, preferably during vacations of the institution concerned.

In no circumstances is time off to be made up during a meal break.

In all cases, study time may be taken only while lectures are being attended, or would be attended if the course were being taken by lectures and not during vacations nor after the last day of lectures.

4.35 STUDY TIME MAY ONLY BE GRANTED FOR ONE COURSE AT A TIME

Police undertaking an approved course and wishing to take advantage of study time concessions will submit a report, giving details of the course and anticipated arrangements for the taking and making up of study time.

Divisional/Branch Commanders, after satisfying themselves as to the correctness of applications, will formally approve the taking of study time and give any directions necessary in regard to time to be made up. Officers will ensure that a check is maintained of time taken and time made up and that conditions laid down in regard to study time are being strictly observed.

4.36 ACCUMULATION OF STUDY TIME

Accumulation of study time is permitted under the following conditions:

Subject to Departmental convenience, Police Officers whose study time entitlement is less than two hours per week may accumulate such time so as to make better use of it for study purposes.

4.37 ACCRUAL OF STUDY TIME

Police may accrue study time up to a maximum of five (5) days per annum as a substitute for the full period of study time for which the member would be eligible on a week by week basis. Study time accrued in this manner is to be taken prior to or during the Officers examination period(s). This provision is designed to provide an alternative concession to students whose course requirements and/or personal circumstances are such that they believe they would gain more benefit from accruing study time rather than weekly study time. Accrued study time may be granted, subject to the following conditions in each case:

The option to accrue five (5) days per annum study time is available to a student who is eligible to receive study time for private study purposes. A student who requires some weekly study time for lecture attendance and/or travelling time with the balance of his/her entitlement available for private study purposes, may convert this balance to the five (5) days per annum grant.

A student wishing to exercise the option to accrue five (5) days per annum study time should submit a report to his/her Division/Branch Commander at the commencement of the studies in each year or semester of his/her course.

Where approval has been given to a student's application for accrued study time, all time off under that approval is to be taken during the month before the date of the first examination being undertaken, or during the examination period, but prior to the date of the last examination attempted. Study time under this arrangement should be granted in minimum periods of one-half day and is to be additional to any special examination leave for attendance at examinations.

A student faced with semester examinations and who elects to accrue study time, may be permitted to take 2.5 days each semester per year. Such student may also be permitted to vary the election from semester to semester, i.e., a member who exercises an option to take 2.5 days accrued study time in the autumn semester may elect to take weekly or accrued study time in the spring semester of the same year and vice versa.

#### 4.38 STUDY LEAVE TO ATTEND EXAMINATIONS

An annual examination student may vary the election made at the commencement of an academic year effective from 1st July in that year. Accordingly, that student may elect to accrue study time at the start of an academic year and vary this election as at 1 July to weekly study time for the remainder of the year and vice versa and thus receive 2.5 days during or prior to the examination period.

As is the case with the grant of weekly study time, applications for accrued study time are subject to Departmental convenience. Division/Branch Commander may decline to approve of members being granted accrued study time where the policing of a Division or Branch would be prejudiced by a member's absence for additional days during or prior to examination periods, provided that weekly study time is granted.

Where an approval has been given at the commencement of an academic year/semester to allow a member to accrue study time and the Officer concerned therefore foregoes the opportunity of taking weekly study time, the grant of this period of absence is committed, even if changed work circumstances mean that absence from duty would be inconvenient.

All accrued study time taken should be entered in the Service Register of the Police concerned.

#### 4.39 STUDY TIME TO MEMBERS UNDERTAKING PART-TIME HIGHER DEGREE STUDIES

Study time may be granted to Police Officers undertaking part-time higher degree studies under the following conditions:

Where the member is undertaking qualifying or higher degree studies by course work, i.e., face-to-face instruction.

Where a member is undertaking qualifying studies for a higher degree entirely by thesis, the equivalent of 10 days' study time may be granted, to be taken as required by the member, subject to Departmental convenience.

Where a member is undertaking higher degree studies entirely by research and thesis, the equivalent of 20 days' study time may be granted, to be taken as required by the member, subject to Departmental convenience. This time off may also be used by the Police to enable them to make periodic essential visits to the university and/or to maintain close association with their supervisor. A further 10 days may be granted where the Commissioner is satisfied that the nature and progress of the research warrants such further study time.



Where a member is undertaking higher degree studies which involve course work, followed by the preparation of a thesis necessitating further research and experimental work, weekly study time may be granted for the course work where appropriate and the equivalent of 10 days' study time during preparation of the thesis, such study time to be taken as required by the member, subject to Departmental convenience.

Applications for study time under the previous clauses and for the 10 days provided in clause above, containing advice as to the relevance and value of the course to the Department are to be referred to the Chairman, Education Courses Committee Police Training, Development and Examination Branch for consideration. Time off under these paragraphs is of a lump sum nature which represents the maximum grant available for the duration of the course.

#### 4.40 EXTENDED STUDY TIME

Approval has been given to an extension of the study time concession to include the grant of study time up to a maximum of twenty (20) days for the Co-operative (Sandwich) Practical Legal Training Course conducted by the College of Law. The grant of study time for this purpose is subject to Departmental convenience.

Any additional time required to complete this course must be covered by other forms of leave, i.e. annual leave, extended leave, or leave without pay.

#### 4.41 SPECIAL EXAMINATION LEAVE

Special examination leave may be granted to Police undertaking approved courses as face-to-face or correspondence students, subject to the following conditions:

Any Officer sitting for an annual examination, test or paper will be granted special examination leave for the whole day, irrespective of whether the examination is held in the morning, afternoon or evening.

No additional concessions will be granted if more than one examination, test or paper is attempted on the same day.

If the examination, test or paper is held on a day on which the member is not rostered to perform duty, special examination leave will not apply.

Leave will not be granted for term of half-yearly examinations, but examinations conducted more than once a year (e.g. Barristers Admission Board Course and courses conducted on a semester basis) are to be regarded as annual examinations for the purpose of granting leave.

Leave may be granted for deferred examinations.

Applications for special examination leave will be made on the P.85 Form. Particulars of leave approved should be recorded in the Service Register of the Police Officer concerned.

#### 4.42 COMPUTERISED POLICE PERSONNEL REGISTER

A Computerised Police Personnel Register of Police who are undertaking or have undertaken courses of study is maintained at the Police Staff Branch. Police who undertake such courses and are Departmentally sponsored by way of study assistance or study leave, shall immediately report the result of any completed subject or annual examination in order that the Register might be appropriately noted. Members who engage in such courses of study in their own time and at their own expense are encouraged to do likewise.

#### 4.43 VISITS TO ROYAL CANADIAN MOUNTED POLICE

Police who desire to make official visits to the Royal Canadian Mounted Police in connection with Study Grants or Fellowships should forward requests to the office of the Liaison Officer, Canadian High Commission, Canberra.

Requests should state the purpose of the visit and include biographical data of the Police Officer as well as an outline of Police experience. It should also be indicated whether the applicant has the Commissioner's permission to travel overseas and this permission should be sought per manuscript report prior to any communication being forwarded to the Canadian High Commission.

Requests are not to be made direct to the Royal Canadian Mounted Police as these create difficulties to Canadian Authorities and result in delays as they are initially referred from Canada to the Canadian High Commission, Canberra.

#### 4.44 POLICE ACADEMY - ABSENCE ON DUTY, FROM COURSES

All Police personnel shall, prior to leaving the Academy to attend official duties not associated with courses, report for the information of the Principal, full particulars of those duties to be performed. The Principal shall have a discretion to allow such action as considered necessary following enquiries as to the bona fides of each application.

## INSTRUCTION 10

POLICE MEDICAL SERVICES AND  
MEDICAL ADVICE ON POLICE MATTERS

## 10.01 SCOPE OF MEDICAL SERVICES

The responsibilities of the Police Medical Services are:

Health standards of recruits and Probationary Constables.  
Sick report and health of Police.  
Forensic medicine - general.  
Forensic medicine related to impairment of driving caused by alcohol or drugs.  
Underwater diving - medicine.  
Guarding of patients in public hospitals - medical guidelines.

Reference should also be made to Instruction 8 (Sick Report) and Police Rules 76 and 77.

## 10.02 HEALTH STANDARDS OF RECRUITS AND PROBATIONARY CONSTABLES

These standards relate to the overall suitability of recruits. Principles guiding selection include fitness to the age of 60 years of age and not just immediate fitness. The Director of Medical Services is responsible for preparation and interpretation of medical standards. The Director is not responsible for decisions relative to height, weight, excess body fat standards, or for standards of visual acuity or spectacles or contact lenses or colour vision or for physical tests for agility, strength or endurance except in an advisory role.

## 10.03 SICK REPORT AND HEALTH OF POLICE

Refer to Instruction 8.

## 10.04 FORENSIC MEDICINE - GENERAL

Two Divisions for Forensic Medicine now exist - they are "Forensic Pathology" and "Clinical Forensic Medicine".

The Director, Division of Forensic Medicine of the Health Department of New South Wales, provides a continuous service, during and after normal working hours, for information, advice and assistance with medico - legal matters related to forensic pathology i.e. from point of death on. Psychiatric matters are excluded, and also clinical forensic medical matters (i.e. when the victim or the assailant or offender is still alive). These matters are the responsibility of the Director and staff of Police Medical Services. Many matters need a joint approach, e.g. carbon monoxide poisoning - its prefatal environment is studied by the Police Medical Officer where thought advisable.

The Director of the Division of Forensic Medicine may be contacted between 8.30am and 4.30pm, Monday to Friday, at the Division; and at other times, through the Duty Officer, Operations.

Where the services of the Forensic Biologist or Analyst are required, contact the Physical Evidence Section, where suitable arrangement will be made.

The Director, Police Medical Services, or the Police Medical Officer on call, may be contacted for similar assistance and advice in the clinical forensic area between 8am and 4pm at the Police Medical Branch.

At night, weekends or public holidays, inquiries for the Police Medical Officer for these purposes are to be directed through the Duty Operations Officer.

The Director, Police Medical Services is not responsible for services in an area which has a Government Medical Officer, (G.M.O.) already appointed unless such Medical Officer cannot be located.

#### 10.05 LIAISON ARRANGEMENTS WITH HEALTH DEPARTMENT

The Director, Police Medical Services is regarded as a resource person and advisor for the N.S.W. Health Department, and the Public Hospitals System in the Clinical Aspects of Forensic Medicine.

Commissioned Officers attending to new appointments of Government Medical Officers in their areas are required to discuss with the Director, Police Medical Services, their suitability for and willingness of the person to train for duty related to Police needs on the clinical aspects of forensic medicine.

#### 10.06 DUTIES OF THE DIRECTOR AND STAFF, POLICE FORENSIC MEDICAL SERVICES

The duties of the Medical Services Branch include such matters as carrying out medical examinations, obtaining blood samples, saliva, head, hairs and other evidence whether by consent or in terms of Section 353A(2) of the Crimes Act regarding blood samples and invasive (internal) medical examinations. In the latter case, the following rules apply:

Section 353A (2) of the Crimes Act, 1900 provides for medical examination of persons in lawful custody in certain circumstances. This Section authorises only such examination as is reasonable in order to ascertain facts which may afford evidence as to the commission of the crime or offence.

The Section does not authorise a general practice of obtaining blood samples from persons in custody or subjecting them to other forms of invasive medical examination.

An examination may proceed beyond mere scrutiny of the person, and extend to the taking of specimens or the recovery of foreign bodies where those specimens or bodies may afford evidence of the charge in question.

Whether a proposed examination is reasonable is a question of fact and degree which depends on all the circumstances of the particular case. It would be unwise to attempt to lay down, in the form of a code, a series of tests by which the reasonableness of a proposed examination should be determined. The limits of reasonableness may vary markedly and depend, inter alia, upon such matters as the extent to which the examination will invade the integrity of the body, the state of health of the prisoner, the seriousness of the charge, the cogency of the evidence that there are reasonable grounds for believing that the examination will afford.

Before a Medical Practitioner is requested to undertake an invasive medical examination or take a blood sample investigating Police shall confer with a Commissioned Officer from the Police Prosecuting Branch. Where an Officer from that Branch is unavailable contact is to be made with the Duty Operations Inspector for the purpose of obtaining advice as to whether the proposed examination is justified.

In the metropolitan area the Forensic Unit of the Police Medical Services will be used for the carrying out of the required procedures. Elsewhere the Government Medical Officer or private Medical Practitioners may be utilised.

Contact can be made with the Police Medical Officer at any time through the Duty Operations Inspector.

#### 10.07 SEXUAL ASSAULT VICTIMS

The Police Medical Officer will not be called to examine the victim of a sexual assault, this being the role of the Sexual Assault Centre, but because the Director, Police Medical Services, is now the resource adviser the Director is available in an instructional role to the Centres or to clarify and assist in sexual assaults if Police so require or if difficult cases exist (e.g. failure of a hospital to obtain a blood sample from a victim).

See also Instruction 67 ("Sexual Assault Offences").

#### 10.08 INTERPRETATION OF INJURIES SHOWN IN PHOTOGRAPHS

The Police Medical Officer is available to interpret such photographs.

#### 10.09 DRUGS AND CRIMINAL BEHAVIOUR

The Police Medical Officer is available to comment on the effects of drugs and behaviour.

#### 10.10 SUSPECTS, VICTIMS, PRISONERS - MEDICAL EXAMINATION OF

It is essential that Police call, as soon as is feasible, the Duty Operations Officer to locate and direct the Police Medical Officer to:

Examine offenders suspected of murder, assault or sexual assault.

Examine victims of assaults (except that victims of sexual assaults are examined at the Sexual Assault Referral Centre - see 10.07.

Carry out an examination where a prisoner in custody alleges assault by Police.

In all these clinical cases, the services of the Police Medical Officers are only to be sought where examination will provide additional evidence in the opinion of Police.

Many cases of injury are already removed to hospital and hospitals seek advice on routine recording of, and treatment of such injuries. The Police Medical Officer is not to be called to such cases unless for some special purposes, or if the Hospital desires it.

Police should, however, seek to call out the Police Medical Officer in special cases, even where the patient is in hospital, such as for the examinations of burns on a suspected arsonist, victim of other criminal burns, victims of non-fatal strangulation (especially).

This call out service is only available, routinely, in the inner metropolitan area. Other areas need a discussion between Police and the Police Medical Officer on call about facilities already there.

#### 10.11 POLICE INVOLVED IN SHOOTING INCIDENTS OR TRAGIC EVENTS

This service (also operative after hours) includes the visiting of Police who are shot or are involved in a shooting or a tragic event. In most cases, the Police Medical Officer, will then arrange, in liaison with the Inspector, Health and Welfare (who is also called), appointments for those in acute distress to be examined by a Consultant Psychiatrist or the Departmental Psychologist.

As this call out service relates to Police forensic matters, with the above exception - Police will not contact the Duty Operations Officer on health problems. These are to be dealt with by one's own Doctor in the usual way.

Refer also to Instructions 21, 22 and 132.

#### 10.12 ATTENDANCE AT EVENTS WHERE POLICE ARE AT RISK

An exception is also the attendance of the Police Medical Officers, to support Police, e.g. at Bathurst Motor Races or any event where frequent injury to Police may occur or for such other call-out duty as the Commissioner or his Officers may direct.

#### 10.13 DEATHS IN POLICE CELLS

Although homicides or suspicious deaths are excluded from Police Medical Officers duties, if thought necessary, if a death occurs in a cell, the pre death environment of the cell can be examined by the Police Medical Officer.

#### 10.14 MEDICAL EXAMINATION OF ARRESTED PERSONS

When Police consider a medical opinion will be of value in respect of a person under arrest, they should contact the Police Medical Officer with a view to an examination being carried out as soon as possible. In the country or outer metropolitan area similar assistance should be sought from the Local Government Medical Officer.

#### 10.15 DENTAL EXAMINATIONS IN CRIMINAL MATTERS - ODONTOLOGY

Forensic Odontology is defined as the study of teeth in relation to legal problems; in identification; in ageing the dead and in comparing the details of bite marks.

Where the victim or the offender is alive, Police may have need for the help of the Odontologist when bites have taken place. Attending Police should not call on the Odontologist's help themselves. It is essential that the services be sought by the Physical Evidence Section Officer who is attending to the matter and the Physical Evidence Section Officer will contact the Odontologist directly.

Where the examination involves the teeth of an offender and the examination is needed, the Physical Evidence Section Officer is aware that Section 353A (2) of the Criminal Act refers only to Medical Practitioners. The Physical Evidence Section Officer in that instance will arrange for the Police Medical Officer on duty (in the metropolitan area) or the Government Medical Officer in the country area, to do the examination assisted by the Odontologist, as the Odontologist is a dentist and not a Medical Practitioner.

10.16 DENTAL EXAMINATIONS - OFFENDERS, VICTIMS ETC.

Where a criminal matter (in which bites are concerned involves a deceased person) Police will not, themselves, call upon the Odontologist's services, as this will be done by the Director, Division of Forensic Medicine, Glebe, unless the Physical Evidence Section Officer otherwise directs and arranges.

10.17 DENTAL EXAMINATIONS - SEXUAL ASSAULT

In the case of victims of sexual assault, the Medical Officer on duty at the Sexual Assault Referral Centre may sign the request space in the Protocol Document and in this instance the Physical Evidence Section Officer contacts the Odontologist directly.

10.18 DENTAL EXAMINATIONS - RELIEF ODONTOLOGIST

No relieving forensic Odontologist is available. However, the Odontologist's advice on suitable persons should be sought.

10.19 FORENSIC DUTIES OF MEDICAL OFFICER RE TRAFFIC OFFENCES, ETC.

Police Medical Officers are involved in almost every area of this field. They are responsible to the Director of Police Medical Services to carry out and be involved in special duties as follows:

Preparation of medico-legal reports subsequent to Breathalyzer or breath and blood alcohol and drug readings, especially where Police investigations have led to culpable driving, culpable driving occasioning bodily harm or death or manslaughter charges etc.

Attendance at all Courts, to provide the medical opinion in the case especially the "back-reading". The Court appearances may be in any Court in New South Wales.

Lecturing to Police and other bodies on forensic aspects of drinking and driving.

Training breath analysis operators in some parts of their work.

Research, especially into physiological effects and into the types of instruments themselves.

Preparing reports for senior persons in the Department and responding to Ministerial inquiries.

Member of Standards Committee on evidentiary instruments

Member of Stay-safe Committee.

## 10.20 UNDERWATER DIVING MEDICINE

Police Medical Officers undergo training by the School of Underwater Medicine of the Royal Australian Navy and liaise with the Police Diving Section of the Water Police.

A six-month training course for Police "in Chamber" Compression Chamber Attendants is held periodically by the Police Medical Officer.

Underwater diving accidents - see Instruction 39.12

## 10.21 GUARDING OF PATIENTS IN PUBLIC HOSPITALS BY POLICE - MEDICAL ASPECTS

The role of a Police Officer guarding a patient in hospital is to provide security at a level appropriate to the circumstances pertaining to that person who is at all times a patient of the admitting hospital and is entitled to its treatment on request.

The following guidelines in relation to hospital treatment must be discussed in every case with the particular hospital's Superintendent or delegate:

Senior Medical and Nursing staff should be able to discuss matters which may arise in the course of these Police duties with the Commander of the Police Division within which the hospital lies.

No treatment should be administered without the patient's consent, even at the request of Police Officers, without the concurrence of the Medical Superintendent. In this regard all normal considerations regarding consent apply to the administration of treatment to guarded patients with the following exceptions:

Blood sampling in cases related to the provisions of the Motor Traffic (Road Safety) Amendment Act 1982.

Medical Examinations and Body cavity searches and blood sampling for evidence related to the Crimes Act, Section 353A (2), 1900.

Examination of children in areas related to the Child Welfare Act 1939 and the Community Welfare Act Section 103, 1982 .

So that security can be maintained, Police Officers are to familiarise themselves with ward routines and the location of facilities. Every effort should be made to encourage hospital staff to co-operate with Police Officers; however, any request that may compromise patient care must be referred to a Senior Nursing Officer or Senior Medical Officer without delay so that the appropriate action can be taken.

Police Officers are not to perform nursing duties (e.g. to administer medication) and, if requested in the circumstances, are to leave the patient's vicinity whilst privacy or aseptic precautions are required. They must ascertain the reasons for the request and consider the necessity to remain in the immediate vicinity, if appropriate.



Police Officers may require information relating to the patient for reasons which could include determining the appropriate level of security to be provided or the availability of the patient for interview. That information should be provided only with the concurrence of the Medical Superintendent or designated Senior Medical Officer.

10.22 PERSONS IN CUSTODY - ILLNESS OR INJURY

Instructions 31 and 32 should be referred to with regard to illness or injury of persons in custody - diabetics, drunk, head injuries or any severe illness.

10.23 GOVERNMENT MEDICAL OFFICERS HANDBOOK

Police in areas where the services of a Government Medical Officer are sought in criminal matters should be familiar with the handbook and any revision needed from a Police point of view should be advised to the Director, Police Medical Services, for inclusion in the next revision of the handbook.

## INSTRUCTION 31

## ARRESTS AND CHECKPOINTS

- 31.01 BASIC POWERS OF ARREST
- 31.02 ARREST UNDER A BY-LAW, ORDINANCE OR REGULATION
- 31.03 PURSUIT OF FELON - FORCIBLE ENTRY TO PREMISES
- 31.04 FORCIBLE ENTRY IN ABSENCE OF FELONY
- 31.05 DAMAGE TO PRIVATE PROPERTY/PREMISES BY POLICE
- 31.06 CRIME INVESTIGATION - QUESTIONING OFFENDERS
- 31.07 GUIDELINES FOR QUESTIONING OFFENDERS
- 31.08 QUESTIONS PRIOR TO ARREST
- 31.09 CAUTION AND ARREST - ARREST BY WARRANT
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- 31.11 TELEPHONE CALLS BY OR ON BEHALF OF PERSONS CHARGED
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- 31.13 TAKING OF STATEMENTS - FORMS P.190, P.190A
- 31.14 STATEMENTS AND RECORDS OF INTERVIEWS GENERALLY
- 31.15 OVERSIGHT BY SENIOR MEMBER AVAILABLE
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- 31.24 ESTABLISHING IDENTIFY OF SUSPECT, ETC.
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- 31.28 ISOLATION OF WITNESSES FROM ACCUSED
- 31.29 WITNESS PROCEDURES IN IDENTIFICATION
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- 31.31 COMMUNICATION BETWEEN WITNESSES
- 31.32 NAMES AND ADDRESSES OF WITNESSES
- 31.33 IDENTIFICATION BY USE OF PHOTOGRAPHS
- 31.34 IDENTIFICATION FROM CROWD SCENE

- 31.35 MEDIC ALERT FOUNDATION
- 31.36 DIABETIC ASSOCIATION OF N.S.W. IDENTIFICATION
- 31.37 IDENTIFYING ILLNESS, ETC.
- 31.39 DIABETIC SYMPTOMS
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- 31.41 HIRE OF VEHICLE
- 31.42 EXAMINATION BY POLICE/GOVERNMENT MEDICAL OFFICER
- 31.43 RIOT, ASSAULT, ETC.
- 31.44 BREACHES OF THE PEACE
- 31.45 STEALING FROM RETAIL STORES
- 31.46 STOLEN PROPERTY
- 31.47 PROCEEDINGS UPON/AFTER ARREST
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- 31.51 ARRESTS FOR OFFENCES COMMITTED OUTSIDE N.S.W.
- 31.52 ARREST OF OFFENDERS IN OTHER STATES
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## INSTRUCTION 31

## ARRESTS AND CHECKPOINTS

## 31.01 BASIC POWERS OF ARREST

The basic powers of arrest are set out in section 352 of the Crimes Act, No.40 of 1900. Every police officer is thoroughly instructed in regard to these powers before appointment, but must always thereafter keep him/herself fully acquainted with such legislative provisions.

Other Acts, copies of which are supplied to all stations, contain specific provisions in regard to the power of arrest. It is necessary that police officers keep themselves familiar with such Acts and amendments thereto.

For matters affecting the jurisdiction of police, including time limitation for certain offences, see Instruction 75.

## 31.02 ARREST UNDER A BY-LAW, ORDINANCE OR REGULATION

With regard to the power of police to arrest under a by-law, ordinance or regulation where such power is not specially provided in the Act under which the by-law, ordinance or regulation is made, the Crown Solicitor has advised that the power of police to arrest with regard to offences under any Act includes offences punishable on summary conviction under regulations, ordinances or by-laws lawfully made in pursuance of any Act. These powers of the police to arrest without warrant extend to numbers of trivial offences but although these powers are considered necessary, they are not supposed to be abused. Certain Acts, in dealing with offences thereunder, provide the procedure to be taken for breaches thereof and prescribe the persons entitled to proceed, and care should be taken in those cases to ascertain whether the power given to the police to arrest under the Crimes Act is not thereby excluded. (See Crown Solicitor's advising, 31 December, 1931).

## 31.03 ARREST OF OFFENDERS - FORCIBLE ENTRY TO PREMISES

Police should make every effort to effect an arrest. Police may enter and if necessary break into premises to effect an arrest. However prior to the drastic action of breaking into premises being undertaken police must know that the person they wish to arrest is in fact within or on the premises and they must first state their business and desire to arrest. The other criteria in relation to arrest must also be met, i.e: Police should have reasonable cause to suspect that the person has committed an offence. The breaking of doors or windows should only be resorted to in extreme cases when an immediate arrest is necessary. (Lowrey v Brown NSW Supreme Court Yeldham J., 29 July, 1988 unreported).

Police are not justified in breaking doors or windows unless a previous notification has been given and a demand of entrance not complied with.

Mere suspicion that a person is on the premises will not be sufficient to enable police to enter and/or break into them.

The nature of the offence will also affect the decision of whether or not to break into premises to effect an arrest. Obviously the more serious the offence the more justification police would have to break into premises. The power to break into premises should not be abused.

The power to enter and/or break into premises can also be extended to such things as vehicles, vessels and aircraft.

#### 31.04 **FORCIBLE ENTRY IN ABSENCE OF OFFENCE**

Police may break into premises although no offence has been committed when the necessity of the case will not permit delay. Such circumstances would be where police believe a serious offence is about to take place or a breach of the peace is imminent. Police should only break in where there is no other apparent means of entry and the situation calls for immediate action.

#### 31.05 **DAMAGE TO PRIVATE PROPERTY/PREMISES BY POLICE**

On any occasion when damage is caused to private property or premises by police in the execution of their duties the police concerned will record the nature and extent of the damage in their official notebooks. An entry should also be made on the occurrence pad of the incident and subsequent action taken by the owner, occupier or agent in regard to the repairs. Should the question of compensation be raised by the owner, occupier or agent, a "Report of Damage to Private Premises/Property by Police in the Execution of Duty" P.446 form should then be urgently completed and submitted (in duplicate) through the Division/Patrol Commander or other relevant Commander.

Two (2) quotations for the cost of repairs (supplied by the claimant) should accompany the P.446 form. The occurrence pad entry should be endorsed to show that a P.466 form has been submitted.

Before the forms are submitted to the Commissioner's Office, Commanders are to carefully examine them to ensure there are no inconsistencies between the information contained in the P.446 form and the claim of the owner, occupier or agent.

Under no circumstances should there be any admission by police of liability. Police are not to approach private builders to seek quotations or to authorize repair work to be carried out. The owner, occupier or agent should be advised he/she is responsible for arranging repairs. However, he/she may submit quotations for consideration of an ex gratia payment being made by this Department.

On receipt of the papers in the Commissioner's Office, a decision will be made whether an ex gratia payment will be made. When damage is held to be the responsibility of another party, the claimant may be advised the police Department will not make an ex gratia payment in respect of the cost of repairs.

The circumstances under which private premises are damaged by police in the proper performance of their duties vary. They may range from a siege situation to the breaking of a locked outer door of a residence when neighbours advise police that fears are held for the safety or well being of a householder who has not been seen by them for some time.

When police demands for entry to premises are denied and there is no alternative to the use of such force as is necessary to gain entry, no liability will be accepted by this Department, unless there are mitigating circumstances. The damage in such cases will be held to be directly attributable to non-compliance by the occupant/s with the demand of entry. An exception to this principle would be when, after forced entry, the premises were found to be unoccupied.

Depending on the circumstances of the particular situation, it may be possible to utilise the services of a locksmith to gain entry to locked premises. In these instances, there could be an obligation on the part of the police Department to pay the cost involved, which will be met from local funds.

The securing of empty premises when damage is occasioned to doors and other means of access is a police responsibility. In the absence of the owner or agent of the premises, police may act as an 'agent of necessity' and arrange for temporary repairs to be carried out urgently by the Public Works Department to secure the premises. The nearest Building Construction and Maintenance Depot of that Department should be contacted direct for this purpose. Permanent repairs are the responsibility of the owner, occupier or agent, who is to be advised of the damage as soon as possible.

In certain circumstances, where the owner of the damaged premises are not able to arrange repairs, because of genuine hardship, approval may be obtained from the District/Branch Commander for permanent repairs/restoration to be carried out by the Public Works Department. Contact should be made direct with the nearest Building Construction and Maintenance Depot of that Department for this purpose.

It will not be possible to include quotations when the Public Works Department carries out repairs. However, this information is to be clearly endorsed on the P.446 form. It will be necessary for a "Permit to Enter and Perform Certain Works" to be completed, signed by the owner and witnessed.

**PERMIT TO ENTER AND PERFORM CERTAIN WORKS WITHOUT PREJUDICE**

I.....of.....  
.....in the State of New South Wales  
being the owner of the premises located at .....  
agree to the Department of Public Works carrying out the  
following repairs to my premises on behalf of the New  
South Wales Police Department:

I further confirm that the repairs listed above are the  
full extent of work to be carried out following police  
activity on my property on (date).....  
and, subject to satisfactory and reasonable workmanship,  
no further claim will be made by myself or any other  
person acting on my behalf for any other work to be  
effected.

I give permission for officers of the Department of Public  
Works to enter the abovementioned premises to carry out the  
repairs agreed upon herewith.

.....  
Signature of Owner

Dated this.....day .....  
of.....19.... Signature of Witnesses

\* \* \* \* \*

These guidelines do not apply to cases of damage or injury  
to persons or property by motor vehicles, dogs, horses or  
barriers owned by the Police Department; these incidents  
being covered by insurance policies with the Government  
Insurance Office of New South Wales.

(Amended vide circular 88/182, issued 3.11.1988).

## 31.06 CRIME INVESTIGATION - QUESTIONING ANY PERSON

When a Police Officer is endeavouring to discover the author of an offence, or a suspected offence, he/she is entitled (subject as hereinafter mentioned) to put questions in respect thereof to any person, whether suspect or not, from whom he/she believes useful information can be obtained.

## 31.07 GUIDELINES FOR QUESTIONING OFFENDERS

The following instructions are designed as a guide to Police conducting investigations. Substantial non-conformity with these instructions will render answers to questions and also written statements liable to be excluded from evidence in subsequent criminal proceedings. In addition to complying with these instructions, interrogating Officers should always be fair to the person who is being questioned, and scrupulously avoid any method which could be regarded as unfair or oppressive:

It is a fundamental and overriding condition of the admissibility in evidence against any person of any answer given by that person to a question put by a Police Officer, and of any statement made by that person, that it shall have been voluntary.

In general, an answer or statement obtained by untrue representations or any threat or promise made or held out by a person in authority or obtained by any form of oppression is not a voluntary answer or statement.

An answer or statement which transgresses clause above is not admissible in evidence. This effect may be removed if, before the trial, some person in authority causes the maker of it clearly to understand that any further statements should be voluntary. This may be achieved if the person concerned states that he/she understands what has been said to him/her, and expresses his/her willingness to make a further statement. The opening of such statement should set out:

The date and place of the previous statements and to whom made.

The steps taken (in detail) to remove such inducement.

That anything said or done previously either did not operate on his/her mind or no longer does so.

In the case of persons with apparent infirmity, feeble understanding or special disability and of persons apparently unfamiliar with the English language, such special measures as are practicable and appropriate shall be taken to ensure a fair interrogation.

## 31.08 QUESTIONS PRIOR TO ARREST

Prior to arrest, Police have no authority to exercise any restraint whatever upon a person being questioned or to detain him/her in any way, whether upon Police premises or elsewhere, and such person is free to come and go as he/she pleases.

C.91/31 —



If the person being questioned requests that any other person then in his/her company or in the immediate vicinity (other than a suspected accomplice) remain within hearing during the questioning, Police shall not, unless the exigencies of the occasion otherwise require, prevent this, provide such other person does not hinder or obstruct the questioning.

If the person being questioned is suspected of being of feeble understanding, such person shall, if reasonably practicable, be interrogated in the presence of a parent, guardian, relative, friend or other responsible person not associated with the inquiry.

If the person being questioned expresses a desire to consult a legal adviser, he/she should be given every opportunity to do so. If he/she so desires, further questioning should, except in special circumstances, be deferred, but only for such short period as is reasonably necessary to enable the person to attempt to obtain legal advice by telephone or otherwise.

There is no objection to a person being shown and being allowed to read, or have read to him/her only when he/she cannot read, a statement of, or record of interview by, some other person concerning the offence and being questioned thereon, provided that if the Police Officer has made up his/her mind to charge the person being questioned, he/she should be first cautioned.

#### 31.09 CAUTION AND ARREST - ARREST BY WARRANT

A Police Officer, before questioning a person whom he/she has made up his/her mind to charge, should so inform such person, indicating the nature of the proposed charge and caution him/her in the following manner:

"I am going to ask you certain questions. You are not obliged to answer unless you wish to do so, but whatever you say may be used in evidence. Do you understand that?"

Where a record is to be made of the interrogation, such person should be cautioned in the following manner: "I am going to ask you certain questions which will be recorded (on typewriter, in shorthand, on a tape recorder, etc., as the case may be). You are not obliged to answer unless you wish to do so, but whatever you say will be recorded and may be used in evidence. Do you understand that?"

Police, when arresting a person, shall inform him/her of that fact and of the grounds for the arrest, unless the actions of the person being arrested or the surrounding circumstances render this impracticable. Before a person is accompanied to a Police Station or elsewhere, he/she should, if he/she is not under arrest, be so informed. If not under arrest, he/she is not obliged to accompany Police anywhere but may do so voluntarily. Police will:

Endeavour to effect arrest immediately a warrant is issued, or as soon after as possible; a warrant remains in force until executed.

When executing a warrant, state their authority and, if requested, produce the warrant or a copy of the warrant, if in their possession.

Under no circumstances part with a warrant prior to execution; after arrest, read the warrant at the Station, and hand it to the Sergeant or Lockup-keeper for production at Court.

For further instructions regarding warrants see Instruction 90.

### 31.10 QUESTIONING AFTER ARREST

Police should be aware that they do not have any general power to detain a citizen merely for the purpose of questioning him or her.

An arrested person must be brought before a Justice without unreasonable delay.

In determining what is an unreasonable delay allowance may be had for the making of a decision to prefer a charge or not. In making this decision it may only be fair to question the arrested person or conduct inquiries to confirm or dispel the suspicion on which the arrest was based.

It should be noted that where a person indicates that he/she does not wish to be questioned, Police will not persist.

When undertaking such questioning it is proper to anticipate defences which may be raised and as such Police should be conscious to obtain evidence which may negate them e.g. evidence to rebut an alibi.

Questioning and inquiries, provided they are directed to confirming or dispelling the suspicion on which the arrest was based, may therefore be occasioned by a number of factors, including:

Geographical considerations.

The time of day when the arrest takes place.

The making of a Statement by the arrested person in relation to the offence for which the accused was arrested or other offences and the taking of a record of interview.

The necessity for providing the arrested person with medical treatment.

for interviewing the alleged victim

co-offenders.

material relevant to

as to the framing

special cases to await the  
 tors or other persons  
 scientific, technical,  
 conduct the interview,  
 serious offences are

val of an interpreter,  
 the case of juveniles a  
 presence is necessary.

1 or other examinations

necessity to convey the  
 tion for the purpose of  
 o the suspected offence.

The necessity to conduct an identification parade (with the consent of the person arrested).

The necessity to conduct procedures authorised under Section 353A of the Crimes Act, 1900.

Except in the case of young persons, there is no legal right for any person other than the person being interrogated and the necessary Police to be present. However, each case should be judged on its own particular circumstances.

After a person has been charged, the accused shall be questioned in respect of such charge only in exceptional circumstances (after cautioning) where such questions are necessary for the purpose of preventing or minimising harm or loss to some other person or the public or for the purpose of recovering property or in respect of new or fresh matters.

A person who has been arrested or charged or against whom any information has been laid, who expresses a desire to obtain legal advice or representation, shall be afforded by Police such reasonable facilities as may be possible to permit that person to do so.

There is no objection to a person, after arrest and while in custody, being shown and allowed to read or given a copy of a Statement of, or Record of Interview by, some other person concerning the offence, so long as it is directed to confirming or dispelling the suspicion on which the arrest was based. The usual caution should be administered prior to the person making any comment on the statement or interview.

(31.10 revised and rewritten vide Circular 88/098).

#### 31.11 TELEPHONE CALLS BY OR ON BEHALF OF PERSONS CHARGED

If so requested by the person charged, it shall be the obligation of the Police for the time being in charge of the matter and, where facilities are reasonably available, to:

- Telephone a relative of the person charged; or
- Telephone his/her Solicitor; or
- Telephone a person who might be able to arrange bail for the person charged; or
- Telephone the Doctor of his/her choice; or
- If such member thinks proper, enable the person charged to personally make a telephone call.

#### 31.12 TELEPHONE CALLS - INTOXICATED PERSONS

The provisions of 31.11, where applicable, are also to apply to persons detained at Police Stations under the provisions of the Intoxicated Persons Act.

31.13 **TAKING OF STATEMENTS - FORMS P.190, P.190A**

Forms P.190 and P.190A should be used for the taking of all statements whether from an offender or a witness, typed or handwritten.

31.14 **STATEMENTS AND RECORDS OF INTERVIEWS GENERALLY**

The admissibility in evidence against a person of answers to questions or a statement made, either orally or in writing, by such person depends upon the Court's decision as to whether such answers and/or statement were free and voluntary. All possible steps should therefore be taken to ensure that such statements are freely and voluntarily made and such answers to questions are freely and voluntarily given.

A person should be asked whether he/she wishes to write a statement him/herself and, if so, he/she should be given the means to do so.

If such a person does not write the statement him/herself, the complete statement of what he/she says should be accurately recorded in the exact words used.

When the making or dictating of the statement or record of interview is completed, the documents should be handed to him/her to read. He/she should be asked to read the document aloud. If he/she refuses to do so the matter should be referred to the supervising Sergeant or Commissioned Officer who should make discreet enquiries as to the reason for not reading the document aloud and record the same in his/her official Police note book.

If the offender does not wish to read the document aloud or is unable to do so, the supervising Sergeant or Commissioned Officer should read the document to him/her, in the presence of the investigating Police and invite him/her to sign the document.

If the person is unable to write his/her name he/she can make his/her mark in lieu of a signature which is to be witnessed by the supervising Sergeant or Commissioned Officer and the investigating Police.

Any comment made by the person should be recorded.

He/she should not be questioned thereon but his/her attention may be drawn to any matters therein which are not clear and he/she may be asked if he/she wishes to say anything further and he/she should be invited to make any corrections or note he/she may wish. After he/she has done this, he/she should be asked whether he/she will sign the document, and he/she should do so if willing. The following questions should then be asked and the questions and answers typed (or written) at the foot of the statement or record of interview:

Q. Have you read this statement (or record of interview)? (In the event of the person making the statement or being interviewed being unable to read, he/she should be asked: "Has this statement (or record of interview) been read over to you?")

A. ....

Q. Have you made this statement of your own free will? (In the case of a record of interview: "Have the answers you have given as recorded in this record of interview been made of your own free will?")

A. ....

Q. Has any inducement, threat or promise been held out to you to make this statement (or to give the answers recorded herein)?

A. ....

Where a statement has been taken, the following questions should be added to the foot thereof:

Q. Were you cautioned before making this statement that you were not obliged to make this statement unless you so desired, as anything you did say may be taken down in writing and may be used in evidence?

A. ....

Where a record of interview has been taken, the caution should be administered and recorded at the appropriate time. The person making a statement or being interviewed should be invited to initial all corrections and additions in the statement or record of interview. Where the statement or record of interview consists of more than one page, each page should be signed by the person making the statement or being interviewed and by the witness to his/her signature.

Every care should be taken to see that the statement or record of interview contains, if reasonably possible, only information regarding one offence.

31.15 OVERSIGHT BY SENIOR MEMBER AVAILABLE

On completion of the making of the statement by, or the recording of the interview with, a person, the senior Police Officer available ( a member wherever possible not concerned in the investigation) should be immediately consulted and he/she should ask the person making the statement or being interviewed whether the document is his/her statement, or a true record of the interview, whether the statement was free and voluntary, or whether the answers recorded in the record of interview were given freely and voluntarily, and whether he/she has any complaints in respect of it. Such Officer should initial and date the document and keep a full record in permanent form of the time and place and circumstances.

If the circumstances are such as to render immediate compliance with this Instruction impracticable, it should be complied with as soon as is reasonably possible. If any complaint be made, it should be reported forthwith.

31.16 SUPPLY OF COPY OF STATEMENT

Where a statement is written by a person or an interview is recorded, then whether the statement or record of interview is or is not signed by the person, a copy thereof must be supplied forthwith to that person or to his/her legal adviser.

If it is the view of the investigating Police that a copy of the statement or record of interview should not be released for any reason of security or to maintain the confidentiality of inquiries, Police may decline to release the record of interview or statement in order to seek a direction as to the action to be taken. In such circumstances, the person in question should be advised that he/she will not be supplied with a copy of the statement or record of interview until a direction has been obtained.

A report should then be submitted, setting out full details of the matter, and a copy of the document in question attached to that report. These papers should be forwarded to the Superintendent in Charge, Police Prosecuting Branch, for his/her comment and recommendation, before a direction is given by the Commissioner.

Oral statements should be reduced to writing as soon as possible. If rough notes only are made at the time or immediately afterwards, the pieces of paper on which they are made, should, if practicable, be preserved even after a complete typewritten statement has been compiled.

In cases where oral admissions or statements corroborating evidence of the commission of an offence are recorded contemporaneously in a notebook or other document, the procedures outlined in 31.14 - 31.16 should be followed.

(Amended vide Circular 88/14).

### 31.17 DOUBTFUL CONFESSIONS

Many persons, from psychopathic or other causes, confess to crimes of which they are innocent; therefore, confessions to crime should be the subject of the closest examination before they are accepted and acted upon as statements of fact. Before any person is charged with a criminal offence on the basis of a confession, careful investigation should ensue to adduce some independent corroborative evidence of the complicity of that person in the crime. If no such corroboration can be found, a senior Police Officer, preferably one with detective experience, should, if possible, examine the position before a charge is preferred.

### 31.18 QUESTIONING OF JUVENILES AT A POLICE STATION

Where a juvenile is taken to a Police Station, or attends voluntarily at a Police Station, and is to be questioned concerning possible proceedings against him/her for being a neglected or uncontrollable child or young person, or committing an offence, steps shall be immediately taken to notify, or cause to be notified, a parent of, or any person aged 18 years or upwards who has the guardianship of the juvenile, that the juvenile is at the Police Station.

When such juvenile is being interviewed at a Police Station, the juvenile shall be interviewed in the presence (within sight and hearing) of:

A parent or a person aged 18 years or upwards who has the guardianship of the juvenile.

A person aged 18 years or upwards who, not being the parent or person having the guardianship of the juvenile, has been nominated by the parent or person having the guardianship of the juvenile.

In the case of a young person, a person aged 18 years or upwards nominated by the young person (in no case can a Police Officer be nominated by the persons referred to above); or

A duly qualified legal practitioner of the juvenile's own choosing,

unless there is a proper and sufficient reason for none of the persons referred to being present (Section 81C Child Welfare Act). This does not apply in respect of any particulars required to be given under any other Act.'

#### 31.19 QUESTIONING OF JUVENILES - ABSENCE OF PARENT/GUARDIAN

There may be special circumstances in which it is desirable that a parent or guardian should not be present, e.g., where implicated in the offence, or where the juvenile indicates an unwillingness to answer questions in the presence of such person. Considerations of time or distance may sometimes preclude the presence of a parent, guardian, person nominated by the parent or guardian or young person, or legal practitioner of his/her own choice, or those persons may refuse to attend the Police Station. In such cases, if an independent responsible person is not available, a Senior Police Officer, not connected with the case, should, if possible, be present. Such member must explain to the juvenile in clear and precise terms the reason for his/her, the member's presence during the interview and questioning, i.e, to ensure that it is conducted with propriety.

Because of the need to convince a Court that all reasonable steps have been taken to obtain the presence of a parent or other person referred to in 31.18, when interviewing a juvenile at a Police Station, Police shall record on the occurrence pad all steps taken in that regard, and such entry shall be initialled by the Police Officer who makes such attempt..

#### 31.20 WARDS OF MINISTER

Where it is established that the child or young person concerned is a ward of the Minister, immediate contact should be made with the nearest District Officer of the Department of Youth and Community Services (locations and telephone numbers are listed in the State Government Section of the Sydney telephone directory and also in country directories) or, if it has been established that the child or young person is an inmate of a Department of Youth and Community Services residential care facility, with the Officer in charge there, who has the responsibility to ensure that the best available Officer goes to the Police Station immediately.

There may be difficulty in contacting Department of Youth and Community Services Field Officers at weekends or at night. In many instances, particularly in the country, Police are aware of the home addresses and telephone numbers of such Officers. However, if there is any difficulty in contacting a suitable Officer, the Department of Youth and Community Services Child and Family Crisis Service is available on a 24 hour basis and can be contacted by telephone, (Toll free from country areas).

Should any difficulties be encountered by Police in relation to Department of Youth and Community Services Officers, the Deputy Chief of the Field Division of that Department should be contacted by telephone.

## 31.21 INTERVIEWS AT SCHOOLS

If possible, Police should avoid interviewing pupils at school. Interviews should be conducted at home or at a Police Station rather than at school. Whenever children are interviewed at a Police Station, every effort should be made to see that they do not come into contact with adult offenders, that the place is an open one and that they are removed therefrom at the earliest practicable moment to their homes or a shelter. Where it is deemed necessary to question a pupil at school, the principal (or, if absent, the next senior teacher) should be present during the interview and it should be conducted privately.

(NOTE: As soon as practicable after completion of the interview, the principal will, in accordance with Education Department instructions, inform the parent or guardian thereof and the District Inspector of the Education Department).

## 31.22 QUESTIONING OF MEMBERS OF THE POLICE FORCE

Police conducting inquiries into any aspect of conduct of another Police Officer will:

When, in his/her opinion evidence is forthcoming to establish a prima facie case against the Police being interviewed for a criminal offence, issue a caution in the appropriate manner as described in 31.09.

After issuing such caution, continue the questioning so long as necessary or until the member being interrogated declines to answer further questions. When the inquiry is otherwise completed, the papers should be forwarded to the Commissioner through the usual channels for decision as to whether Court proceedings are to be instituted against the Police concerned.

If Court proceedings are not authorised, or after final determination of any Court proceedings, the papers may be returned for further inquiry regarding possible breaches of discipline. In any such case, the Departmental inquiry should continue, during which the member being interrogated will be required to comply with the provisions of Section 14 of the Police Regulation Act, 1899, and/or Rule 11 (d) irrespective of the caution issued previously.

## 31.23 MINOR OFFENCES - ARREST

Arrests for breaches of the Motor Traffic Act, the General Traffic Act, the Transport Act, or the State Transport (Co-ordination) Act, should only be made in very serious cases, such as where some person has been injured through the negligence of the driver of the vehicle, or when requested by a Police Officer in the execution of his/her duty under those Acts or regulations thereunder, a driver refuses to give his/her name and address, or gives a false name and address.

In minor offences, such as breaches of regulations, ordinances, or by-laws, which are not witnessed by Police, particular care should be taken that proceedings are not initiated by Police unless there be some strong apparent reason, such as an aged complainant or one suffering from some disability. (Generally, in such cases, proceedings should be taken by the person aggrieved).

For requirements in connection with arrests, see Rule 56.



**31.24 ESTABLISHING IDENTITY OF SUSPECT, ETC.**

When arresting suspected persons by warrant or otherwise, Police will take the utmost care that a mistake is not made regarding identity; if in doubt, obtain, if possible, a Constable or other person to identify the suspect before arrest. The suspect should simply be detained in the meantime and not incarcerated or handcuffed as such action is very improper and greatly aggravates a case of mistaken identity. However, in cases of serious crime, prompt action may be essential and the known bad character of a suspect would be taken into consideration with other circumstances. Particularly when executing a warrant, it is the responsibility of the arresting Officer to make a positive identification and ensure that the person arrested is identical to the person named or described in the warrant. To establish identity of suspect persons, Police should, where necessary, search all information available to them through this Department's information systems including the computer. The computer also provides ready access to the records of the Department of Motor Transport. The information obtained from these records in response to enquiry codes V130, V132, L133, L135 and L136 is of special value in establishing identity. A very serious view will be taken of any instance where it is shown that the utmost care has not been exercised in establishing the identity of a person arrested by warrant. Also see Police Instruction 90 regarding warrants generally.

**31.25 IDENTIFICATION PARADES**

When it is necessary to effect the recognition of a suspect or an accused person in Police custody, the identification is to be carried out fairly under the Supervision of the Patrol Commander for the time being or other Police Officers so nominated by the said Patrol Commander for the time being, who will advise the suspect of the reason for the identification parade before he/she is brought into the room where the parade is to be conducted. If he/she is to be identified in respect of more than one offence, this should also be explained to him/her prior to the parade taking place. Police investigating the case, though present, will take no part in the proceedings connected with the identification.

**31.26 POSITIONING OF SUSPECT IN PARADE**

The suspect or person charged should be placed among not less than five other persons of similar age, height, appearance, and class of life as him/herself, but no exchange of clothing should be permitted. If eight or more persons can be procured, this should be done. Police should not be used for this purpose unless it is a case in which a Police Officer is the suspect. The suspect or accused should then be invited to stand where he/she pleases, and not allotted a position. He/she should also be asked whether there is any objection to any of the persons selected or to any of the arrangements made. Any reasonable request made by the suspect should be acceded to. The suspect or person charged may have a Solicitor present at the identification, but it must be distinctly understood that such Solicitor may not in any way interfere, by action or words, with the proceedings.

## 31.27 NUMBERED BOARDS FOR PARADE MEMBERS

Each member of an identification parade is to be identified by a numbered board. Once a suitable area has been selected the Police Officer who is in charge of the parade, will place the numbered boards at the feet of parade members, in consecutive order. District Commanders are charged with supplying approximately ten numbered boards of about 20cm by 20cm in size. One board is to be placed at the feet of each parade member.

## 31.28 ISOLATION OF WITNESSES FROM ACCUSED

Witnesses must not be allowed to see the accused, nor the persons with whom he/she is to be placed, before being lined up for identification, nor be shown any photograph, nor given any verbal or written description of the accused. The name or address of a witness who is to attempt identification is not to be announced in the presence of the parade. Should there be more than one witness, each is to be allocated a number and is to be summoned to the identification room by number and not by name.

## 31.29 WITNESS PROCEDURES IN IDENTIFICATION

Each witness is to be brought in individually and is to hand to the Police Officer in charge of the identification parade a sheet of paper with his or her witness order number, name and address recorded thereon. The member being then aware of the identity of the witness should sign this paper and retain it with the record of the proceedings for use at Court, if required. The witness should be addressed as Sir, Madam or Miss, and not referred to by name.

The witness must be instructed that if he/she sees the person who allegedly committed the offence that person should be identified by reference to the number on the board in front of that person.

Such identification and any other conversation between the witness and the Police Officer in charge of the identification parade, is to be made in a sufficiently audible tone so as to be heard by all persons in the identification parade.

## 31.30 RECORDING OF IDENTIFICATION BY WITNESS

The witness must write the relevant number on a blank piece of paper. This piece of paper shall have been shown to the suspect prior to the witness being brought into the room and the piece of paper shall remain within the suspect's vision until the witness is in a position to nominate a person in the lineup. The piece of paper is then to be handed to the Police Officer in charge of the identification parade who will then hand it to the witness.

Immediately a witness has written a number on the piece of paper it shall be audibly repeated by the Police Officer in charge of the identification parade, and the piece of paper shall be shown to the suspect by the Police Officer in charge of the identification parade. Then the following details are to be recorded on the piece of paper by that Police Officer.

Time and date

Location

Signature, name, rank and Station of the Police Officer in charge of the identification parade.

**31.24 ESTABLISHING IDENTITY OF SUSPECT, ETC.**

When arresting suspected persons by warrant or otherwise, Police will take the utmost care that a mistake is not made regarding identity; if in doubt, obtain, if possible, a Constable or other person to identify the suspect before arrest. The suspect should simply be detained in the meantime and not incarcerated or handcuffed as such action is very improper and greatly aggravates a case of mistaken identity. However, in cases of serious crime, prompt action may be essential and the known bad character of a suspect would be taken into consideration with other circumstances. Particularly when executing a warrant, it is the responsibility of the arresting officer to make a positive identification and ensure that the person arrested is identical to the person named or described in the warrant.

To establish identity of suspect persons, Police should, where necessary, search all information available to them through this Department's information systems including the computer. The computer also provides ready access to the records of the Department of Motor Transport. The information obtained from these records in response to enquiry codes V130, V132, L133, L135 and L136 is of special value in establishing identity.

A very serious view will be taken of any instance where it is shown that the utmost care has not been exercised in establishing the identity of a person arrested by warrant. Also see Police Instruction 90 regarding warrants generally.

**31.25 IDENTIFICATION PARADES**

When it is necessary to effect the recognition of a suspect or an accused person in Police custody, the identification is to be carried out fairly under the supervision of the Patrol Commander for the time being or other Police officers so nominated by the said Patrol Commander for the time being, who will advise the suspect of the reason for the identification parade before the suspect/accused is brought into the room where the parade is to be conducted. If the person is to be identified in respect of more than one offence, this should also be explained to that person prior to the parade taking place. Police investigating the case, though present, will take no part in the proceedings connected with the identification.

Such identification parades are only to be conducted with the consent of the suspect or the accused. Where the person is already in custody under arrest the identification parade should only be conducted to confirm or dispel the suspicion on which the arrest was based.

A P.455 "Identification Parade Form" is to be used when undertaking identification parades.

(Amended vide circulars 88/098 and 88/202 issued 30.11.88).

Any person who cannot write the number shall by some other suitable means have it recorded on the piece of paper and the suspect must be so informed by the Police Officer in charge of the identification parade.

The piece of paper identifying the suspect should then be attached to the sheet of paper containing the name and address of the witness.

Persons standing for identification may be viewed from back or front, with hats on or off, or under any other conditions under which the witness first saw the offender.

#### 31.31 COMMUNICATION BETWEEN WITNESSES

Witnesses should not communicate with each other in any way and, after the persons are placed for identification, Police should not hold any communication with any witness. In every instance, care should be taken to ensure, absolutely that no person outside the place in which identification is to be carried out should know what is taking place within, and any communication with a person outside should be prevented. When the suspect has taken his/her position; in the line, no person who has seen him/her in that position, or even before, should be permitted to leave the place, but the Police Officer in charge of the identification parade should direct someone outside, who has no knowledge of the position of the suspect, to send in a witness, and proceed thus until all who have to see the suspect have done so.

After a witness has made or attempted an identification, he or she should be moved to a position out of view and hearing of the proceedings before the next witness is brought into the room and before the suspect is advised of his or her right to change position in the parade prior to other identification attempts being made. Every precaution is to be taken to ensure that there is no communication between the person who has attempted identification and prospective witnesses.

#### 31.32 NAMES AND ADDRESSES OF WITNESSES

The names and addresses of all witnesses, whether they identify the accused or not, and any other circumstances will be noted by the Police Officer in Charge of the identification parade in the occurrence pad or, if the incidence of such parades warrants such a course, in a special book kept for that purpose.

The names and addresses of persons called in and amongst whom a suspect is placed for the purpose of identification, should not be taken.

Where Police consider the identification of a suspect by witnesses to be necessary, an identification parade should be held in strict accordance with this paragraph, and not by confrontation with a prospective witness, either alone or in the company of Police, even if such request for confrontation is made by the suspect.

#### 31.33 IDENTIFICATION BY USE OF PHOTOGRAPHS

Where a crime has been committed, Police are entitled to show photographs of a suspected person to others to obtain information as part of the detection process (i.e. to determine who to arrest). However, as a general rule a Police Officer should not show photographs of a person arrested or detained to witnesses who are to be called upon to identify him/her as the offender or to give evidence against him/her.

If however a suspect refuses to take part in an identification parade or where an identification parade cannot be conducted with fairness to the suspect (e.g. because of some distinguishing physical feature of the suspect) or for any other reason an identification parade cannot be conducted, resort can be had to identification by photographs. Where a person is identified by photographs after arrest the admissibility of evidence of such identification is subject to judicial discretion and therefore must be exercised as fairly as possible. Photographs should be spare, unmounted and unmarked copies of photographs. There should be as many photographs as possible fairly arranged and the greatest care should be taken to ensure that future evidence is not prejudiced by giving witnesses to understand that the accused has been previously convicted or that his/her photograph was contained in a criminal photo book

Where an identification has been established by use of photographs, Police should, if required, be in a position to produce to the Court all the photographs used.

#### 31.34 IDENTIFICATION FROM CROWD SCENE

A Police Officer is also entitled to ask a witness to identify the suspect from a crowd scene. Any crowd scene is appropriate provided:

It involves a typical cross section of the community (in terms of sex, age, height and build etc.), and

sufficient lighting is available to enable an accurate identification to be made.

Examples of suitable scenes include shopping malls, hotels, foyers of public theatres and, in the case of an already accused person, the public foyer of a Court house. Any Officer who is involved in this form of identification must keep a record as to:

Time and date of identification

Location of the scene

Approximate number of people present, and

description of people present (sex, age-range, clothing worn etc.).

This record must be made available for production in Court.

These methods of identification may be used even though the witness may be called upon to give evidence against the suspect. Police must record the reason why either of the above alternative methods were used in preference to the establishment of an identification parade.

#### 31.35 MEDIC ALERT FOUNDATION

Attention is specially directed to the possibility of persons who, because of arrest, accident or illness, are reliant upon Police to ensure that proper urgent medical care is obtained for disabilities to which they are subject.

The Medic Alert Foundation, an International Organisation, has many members throughout Australia, who may be identified by wearing on either wrist or around the neck bracelets made of stainless steel, on one side of each being featured the medical symbol flanked by the words "Medic Alert", while on the reverse side is engraved the major medical problem, the registration number and the telephone number of the St John Ambulance Transport Headquarters, which is the 24 hour answering service for information. In addition to the bracelet, a personal identification folder is issued to the registrant and the duplicate of this card is filed away to become the basis of the central answering system, from where information can be given if the personal card cannot be located.

31.36 DIABETIC ASSOCIATION OF N.S.W. - IDENTIFICATION

The Diabetic Association of New South Wales has issued its members with the following means of identification:

Badges to be worn on the wrist or suspended on the neck, each of which has the word "Diabetic" engraved on one side with other particulars of the member on the other; or

badges to be worn under the left lapel of the coat or left collar of the outer garment; and

an identification card setting out particulars of the member and emergency treatment that may be necessary.

31.37 IDENTIFYING ILLNESS, ETC.

Persons arrested, particularly on drunkenness charges, and those involved in accidents or subject to collapse, etc., should be examined (wrists and neck) and, if wearing the medic alert or the diabetic badge or have the personal identification folder in their possession, all appropriate action taken. Where such person is taken to hospital, the medic alert or diabetic badge should be immediately brought to the notice of the medical or nursing staff.

Where an arrested person is wearing any such warning badge, he/she should be subjected to close surveillance whilst in custody and necessary medical care obtained in accordance with directions contained in Instruction 32.

Police should also be alert to the possibility of prisoners, although not in possession of such badges, suffering from serious medical problems. Complaints such as diabetes and malaria, etc., have some symptoms resembling drunkenness. The fact that a prisoner is a diabetic or malaria sufferer does not, of itself, show that he/she is not intoxicated, but where such a condition exists, Police should be extra careful and ensure that he/she receives necessary medical care.

31.39 DIABETIC SYMPTOMS

To assist Police in distinguishing between diabetes sufferers and those suffering from drunkenness, the Principal Medical Officer, Health Commission of New South Wales, has supplied the following information:

"Diabetes is a disease in which the body fails to make use of sugar and starchy foods in a normal manner. It can be controlled by the injection of the drug insulin, or by special diet. The patient, during the course of the disease, may lose consciousness. This may occur in two ways, viz.:

Diabetic coma (Hyperglycaemia) - In this condition, the patient develops accumulation of acid substances in the blood. It is usually of gradual onset (days) and the patient, feeling unwell and thirsty, may have recourse to alcohol. He becomes drowsy and this deepens into unconsciousness, occasionally accompanied by convulsions. The tongue is dry and coated. Dark brown material may be vomited. The feet and hands are cold and the skin is dry. The pulse is usually rapid and weak. On being turned or examined, the patient may utter cries of pain. Breathing is deep and gasping. The breath may smell like new-cut hay. Immediate medical attention is required.

Insulin shock (Hypoglycaemia) - In this condition, the patient has had a recent overdose of insulin or has failed to take adequate food after a dose of insulin. The onset of drowsiness is rapid (minutes). Complete unconsciousness is uncommon. The tongue is moist, and the skin covered with cold sweat. Giddiness, weakness and trembling may be prominent symptoms. Vomiting is uncommon. Pain is absent. Breathing is slow and regular. The condition is rarely fatal, but medical attention should be given promptly.

#### 31.40 CLOSELY OBSERVE PRISONERS

Persons arrested should be kept under observation when being taken to a Station to ensure that they do not part with any property. It may be stolen or an important exhibit.

#### 31.41 HIRE OF VEHICLE

Police will, particularly in the metropolitan area or other cities or populous centres, when arresting any person who is helpless from drunkenness or other cause, or when the escorting of any person through busy thoroughfares is likely to attract a crowd or give an opportunity for the arresting Officers to be assaulted or obstructed in the execution of their duty, use every practicable means to expedite removal to the nearest Station and, as far as possible, avoid any undesirable scene in the public street. A Departmental vehicle should be used and, when this is not practicable, Police are authorised to hire any available public or private vehicle. When a person arrested, with or without warrant, prefers to provide, or pay for, a conveyance to the nearest Police Station, this course should be followed if no Police vehicle is available, provided the cost is not defrayed from money suspected to be stolen or unlawfully obtained and a security risk is not involved.

#### 31.42 EXAMINATION BY POLICE/GOVERNMENT MEDICAL OFFICER

When Police consider a medical opinion will be of value in respect of a person under arrest, they should contact the Police Medical Officer with a view to an examination being carried out by him/her as soon as possible. In the country, similar assistance should be sought from the local Government Medical Officer. Police should be aware of Section 353A (1) of the Crimes Act.

**31.43 RIOT, ASSAULT, ETC.**

Police will:

When they see an actual breach of the peace, or riot, assault, etc., immediately intervene, first giving notice of their office if they be not in uniform, separate the combatants, and prevent others from joining in the affray; if the offence be of a serious nature, or if the offenders do not immediately desist, take them into custody, securing also the principal instigators of the tumult, and do everything possible to restore order.

If Police present are too few to quell the disturbance, or if for any reason it is inexpedient to make arrests, they should take careful note of the ringleaders for subsequent proceedings and, by their united influence with the people and a firm front, endeavour to restore order.

When a breach of the peace appears likely to take place, as when persons are openly preparing to fight, instruct them to desist, and, if they do not, take them into custody; if they run into a house and are making preparations to fight within, enter to prevent them, and, if necessary, take them into custody.

If a person draws a weapon upon another and attempts to strike, take him/her into custody.

If persons are merely quarreling or insulting each other by words, Police have no right to take them into custody, unless the threatening or insulting words, etc., are used in or near a public place, etc. Police should be ready to prevent a breach of the peace.

If they obtain information that persons are preparing to engage in an intended prize-fight, promptly report particulars.

Endeavour to effect arrest immediately a warrant is issued, or as soon after as possible; a warrant remains in force until executed.

When executing a warrant, state their authority and, if requested, produce the warrant, if in their possession.

Under no circumstances part with a warrant prior to execution; after arrest, read the warrant at the station, and hand it to the Sergeant or lockup-keeper for production at court.

**31.44 BREACHES OF THE PEACE**

Police may, without warrant, arrest any person seen committing a breach of the peace whilst there is a danger of its renewal, or any person given in charge by another person under such circumstances, although the Police did not see the offence committed. Police should request the person giving another in charge to accompany the alleged offender to a station, as proof of his/her bona fides, and to sign the charge, if required.



Police have no power to arrest for a breach of the peace when it is over and there is no danger of its renewal, unless such breach of the peace is also a statutory offence. Where police have doubts regarding the bona fides of the charge or of the person making it, the safe course would be to avoid making an arrest, if possible, and to request the person against whom the complaint has been made to accompany police to the nearest station, where the merits or legality of the charge could be properly inquired into.

Unless a Constable has arrested a person, however, he/she has no power to insist upon such person going to the police station, and such person is entirely free to come and go as he/she pleases.

#### 31.45 STEALING FROM RETAIL STORES

Where police are requested by the owner or authorized representative of a retail store to take a person into custody for the offence of shop stealing, they will, before arresting such person, satisfy themselves that the evidence forthcoming is sufficient to establish a prima facie case.

If it is decided to take such person into custody, it will not be necessary for the charge to be signed unless the owner or his/her authorized representative desires to do so, or the circumstances of the case indicates that this course should be followed.

#### 31.46 STOLEN PROPERTY

Any person to whom property is offered to be sold or pawned or delivered, and who has reasonable cause to suspect that an offence has been committed with respect to such property, may, and if in his/her power is required to, apprehend the person so offering such property. (Pawnbrokers Act, No.6, 1902, SS. 38 and 29, and Crimes Act, S.353).

#### 31.47 PROCEEDINGS UPON/AFTER ARREST

Police will:

Effect an arrest in as quiet a manner as possible, and use no more force or violence than is absolutely required.

Take care that, other than for police purposes, the photographing of any person in custody, where practicable, is avoided.

After arrest, treat a prisoner properly, and impose only such restraint upon him/her as may be absolutely necessary for his/her safe custody.

Upon arrest, take the prisoner to a police station and cause the charge against him/her to be entered in the charge book. The prisoner should be brought before a justice without unreasonable delay and by the most reasonably direct route to be dealt with according to law. Police have no right to take him/her to the prosecutor's house or to detain him/her longer than is necessary for bringing him/her before the court. A prisoner brought before a Magistrate still remains in custody until discharged or committed, or until the magistrate issues an order.

If a person be taken into custody on suspicion of having committed an offence, such person should be taken, if practicable, to the nearest Police Station and charged before being searched. In a case in which a Constable, instead of taking to the nearest Police Station a man he suspected of being engaged in illegal betting, took him to a nearby hotel and searched him, an action for damages was taken and resulted in a verdict being given against the Constable (case Clarke v. Bailey, May 1933).

#### 31.48 PROCEED BY SUMMONS FOR MINOR OFFENCES

In complying with the provisions of Rule 56(b), be enjoined to be very careful in his/her actions in cases where it is proposed to proceed by summons and to ensure that he/she does not do anything which may render him/her liable for a civil claim to be made against him/her. The Crown Solicitor has observed that "no doubt the vast majority of offences being of a minor nature are brought to the cognizance of the Courts by proceedings by summons rather than by apprehension, but it seems to me that, generally speaking, it can be said that whether proceedings be taken by Police, either by summons or by apprehension, there is a possibility of a successful action for damages being taken against a Police Officer if the Officer concerned should exceed in any way the powers conferred upon him/her". A member should be in a position to decide immediately whether an offence is of a minor nature, appropriate to be dealt with by summons and, in such cases, the person offending should have his/her particulars taken on the spot and without being detained any longer than is necessary for such purpose and to obtain his/her explanation.

#### 31.49 CONVEYANCE TO NEAREST POLICE STATION

If it is considered that arrest or apprehension is called for, there should be no delay in taking the person offending to the nearest Police Station by the shortest practicable route. There should be no deviation from that route for any purpose such as to visit his/her home, place of employment, or a friend's place, etc., nor should a Police Officer allow any appeal to his/her sympathies by the person apprehended so as to place him/her in such a position as may later lead to a civil claim against him/her. Where the arrest is justified, the clear duty of the Police is to take the arrested person to the Police Station and not to some other place or to allow him/her to go free on the way to the Station as, by so doing, they may render themselves liable to civil proceedings and a claim for damages.

If practicable, on the apprehension of a person for any offence and when there is reasonable cause to believe that any property or evidence connected with the offence is on the premises which the offender is occupying, search those premises and any receptacles contained therein in the presence of the offender. However, it must be remembered that a Police Officer, unless he/she is acting in compliance with a search warrant, has no general power to enter upon or to search the private premises of another without the occupier's consent. Therefore, the member conducting the search must be certain that he/she is conducting it in accordance with the law.

Not arrest inebriates who are in the charge of friends, or not likely to fall into the hands of thieves or to cause annoyance to citizens by obscenity or disorderly conduct.

Not prefer the charge of assaulting the Police in addition to that of drunkenness without good reason, as resistance to some extent may always be expected.

### 31.50 MULTIPLE CHARGES

Police should avoid preferring a multiplicity of charges against offenders, particularly in traffic cases, when it is unlikely that lesser charges will eventually be proceeded with. Secondary charges are frequently desirable as an alternative to a major charge, but before charges are preferred, consideration should be given to the following:

Whether the charges can be established to a prima facie degree.

The likelihood of proceeding to a hearing.

Whether the charges are substantially "alternative" in nature to be used as second choice only.

The preferment of multiple charges in circumstances where it is not intended to proceed on all matters sometimes creates overloading and congestion in Court lists. An example of the matters referred to is:

Principal charge - drive with prescribed concentration of alcohol.

Second charge - negligent driving (or other charge which brought the defendant under the notice of Police).

Additional charges - e.g., not signal intention, drive without headlights, plus other breaches of the regulations made under the Motor Traffic Act, and, finally, not produce licence.

Where, as in the above clauses, the offences are incidental to the drive with prescribed concentration, they should not be preferred. However, this direction will not apply when the main offence is driving under the influence of liquor, etc. (Section 5(2)).

When charging offenders under Section 4E or 5(2), charges should be preferred, where appropriate, for equipment and non-driving offences, such as failure to stop after an accident, unlicensed or disqualified driver, defective brakes, etc., and should proceed irrespective of the charge of driving with the prescribed concentration of alcohol or offence under Section 5(2).

### 31.51 ARREST FOR OFFENCES COMMITTED OUTSIDE N.S.W.

For arrest for an offence committed in another State, see Instruction 90.

### 31.52 ARREST OF OFFENDERS IN OTHER STATE

When arrest of an offender outside the State is desired, the name of the informant is to be stated in papers submitted to the Commissioner. For arrest and extradition of fugitive offenders, see Instruction 83; for arrests and extradition of offenders as between the States, see "Service and Execution of Process (Commonwealth) Act.

## 31.53 REFUSING TO AID POLICE IN THE EXECUTION OF DUTY

Police finding their exertions insufficient to effect an arrest should require any person or persons present, who should be either named or clearly indicated, to assist, and such persons are bound to do so on Police stating their lawful authority for what they are doing.

According to Archbold's Criminal Pleadings, refusing to aid and assist Police in the execution of their duty, in order to preserve the peace, is an indictable misdemeanour at common law. In order to support such indictment, it must be proved that the Police concerned saw a breach of the peace being committed; that there was a reasonable necessity for calling upon the defendant for his assistance; and that when duly called on to do so, the defendant, without any physical impossibility or lawful excuse, refused to do so. And it is no defence that the single aid of the defendant could have been of no avail (R.v.Brown, C. & Mar.314; 4 St. Tr. (N.S.) 1369). An indictment for refusing to assist a Police Officer in the execution of his/her duty, and prevent an assault made upon him/her by persons in his/her custody on a charge of felony, and with intent to resist their lawful apprehension, is sufficient without stating how the apprehension became lawful; and if it states a refusal to assist, without the further allegation that the defendant did not, in fact, assist (r. v. Sherlock, L.R., 1 C.C.R. 20; 35 L.J. (M.C.) 92; 10 Cox 170).

## 31.54 PRESERVATION OF EVIDENCE IN SERIOUS CASES

When apprehending a person for a felony involving death or wounding, Police will:

Minutely examine the prisoner's hands, clothes, knives, etc.

Whether offender is in custody or not, inspect the place where the felony is said to have been committed, taking care to measure and mark all particulars tending to show the mode of entry into the house, etc., which is very often of the utmost importance.

If an impression from a shoe is found, take care that it does not get defaced; protect it and place a guard to prevent its being disturbed.

If a boot or shoe is obtained from any person suspected, take care the same be not placed in the print already left, but by the side thereof, then measure the print very carefully by compasses.

If a prospective witness appears likely to die before the date of hearing, endeavour to have his/her deposition or declaration taken, as the case may be and, if not practicable, carefully take any statement made by him/her, in writing if possible, see Instruction 82.

Seek assistance from Technical Support Branch.

31.55 OFFENCES AGAINST THE GOVERNMENT RAILWAYS ACT, BY-LAWS OR TRANSPORT ACT

For offences against the Government Railways Act or By-laws, or the Transport Act No.18 of 1930, Police should give assistance to State Rail Authority or Urban Transit Authority Officers at their request. Attention is directed to Section 138 of the Government Railways Act, and Sections 246, 247 and 248 of the Transport Act, No.18 of 1930.

31.56 CHARGES REQUESTED BY EMPLOYEES OF STATE RAIL/URBAN TRANSIT

Where a State Rail Authority or Urban Transit Authority employee gives a person into the custody of Police and requests that a charge under the appropriate Government Railways Act or By-laws, or the Transport Act No.18 of 1930 be laid and, further, such employee concerned indicates that he/she will sign the charge(s) during or at the termination of his/her tour of duty and, in any case, prior to the appearance of the person before the Court, Police, after making preliminary inquiries from that employee and if they are reasonably satisfied that an offence has been committed, will comply with the request. The charge should be laid under the Government Railways Act, By-law, etc., as required by the employee of the State Rail Authority or Urban Transit Authority.

In cases where Police initiate these proceedings, the Act and Section under which the charge is preferred will be at the discretion of the arresting Police.

31.57 CHARGES AGAINST EMPLOYEES OF STATE RAIL/URBAN TRANSIT

Where any person employed by the State Rail or Urban Transit Authorities, committing a breach of the Government Railways Act or By-laws, or the Transport Act, No.18 of 1930, is given into custody by a State Rail Authority or Urban Transit Authority Officer or employee (Government Railways Act No.30 of 1912, Section 133; Transport Act No.18 of 1930, Section 222), where practicable, such Officer or employee giving another employee in charge should sign the charge book and all prosecutions under these Acts, so instituted, will be conducted by an Officer of the State Rail Authority or the Urban Transit Authority.

31.58 NON-CITIZENS AND STUDENTS

For procedure to be followed when foreign students or non-citizens are arrested, see Instruction 57.

31.59 CAUTION AT ALL TIMES IN STOPPING MOTORISTS/ARRESTS

Prior to appointment, during in-service training and whilst undergoing lectures by Departmental Weapons Instructors, members are made fully aware of the dangers associated with the stopping of motorists, effecting arrests and otherwise. If adhered to, these instructions will undoubtedly result in the saving of lives and the prevention of serious assaults on Police.

It should always be remembered by all Police, that it is better to call for assistance, particularly when assistance and facilities are readily available within this Department, whereby the arrest of any offender could be effected without great danger or loss of life. Where practicable, the advice of Officers should be sought by any Constable or Non-commissioned Officer before the arrest of an armed or dangerous person is undertaken. Full consideration should be given to the possibility of the escape of a dangerous criminal or unnecessary risk to Police attempting to effect the arrest.

For assistance obtainable from the Police Special Operations Support Section, see Instruction 134.

31.60 CHECKPOINTS - GUIDELINES TO SET UP OR MAINTAIN

The directions contained in this Instruction are guidelines for Police called upon to set up or maintain a checkpoint. The directions do not apply to situations where Police set up a roadblock because of a physical obstruction on a road, such as floods, bushfires, overturned vehicles, landslides, etc.

31.61 CHECKPOINTS - AUTHORISING OFFICER

Checkpoints will only be set up on the authority of a Division Commander, or deputy, and only in cases of serious crime occurring at a time and in circumstances where the checkpoint will have a substantial prospect of success.

31.62 CHECKPOINTS - CRITERIA FOR AUTHORISING

Authorising Officers prior to giving permission to set up a checkpoint shall consider the following factors:

The need for a checkpoint (serious crime, escape from custody, etc., and description of person/s and/or vehicles).

Time elapsed since the occurrence or commission of the offence.

Traffic density on the roads to be checked.

Time necessary to establish the checkpoint.

Necessity to establish two checkpoints (see 31.69)

Possibilities of success.

31.63 CHECKPOINTS - APPOINTMENT OF SUPERVISOR

If a decision is made to set up a checkpoint the authorising Officer shall immediately appoint a member to be in charge of the checkpoint. The nominated member shall ensure the directions contained in this Instruction are observed as far as is practicable.

31.64 CHECKPOINTS NOT FOR ROUTINE CHECKING

Checkpoints should not be set up for routine checking, as for example, the detection of persons driving under the influence of intoxicating liquor, to check for stolen vehicles or to check for persons in possession of goods unlawfully obtained or for similar purposes. Checkpoints will be terminated on the authority of the Division Officer or deputy.

## 31.65 CHECKPOINTS - PRESELECTION AND RECORD OF SUITABLE SITES

Division Commanders are to select suitable sites for the establishment of checkpoints in their area. These sites should meet the requirements of the particular area and are to comply with this Instruction. The location of these sites are to be brought to the notice of all Police at the Station and a permanent record of the sites should be readily available.

## 31.66 CHECKPOINTS - CRITERIA FOR SELECTION OF SITE

In selecting a site for a checkpoint the following factors shall be considered:

Any physical features which help to slow down, channel or stop traffic, e.g., bridges, road construction projects, road repair jobs, sharp curves, culverts, cuttings and underpasses.

A checkpoint shall not be set up where some street intersects the highway, road, street, etc., within sight of the checkpoint, unless such access street is part of a trap system.

Locating the checkpoint beyond a curve gives oncoming traffic less warning than on a straight section of road. This gives a fugitive less opportunity to turn and drive off without observation. However, to avoid sudden braking by drivers with a risk of innocent persons becoming involved in collisions, a minimum of 300 metres' clear view of the checkpoint should be allowed.

Checkpoints in residential areas expose the public to danger associated with the interception of an armed criminal, who might also be able to turn his/her car and drive off or escape on foot without causing suspicion in a residential situation.

From the site selected for a checkpoint, it must be possible to observe the traffic flow in both directions and to spot vehicles reversing or turning from the checkpoint.

Sites selected must be good from the point of view of radio communications.

## 31.67 CHECKPOINTS - LIAISON WITH LOCAL AUTHORITIES

A liaison should be set up by Division Commanders with Local Councils and representatives of the Department of Main Roads, so that if necessary at any time, equipment such as floodlights, blinking lights and "witches hats" may be obtained from Local Council or Main Roads Department Depots.

## 31.68 CHECKPOINTS - SPEED IN ESTABLISHMENT OF

Speed in establishing a checkpoint is a vital factor to its success. Time lost in obtaining the necessary staff, obtaining or confirming information, gathering signs and other equipment and placing them in position, and allocating duties will lessen the possibilities of success.

The aim should be to make the best possible arrangements having regard to the circumstances. The instructions have been prepared on the basis that sufficient personnel and vehicles will be available, but in cases of urgency it may not be possible for them to be fully complied with. Immediately sufficient Police and vehicles are available at the scene, the procedures outlined in this Instruction are to be put into operation.

### 31.69 CHECKPOINTS - GENERAL PROCEDURES

Police charged with the responsibility of setting up a checkpoint shall keep the following in mind and see that the procedures laid down are followed where practicable:

Not less than six Police shall be used to implement the checkpoint.

There is no safe way to set up a checkpoint. Exposure to danger and risk of life are inevitable when dealing with armed criminals. Police must approach each vehicle in the manner recommended at Weapons Training Courses.

Uniformed Police shall be used wherever possible to direct vehicle drivers. Plainclothes Police may be used for other duties associated with the checkpoint.

Police are to carry out their assigned duties and not congregate in groups so as to render themselves an easy target for armed criminals.

Members of the Tactical Response Group, together with their special weapons, should be used to best advantage and whenever possible as covering Officers. In country areas, members of the Division or District Special Operation Support Section should be utilised.

Marked vehicles must be prominently positioned so that there is no doubt as to their identity. Blue flashing lamps and Police signs shall be used where practicable. Where time permits suitable road signs, flashing lamps, witches hats, etc., will be erected.

At night the checking area shall, if practicable, be illuminated. Equipment suitable for this purpose is available from the Police Rescue Squad.

Where a vehicle pursued from the checkpoint is unable to be stopped, the pursuing Officers shall make immediate radio contact with the local VKG Radio Base.

If the authorising Officer considers the road should be checked in both directions, two checkpoints are to be set up 75 metres apart.

Under no circumstances are Police or private vehicles or other obstacles to be placed on the roadway so as to obstruct traffic. This practice is fraught with danger and must be avoided.

Police are not to discharge a firearm at a vehicle which merely fails to stop at the checkpoint. Covering Police are positioned to afford protection in self defence at the checkpoint. Police Instructions in regard to the discharge of firearms are to be strictly observed. Covering Police should ensure that their line of fire is not allowed to become obstructed by other Police or their vehicles.

Radio contact shall be maintained between all vehicles engaged in the checkpoint.



When a checkpoint is terminated information shall be immediately circulated to all Police concerned and all equipment used shall be collected and returned without delay to the issuing authority.

### 31.70 CHECKPOINTS - DUTIES OF POLICE AT

The Officer in charge of the checkpoint must ensure that Police are properly briefed and fully understand their duties. Police and vehicles shall be deployed as follows:

Vehicle Control Officer - This Officer shall:

Stop all traffic at the checkpoint.

Direct vehicles forward one at a time to the checking Officer.

Must be in uniform and be equipped with white gauntlets and a powerful lantern for night time direction of vehicles.

Where available Police radar stop signs should be used to stop traffic.

Checking Officer - The thorough checking of vehicles and occupants is the responsibility of the checking Officer.

When the vehicle to be checked reaches the "Checking Officer", the driver shall be requested to switch off the engine. The purpose of the checkpoint should be briefly explained to the driver and his/her co-operation sought.

When sufficient Police become available and it is desired to increase the traffic flow through the checkpoint, more than one "Checking Officer" may be employed at the checkpoint.

A vehicle must not be allowed to pass through the checkpoint merely because its driver is favourably known to the "Checking Officer". A concealed fugitive criminal could be directing the actions of the driver.

Covering Officers - Two covering Officers and their vehicle shall be deployed as follows:

Their vehicle is to be parked just off the carriageway and inclined away from the checkpoint at an angle of 45 degrees, about ten metres from the checking Officer, positioned so that it can be driven away immediately.

The covering vehicle shall give pursuit and investigate any vehicle which fails to stop at the checkpoint.

One covering Officer appropriately armed and at the ready shall stand beside the nearside of the vehicle and closely observe proceedings at the checking point. The principal concern is for the protection of the checking Officer.

The second covering Officer shall occupy the driving position of the vehicle, ready to drive off immediately.

Observation Officers - Two observation Officers and their vehicle shall be deployed as follows:

The vehicle shall be parked on the approach side of the checkpoint on the opposite side of the carriageway, approximately 150 metres from the checking Officer.

The observation Officers will be responsible for pursuit and investigation of vehicles turning from the checkpoint, persons leaving vehicles and decamping on foot, attempts to dispose of property, etc.. Observation Officers shall be deployed to each checking Officer.

31.71 CHECKPOINTS - CONDITION OF POLICE VEHICLES AT

It is essential that Police vehicles at the scene of a checkpoint are maintained in a condition to meet any emergency. Police should:

Conserve batteries.

Maintain sufficient fuel in anticipation of a long chase, extended patrol or search.

Advise Local VKG Radio Base at the centre concerned of any maintenance required to vehicle, radio or other equipment so that necessary repairs can be organised immediately.

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
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- 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
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- 33.44 POST MORTEM EXAMINATIONS - INSTRUCTIONS FOR GOVERNMENT MEDICAL OFFICERS
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- 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
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- 33.64 INDEMNITY MAY BE OBTAINED
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- 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.

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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 Department 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 and .....of.....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 37

## MISSING PERSONS AND BROADCAST INQUIRIES

- 37.01 MISSING PERSONS UNIT
- 37.02 PERSON OF INTEREST REPORT
- 37.03 MISSING PERSONS - CIRCULATION OF INFORMATION BY  
TELEX/TELEPLEX
- 37.04 UNIDENTIFIED BODIES AND SKELETAL REMAINS - IDENTIFICATION  
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- 37.05 UNIDENTIFIED PERSONS SUFFERING FROM AMNESIA OR INJURY
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SERVICES
- 37.10 MISSING PSYCHIATRIC PATIENTS
- 37.11 MISSING PERSON INFORMATION - AUTHORITY FOR MEDIA RELEASE
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RELEASE
- 37.13 MISSING PERSON INFORMATION - CONSENT FOR RELEASE WITHHELD
- 37.14 MISSING PERSON INFORMATION - NOTIFICATION OF CONSENT TO  
MEDIA LIAISON OFFICERS
- 37.15 PHOTO OF MISSING PERSON - INDEMNITY FORM TO PERMIT  
PUBLICATION OF
- 37.16 INDEMNITY FORM SPECIMEN
- 37.17 MISSING PERSONS CORRESPONDENCE - PROCEDURES
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- 37.19 CENTRAL RECORD OF PERSONS REPORTED MISSING IN N.S.W. -  
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- 37.20 BROADCAST MESSAGES - REQUESTS FOR, IN METROPOLITAN AREA
- 37.21 BROADCAST MESSAGES - REQUESTS FOR, IN COUNTRY AREAS
- 37.22 BROADCAST MESSAGES - REQUESTS FOR, BY POLICE

## INSTRUCTION 37

## MISSING PERSONS AND BROADCAST INQUIRIES

## 37.01 MISSING PERSONS UNIT

The Missing Persons Unit is part of the Community Relations Bureau and is located at Police Headquarters.

Reports of missing persons are to be accepted at any Police Station not necessarily the Station nearest the persons place of abode.

Inquiries for missing persons are only to be undertaken when the reports are bona fide, including custody matters where the enquirer has legal custody of a child, but does not include matters of debt collection, divorce or civil proceedings.

## 37.02 PERSON OF INTEREST REPORT

Where a person is reported as a missing person a Person of Interest Report, P.41 is to be completed fully and accurately with as much information then to hand. A separate Person of Interest Report, P.41 is to be submitted for each person.

If additional information is later forthcoming respecting the missing person, e.g., seen in a particular motor vehicle etc., then another Person of Interest Report, P.41 is to be submitted as a further information to the original report so that the information can be updated on the Crime Information and Intelligence System.

The Person of Interest Report, P.41 is to receive a Station Index Number in sequence with other C.I.I.S. documents and is to be submitted immediately and distributed as follows:

## ORIGINAL

Filed at Station in a special folder specifically for Missing Person Reports. Local follow up inquiries to be recorded on reverse of the copy of the P.41. This file is to be strictly supervised by Supervising Sergeants to ensure follow-up inquiries are continued and Further Informations are submitted where appropriate.

## 1ST COPY

C.I.I.S. Copy - to be forwarded to the Modus Operandi Unit for entry into the C.I.I.S.

## 2ND COPY

Local Detectives Copy.

## 3RD COPY

Spare.

## 4TH COPY

Forwarded to Missing Persons Unit.

## 37.03 MISSING PERSONS - CIRCULATION OF INFORMATION BY TELEX/TELEPLEX

Arrangements should be made for the information respecting missing persons to be circulated on the telex/teleplex system, when:

The person is 15 years of age or under.

The person is aged or infirm.

It is likely the persons will lapse into a career of vice or crime.

There are fears for the person's safety.

Suspicious circumstances exist.

When the information is circulated the message number is to be included in the relevant box (Box 61) on the Person of Interest Report.

37.04 UNIDENTIFIED BODIES AND SKELETAL REMAINS - IDENTIFICATION PROCEDURES

In cases of Unidentified Bodies and Skeletal Remains where fingerprints have failed to identify a body and where there are no other means of identification, Police will submit a Person of Interest Report, P.41. Information concerning unidentified bodies will be recorded on the C.I.I.S. and will be checked by the Missing Persons Unit against outstanding missing persons for possible identification.

The Person of Interest Report, P.41 will contain a complete description of the deceased, both physical (including apparent age) and of the clothing worn. Length of time dead should also be included. The report should also include a full description of any jewellery and other property (including any inscriptions or serial numbers ) found on or near the body.

A dental chart should be attached to the report as well as a full length photograph of the body. The head should also be photographed, one taken directly above head (full face) and one taken side on to head (profile). Police responsible for the taking of photographs of deceased persons are to ensure that, if possible, they are taken before the post-mortem examination is carried out. They are also to ensure that the face of the deceased has been cleaned up, hair tidied, and eyes opened, before taking the photographs, so as to facilitate identification by members of the public. These photographs, taken as set out above, should be enlarged to a reasonable size.

Copies of each of the photographs should be attached to the P.79A Form filed at the Station, copies forwarded to the Coroner for filing and copies forwarded to the Missing Persons Unit.

37.05 UNIDENTIFIED PERSONS SUFFERING FROM AMNESIA OR INJURY

In all cases where Police are unable to establish the identity of a person suffering from amnesia or an injured person, a complete description of the unidentified person both physical (including apparent age) and of the clothing worn will be obtained and included on the Person of Interest Report, P.41. The report should also include a full description of any jewellery and other property (including any inscriptions or serial numbers) in possession of the person.

The Report is also to indicate at what institution the person has been lodged, and the time and date of admission.

## 37.06 SUICIDE NOTE

If a suicide note has been left by the missing person the original should be forwarded with the Person of Interest Report, P.41 to the Missing Persons Unit. This original note will be made available for any subsequent Coronial Inquiry. A copy of the suicide note will be retained at the Station in the Missing Person Folder with the relevant Person of Interest Report.

## 37.07 RACIAL CLASSIFICATIONS

Standards of confidentiality and secrecy outlined in Police Rules 50, 52, 53 and 54 must be observed at all times. Great care and confidentiality must be exercised to ensure accuracy in providing racial descriptions of missing persons. Unless there is reasonable certainty of a specific racial connection, a person's features should only be described. For example, many persons may have dark skin and curly black hair. They are not necessarily all Maoris.

Racial classifications are part of an internal Police system designed for use in the Police Crime Information and Intelligence System, to facilitate the identification of criminals, missing persons or unidentified bodies. Therefore, no disclosure of such information to the public or the media is permitted without first obtaining proper authority to do so.

## 37.08 LOCATION OF MISSING PERSON - STATION PROCEDURES

The Station that locates the missing person will be responsible for the submission of the Person of Interest Report, P.41 and the circulation of any telex messages where that person has been subject of a previous circulation.

The Station locating the missing person will forward a copy of the Person of Interest Report, P.41 to the Station that recorded the original report. The remainder of the Person of Interest Reports should be distributed as previously outlined.

A similar procedure should be adopted where an unidentified body or person has been identified.

## 37.09 JUVENILES ABSCONDING FROM CUSTODY OF YOUTH AND COMMUNITY SERVICES

In cases of juveniles absconding from Youth and Community Services establishments, or from that Department's escort officers whilst in transit from one place to another, a Person of Interest Report, P.41 is to be submitted forthwith. On the arrest of an absconder a Juvenile Report, P.83 is to be submitted as a further information to the original Person of Interest Report, P.41.

Copies of such reports are to be forwarded to the Missing Persons Unit.

## 37.10 MISSING PSYCHIATRIC PATIENTS

Reports of missing psychiatric patients will be recorded on a Person of Interest Report P.41.

37.11 MISSING PERSON INFORMATION - AUTHORITY FOR MEDIA RELEASE

Except as indicated in 37.14, the details concerning a missing person should not be released to the media unless written authority for the release of this information has been signed by a parent or relative or guardian of the missing person. However, where these persons are not available to sign the authority the person lodging the report may, if the circumstances appear to justify such action, sign the authority giving permission for the information to be published by the media.

In the case of a child, it is desirable that the signature of both parents/legal guardian be obtained.

N.B.: In cases where the parents are separated, ascertain who had the legal custody of the child or children at the time of disappearance.

37.12 MISSING PERSON INFORMATION - AUTHORITY FORM FOR MEDIA RELEASE

The following is a specimen of the authority to be used:

AUTHORITY FORM

I/we, the undersigned, request and give permission to the Commissioner of Police or his representative for the missing person information, supplied to Police in relation to my/own son, daughter, wife, etc..... name..... to be released for publication by the media and/or for inclusion in official Police publications, which may be displayed for public viewing in Police Stations, as I/we have no other means of locating him/her.

Witness..... Signature.....  
 Rank.....  
 Station.....  
 Address.....  
 Date.....

(Upon completion, the Authority Form should be forwarded to the Missing Persons Unit, together with the Specialist Squad Copy of the Persons of Interest Report).

37.13 MISSING PERSON INFORMATION - CONSENT FOR RELEASE WITHHELD

In the event that the parent, relative, etc., does not consent to the release of information to the media and genuine fears are held by Police for the safety of the person reported missing, the question of the release of information should be referred to the relevant Division Commander for decision.

37.14 MISSING PERSON INFORMATION - NOTIFICATION OF CONSENT TO MEDIA LIAISON OFFICERS

All telex messages which furnish information for Media Liaison Officers regarding missing persons must indicate whether parents or relatives, etc., have furnished written consent to details of the missing person being released to the media.

37.15 PHOTO OF MISSING PERSON - INDEMNITY FORM TO PERMIT PUBLICATION OF

When a person is initially reported as missing, an opportunity is to be afforded to the enquirer to provide a photograph, if available, to assist with inquiries. If a photograph is obtained, it is to be accompanied by an Indemnity Form (the form the indemnity is to take is set out in this Instruction) and attached to the Specialist Squad Copy of the Person of Interest Report and forwarded to the Missing Persons Unit. Notation is to be made on the top left hand portion of the Indemnity Form as to the date the photograph was taken and whether it is a good likeness.

In the case of a child the Form is to be signed by a parent or legal guardian. The original photograph will be returned to the enquirer when suitable copies have been made.

If the photograph is not obtained when the initial report of the missing person is taken, the photograph and Indemnity Form is to be forwarded to the Missing Persons Unit as soon as they are obtained.

37.16 INDEMNITY FORM - SPECIMEN

The following is a specimen of the Indemnity Form to be used:

.....Police Station  
.....Date

AUTHORITY FORM

We/I the undersigned, agree and give permission to the Commander of the Missing Persons Unit, for a photograph of our/my son/daughter/wife, etc..... to be published under the following circumstances as we/I have no other means of locating him/her and request the photograph to be shown:

For the purpose of being published by the media and also for inclusion in official Police Publications which will be displayed for public viewing at Police Stations.

Witness..... Signature.....  
Rank.....  
Station.....  
Address.....  
Date.....

or

For display only in official Police Publications for the purpose of being circulated for public display at Police Stations.

Witness..... Signature.....  
 Rank.....  
 Station.....  
 Address.....  
 Date.....

or

For inclusion in official Police Publications which will be used solely for Police purposes in circulating a description of our/my son/daughter/wife, etc., to Police Stations and not for public viewing or display.

Witness..... Signature.....  
 Rank.....  
 Station.....  
 Address.....  
 Date.....

In the case of a child, the signature of one parent/legal guardian is required.

37.17 MISSING PERSONS CORRESPONDENCE - PROCEDURES

Correspondence received in Police Headquarters or at any Police Station relating to missing persons shall be forwarded direct to the Missing Persons Unit, from where, if considered necessary, it will be transmitted direct to the Police Station nearest to the place of inquiry nominated by the correspondent. After inquiries have been completed, such papers will be returned direct to the Missing Persons Unit. There will be no necessity for the completion of any report of missing person in such cases.

37.18 MISSING PERSONS REPORTS - CONTINUATION OF INQUIRIES

The Missing Persons Unit will regularly "follow up" all reports of missing persons until such time as the persons concerned are located. When these 'follow up' inquiries are received at Police Stations any developments since the initial report was furnished are to be supplied by way of report to the Missing Persons Unit. This also applies in the cases of deceased or unidentified persons.

37.19 CENTRAL RECORD OF PERSONS REPORTED MISSING IN N.S.W. - MAINTENANCE OF

To enable the Missing Persons Unit to maintain a central record of all persons reported missing in New South Wales and of all persons reported missing and subsequently located, it is necessary for all Police to ensure that they follow the instructions in relation to the furnishing of reports of missing persons and that the Unit is notified of any information which may be received concerning the location of persons previously reported as missing.



37.20 BROADCAST MESSAGES - REQUESTS FOR IN METROPOLITAN AREA

Where a person approaches the Police requesting that an urgent message be broadcast in connection with matters such as a call for volunteers for blood transfusions, an announcement that some member of the public is seriously ill or dying, or the sudden disappearance of some person under suspicious circumstances (ordinary Person of Interest reports or notices as to deaths or funerals, etc., are not included in the foregoing), the Patrol Commander or the Lockup-keeper will, having first satisfied himself/herself that the subject matter is one justifying Police assistance, cause such inquiries to be made as may be necessary to verify the facts set out in such message. The Officer will then take the following action, bearing in mind the fact that the Broadcasting Companies will only be approached in very urgent cases, and cases in which there are distressful circumstances.

Prepare an application for broadcast, in duplicate, and obtain the person's signature to the application, which should be drawn up in the following Form, which may be used as a guide.

.....Police Station  
 .....Date

I, the undersigned, request the Commissioner of Police to arrange with the Broadcasting Stations to circulate the description of (full name), my (relationship to inquirer), who is missing under suspicious circumstances.

Signature.....  
 Address.....

Witness.....  
 Rank.....

(particulars of message)  
 or

..... Police Station  
 ..... Date

I, the undersigned, request the Commissioner of Police to arrange with the Broadcasting Stations to circulate a message to locate (full name), my (relationship to inquirer), as I have no other means available of locating him/her.

Signature.....  
 Address.....

Witness.....  
 Rank.....

(particulars of message)

After the particulars of the message to be broadcast have been typed beneath the application, they are to be promptly telephoned to the Duty Operations Inspector (D.O.I.) New South Wales Police Operations Centre. One copy of the application is to be filed at the Police Station concerned, and the other forwarded to the Police Operations Centre. It will be the duty of the Duty Operations Inspector at the Police Operations Centre to reduce the message to proper Form and arrange for its circulation to the Sydney Broadcasting Stations on Form P.217C. A copy of the message is to be filed in the Police Operations Centre. In the case of a missing person a copy is to be forwarded to the Missing Persons Unit.

## 37.21 BROADCAST MESSAGES - REQUESTS FOR, IN COUNTRY AREAS

In the country area, where the position is usually met by the Manager of the local Broadcasting Station being asked to broadcast a message, the applicant is to complete an application in duplicate as previously set out. Where the application is made at a centre where no Broadcasting Station is located, the particulars of the message are to be promptly communicated to the Police at the town where the nearest Broadcasting Station is situated, by telephone if the matter is urgent, otherwise by correspondence. One copy of the application for broadcast is to be filed at the Police Station of origin, and the other forwarded to the Station at the Broadcasting Centre. The Station Sergeant or Lockup-keeper at the latter place will then complete a Form P.217d, provided he/she is satisfied that the message conforms to the requirements of this Instruction. The Officer is then to arrange for the message to be delivered to the Broadcasting Station, and file a copy in the Occurrence Book at this Station. In the case of a missing person, he/she should also forward a copy to the Missing Persons Unit.

Where it is desired that a message from the country be broadcast by Radio Stations in the metropolitan area, particulars of the message are to be submitted to the Duty Operations Inspector (D.O.I) New South Wales Police Operations Centre, by telephone if urgent, otherwise by correspondence. The message will then be dealt with in the same manner as one received from a Metropolitan Police Station.

## 37.22 BROADCAST MESSAGES - REQUESTS FOR, BY POLICE

The same procedure is to be followed in regard to messages originating from Police sources as is followed with those received from private individuals.

## INSTRUCTION 58

## PUBLIC TRUSTEE

- 58.01 ACTS AND INSTRUCTIONS
- 58.02 PRINCIPAL FUNCTIONS OF PUBLIC TRUSTEE
- 58.03 HEAD OFFICE OF THE PUBLIC TRUSTEE
- 58.04 BRANCHES OF PUBLIC TRUST OFFICE
- 58.05 CLERKS OF LOCAL COURT - AGENTS
- 58.06 APPOINTMENT OF POLICE AS AGENTS
- 58.07 ASCERTAIN PERSON RESPONSIBLE FOR ESTATE
- 58.08 SECURITY OF VALUABLES
- 58.09 PUBLIC TRUSTEE - WHEN NOT INVOLVED
- 58.10 PROMPT ADVICE WHEN PUBLIC TRUSTEE INVOLVED
- 58.11 ASSISTANCE RE PROPERTY
- 58.12 ASSISTANCE TO PUBLIC TRUSTEE AND AGENTS
- 58.13 INTESTATE PERSONS - BURIAL
- 58.14 VEHICLE OR TRAVELLING ALLOWANCE

## INSTRUCTION 58

## PUBLIC TRUSTEE

## 58.01 ACTS AND INSTRUCTIONS

The Public Trustee Act, No.19 of 1913, Wills, Probate and Administration Act, No.13 of 1898, and "Rules for Guidance of Agents" issued by the Public Trustee to Police, Acting Clerks of the Local Court and to other Police appointed with the approval of the Commissioner as Agents for the Public Trustee, deal with estates of deceased persons and should be carefully and strictly followed.

## 58.02 PRINCIPAL FUNCTIONS OF PUBLIC TRUSTEE

The powers, duties and immunities of the Public Trustee are set out in Part III of the Public Trustee Act. The principal functions comprise:

Trustee or Co-trustee under a Court order, deed or will (either by appointment by the testator or in place of a retiring trustee).

Executor or Co-executor of a will. (Appointed by the testator or by retiring executors).

Administrator of the will annexed where the executor does not wish to act, is dead, or absent from the State or where no executor is named by the testator.

Administrator of an intestate estate. (N.B. - The Public Trustee, being under State guarantee, is not required to find bonds in respect of the value of shares of infants or missing beneficiaries).

Agent or attorney (for absentees or others).

## 58.03 HEAD OFFICE OF THE PUBLIC TRUSTEE

The head office of the Public Trustee is located in Sydney. Advice and/or assistance is readily available from two Senior Trust Officers, who deal with estates divided alphabetically into two Sections: A-K and L-Z.

## 58.04 BRANCHES OF PUBLIC TRUST OFFICE

Branches of the Public Trust Office are located at the following centres:

## METROPOLITAN

Bankstown  
Blacktown  
Burwood  
Chatswood  
Dee Why

Gosford  
Hurstville  
Liverpool  
Parramatta  
Sutherland

## COUNTRY

Armidale  
Broken Hill  
Lismore

Newcastle  
Wollongong

In these localities, when the Public Trustee is to be involved in an estate, Police should act through the local Branch Manager.

## 58.05 CLERKS OF LOCAL COURT - AGENTS

All Clerks of the Local Court and Acting Clerks of the Local Court are Agents for the Public Trustee. Should Police require assistance and advice relating to an estate they should, except in the city area or where there is a Branch Office, act through the local Agent.

## 58.06 APPOINTMENT OF POLICE AS AGENTS

Police holding appointment as Agents for the Public Trustee need not be reappointed when transferred from one Station to another, provided they continue to hold the position of Acting Clerk of the Local Court. The usual recommendation should be forwarded when Police, who do not hold the position of Agent for the Public Trustee, are transferred to a Station where the previous occupant held such appointment.

## 58.07 ASCERTAIN PERSON RESPONSIBLE FOR ESTATE

Where Police, in the course of duty, become involved in inquiries relating to the death of any person who was possessed of property, they should, if possible, ascertain the following information:

Whether the deceased left a will which appointed the Public Trustee as executor.

Whether the deceased was intestate and, if so, full particulars of the next-of-kin and whether they propose to take any action in respect of the estate.

Whilst making searches to ascertain the foregoing information, and with a view to preventing any subsequent imputations, Police should, if practicable, be accompanied by other Police or other responsible persons.

## 58.08 SECURITY OF VALUABLES

When necessary, property should be left secure, money, jewellery, deeds, bank books, etc., to be taken to the Station and a record made in the Miscellaneous Property Book.

## 58.09 PUBLIC TRUSTEE - WHEN NOT INVOLVED

It should be clearly understood that the Public Trustee will not normally become involved in estates where a will exists or where next-of-kin are prepared to apply for Letters of Administration. If a will exists, subsequent action is a matter for the executor.

## 58.10 PROMPT ADVICE WHEN PUBLIC TRUSTEE INVOLVED

Where conditions outlined in 58.07 exist, except where next-of-kin propose to act in respect of the estate, Police should promptly inform the Public Trustee, Branch Manager or the Local Agent for the Public Trustee, of full particulars. This will apply irrespective of whether an inquest or inquiry is to be held.

They should supply the Public Trustee, Branch Manager or Agent with an inventory of property (Forms obtainable from Agents) known to have belonged to a deceased person and a copy of such should be attached to the "Report of Death to Coroner" P.79A Form, where applicable.

In cases where the Public Trustee may be required to act and additional protection is necessary for certain assets, e.g., vacant properties, motor vehicles, Police should inform the Public Trustee as a matter of urgency.

#### 58.11 ASSISTANCE RE PROPERTY

Where large sums of cash or property of considerable value belong to a deceased person come into Police possession, it should only be delivered to the person authorised by law to receive it, i.e. the Executor or Administrator to whom probate or letters of administration are granted in due course by the Court. In cases of this nature, notwithstanding that relatives and/or next-of-kin propose to apply for Letters of Administration, the Public Trustee is prepared to receive money, jewellery, deeds, bank books, etc. and hold them until such time as a Grant of Probate or Administration is produced. Alternatively, the Public Trustee is willing to offer suggestions as to the manner of disposal of assets. Likewise, where Police have possession of property of small value which belonged to a deceased person who was intestate, it should be handed to the Public Trustee, Branch Manager or Agent.

In either case an official numbered receipt must be obtained by Police and is to be pasted against the relevant entry in the Miscellaneous Property Book. Where either money and/or property is handed to any Government Department Officer acting in an official capacity such official receipt must be obtained.

#### 58.12 ASSISTANCE TO PUBLIC TRUSTEE AND AGENTS

Police should, as far as practicable, assist the Public Trustee or Agent in tracing any assets in an estate and where the identity of deceased has not been established, permit such Agent to inspect all books, papers, letters, etc., found with effects of deceased.

#### 58.13 INTESTATE PERSONS BURIAL

If the deceased was intestate and relatives or friends are prepared to arrange for a funeral, they should be permitted to do so. The Public Trustee will not accept responsibility for arranging funerals for deceased who die intestate unless the estate contains sufficient assets to meet the expense, bearing in mind that a funeral should befit the deceased's position in life. For directions in cases where responsibility for the funeral of a deceased person is not accepted by the Public Trustee, relatives or friends, etc. see instruction relating to "destitute persons".

A Coroner or Magistrate has no power to order the sale of deceased's effects for payment of burial expenses. The Public Trustee, if administering the estate, pays such expenses from the first proceeds of the estate, if sufficient funds are available.

## 58.14 VEHICLE OR TRAVELLING ALLOWANCE

Police holding the appointment of Agent for the Public Trustee will not be paid any vehicle or travelling allowance by the Police Department in respect of their duties as such Agents. As a general rule, the commission allowed by the Public Trustee is sufficient to cover any such expenses but where any claim for vehicle or travelling allowance does arise, it must be made direct to the Public Trustee and must be in accordance with the rate and conditions laid down in Instruction 26. Should Police, who do not hold the appointment of Agent for the Public Trustee, be required to make a journey in connection with an estate, the usual claim for vehicle or travelling allowance should be made in the ordinary way through this Department and it will be submitted for consideration of the Public Trustee.

## INSTRUCTION 63

## CRIME - GENERAL

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- 63.02 SERIOUS CRIME - SUPERIOR OFFICERS TO BE INFORMED
- 63.03 OFFENDERS' DESCRIPTIONS, ETC. - CIRCULATION IN METROPOLITAN/  
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- 63.04 SERIOUS CRIME-UTILIZATION OF INVESTIGATIVE RESOURCES
- 63.05 REPORT ON EXAMINATION OF SCENE OF HOMICIDE
- 63.06 DISTRICT/DIVISION/PATROL COMMANDERS RESPONSIBILITIES
- 63.07 GENERAL PARTICIPATION
- 63.08 REWARDS AND GRATUITIES TO PRIVATE INDIVIDUALS
- 63.09 REWARD OFFERED BY A PRIVATE INDIVIDUAL
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- 63.11 CRIME SCENE - FOOTPRINTS, ETC.
- 63.12 ARREST OF PERSONS OF DOUBTFUL CHARACTER
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## 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.

63.08 REWARDS AND GRATUITIES TO PRIVATE INDIVIDUALS

The New South Wales Police Informant/Reward Plan provides the policy and procedures whereby informants are registered, and the disbursement of rewards to police informants and members of the public generally are made.

For details concerning application procedures etc. regarding the N.S.W. Police Rewards System refer to Instruction 127, "Police Force Plans".

63.09 REWARD OFFERED BY A PRIVATE INDIVIDUAL

Where a private person offers to pay a reward, particular care must be taken to see that such reward is not contrary to sections 186 and 528 of the Crimes Act, No.40, 1900, and that it is offered for the arrest and conviction of an offender, not merely for the recovery of any stolen property. In such cases the person will be required to lodge the full amount of the reward with this Department and, at the same time, enter into a Deed which shall be completed by that person and the the Minister for Police and Emergency Services. Copies of this Deed are available at offices of the District Commander and at Patrol Head Stations in the metropolitan area.

63.10 INFORMANTS - IDENTITY, OF NOT TO BE DIVULGED

A 'police informant' is a person who, for monetary or other gain, supplies information on criminal activities to a member of the Police Force. All 'police informants' are to be registered. Upon forming an association with a person of this class the member concerned (case officer) should not otherwise disclose the identity of an informant or the source of their information. Names and sex of informants should not be stated in reports. If asked in court to disclose the identity of an informant, they should respectfully decline on the ground that it would be contrary to public policy. They should be guided by the decision of the court, which will never, on light grounds, compel such information to be divulged.

Where time permits police should seek a direction through the Commander, Legal Services Branch, Police Headquarters.

Police should not, under any circumstances, make promises to informers that they will receive portion of any fine imposed.

See also Instruction 127, "Police Force Plan", (Informants/Reward Scheme).

63.11 CRIME SCENE - FOOTPRINTS, ETC.

When a crime has been committed and bootprints, tyre marks, hoof marks, etc., are found which appear to be associated with such crime, they should not be interfered with in any way and, where necessary, a Constable detailed to guard them. A member of the Physical Evidence Section should attend and take plaster casts, photographs and any other action deemed necessary.

See also Instruction 33, "Exhibits and Miscellaneous Property".

63.12 ARREST OF PERSONS OF DOUBTFUL CHARACTER

When a person, believed to be a member of the criminal element is arrested and charged with an offence, the case should not, if possible, be placed before the court for hearing until the accused's criminal history is available and bona fides are checked.

63.13 ARREST BY UNIFORMED CONSTABLE

When a uniformed Constable makes an arrest on a criminal charge, the supervising Sergeant will inform his/her Patrol Commander who, in appropriate cases, will arrange for a detective or other experienced police to advise and/or assist. Due regard shall be had to the availability of suitable police and the cost-effectiveness of the action proposed. Nothing will be done which will detract any credit from the arresting Constable or cause that officer to think he/she has not received full credit. For the method of recording the names of arresting officers in the charge book, see Instruction 60, "Stations and Lockups".

— 63.14 CRIMINAL ON BAIL COMMITTING FURTHER OFFENCES

Where a criminal on bail to appear at a Supreme or District Court in the metropolitan area is known or suspected to be continuing his/her depredations, details of the criminal actions, after consultation with the Patrol team leader, are to be immediately provided by telephone to the Police Liaison Officer, Solicitor for Public Prosecutions and the Clerk of the Peace, Sydney, in order that further appropriate action can be taken. This information is to be immediately confirmed by report through the office of the Region/Group Commander. Where country District Courts are involved all such information shall be provided direct to the office of the Clerk of the Peace in the particular area concerned.

63.15 OFFENCES BY COMPANIES

Where it appears that offences under the Crimes Act, No.40 of 1900, or similar legislation, have been committed by a company, the police concerned should confer with the Fraud Squad for advice or assistance before commencing investigations.

63.16 TRANSPORT AUTHORITY INVESTIGATIONS

For directions regarding transport investigations, see Instruction 68, "Transport Investigation".

63.17 DRUG OFFENCES

For directions regarding reporting of crimes where drugs are involved, see Instruction 56, "Prohibited Drugs and Prohibited Plants" and Instruction 64, "Crime Reporting, Crime Information and Intelligence System".

63.18 STATEMENTS AND RECORDED INTERVIEWS

For directions regarding the taking of statements and records of interview, see Instruction 31, "Arrests and Checkpoints".

63.19 PROPERTY LOST OR STOLEN

Police investigating reports of missing property will determine whether the property has been lost or stolen. Police will submit a Crime Information Report P.40 and endorse such report in the appropriate block as "accepted", "doubtful" or "rejected". For directions see Instruction 64, "Crime Reporting, Crime Information and Intelligence System".

## 63.20 ABORTION

Where females, believed to be pregnant, leave country towns to go to Sydney or other large centres and it is suspected that they may resort to abortion or some malpractice, an Intelligence Report P.41 should be submitted in accordance with directions contained in Instruction 65.

A form P.41 will also be submitted where information is received regarding known or suspected abortionists.

## 63.21 INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS ACT

Police will make themselves conversant with the provisions of the Indecent Articles and Classified Publications (Amendment) Act, No.156, 184 and the Film and Video Tape Classification Act, No.155, 1984. When police suspect an offence under either Act, further action should NOT be taken until the Commander, Vice Squad has been consulted. A decision will be given as to whether the matter should be handled locally or by the Vice Squad.

THE INDECENT ARTICLES AND CLASSIFIED PUBLICATIONS (AMENDMENT) ACT deals with publications which have been classified as:

Prohibited publication  
Category 1 restricted publication; or  
category 2 restricted publication.

THE FILM AND VIDEO TAPE CLASSIFICATION ACT deals with:

Classification of films  
Display of films  
Sale of films  
Purchase of certain film by minors  
Sale of "R" films to minors  
Advertisement for films  
Prescribed markings on containers  
Attendance of minors at exhibition of certain films  
Procurement of children for child abuse films.

Section 39 of the Film and Video Tape Classification Act deals with search warrants and Section 41 with forfeiture of films after seizure.

## 63.22 BIGAMY

For instructions regarding bigamy, etc., see Instruction 42, "Births, Deaths and Marriages, Land Titles & Business Registration".

## 63.23 INCEST

For instructions concerning the welfare of children under the Children (Care and Protection) Act, see Instruction 35, "Child Offenders and Children", and for directions regarding prosecutions for incest, see Instruction 75, "Jurisdiction".

## 63.24 PUBLIC MISCHIEF - CRIMES ACT (SECTION 547B)

The statutory offence of "public mischief" is made punishable under the provisions of Section 547B of the Crimes Act, No.40 of 1900, and relates to a person who gives a false report that an act has been, or will be, done, or that any event has occurred or will occur, which calls for an investigation by police. The offender may be arrested without warrant.

## 63.25 PERJURY

Officers under Region or State Command will ensure that all applications for permission to prosecute for perjury are in proper order, and that the following documents are attached to the application before it is forwarded to the respective Region or State Commander:

Where the complaint relates to evidence given in court proceedings, a copy of the depositions or transcript of the court hearing.

When the complaint relates to a statement contained in an affidavit, a copy of the affidavit.

Statements from persons who are in possession of information suggesting that the evidence is false. (It should be noted that, by law, no person may be convicted of perjury unless the falsity of his/her evidence is proved by two witnesses or by one witness with corroboration).

In the case of an alleged false affidavit, a statement from the Justice of the Peace whose signature appears on the document, to establish that the deponent was lawfully sworn.

## 63.26 FORM OF AFFIDAVITS - SUPREME COURT RULES

The following are the Supreme Court Rules, which must be strictly observed, and the form of affidavit:

## "Part 38 Rule 2 FORM

- 2 (1) An affidavit shall be made in the first person.
- (2) The body of an affidavit shall be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.
- (5) Each page of an affidavit shall be signed by the deponent and by the person before whom it is sworn.

## Part 38 Rule 4 ANNEXURES AND EXHIBITS

- 4 (1) A document to be used in conjunction with an affidavit shall, where convenient, be annexed to the affidavit.
- (2) Where annexure is inconvenient, the document may be made an exhibit to the affidavit.
- (3) An exhibit to an affidavit must be identified by a certificate entitled in the same manner as the affidavit and made by the person before whom the affidavit is sworn.

## Part 38 Rule 4A NUMBERING AND FASTENING OF PAGES

- 4A(1) The pages of an affidavit or an affidavit with an annexure or annexures shall:

Be consecutively numbered in the top right hand corner.

Be securely fastened on the left hand side or corner.

## Part 38 Rule 7 SERVICE

- 7 (1) A party intending to use an affidavit shall serve it on each party not later than a reasonable time before the occasion for using it arises.



Draft form of affidavit.

IN THE SUPREME COURT OF NEW SOUTH WALES.

IN THE MATTER of the application of the Commissioner of Police for leave to institute proceedings or to direct proceedings to be instituted against AND IN THE MATTER of the Crimes Act, 1900.

On the .....day of ....., in the year one thousand nine hundred and ....., A.B., of (add the place and degree, calling or description), being duly sworn, maketh oath and says as follows:

The deponent's statement throughout in the first person here follows.

Sworn by the \*deponent on the day first above mentioned at (place), before me:

C. D., a Commissioner for Affidavits".

63.27 COMPLAINANTS TO TAKE ACTION

There are many offences for which police cannot arrest without a warrant. There are also many instances where complaints of alleged offences are made to police and, because of the circumstances, it would not be appropriate to arrest without warrant. Precaution should be exercised by first consulting a chamber magistrate with a view of obtaining process to bring the person before the court, e.g., where complaints are made by an employer to the effect that one (or more) of his/her employees has committed embezzlement or larceny or falsification of accounts or in those cases where the proof of the charge would rest on the uncorroborated evidence of the complainant. In these circumstances, it would be necessary to have an information laid before a justice and, if a warrant is to issue, the matter thereof substantiated by the oath of the informant or a witness (Section 23 of the Justices Act, 1902).

Where the information is laid personally by the complainant, he/she becomes, in law, a party to the proceedings. Instances have arisen where, although the police have investigated an alleged offence and prepared the case for court, the presiding magistrate has not allowed a police prosecutor to act in the matter but required the informant to conduct his/her own prosecution.

When investigating police, after giving due consideration to the available evidence, have decided that court action against an alleged offender is justified but the circumstances are such that they feel the complainant should show that he/she is acting in good faith; they should lay the information before a justice and have the matter thereof substantiated by the oath of the complainant as a witness. This action should be taken whether the information is laid either for the issue of a warrant or a summons and would remove any objection to the appearance of a police prosecutor in the proceedings. Such action would also clearly show that the informant acted in good faith.

A similar procedure could be adopted in those cases where it is required that the matter of an information be substantiated on oath and where police laying the information have insufficient knowledge of the facts to do so.

63.28 WELL-KNOWN CRIMINAL OR LIKELY TO ABSCOND

In cases where the offender is a well known criminal or it is considered that the accused is likely to abscond to defeat the ends of justice and that any delay would mean that the ends of justice would be defeated; police should act promptly with a view to preventing the offender's escape. It should be borne in mind, that each individual case presents its own peculiarities and the method of action to be taken must be left to the discretion of the police before whom such complaints are made.

This procedure should be followed generally, particularly in respect of certain offences which can be dealt with summarily by virtue of Section 476 of the Crimes Act, No. 40 of 1900, namely, Sections 154 (larceny by tenants), 156 and 157 (embezzlement), 158 (falsification of accounts), and 165 to 170 inclusive (frauds by agents).

63.29 CHAMBER MAGISTRATES RECOMMENDING POLICE ASSISTANCE

In cases where process for criminal offences is issued following the laying of informations by private individuals without reference to the police and the chamber magistrate suggests that the case is one in which police assistance should be given to enable the facts to be placed properly before the court; a report should be promptly furnished to the District Commander. Where time does not allow of this being done, the facts should be reported by telephone to the District Commander, who will carefully consider the matter, and if satisfied that police assistance is warranted, direct such course of action.

The informant should be advised that the court may rule that he/she will be required to prosecute the case and that he/she should consider obtaining legal representation for that purpose.

Where process is issued against police regarding their actions in the course of their duty, as a general rule, another police officer should not be instructed to assist the informant by investigating the allegations for the purpose of the court proceedings. If there are special circumstances which may be considered to justify a departure from this instruction, the facts should be reported for decision by the Assistant Commissioner (Professional Responsibility).

63.30 EVIDENCE OF BANK AND COMPANY OFFICERS

Section 415 (1) of the Crimes Act, No.40 of 1900, makes provision regarding the state of books and records of banks and companies, wherever situated, and transactions made respecting same, whereby evidence may be given orally or by affidavit in any case by any officer or clerk of such corporation or company, or by an "authorized person" as defined in subsection (5), one of whom may be a police officer of or above the rank of Sergeant. The section contains wide provisions and should be fully understood. A form of affidavit for use by bank officers P.6 and P.6A should be used in false pretence and valueless cheque matters. There are two separate forms, one where an account exists and the other where there is no account, and where it is deemed appropriate to prove matters by affidavit instead of calling the witness to give oral evidence.

63.31 DOCUMENTS USED AS EXHIBITS

For directions regarding examination of documents, see Instruction 70, "Document Examination".

See also Instruction 73, "Modus Operandi Unit", re recording of valueless cheques, etc.

## 63.32 SPHERE OF POLICE INVESTIGATION

Police will not make inquiries in connection with ordinary commercial transactions, such as bad debts, doubtful cheques, etc., unless there is evidence of some criminal offence.

## 63.33 SAFE DEPOSIT BOXES

For directions as to searching safe deposit boxes at Commonwealth Banks, see Instruction 90, "Warrants".

## 63.34 BANKCARD INQUIRIES

Where bankcards are suspected of being lost, stolen, or used in the commission of crime, inquiries may be made by telephone to the Security Manager, Cardlink Services Pty. Ltd., Auburn, at any hour. An immediate inquiry should also be made through the Crime Information and Intelligence System (C.I.I.S.).

## 63.35 MISAPPROPRIATION OF POKER MACHINE MONEY

The Liquor Administration Board of the Chief Secretary's Department employs a number of inspectors whose duties are to inspect books, accounts and records of licensed clubs. Any circumstances coming under police notice which might indicate misappropriation of money from poker machines at licensed clubs should be promptly reported. Such reports, in duplicate, setting out full details and whether any police action is pending, are to be forwarded to the District/Group Commander who will advise the Liquor Administration Board of the Chief Secretary's Department.

## 63.36 TV SETS, ETC., RENTED OR UNDER HIRE-PURCHASE

Certain firms engaged in the rental and/or hire purchase of television sets or other goods frequently report to police that customers have left their former addresses and taken with them property which is the subject of rental or hire-purchase agreements, and request police to assist in recovering such property or to note the interest of the firm on the departmental records. Police should not involve themselves in matters which are purely civil, and the complainant should be advised accordingly. However, should evidence of a breach of the law be disclosed appropriate action should be taken.

## 63.37 FORECASTING RESULT OF COURT PROCEEDINGS

For prohibition against forecasting the result of court proceedings, see Instruction 80, "Local Courts".

## 63.38 MOTOR VEHICLES USED BY CRIMINALS

For directions regarding "Motor Vehicles used by Criminals" see Instruction 66, "Stolen Motor Vehicles and Boats".

## 63.39 CRIMINALS' PASSPORTS

Where it is known or believed that, a criminal or person of interest, whether or not:

Wanted for, or suspected of, the commission of a serious crime; or

Is on bail to answer a criminal charge; or

Is likely to obtain a passport to travel in or out of Australia;

an Intelligence Report P.41 should be submitted.

Consideration should also be given to placing particulars of the criminal or person of interest in the Passenger Automatic Selection System (P.A.S.S.) in use at International Airports through Australia. The use of the P.A.S.S. should be in accordance with Instruction 63.40.

**63.40 PASSENGER AUTOMATIC SELECTION SYSTEM (P.A.S.S.) AT INTERNATIONAL AIRPORTS**

The Australian Federal Police have access to a computerised system known as the Passport Automatic Selection System (P.A.S.S.) in use at International Airports through Australia.

The basic objectives of the system are:

To prevent the escape by air of persons wanted on criminal matters.

To provide a means of obtaining travel intelligence of persons of interest to police on real and substantial grounds.

To prevent the illegal removal of children from Australia in contravention of the Migration Act and the Family Law Act.

Monitor the movement of local and international criminals in and out of Australia.

A manual outlining the operation of P.A.S.S. is retained by the Duty Operations Inspector, Police Operations Centre and at District Offices.

**63.41 DISTURBANCE AT RELIGIOUS CONGREGATIONS**

In cases of disquieting or disturbing religious congregations or assaulting any person lawfully officiating, or any person there assembled, action may be taken under Section 39 of the Imperial Acts Application Act, No.30, 1969 (N.S.W. Statute), unless there are specially aggravating circumstances sufficient to warrant action for a more serious offence. See Instruction 41, "Noise Abatement, Noise Control Act".

**63.42 MEDICO-LEGAL ADVICE**

Medico-legal problems of a forensic nature are now regarded as falling into two categories - "Forensic Pathology" and "Clinical Forensic Medicine". (Refer to Instruction 10, "Police Medical Services and Medical Advice on Police Matters", for details).

Responsibility for advice on problems with forensic pathology (i.e., after death) is the concern of the Director, Division of Forensic Medicine, of the Department of Health, whilst those concerning clinical forensic medicine (i.e. the living) are the responsibility of the Director, Police Medical Services.

Advice from both services is available at all hours, as set out in Instruction 10, "Police Medical Services and Medical Advice on Police Matters".

**63.43 FORENSIC BIOLOGIST OR ANALYST**

Where the services of the Forensic Biologist or Analyst are required, police will telephone the Physical Evidence Section, where suitable arrangements can be made.

## 63.44 GAS CYLINDERS

A number of companies, including; Commonwealth Industrial Gases Limited, Liquid Air Australia Limited, and Linde Gas Pty, Ltd., supply industrial gases in steel and aluminium pressure cylinders. These gases have a wide application in industry. However, from time to time the cylinders fall into the hands of criminals and persons of doubtful character. In the majority of instances the cylinders remain the property of the supplying company.

Ownership of the cylinder can be established by an identification mark stamped into the cylinders in the vicinity of the valve mechanism, e.g. "C.I.G." (followed by a serial number).

Should police locate cylinders under circumstances of a suspicious nature or require information regarding ownership and/or identification, then the security officer of the respective company should be contacted.

## 63.45 INQUIRIES BY INSURANCE COMPANIES AND LOSS ASSESSORS

Insurance companies, loss assessors, etc., seeking written information in respect of the theft or loss of, or damage (by fire or otherwise), to property, will do so on application form P.339, supplies of which are available from the Printing Services Section, Police Headquarters, on request.

A fee is charged in respect of each inquiry.

The processing of P.339 forms is centralised in the Modus Operandi Unit, State Operations Support Group.

## 63.46 INFORMATION SUPPLIED TO APPLICANTS

Applicants will be supplied with a copy of; the relevant police incident report in respect of the theft, loss of or damage to property, or a computer print-out re stolen vehicles.

The interests of the inquirer will be noted in the Stolen Vehicles Index and the Crime Intelligence and Information System, respectively.

## 63.47 INFORMATION NOT SUPPLIED TO APPLICANTS

The names of offenders, suspects, wanted persons, witnesses or other independent persons, or names of the arresting police will not be disclosed to inquirers.

## 63.48 CIRCUMSTANCES WHEN LOCAL POLICE MAY DISCUSS POLICE REPORTS

Police are not to disclose to inquirers from insurance companies etc., information regarding the theft, loss or damage to property (including information concerning stolen vehicles and fire damage to property) at police station level. However, should the circumstances of a particular case necessitate, there is no objection to a representative of a firm which has received a copy of the relevant police report from the Modus Operandi Unit, discussing aspects of the report with police. This is conditional upon production of a P.339 application form bearing the cash register imprint of this service.

63.49 PROMPT SUBMISSION OF POLICE INCIDENT REPORTS

To enable the efficient processing of the inquiries mentioned, prompt submission of Crime Information Reports P.40 for all crime reported to police is essential. The forms are to be completed as set out in Instruction 64, "Crime Reporting, Crime Information and Intelligence System".

63.50 INFORMATION FROM POSTAL AND TELECOM OFFICIALS

Information regarding lessees of Post Office Boxes, telegrams, etc., that is considered necessary in the interest of justice, may be obtained from Australia Post Security. This information must be treated as confidential and the Commander State Intelligence Group, is the only officer to whom such information will be supplied. All inquiries should be made through that officer. These inquiries outside normal office hours should be directed to the Duty Operations Inspector.

When police require particulars of lessees of telephone services from Telecom Australia they should direct their request to one of the undermentioned:

Commander State Intelligence Group, or  
Director, Drug Enforcement Agency ( or representative) or  
Inspector, Police Operations Centre.

The officers listed above should make the request, in writing, to the Chief Investigation Officer, Telecom Security and Investigations Section, Sydney.

In cases of emergency the Chief Investigation Officer will supply the information as a result of a telephone call. In either case the information will be supplied only to the authorized police officers. It will be the responsibility of those officers to inform the Telecom Security and Investigations Section when the occupants of those positions change.

Staff are on duty at the office of Australia Post Security between 8.00am and 5.30pm Monday to Friday, and can be contacted by telephone during these hours.

Frequently, police seek contact after hours in the course of criminal investigations, or seek the attendance of Australia Post employees at scenes of crime or unsecured buildings. Postmasters have been instructed to advise local police of their particulars so that the necessary local contact may be made. Where the assistance of investigation personnel is sought after hours in a criminal investigation, then contact should be made with Australia Post Security answering service. The tape will provide the names and telephone numbers of the contact officers.

63.51 STOCK STEALING

Police will always be on the alert to prevent stock stealing and detect offenders. To achieve this, they will:

Make night patrols at irregular intervals.

Constantly supervise travelling stock.

Make necessary inquiries regarding doubtful stock.

Visit saleyards and abattoirs within their patrols.

Inspect all impounded stock and compare brands and descriptions with those of stock reported stolen.

When stock theft or other rural crime is reported initial investigation will be carried out by local police and the services of District Rural Crime Unit personnel utilised when considered necessary.

63.52 TRAVELLING STOCK PASTURES PROTECTION

For directions regarding police duties in respect of travelling stock and provisions of Pastures Protection Act, see Instruction 55, "Pastures Protection".

63.53 BRANDING AND EARMARKING OF SHEEP HORSES AND CATTLE

For directions regarding the earmarking, tagging and branding of sheep, horses and cattle, see Police Reference Book, Item 25.

Police inquiring for information pertaining to large stock brands are to be directed to the Registrar of Brands, direct or through facsimile machines located at Department of Agriculture Offices where available.

Police seeking information pertaining to the sheep brands and marks directly, are to make inquiries to the nearest Pasture Protection Board Office in the respective areas. Police should be aware that identical earmarks may be issued to landholders in adjoining Pasture Protection Districts in New South Wales.

63.54 VERIFICATION OF, LOSS OF STOCK ANIMALS

When investigations are being made into reported losses or thefts of stock, police will consider the following aspects:

Records kept by the complainant to verify the report. Such records will be examined as, in many instances where stock is reported lost or stolen, it is found that an error has been made in such records.

The means of calculating the loss by the complainant.

The efficiency of management of the property concerned, e.g., whether stock is seen dead on the property, or fencing is such that stock can stray onto neighbouring holdings or roadways, etc.

Where stock is reported stolen or missing within a short period of time prior to the report, it would be expected to find some evidence of the manner in which they were removed from the property. In this regard, an examination of the area should be made by police in an endeavour to find evidence of fences cut, gates interfered with, hoof marks, tyre marks or other forms of evidence. Copies of Crime Information Reports should be forwarded to District Rural Crime Units promptly.

63.55 . DOUBTFUL REPORTS OF STOCK LOSS

Where theft or loss of stock is reported, police should not become involved in general musters of properties or cause lengthy inquiries to be made unless there is some definite evidence to indicate that theft has taken place and satisfied that the report is genuine.

63.56 CONSENT OF OWNER TO SEARCHES, ETC., RE STOCK LOSS

Where any person reports the loss of stock and the police desire to make a search of such persons's land or premises or muster his/her stock or examine his/her books with a view of ascertaining whether such stock is missing, the consent in writing of such person must be first obtained.

When police intend to search any land or premises, not being those of the person reporting stock missing, with a view to tracing stolen stock, they must first obtain a search warrant under the Search Warrants Act, 1985. It is necessary, when applying for such warrant, to be in possession of information showing reasonable cause for suspecting that stolen stock will be found on such land or premises. If any person invites police to search his/her land or premises, consent in writing must be first obtained.

The written consent must be carefully filed and retained for production, if necessary.

63.57 SEARCH - TO BE MADE IN ACCORDANCE WITH RELEVANT ACT

The Crown Solicitor has advised (24.12.1937):

"That the powers conferred on police by section 15 of the Registration of Stock Brands Act, 1921, section 8 of the Wool, Hide and Skin Dealers Act, 1935, and other similar statutory provisions for making search, authorize only a search for the purposes of the Act in question and should not be used for any other purpose, such as searching for stolen stock; and

That an action will not lie against a person for inducing a magistrate to issue a search warrant if the applicant is acting bona fide and without malice and fully and fairly states his/her grounds of suspicion to the magistrate".

63.58 STOCK, WHEAT, WOOL - USE OF C.I.R.

Reports concerning the loss or theft of stock, grain or wool will be dealt with in the same manner as other forms of crime. For directions regarding the reporting of same, see Instruction 64.

C.I.R. 'Specialist' copies, to be promptly forwarded to the respective District Rural Crime Unit. Copies in the country areas to be forwarded to local Rural Crime Investigators promptly.

63.59 URGENT INQUIRIES RE STOLEN STOCK

Where any stock is stolen or when any stolen stock is believed to have been transported to a saleyard, abattoir or knackery at some other centre, the local Rural Crime Investigator or Detective will be telephoned immediately and informed of the full description of the stock and any other relevant information in order that prompt inquiries may be made at such premises, prior to such stock being disposed of.

63.60 STRAYING STOCK

For directions regarding stock straying on reserves, etc., refer to Pastures Protection Act, Public Streets and Thoroughfares see Local Government Act, Cruelty to Animals see Instruction 40.

63.61 CROWN LANDS - STOCK STRAYING ON

For directions regarding stock straying on Crown land, see Instruction 45, "Crown Lands".

63.62 "CONSIGNMENT" - CROWN SOLICITOR'S ADVISING

When considering crimes or transactions involving the ownership of property, police should bear in mind the following advising of the Crown Solicitor (75/6494) of the 22 March, 1976, concerning the word "consignment":



"This, is, of course, a common commercial term which, in commercial usage, can bear a number of meanings. A shopkeeper receiving goods from a supplier invoiced to him/her as being 'on consignment' would certainly understand that he/she did not have to pay for those goods until he/she sold them. However, he/she might not necessarily understand, without contacting his/her supplier, whether he/she was to hold them as bailee on his/her behalf or whether the goods had been sold to him/her on a payment deferred basis, for the phrase can bear both those meanings.

The meaning of the words was considered in *Universal Guarantee Pty Ltd v. Metters Limited* (1966) W.A.R. 74. Wolff C.J. said at P.77, 'If a merchant has goods on consignment, he receives them on terms that he may sell them, and if he does, he must account to his principal for ...the price...'. (Wolff C.J. clearly envisages 'on consignment' as creating a bailment). However, Jackson J., on P.79, said '... the phrase on consignment ... is ordinarily used in commercial transactions in reference to the delivery of goods to an agent for sale by him on behalf of the consignor as principal. But the phrase need not necessarily bear this meaning. It is frequently used where a sale to and not by the consignee is contemplated. But to consign is literally to deliver goods and the purpose of the delivery must be ascertained in each case according to the particular facts.'

Whilst Wolff C.J.'s definition undoubtedly is the one relevant to the majority of 'on consignment' transactions, I think that Jackson J. probably puts the position more accurately and it is necessary always to look at the facts of the particular transaction to determine whether or not there is a bailment. In short, goods 'on consignment' probably will frequently be, but need not necessarily always be, the subject of bailment".

#### 63.63 SEXUAL ASSAULT OFFENCES

For instructions regarding sexual assault offences on adults or children, see Instruction 67, "Sexual Assault Offences".

#### 63.64 COMPENSATION - ASSAULT CHARGES

In any case of assault, either on police or other person, the nature and extent of the injuries of the victim should be ascertained. This is necessary not only to see that the appropriate charge is preferred, but also to give due consideration to the possibility of adequate compensation in the event of a conviction.

In any case, where the injury is sufficient to cause a police officer or other person to visit a medical practitioner for treatment, as distinct from mere examination, "actual bodily harm" probably has been inflicted and a charge under section 59 of the Crimes Act, 1900 would be appropriate. Under certain circumstances, an assault which does not cause actual bodily harm may justify the preferment of a charge under section 58.

Compensation in relation to criminal matters is covered under the Victims Compensation Act, 1987. Compensation under that Act can be awarded for loss or injury.

#### 63.65 AUSTRALIA - NEW ZEALAND POLICE LIAISON OFFICERS

An arrangement exists for the exchange of police liaison officers between New Zealand and the Australian Police Forces. The New Zealand Police liaison officer in Australia is located at the New Zealand Consulate-General in Sydney.

The Australian Police liaison officer is attached to the New Zealand Police National Headquarters at Wellington, New Zealand. A member of a State Police Force appointed to the position of liaison officer will be seconded during the period of the appointment to the Australian Federal Police with the rank of Detective Inspector, Australian Federal Police.

The police liaison officer's basic functions are to closely co-operate with police in the country he/she is stationed in to identify, investigate and suppress:

Illicit drug trafficking which in any way involves their respective countries or country's citizens; and

Any other criminal activity which might involve their respective countries or country's citizens.

#### 63.66 CONSORTING - CRIMES ACT

Section 546A of the Crimes Act provides that any person who habitually consorts with persons who have been convicted of indictable offences, if he/she knows that the persons have been convicted of indictable offences, shall be liable on convictions before a stipendiary magistrate to imprisonment for 6 months or a fine of \$400.

#### 63.67 CONSORTING - PROCEDURE

To enable the legislation to be enforced, the following instructions will be followed:

The persons seen consorting are to be warned that the persons they are with have a conviction for an indictable offence.

The following details are to be recorded by police in their official notebook:

Date, time and place of consorting.

The name date of birth and address of each person so observed.

Photograph or other criminal reference.

Particulars of the warning given and the response made by each person.

Details of any motor vehicle involved or any other matter considered relevant.

Where the entry is made by only one of a number of members present then those other members are to certify the entry as being true and correct and the date and time of the certification.

Details of the incident are to be forwarded on an Intelligence Report P.41 to the State Intelligence Group where they will be recorded. Each form is to be endorsed in block letters, "warned re consorting".

Because of the requirement to show that persons 'knew' that persons with whom they are associating have been convicted of an indictable offence it is essential that these proceedings be strictly adhered to at all times.

63.68 CONSORTING RECORDS - MAINTENANCE OF

It is the responsibility of the Commander, State Intelligence Group, to ensure that a proper record is maintained in relation to all consorting bookings reported. The Commander, State Intelligence Group will cause the Commander of the appropriate Region Crime Squad to be notified when a particular criminal has accrued sufficient bookings for action to be taken under the Act, and shall furnish all necessary documentation and make a suitable notation when proceedings have been commenced.

63.69 CONSORTING NOTICES

A person charged with consorting should be promptly served with a notice setting out the dates on which such consorting took place and the names of the persons with whom the accused is alleged to have consorted, (forms of notice to be used in such cases are obtainable on application through the District Commander).

63.70 ANTI-THEFT SQUADS

District Commanders are responsible to the Region Commanders for reducing the incidence of offences against property, e.g., property breaking, motor vehicle theft and armed hold-up, and to systematically review the effectiveness of operational procedures, evaluate suggested new procedures and to co-ordinate policing methods in the area of property crime.

63.71 ANTI-THEFT SQUADS - SUPERVISION

District Anti-Theft Squads in the metropolitan area, Newcastle and Wollongong Districts are under the control and management of respective District Commanders. The staff officer (Personnel) will assist the District Commander in maintaining a record of suitable applicants and the selection of suitable personnel for transfer to the squad.

Members are to be replaced on a rotational basis by suitable general duty police who have indicated an interest in performing such duty.

63.72 PROSTITUTION - PREMISES

Any form of prostitution in "premises" licensed under the Liquor Act 1982, or under the Registered Clubs Act 1976 will be dealt with separately under those Acts.

Section 14 of the Summary Offences Act 1988, in this part "premises" does not include:

- (a) the premises of a club registered under the Registered Clubs Act 1976; or
- (b) Licensed premises under the Liquor Act 1982.

63.73 LIVING ON EARNINGS OF PROSTITUTION

It is an offence for a person to knowingly live wholly or in part, on the earnings of the prostitution of another person.

Section 15 of the Summary Offences Act 1988.

- (1) A person shall not knowingly live wholly or in part on the earnings of prostitution of another person.

(2) For the purposes of subsection (1), a person who is of or above the age of 18 years and who:

(a) lives with, or is habitually in the company of, a reputed prostitute; and

(b) has no visible lawful means of support,

shall be taken knowingly to live wholly or in part on the earnings of prostitution of another person unless he or she show the court he or she had sufficient means of support.

However, if a person is under the age of 18 years the onus rests on the police to prove that person "knowingly" lives wholly or in part on the earnings of prostitution.

The accused person's past history and the conduct at the time of arrest may provide a prima facie case that the person did not have visible means of support.

To prove this offence there must be some evidence of a continuous association with the "industry" of prostitution and regular receipt of money from the earnings of the prostitute, i.e., if a landlord rents an apartment to a prostitute at a very high rate with the knowledge that the room is to be used expressly for the act of prostitution, then the landlord is considered to be living on the earnings of a prostitute.

#### 63.74 PROSTITUTION OR SOLICITING IN MASSAGE PARLOURS ETC.

Under section 16 of the Summary Offences Act 1988, it is an offence for a person to use, for the purpose of prostitution or of soliciting for prostitution, any premises available:

(a) for the provision of massage, sauna baths, steam baths, or facilities for physical exercise; or

(b) for the taking of photographs; or

(c) as a photograph studio, or for similar services.

#### 63.75 ALLOWING PREMISES TO BE USED FOR PROSTITUTION

It is an offence for the owner, occupier, manager or assistant manager of a massage parlour or photographic studio to knowingly permit the premises to be used for the purpose of prostitution or soliciting for prostitution.

Under section 17 of the Summary Offences Act 1988.

(1) A person, being the owner, occupier or manager, or a person assisting in the management, of any premises held out as being available:

(a) for the provision of massage, sauna baths, steam baths or facilities for physical exercise; or

(b) for the taking of photographs; or

(c) as a photographic studio,

or for services of a like nature, shall not knowingly suffer or permit the premises to be used for the purpose of prostitution or of soliciting for prostitution.

(2) A conviction under section 17 (1) does not exempt the offender from any penalty or other punishment to which he or she may be liable for keeping or being concerned in keeping a brothel or disorderly house.

This section is directed at people who own and operate any premises which are used for the purpose of prostitution. The section requires the prosecution to be able to prove that the person "knowingly" permitted the premises to be used for prostitution.

#### 63.76 ADVERTISING FOR PROSTITUTES OR PREMISES USED FOR PROSTITUTION

Advertising premises used for prostitution continues the substance of section 8 of the Prostitution Act prohibiting any person from advertising the availability of any premises or person for the purpose of prostitution.

Section 18 of the Summary Offences Act, provides:

A person shall not, in any manner:

- (a) publish or cause to be published an advertisement; or
- (b) erect or cause to be erected any sign,

indicating that any premises are used or are available for use, or that a person is available, for the purposes of prostitution.

Section 18A of the Summary Offences Act provides:

- (1) A person shall not, in any manner, publish or cause to be published an advertisement for a prostitute.
- (2) In this section, "advertisement for a prostitute" means an advertisement that indicate, or that can be reasonably taken to indicate, that
  - (a) employment for a prostitute is or may be available; or
  - (b) a person is required for employment as a prostitute or to act as a prostitute; or
  - (c) a person is required for employment in a position that involves or may involve, acting as a prostitute.

#### 63.77 SOLICITING

The Summary Offences Act prohibits soliciting in a public street within view from a dwelling, school, church or hospital and makes it a separate offence to solicit in a manner that harasses or distresses the person solicited.

Section 19 of the Summary Offences Act provides:

- (1) A person in a public street shall not, near or within view from a dwelling, school, church or hospital, solicit another person for the purposes of prostitution.
- (2) A person shall not, in a school, church or hospital, solicit another person for the purpose of prostitution.
- (3) A person shall not, in or near, or within view from, a dwelling, school, church, hospital or public place, solicit another person, for the purpose of prostitution, in a manner that harasses or distresses the other person.

#### 63.78 SOME RELEVANT DEFINITIONS RE SUMMARY OFFENCES ACT

"Harasses" is defined by the Oxford Dictionary as "vex by repeated attacks; trouble; worry; importune sexually, especially in workplace.

"Distress" is defined by the Oxford Dictionary as "subject to distress; exhaust; afflict; cause anxiety to, vex, make unhappy".

If sufficient evidence exists which may support two offences, police should proceed by the issue of a court attendance notice, summons or charge for each offence.

Note: As well as section 19 (3) of the Summary Offences Act the offence of "offensive conduct or language" could be used in relation to clients soliciting non-prostitutes.

"Dwelling" in this act, means:

- (a) A building intended for occupation as a residence and being, capable of being, so occupied, except where it is above, or attached to, a shop or commercial premises; and
  - (b) Such a building that is part of a retirement village or is among the buildings in which persons live as a religious or other private community; and
  - (c) any land occupied or used in connection with a building referred to in paragraph (a) or (b).
- (4) The provisions of this section are in addition to, and do not derogate from, any other law (including section 4).

#### 63.79 PUBLIC ACTS OF PROSTITUTION

It is an offence for both persons taking part in an act of prostitution in, or within view from, a school, church, hospital or public place, or within view from a dwelling, (for the client and the prostitute). It creates a similar offence where the act of prostitution occurs in a vehicle.

Section 20 of the Summary Offences Act:

- (1) Each of the persons taking part in an act of prostitution:
  - (a) In, or within view from, a school, church, hospital or public place; or
  - (b) Within view from a dwelling,
 is guilty of an offence.
- (2) Each of the persons taking part in an act of prostitution in a vehicle that is:
  - (a) In, or within view from, a school, church, hospital or public place: or
  - (b) within view from a dwelling,
 is guilty of an offence, whether or not the act of prostitution can be seen from outside the vehicle.
- (3) A person can not be punished for an offence under subsections (1) and (2) in respect of the same act of prostitution.
- (4) The provisions of this section are in addition to, and do not derogate from, any other law (including sections 4 and 5).
- (5) In this section:
 

"Act of prostitution" includes sexual activity between persons of different sexes or of the same sex, comprising:

  - (a) Sexual intercourse as defined in section 61A of the Crimes Act 1900; or
  - (b) Masturbation committed by one person on another, for payment.

### 63.80 SEARCH WARRANTS RE PROSTITUTION

This offence provides for the issue of a search warrant if there are reasonable grounds for believing that an offence referred to in section 16 or 17 is being committed.

Section 21 of the Summary Offences Act:

- (1) A member of the Police Force may apply to an authorized justice for the issue of a search warrant if the member of the Police Force has reasonable grounds for believing that section 16 or 17 is being contravened with respect to any premises.
- (2) An authorized justice to whom an application is made under subsection (1) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any member of the Police Force:
  - (a) To enter and search the premises; and
  - (b) To arrest, search and bring before a justice of the peace any person who is, or appears to have been, contravening either section 16 or 17; and
  - (c) to seize any article that may be evidence of such a contravention.
- (3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.
- (4) In this section:
 

"Authorized justice" means:

  - (a) A magistrate; or
  - (b) A justice of the peace employed in the Attorney General's Department.

(Paragraphs 63.74 to 63.81 issued vide Circular 88/120 dated 8.7.1988).

### 63.81 SUPERVISION OF POLICE ATTENDING PREMISES USED FOR PROSTITUTION

There will be occasions where police may be required to attend premises which are being used for the purpose of prostitution, including brothels, massage parlours and escort agencies, in connection with their official/lawful duties.

To avoid allegations of impropriety, police will make a brief entry in their official notebook, diary or duty-book indicating the purpose of the visit. In addition, the supervising Sergeant will monitor police attendance at such establishments.

(Amended vide Circular 88/173, issued 20.10.1988).

### 63.82 CHILD PROSTITUTION

For details concerning legislation and procedures for child prostitution, using children for pornographic purposes etc. see Instruction 35.

Sections 63.83/88 first issued March, 1991 (Refer C.90/3)

63.83 TAXATION INFORMATION RE SERIOUS OFFENCES, ETC.

The Taxation Laws Amendment Act (No. 3 of 1989), Part 5, gives the Commissioner of Taxation discretionary powers to disclose taxation information to authorised law enforcement agencies, in cases of serious offences and Proceeds of Crime Orders.

The Act's provisions are not designed to allow law enforcement agencies to indiscriminately probe for information held by the Tax Office; the details stipulated for insertion in reports applying for information are intended to severely restrict the number of such applications each year.

The legislation requires the Commissioner of Taxation to be satisfied that the information requested is relevant to establishing whether a serious offence has been or is being committed, or is relevant to the making, or proposed or possible making of a Proceeds of Crime Order.

Tax information is unlikely to be provided if it is readily available from other sources and the relevant tests mean that it is improbable that all information contained in taxpayers' returns and elsewhere could, in every case, be disclosed.

63.84 TAXATION INFORMATION - DEFINITIONS OF SERIOUS OFFENCE OR PROCEEDS OF CRIME ORDER

A "serious offence" means an offence against a law of the Commonwealth, of a State or of a Territory, that may be dealt with as a indictable offence (even if it may, in some circumstances, be dealt with as a summary offence).

A "Proceeds of Crime Order" means:-

- (a) an order under Part II or Part III of the (Commonwealth) Proceeds of Crime Act, 1987, or under a corresponding law of a State or Territory; or
- (b) an order under Division 3 of Part XIII of the Customs Act, 1901; being an order:
- (c) made in respect of a person who has been convicted (within the meaning of Section 5 of the Proceeds of Crime Act, 1987) of a serious offence; and
- (d) that related to that offence.



## 63.85 TAXATION INFORMATION - APPLICATIONS FOR

Applications for information by virtue of this Act shall be submitted by way of confidential written report (in duplicate) through the Region/Branch Commander who shall consider whether the application is appropriate in the particular circumstances.

If the Region/Branch Commander supports the application, the papers are to be taken by hand, where appropriate, or forwarded under CONFIDENTIAL cover to the Commander, State Intelligence Group for consideration and necessary attention.

## 63.86 TAXATION INFORMATION - DELEGATED AUTHORITY TO RECEIVE

The Commander, State Intelligence Group, or any other member acting in that position, is the ONLY member of the Service with the delegated authority of the Commissioner of Police to process and receive information from the Australian Taxation Office in accordance with the said Act.

Under NO circumstances is action to be taken otherwise than as instructed here.

## 63.87 TAXATION INFORMATION - FORMAT FOR REPORT SUPPORTING APPLICATION

It will be necessary for the report supporting the application to contain the following information:-

- the names, last known addresses and any other relevant details of the persons (and associated parties) to who the offence relates;
- the nature of the offence being investigated or, in relation to which a Proceeds of Crime Order might be made;
- the particular legislative provision which determines that it is an indictable offence, or under which a Proceeds of Crime Order might be made;
- the penalties attached to that offence;
- the precise nature of the information sought, the reason it is required and its relevance to:
  - (a) establishing whether a serious offence has been, or is being, committed; or
  - (b) the making, or proposed or possible making, of a Proceeds of Crime Order.

## 63.88 TAXATION INFORMATION - EFFECT OF SECRECY PROVISIONS

Where income tax information is passed on by the Australian Taxation Office to an authorised law enforcement agency officer, subsection 3E (2) of the said Act imposes secrecy obligations ON THAT OFFICER.

In effect, recipients of such information SHALL NOT DIVULGE OR COMMUNICATE the information to any other person or make a record of the information unless it is for:

- the investigation of a serious offence; or
- an investigation in connection with the making, or proposed or possible making, of a Proceeds of Crime Order.

The provisions do not limit the use of taxation information for prosecutions for tax related offences or Proceeds of Crime Order proceedings.

Contravention of the secrecy provisions renders a person liable to severe penalties, i.e., a substantial fine or imprisonment, or both.

All inquiries for guidance and assistance are to be confidentially directed to the Commander, State Intelligence Group.

(END)

## INSTRUCTION 70

## DOCUMENT EXAMINATION

- 70.01 CARE OF DOCUMENTS
- 70.02 DOCUMENTARY EXHIBITS
- 70.03 DOCUMENT EXAMINATION UNIT - EXCLUSIVE USE OF
- 70.04 FUNCTIONS OF DOCUMENT EXAMINATION UNIT
- 70.05 OBTAINING SPECIMEN WRITING/SIGNATURES FOR COMPARISON
- 70.06 SPECIMENS OF TYPE
- 70.07 CARE OF SPECIMENS
- 70.08 SUBMISSION FOR COMPARISON
- 70.09 SUBMISSION TO UNIT BEFORE DOCUMENTS OTHERWISE TREATED
- 70.10 FILING AT M.O. SECTION

## INSTRUCTION 70

## DOCUMENT EXAMINATION

## 70.01 CARE OF DOCUMENTS

Any document coming into the possession of Police as a possible exhibit in a criminal trial should be handled and cared for in a manner that will not impair, in the slightest degree, its value as evidence. The exact physical condition of a document when received should be observed and carefully noted, and thereafter the document should be preserved in the exact condition in which it was received. Tears, pen, pencil or other markings should not be interfered with, and adequate precautions taken to ensure that no further marks or mutilations occur whilst it is in the possession of the Police.

As soon as practicable after receipt of any such documents, they should be placed in a clean protective covering such as a folded sheet of paper or an envelope large enough to hold them unfolded. Folded documents should be unfolded and retained in that condition and care taken that no fresh creases are made.

## 70.02 DOCUMENTARY EXHIBITS

No written exhibit should in any way be interfered with by the Police or others, except with the special sanction of the Crown Law Authorities.

## 70.03 DOCUMENT EXAMINATION UNIT - EXCLUSIVE USE OF

Where the authorship of any document is disputed, it should not be tendered in evidence prior to scrutiny at the Document Examination Unit. This Unit should be used and under no circumstances should the services of an expert in this area of study from outside the Unit be obtained.

## 70.04 FUNCTIONS OF DOCUMENT EXAMINATION UNIT

Scientific Examination in the areas of:

Handwriting Identification

Typewriter Comparisons

Photography of Documents

Restoration of Bleached/Altered/Obliterated writings.

Indentations.

Stamp Impressions.

Perforations.

In respect of handwritten documents, the Document Examination Unit may be able to advise as to:

Whether there is evidence of disguise in the writing.

The type of pen and ink or pencil used.

The type of paper used.

The outstanding features of the handwriting; and

Whether the writing on the document is identical with any specimen of criminals' handwriting filed at the Unit.

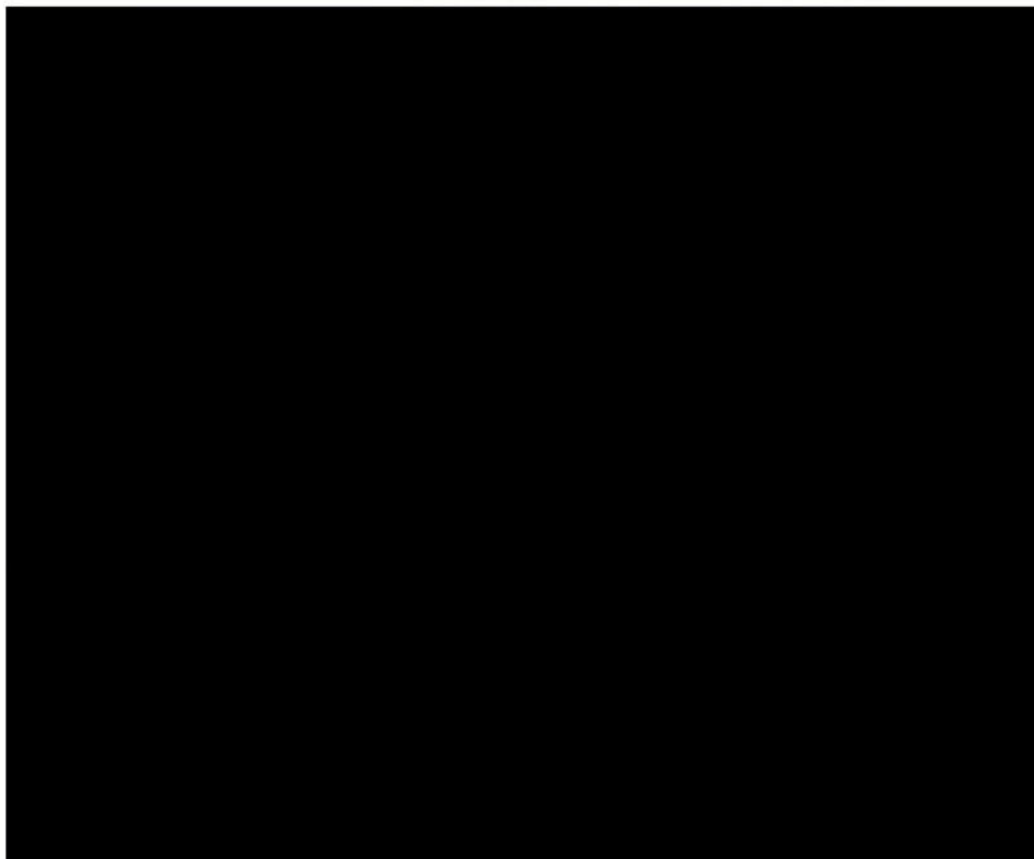
Where typewritten matter forms the exhibit, it might be possible for the Unit staff to give advice as to:

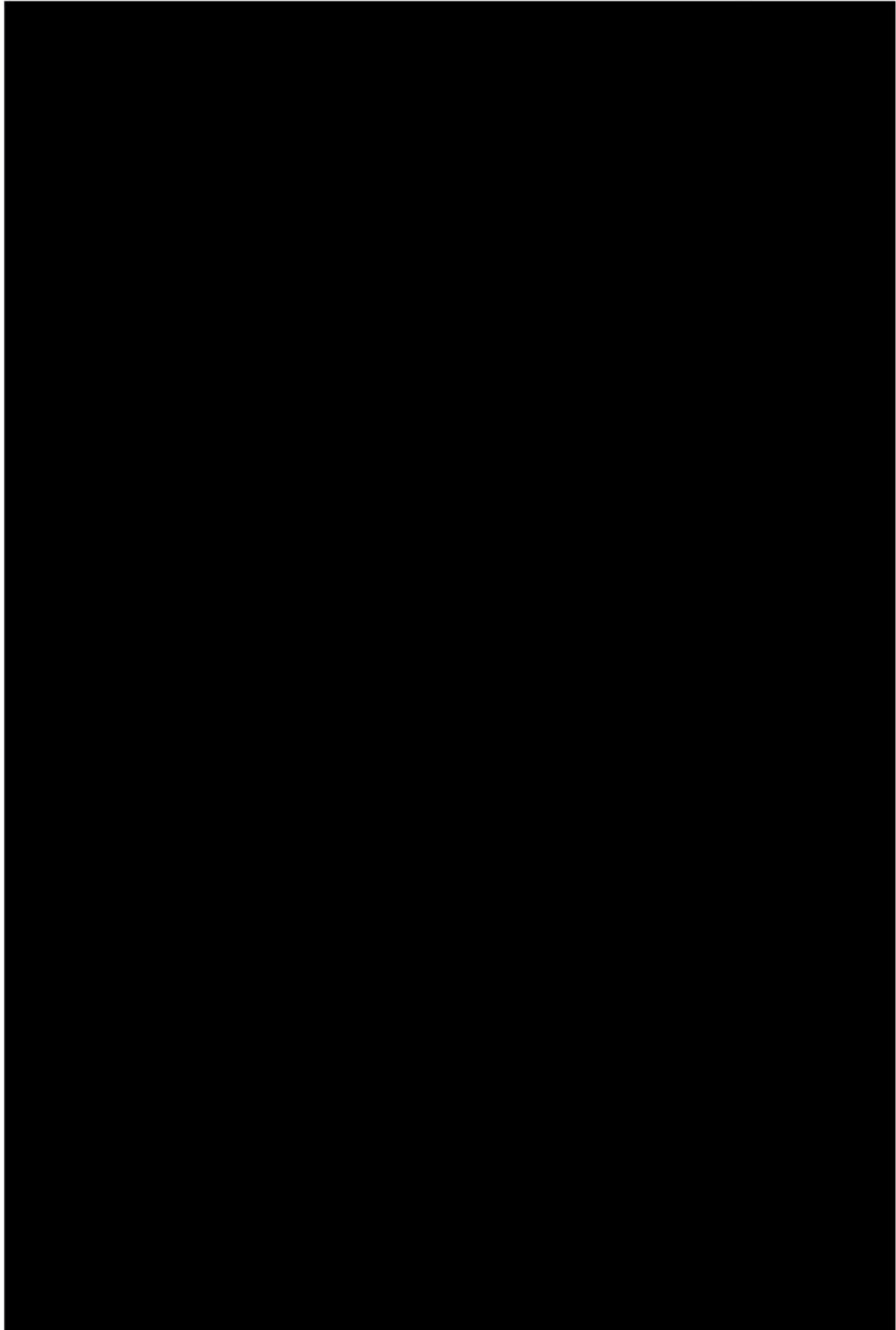
Make, type, model and mechanical condition of the typewriter used.

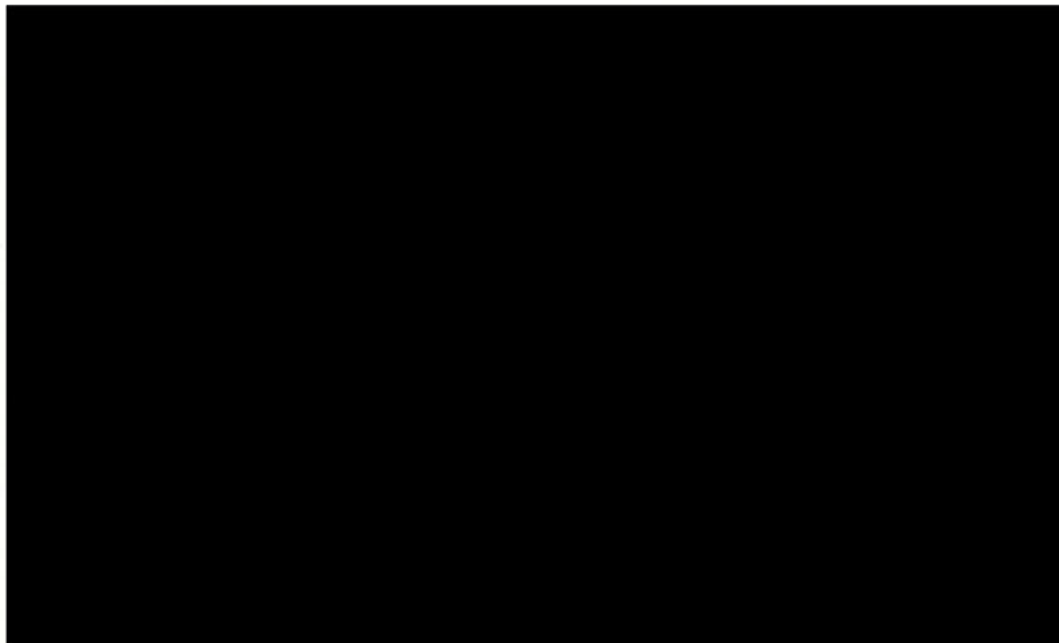
Type of paper used.

Whether a document in question has been typed on a certain typewriter from which specimen typewriting has been obtained.

Examination of documents, etc., will only be carried out when necessary for evidentiary purposes.

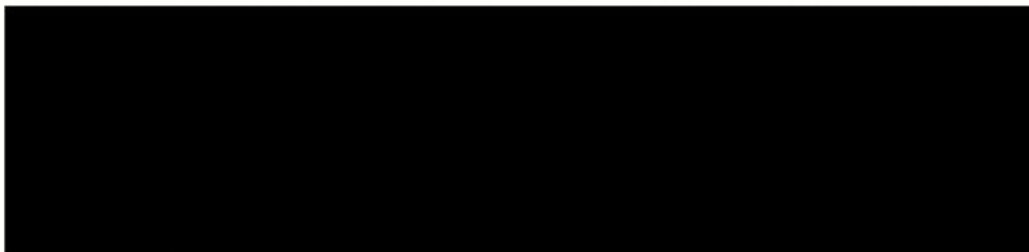






70.08 SUBMISSION FOR COMPARISON

Specimens of handwriting, typewriting, or any writing materials obtained, and the document in question should be submitted for comparison purposes to the Document Examination Unit, Physical Evidence Section, as early as possible. When an Officer connected with the investigation does not personally convey the articles to that Unit, they should be accompanied by a report setting out the facts.



70.10 FILING AT M.O. SECTION

For procedure to be followed where documents, such as valueless cheques, anonymous letters, etc., are used in connection with a crime, see Instruction 73.

## INSTRUCTION 71

## FINGERPRINTS

- 71.01 IMPORTANCE OF FINGERPRINTS
- 71.02 NON-PRINTING FOR MINOR OFFENCES
- 71.03 STATUTORY POWERS
- 71.04 JUVENILES - FINGERPRINTING OF
- 71.05 TRAINING RE TAKING OF FINGERPRINTS
- 71.06 PREPARATION OF INSTRUMENTS AND HANDS
- 71.07 ROLLED IMPRESSIONS
- 71.08 PROCEDURE FOR TAKING FINGERPRINTS
- 71.09 SUMMONS CASES - OBTAINING FINGERPRINTS
- 71.10 FINGERPRINTING PRISONERS - WRITS OF HABEAS CORPUS, ETC.
- 71.11 SENTENCES DEFERRED - SECTION 558 CRIMES ACT
- 71.12 HANDLING OF FINGERPRINTS AT STATIONS
- 71.13 FINGERPRINT INFORMATION FORM P.59B
- 71.14 PURPOSE OF FORM P.59B
- 71.15 METHOD OF PREPARATION OF P.59B FORM
- 71.16 REFUSAL OF INABILITY TO COMPLETE FORM
- 71.17 P.59B FORM - WHERE MULTIPLE CHARGES
- 71.18 FORWARDING OF FINGERPRINTS AND P.59E FORMS
- 71.19 OFFENDER PHOTOGRAPH CARD
- 71.20 OBTAINING NAME CHECKS FROM CONVICTION RECORDS SECTION
- 71.21 RECORDS TO POLICE PROSECUTOR
- 71.22 FORWARDING OF CRIMINAL HISTORIES RE ANTECEDENT REPORTS
- 71.23 PERSONS SENT TO GAOL WITHOUT BEING FINGERPRINTED
- 71.24 OBTAINING FINGERPRINTS FROM DEAD BODIES
- 71.25 DEATH OF PERSONS ON RECORD
- 71.26 SEARCHES FOR LATENT FINGERPRINTS AT SCENES OF CRIME
- 71.27 ELIMINATION FINGERPRINTS
- 71.28 DESTRUCTION OF ELIMINATION FINGERPRINTS
- 71.29 PALMPRINTS - METHOD OF TAKING
- 71.30 INTERSTATE/OVERSEAS INQUIRIES
- 71.31 DOCUMENTARY EVIDENCE OF PREVIOUS CONVICTIONS
- 71.32 PROOF BY AFFIDAVIT OF IDENTITY, ETC.
- 71.33 REQUESTS FOR PROOF OF IDENTITY OR PREVIOUS CONVICTIONS



71.34 VISAS - POLICE CERTIFICATES  
71.35 CONSULATE REQUIREMENTS  
71.36 LODGEMENT/PROCESS OF APPLICATIONS  
71.37 PROCEDURES FOR HANDLING APPLICATIONS  
71.38 COLLECTION OF PRESCRIBED FEE  
71.39 REMITTANCE OF PRESCRIBED FEE  
71.40 COMPLETION OF P.397A FORM  
71.41 TRANSMISSION OF FORMS TO CRIMINAL RECORDS UNIT  
71.42 ACTION BY CRIMINAL RECORDS UNIT  
71.43 INTERSTATE/OVERSEAS REQUESTS FOR POLICE CERTIFICATE  
71.44 POLICE CERTIFICATES FOR EMPLOYMENT PURPOSES  
71.45 REQUEST FOR A POLICE CERTIFICATE FOR AUSTRALIAN CITIZENSHIP  
71.46 USE OF FINGERPRINT RECORDS AT COURTS AND BY SOLICITORS  
71.47 JUVENILE OFFENDERS' RECORDS  
71.48 SUPPLY OF CRIMINAL HISTORIES  
71.49 PROCEDURE FOR HANDLING APPLICATION  
71.50 COLLECTION OF PRESCRIBED FEE  
71.51 REMITTANCE OF PRESCRIBED FEE  
71.52 COMPLETION OF P.397A FORM  
71.53 TRANSMISSION OF FORM TO CRIMINAL RECORDS UNIT  
71.54 ACTION BY CRIMINAL RECORDS UNIT  
71.55 SUPPLY OF RECORD TO APPLICANT

## INSTRUCTION 71

## FINGERPRINTS

## 71.01 IMPORTANCE OF FINGERPRINTS

The use of fingerprints as a means of personal identification has become a system highly regarded by Police Departments and Law Enforcement bodies throughout the world as the most accurate and efficient basis on which to maintain criminal and, in some instances, civil records collections. The N.S.W. Fingerprint Section has been operative within the New South Wales Police Department since 1903 and, with very few exceptions, every conviction recorded at the Criminal Records Unit is substantiated by the fingerprints of the offender charged. The interdependence of fingerprint and conviction records as maintained by this Department is of the utmost importance to all Police and it is essential, therefore, that these instructions be carefully complied with.

The facilities provided by the N.S.W. Fingerprint Section, are maintained for the benefit and assistance of all Police, but in order to provide these facilities, the Section is in turn largely dependent upon Police supplying information by way of accurately completed fingerprints of persons charged with other than minor offences. The facilities provided by the units referred to in this Instruction should not be used for other than official purposes.

With the computerisation (Automated Fingerprint Identification System) of the N.S.W. Fingerprint Section it is most imperative that a good set of fingerprints be taken at all times so that all the available minutiae in the fingerprint is recorded in the data base of the System. This will then increase the chances of a fingerprint identification being made, particularly in regard to latent fingerprints from scenes of crime.

## 71.02 NON-PRINTING FOR MINOR OFFENCES

Section 353A(3) of the Crimes Act 1900 states:

"When a person is in lawful custody for any offence punishable on indictment or on summary conviction the Commander at the station where he/she is so in custody, may take or cause to be taken all such particulars as may be deemed necessary for the identification of such person, including his/her photograph and fingerprints and palmprints".

It will be observed that the purpose of this subsection is to identify a person when necessary. In order to do that, the subsection places a discretionary onus on the Patrol Commander to take or cause to be taken fingerprints, etc.

## 71.03 STATUTORY POWERS

As an aid to the Patrol Commander, it is important that among other matters, the following should be kept in mind when considering how he/she should utilise his/her discretion relating to the identification of the person charged:

Section 32 (1)(a)(i) of the Bail Act of 1978 requires an authorised officer or a court, to consider in part the prior criminal history of the accused person on the question of bail. That is, whether the accused person is identified as a person with or without a prior criminal history.

Section 51 (1) of the same Act creates the offence of "failing to appear before a court in accordance with bail undertakings". Fingerprints taken for the original offence upon which the accused person was released on undertaking may, in certain circumstances, be the only positive evidence of identifying the person charged before a court under section 51 with the person who previously failed to appear.

Section 413c of the Crimes Act 1900, permits authorised persons to issue documents purporting to be a record of conviction of an accused person in certain circumstances. These documents are completed from fingerprint histories of a particular individual and criminal histories are compiled from fingerprints taken to identify such an individual.

Fingerprints to be taken should be carried out at the earliest opportunity subsequent to the person being charged and then, without delay, forwarded direct to the Criminal Records Unit. This direction is to be strictly complied with by Police at the station where the accused person has been charged.

Where an offender has been taken into custody by virtue of a first instance warrant, or is the subject of an Order 44 for the purpose of being charged at court, the Police in charge of the case will convey the offender to the Police station nearest to the court, prior to such person being charged for the purpose of being fingerprinted and/or photographed for identification in accordance with section 353a (3) of the Crimes Act 1900.

#### 71.04 CHILDREN - FINGERPRINTING OF

"Where child offenders over the age of 14 years are arrested and charged with a criminal offence, their fingerprints should be taken in the usual manner.

Section 353AA of the Crimes Act refers to the photographing, fingerprinting etc. of children under 14 years of age. Reference should be made to Instruction 35.27 for Police procedures.

#### 71.05 TRAINING RE TAKING OF FINGERPRINTS

The taking of impressions direct from the fingers and palms is a relatively simple procedure, but care is necessary to ensure a satisfactory result. All Police trainees are to be carefully instructed in the taking of fingerprints before leaving the Police Academy and will be examined to ensure that they are efficient in the performance of this duty. In addition to the directions given to trainees, illustrated instructions for the taking of good fingerprints are displayed at all stations by means of form P.59C.

## INSTRUCTION 71

## FINGERPRINTS

## 71.01 IMPORTANCE OF FINGERPRINTS

The use of fingerprints as a means of personal identification has become a system highly regarded by Police Departments and Law Enforcement bodies throughout the world as the most accurate and efficient basis on which to maintain criminal and, in some instances, civil records collections. The N.S.W. Fingerprint Section has been operative within the New South Wales Police Department since 1903 and, with very few exceptions, every conviction recorded at the Criminal Records Unit is substantiated by the fingerprints of the offender charged. The interdependence of fingerprint and conviction records as maintained by this Department is of the utmost importance to all Police and it is essential, therefore, that these instructions be carefully complied with.

The facilities provided by the N.S.W. Fingerprint Section are maintained for the benefit and assistance of all Police, but in order to provide these facilities, the Section is in turn largely dependent upon Police supplying information by way of accurately completed fingerprints of persons charged with other than minor offences. The facilities provided by the units referred to in this Instruction should not be used for other than official purposes.

With the computerisation (Automated Fingerprint Identification System) of the N.S.W. Fingerprint Section, it is most imperative that a good set of fingerprints be taken at all times so that all the available minutiae in the fingerprint is recorded in the data base of the System. This will then increase the chances of a fingerprint identification being made, particularly in regard to latent fingerprints from scenes of crime.

## 71.02 NON-PRINTING FOR MINOR OFFENCES

Section 353A(3) of the Crimes Act 1900 states:

"When a person is in lawful custody for any offence punishable on indictment or on summary conviction the Commander at the Station where he/she is so in custody, may take or cause to be taken all such particulars as may be deemed necessary for the identification of such person, including his/her photograph and fingerprints and palmprints".

It will be observed that the purpose of this Subsection is to identify a person when necessary. In order to do that, the Subsection places a discretionary onus on the Patrol Commander to take or cause to be taken fingerprints, etc.

## 71.03 STATUTORY POWERS

As an aid to the Patrol Commander, it is important that among other matters, the following should be kept in mind when considering how he/she should utilise his/her discretion relating to the identification of the person charged:

Section 32 (1)(a)(i) of the Bail Act of 1978 requires an Authorised Officer or a Court, to consider in part the prior criminal history of the accused person on the question of bail. That is, whether the accused person is identified as a person with or without a prior criminal history.

Section 51 (1) of the same Act creates the offence of "failing to appear before a Court in accordance with bail undertakings". Fingerprints taken for the original offence upon which the accused person was released on undertaking may, in certain circumstances, be the only positive evidence of identifying the person charged before a Court under Section 51 with the person who previously failed to appear.

Section 413c of the Crimes Act 1900, permits authorised persons to issue documents purporting to be a record of conviction of an accused person in certain circumstances. These documents are completed from fingerprint histories of a particular individual and criminal histories are compiled from fingerprints taken to identify such an individual.

Fingerprints to be taken should be carried out at the earliest opportunity subsequent to the person being charged and then, without delay, forwarded direct to the Criminal Records Unit. This direction is to be strictly complied with by Police at the Station where the accused person has been charged.

Where an offender has been taken into custody by virtue of a first instance warrant, or is the subject of an Order 44 for the purpose of being charged at Court, the Police in charge of the case will convey the offender to the Police Station nearest to the Court, prior to such person being charged for the purpose of being fingerprinted and/or photographed for identification in accordance with Section 353a(3) of the Crimes Act 1900.

#### 71.04 JUVENILES - FINGERPRINTING OF

"Where juvenile offenders over the age of 14 years are arrested and charged with a criminal offence, their fingerprints should be taken in the usual manner. Similarly, the fingerprints of offenders under the age should be taken in each case where it is considered that the offender is likely to lapse into a career of vice and/or crime. It is the responsibility of the Station Commander where the juvenile offender is held in custody to authorise the taking of fingerprints".

#### 71.05 TRAINING RE TAKING OF FINGERPRINTS

The taking of impressions direct from the fingers and palms is a relatively simple procedure, but care is necessary to ensure a satisfactory result. All Police trainees are to be carefully instructed in the taking of fingerprints before leaving the Police Academy and will be examined to ensure that they are efficient in the performance of this duty. In addition to the directions given to trainees, illustrated instructions for the taking of good fingerprints are displayed at all Stations by means of Form P.59C.

## 71.06 PREPARATION OF INSTRUMENTS AND HANDS

A prerequisite to the taking of good fingerprints is to make sure the equipment is clean before commencing. In this regard, the correct preparation of the fingerprint plate will also enhance the taking of clearly defined fingerprints. A small quantity of fingerprint ink should be distributed on the plate and spread with the roller, forming a thin even film. In certain circumstances, difficulty may be experienced in obtaining clearly defined fingerprints. This could be attributable to the fact that the hands of the person to be fingerprinted are either dirty, worn, hard and calloused, or there is excess perspiration on the hands. In these circumstances, the person should be required to wash his/her hands thoroughly with soap and water and thoroughly dry them before printing is commenced. This action softens the skin, making it more pliant, and generally allowing better fingerprints to be taken.

## 71.07 ROLLED IMPRESSIONS

Impressions are taken in two ways, "rolled" and "plain". For "rolled" impressions, the thumb and finger are rolled on the inked plate from nail edge to nail edge, and at least 5mm below the first joint, thereby ensuring the full pattern area of the finger is inked. The impression is then transferred to the Fingerprint Form by a similar movement, rolling the finger with a gentle even pressure and ensuring the impressions do not encroach into the adjacent spaces.

Police charged with the duty of taking a person's fingerprints must be in control of the operation at all times and, with this in mind, the following procedure should be adopted when taking rolled impressions. Have the person to be printed standing back from the fingerprint bench, to almost at arms length, which will enable the operator to work close to the bench without obstruction. Roll each finger by commencing each impression from the side of the finger nearest to the thumb, i.e., the right hand is rolled in a clockwise direction, and the left hand is rolled in an anti-clockwise direction. This procedure enables the hand, wrist and arm of the person being printed to turn in a natural movement, assisting both the operator and the person being printed.

For "plain" impressions, the fingers only of each hand, without the thumb, are kept close together and straight. The fingers are placed on the inked plate and then onto the Fingerprint Form, again with a gentle even pressure, without any rolling. The purpose of taking the plain impressions is to enable the fingerprint expert to ensure that the rolled impressions are in correct sequence.

## 71.08 PROCEDURE FOR TAKING FINGERPRINTS

The procedure for the taking of fingerprints will be as follows:

Fingerprints are to be taken in duplicate, provided, however, that when it is known that the fingerprints of an offender have been taken previously, or when it can be ascertained from the offender himself/herself that this has been done, it will be necessary to take one set only.

Where an offender is affected by alcohol, taking of fingerprints, if practicable, should be deferred until sober.

Offenders should be removed from the cells for fingerprinting purposes one at a time and the particulars on the Form be completed at that time.

The person being fingerprinted should sign the back of each Fingerprint Form in the space provided for this purpose.

Immediately take impressions of both thumbs on each Form, in the spaces alongside signature.

Take rolled impressions, ensuring that each fingerprint is impressed in the appropriate spaces provided.

Regardless of which hand is fingerprinted first, the plain impressions are to be taken immediately after the rolled ones and before commencing the other hand.

The whole area of the palm is then taken on the reverse side of the Fingerprint Form in the spaces provided for each hand.

If, when taking fingerprints, it is found that one or more fingers have been amputated, or so injured as to destroy the pattern area, the approximate date of the amputation or injury should be set out on the Form.

Where a person being fingerprinted has sustained a recent minor injury to a finger and the finger is covered by a bandage, the injury should be sighted by the operator, if practicable, as there are many instances where a fingerprint can be obtained from an injured finger by the exercise of a little care and without causing any undue discomfort to the person concerned. If unable to be taken, reason why should be noted in the relevant space.

It is essential for accuracy of criminal records that the Fingerprint Forms be correctly and efficiently completed, giving attention to detail. The name supplied on the Forms should correspond with the name appearing in the charge book. Where a member taking the fingerprints is doubtful as to the correctness of the date of birth of the person printed and his/her appearance is not in keeping with the age supplied by him/her, his/her apparent age should also be stated on the Fingerprint Form.

In every case, the Fingerprint Forms will be completed by the member responsible for taking same, printing all particulars, including his/her own name and rank below his/her signature, which will be written in a legible manner. Where practicable, a second member of the Police should be present when a person is being fingerprinted.

The sex of the person being fingerprinted should be indicated in the appropriate box at the top of the Form. This action is necessary because of an increasing number of foreign names being recorded at the Criminal Records Unit, and the situation frequently arises where further inquiries are necessary at the Station concerned to determine whether the person charged was male or female.

## 71.09 SUMMONS CASES - OBTAINING FINGERPRINTS

In cases where proceedings are instituted by way of summons for offences punishable upon summary conviction and where a member of the Police is the informant, if, having regard to the nature of the charge, it is considered desirable to have the offender's fingerprints taken, the Police Prosecutor should be requested to make application to the presiding magistrate before the matter is finally dealt with, preferably after he/she has intimated his/her intention of convicting, for the offender to be remanded in custody for the purpose of having his/her fingerprints taken. However, the Crown Solicitor has advised that where a person proceeded against by way of summons has appeared before the Court and been fined, but granted time to pay, the provision of Section 353A(3) of the Crimes Act, 1900, will not apply.

## 71.10 FINGERPRINTING PRISONERS - WRITS OF HABEAS CORPUS, ETC.

In all instances where a prisoner is brought from gaol on a writ of Habeas Corpus, a person is arrested by bench warrant or on an order under Section 44 of the Prisons Act for the purpose of being charged at Court with an offence, it is the responsibility of the Police in charge of the case to ensure that the fingerprints of the prisoner are taken on arrival at the Police Station nearest to the Court of appearance. In such cases, one set of fingerprints only is required, setting out the offence for which the prisoner is being brought before the Court and indicating that his/her appearance is by virtue of either a writ of Habeas Corpus, or an order under Section 44 of the Prisons Act. The fingerprints should then be dealt with in the normal manner.

## 71.11 SENTENCES DEFERRED - SECTION 558 CRIMES ACT

For directions in respect of obtaining identification of persons to be released under the provisions of Section 558, Crimes Act, see Instruction 88.

## 71.12 HANDLING OF FINGERPRINTS AT STATIONS

It is the responsibility of the Patrol Commander at the Station where the offender is held in custody to authorise the taking of fingerprints. When a direction is given to take fingerprints and the Officer performing Station duty is a Sergeant or a Lockup-keeper, it will be their responsibility to ensure that fingerprints are taken at the earliest opportunity after charges are preferred, and forwarded direct to the Criminal Records Unit without delay.

When fingerprints are taken, a notation should be made in the remarks column of the charge book against the entry concerned and on the charge sheet showing the number of the P.59E Form submitted. The Officer performing Station duty or Lockup-keeper, at the end of his/her period of duty, should check the Charge Book and the completed Fingerprint Forms to ensure that all persons have been fingerprinted where this is required and the fingerprints despatched. Prior to the Fingerprint Form being forwarded it is the responsibility of the senior member performing Station Duty to ensure that the fingerprints taken are of the required standard and all the relevant information on the Form has been duly supplied. If satisfied in this regard, he/she should place his/her initials in the remarks column of the charge book.



At a Station where there is no Officer performing Station duty or Lockup-keeper, it will be the responsibility of the Commander or Acting Commander to ensure that fingerprints are taken in accordance with the foregoing instructions.

The aforementioned responsibility will extend to the submission of P.59B Forms. The special envelopes provided should be used in the transmission of Fingerprint Forms to the Criminal Records Unit.

#### 71.13 FINGERPRINT INFORMATION FORM P.59B

Commanders, when exercising their discretionary power under Section 353A(3) of the Crimes Act 1900, should bear in mind that it is most desirable that all persons charged with an indictable offence be required to complete in their own handwriting one copy of the Fingerprint Information Form P.59B.

The completion of the Fingerprint Information Form would also be most desirable in cases of persons charged with the more serious types of offences that are dealt with summarily. This would particularly apply to persons charged with sexual offences and especially where the circumstances indicate a likelihood of the person offending again.

#### 71.14 PURPOSE OF FORM P.59B

The Fingerprint Information Form contains personal particulars of the offender which are of value for identification purposes, but is primarily designed to ensure that specimens of handwriting of certain types of offenders are filed for future reference. Inquiries by the offender as to the purpose of the Form will be met with the reply that the Form is required in connection with the fingerprint.

Apart from the purposes mentioned, these Forms are also useful to ascertain the next-of-kin of unknown deceased persons who are fingerprinted and subsequently identified in this manner. Other instances have arisen where the P.59B Forms have been used to counter allegations by offenders that they were incapable of committing offences alleged, because of their illiteracy.

#### 71.15 METHOD OF PREPARATION OF P.59B FORM

In view of its purpose, it is essential that the Form be completed in the normal handwriting of the person charged and for this purpose, when practicable, the offender should be seated in a position comfortable for writing.

The whole of the particulars on the Form under the heading "The following particulars are to be written by the person charged", should be completed by the offender and Police must not write or type on that section of the Form.

Police witnessing completion of the Form are required to sign and complete the particulars set out in the left hand margin and write "P.59B Form attached" on the reverse side of the Fingerprint Form, in the available clear space above the box, for "alias or nickname". The P.59B Form should then be pinned (not stapled) to the Fingerprint Form and forwarded as directed.

An impression of the right index finger should be taken on the back of the Form P.59B. When this finger is missing, an impression of any other finger may be taken but the finger to which the impression relates should be indicated on the Form.

71.16 REFUSAL OR INABILITY TO COMPLETE FORM

In those cases where an offender states that he/she is unable to write or refuse to complete a copy of the P.59B Form, a short report of the facts should be submitted for the information of the Document Examination Unit, Physical Evidence Section.

71.17 P.59B FORM - WHERE MULTIPLE CHARGES

A P.59B Form should be completed on every occasion on which an offender is arrested in connection with any offences indicated in 71-13, notwithstanding the fact that he/she is known to have completed one previously. Where additional charges are laid against a person after the date of initial arrest, it will not be necessary for Forms to be completed in respect of each of those charges, provided one was completed in the first instance and all charges are being dealt with at the same time.

When a person is arrested and charged with an offence of a kind not requiring the completion of a P.59B Form but is later charged at Court with an offence coming within that category, it will be the responsibility of the arresting Police to bring the nature of the subsequent charge under the notice of the Station. Police at the Station nearest to the Court where the fresh charge was laid, with a request that the necessary action be taken to have a copy of the Form completed whilst the offender is in custody.

71.18 FORWARDING OF FINGERPRINTS AND P.59E FORMS

In the metropolitan and country areas, Station Police, before forwarding fingerprints direct to the Criminal Records Unit, will prepare a typed list, P.59E Form, in triplicate, of the persons whose fingerprints are contained in the envelope. The original (green) and duplicate copy (pink) are to be placed with the Fingerprint Forms in the envelope, and the triplicate copy (yellow) retained at the Station. The lists of persons fingerprinted will be checked at the Criminal Records Unit on receipt, the original list filed at that office and the duplicate, after being signed by the Receiving Officer, returned to the Station of origin where they should be retained for a period of six months and then destroyed.

In preparing the list P.59E at Stations, the letters "ATT" should be placed in the column headed "P.59B Form" if a Form P.59B is attached to it. However, if a P.59B Form is not submitted, a dash (-) should be placed in that column.

71.19 OFFENDER PHOTOGRAPH CARD

Offender photograph card (yellow) - when all other details on this card have been completed, the fingerprint of the right index finger of the offender is to be included thereon. The card then must be sent immediately to the Criminal Records Unit, together with the relevant P.59 (fingerprint), P.59B (handwriting) and the P.59E (covering) Forms.

## 71.20 OBTAINING NAME CHECKS FROM CONVICTION RECORDS SECTION

To avoid unnecessary usage of time in the answering of telephones at Conviction Records Section of the Criminal Records Unit, the following procedures will be adopted during periods of night duty:

Police seeking name checks are to do so as soon as practicable.

Police requesting name checks through the Radio Operational Section should, where possible, supply C.N.I. number, to avoid error and possible further inquiries at a later time. In addition, the following will apply to name checks requested by country Police:

Names of persons arrested during a weekend are to be checked as soon as practicable and not retained until late Sunday or early Monday morning.

Requests for name checks are not to be duplicated by first inquiring by telephone and then repeating the inquiry by radio.

If remands are of sufficient length to enable fingerprints to be sent and a reply received by post, radio messages are not to be sent unless the replies have not been received back in time for Court.

This does not preclude the Police from making inquiries about any person arrested or spoken to, and in respect of his/her identity or record some doubt exists.

## 71.21 RECORDS TO POLICE PROSECUTOR

At Stations in the outer metropolitan area and in the country, fingerprint records will be forwarded addressed to the Police Prosecutor concerned and other Police should not open such correspondence.

## 71.22 FORWARDING OF CRIMINAL HISTORIES RE ANTECEDENT REPORTS

Upon receipt of information from Court staff members that a person has either been committed for trial or committed for sentence, the criminal history relating to such person will be automatically forwarded from the Criminal Records Unit to the Police in charge of the case for the preparation of antecedent reports.

Immediately it becomes known that the criminal record of a person is required to be produced at a Court of Appeal, or a District Court regarding a breach of recognisance, the Officer in charge of the case shall forward a report direct to the Commander, Criminal Records Unit, showing the offender's full name, aliases, age, particulars of last conviction and names of the arresting Police. Where possible, the report should reach the Criminal Records Unit preferably seven (7) days, but not later than three (3) days, prior to the information being required. A typewritten copy of the record, omitting acquittals and discharges, etc., will then be supplied direct to the Station/Branch concerned. Under no circumstances are Police to telephone or call at the Criminal Records Unit at short notice for this information as this may result in inconvenience to the Courts through a copy of the record not being available in time.

For procedure to be followed in the preparation of Antecedent Report Forms P.16, see Instruction 80.10.

## 71.23 PERSONS SENT TO GAOL WITHOUT BEING FINGERPRINTED

When it is known that a person has appeared before the Court and been sentenced for other than a minor offence or has been committed for trial or for sentence, and his/her fingerprints have not been taken, Police will promptly submit a report for the information of the Criminal Records Unit showing particulars of name of offender, date of birth, offence, Court, sentence and gaol, and that his/her fingerprints have not been taken by Police. Upon receipt of this information, the Commander will take steps in an endeavour to obtain the necessary fingerprints.

## 71.24 OBTAINING FINGERPRINTS FROM DEAD BODIES

In circumstances where Police are charged with the responsibility of establishing the identity of unknown deceased persons, fingerprints should be taken from the bodies, if practicable, and forwarded to the Fingerprint Section for checking, together with a report of the circumstances, particularly the probable age of the deceased, if determinable.

In the metropolitan area and at Newcastle and Wollongong where the body has been conveyed to a City Morgue or is lying in a Hospital Morgue, the services of a member of the N.S.W. Fingerprint Section may be obtained to take the fingerprints in this regard. In the country area, outside Newcastle and Wollongong and their closer centres, the responsibility for obtaining fingerprints will rest with the Police handling the inquiry.

In most cases, it will be found, that taking fingerprints from a deceased person is a little more difficult than taking them under normal circumstances at a Police Station, but basically the same principles apply in using clean equipment and ensuring the fingers are free of any foreign matter and thoroughly dried before commencing. Freedom of movement of the finger is usually restricted in these cases and assistance may be required to hold the fingers apart. The fingers should be inked by turning the plate across them from side to side, and the Fingerprint Form folded so as to have the spaces provided for the rolled impressions of one hand only exposed for printing. The appropriate space on the Fingerprint Form is pressed against the inked finger and it is advisable to hold a piece of cardboard, slightly concaved, supporting the reverse side of the Fingerprint Form. Where Police in those areas where the services of a member of the N.S.W. Fingerprint Section are not readily available encounter difficulty in obtaining the fingerprint impressions of a deceased person, they should contact the Commander of the Section by telephone and seek advice on the matter.

In those cases where Police require fingerprints to be taken from deceased persons for identification purposes, approval to do so must first be obtained from the Government Medical Officer.

## 71.25 DEATH OF PERSONS ON RECORD

Whenever Police ascertain that a person whose fingerprints are on record has died, this fact, together with his/her photograph or other reference or particulars sufficient to establish his/her identity, should be reported for the information of the Commander, Criminal Records Unit.

## 71.26 SEARCHES FOR LATENT FINGERPRINTS AT SCENES OF CRIME

When a crime has been committed in a building or in or by means of a vehicle and is of such a nature or of such moment that an examination for latent fingerprints is desirable, Police will:

Carefully make an inspection of the premises, etc., for any area, object or article which may retain a fingerprint impression.

Whilst so doing, handle articles in such a manner as not to leave fingerprints on them or obliterate existing ones.

Prevent others from handling such articles until the examination is completed.

The Investigating Officer should make a careful appraisal of the scene, particularly the point of entry into premises, and will determine whether a member of the N.S.W. Fingerprint Section is required to make an examination for latent fingerprints. In the metropolitan area and at Newcastle and Wollongong, members of the N.S.W. Fingerprint Section are available to undertake such examinations upon request. Fingerprint Technicians are now also located at Wagga Wagga, Coffs Harbour, Albury, Goulburn, Queanbeyan and Tamworth.

In many instances, the nature and extent of the crime will determine the importance of the investigation, i.e., an investigation into a major crime such as murder would be carried out expeditiously and may involve many Police with highly technical skills. Under such circumstances, a senior member of the N.W.W. Fingerprint Section should be called to the scene at any time of the day or night and with as little delay as possible, preferably before the furniture, fittings, etc., have been disturbed in any way. In less urgent matters, where the services of a fingerprint expert are required at business premises, the investigating Officer should, where possible, arrange for the examination to be carried out during business hours. Similarly, examinations of domestic premises and motor vehicles, etc., should, if practicable, be conducted during daylight hours.

In the country areas, where a Fingerprint Technician is not located, Detectives who have undertaken instruction at the N.S.W. Fingerprint Section and are capable of making examinations for latent fingerprints, or members of the Physical Evidence Section located at country centres who are trained to make fingerprint examinations and photograph fingerprints may be called upon.

## 71.27 ELIMINATION FINGERPRINTS

It may be necessary for the investigating Police to seek consent from persons whose fingerprints could be expected to be found at the scene of a crime to have a set of elimination prints taken for the purpose of comparing them with developed prints.

The investigating Police should ensure that the person/s supplying the prints is/are fully informed that there is no compulsion on their part to have their fingerprints taken.

If permission by bank employees or other persons for elimination prints is granted, arrangements should be made for the prints to be taken from the Police station nearest the scene. Where this cannot be done, arrangements should be made to have them taken at a Police station close to the persons home.

Station staff who take "elimination" fingerprints will ensure that they are taken on the normal P.59 form. The usual particulars on the front of the form shall be filled out as in the case of a person charged with an offence. However the top front of the print, beside letters F.P.C. should be endorsed in block letters with the words, "FOR ELIMINATION PURPOSES ONLY".

On the reverse side of the fingerprint form, the person's name, date of birth, and address should be recorded. Beside the words 'PECULIARITIES: PERMANENT VISIBLE IDENTIFYING CHARACTERISTICS' and extending downwards, particulars should be given as to the reason for the taking of the prints, e.g. elimination prints taken for comparison with prints developed from demand note, used in an armed robbery/demand money with menaces, at the (Premises), Address, Parramatta, on Date, Detective Senior Constable (name), station, officer in charge of case.

The rest of the reverse side of the form (excluding the name, D.O.B. age, address and that used for the taking of palmprint and thumb prints) should have a line ruled through it.

Police are reminded that elimination prints are not to be recorded on the P.59E forms, as this procedure is only used where the person is charged with an offence.

The prints should be sent via the normal channels to the Commander of the Latent Fingerprint Unit, N.S.W. Fingerprint Section.

#### 71.28 DESTRUCTION OF ELIMINATION FINGERPRINTS

When the elimination procedure has been carried out the fingerprint impressions will be returned to the station from whence they were taken. Accompanying the fingerprints will be a form indicating the particulars and reasons for which they were taken.

At the bottom of the form is a short report which is to be completed by the Patrol Commander, upon the destruction of the prints. If possible, the donor of the fingerprints is to be requested to sign and date the bottom of the form upon the destruction of the prints.

Should the donor request that the fingerprint not be destroyed and that he/she retain them for his/her own purposes, a suitable notation is to be made on the form to that effect.

As in the case above, the donor is to be requested to sign and date the form. A photocopy of the completed form is to be taken which is to be filed at the station before the original is returned.

NOTE: Unless given to the donor the prints should be destroyed in the presence of that person. This can be done by burning the prints in a suitable incinerator. If this is not possible, the prints are to be torn up and the pieces placed in an envelope. The envelope is to be handed to donor to dispose of as that person sees fit.

When the Latent Fingerprint Section has completed the examination of the note, it shall be the duty of the Commander of the investigation (or person nominated by that officer) to ensure that the note is then forwarded to the Armed Hold-up Squad.

#### 71.29 PALMPRINTS - METHOD OF TAKING

Palmprints should be taken in accordance with the following directions:

Have the person, whose palmprints are to be taken, wash and dry his/her hands before commencing.

Roll a thin film of ink on the plate as for taking fingerprints.

Place the back of the hand of the person to be printed on a table and with the roller in its then inked condition, ink the whole of the palmar surface from the wrist to where the fingers join the palm.

The palm is then placed flat onto the space provided and pressed down firmly.

#### 71.30 INTERSTATE/OVERSEAS INQUIRIES

Where a person in custody is believed to be from another State or country and, for the purpose of preparing an antecedent report, Police are desirous of establishing if such person has convictions recorded against him/her in that State or country, a report setting out the particulars of the present charge and date of remand should be forwarded to the Commander, Criminal Records Unit, Services Section, State Operations Support Group for such inquiries to be made. In these circumstances, an interstate or overseas name check is not desirable.

Similarly, where Police desire to establish the present whereabouts of a person required for interview and who is suspected of having travelled interstate or overseas, the same course of action should be followed.

#### 71.31 DOCUMENTARY EVIDENCE OF PREVIOUS CONVICTIONS

For proof by documentary evidence of previous convictions, see section 413C, Crimes Act, No.10 of 1900. This may be achieved by use of fingerprints.

#### 71.32 PROOF BY AFFIDAVIT OF IDENTITY, ETC.

For proof by affidavit of a person's identity, see section 23A, Evidence Act, 1898. Fingerprints are used to achieve this purpose.

#### 71.33 REQUESTS FOR PROOF OF IDENTITY OR PREVIOUS CONVICTIONS

Where proof in terms of either of 71.30 and 71.31 is required, Police in charge of the case should communicate direct with the Commander, Criminal Records Unit, Services Section, State Operations Support Group who will make the necessary arrangements in that regard.

If permission by bank employees or other persons for elimination prints is granted, arrangements should be made for the prints to be taken from the Police Station nearest the scene. Where this cannot be done, arrangements should be made to have them taken at a Police Station close to the persons home.

Station staff who take "elimination" fingerprints will ensure that they are taken on the normal P.59 Form. The usual particulars on the front of the Form shall be filled out as in the case of a person charged with an offence. However the top front of the print, beside letters F.P.C. should be endorsed in block letters with the words, "FOR ELIMINATION PURPOSES ONLY".

On the reverse side of the Fingerprint Form, the person's name, date of birth, and address should be recorded. Beside the words 'PECULIARITIES: PERMANENT VISIBLE IDENTIFYING CHARACTERISTICS' and extending downwards, particulars should be given as to the reason for the taking of the prints, e.g. Elimination prints taken for comparison with prints developed from demand note, used in an armed robbery/demand money with menaces, at the (Premises), Address, Parramatta, on Date, Detective Senior Constable (name), Station, Officer in charge of case.

The rest of the reverse side of the Form (excluding the name, D.O.B. age, address and that used for the taking of palmprint and thumb prints) should have a line ruled through it.

Police are reminded that elimination prints are not to be recorded on the P.59E Forms, as this procedure is only used where the person is charged with an offence.

The prints should be sent via the normal channels to the Commander of the N.S.W. Fingerprint Section, Latent Fingerprint Unit.

#### 71.28 DESTRUCTION OF ELIMINATION FINGERPRINTS

When the elimination procedure has been carried out the fingerprint impressions will be returned to the Station from whence they were taken. Accompanying the fingerprints will be a Form indicating the particulars and reasons for which they were taken.

At the bottom of the Form is a short report which is to be completed by the Patrol Commander, upon the destruction of the prints. If possible, the donor of the fingerprints is to be requested to sign and date the bottom of the Form upon the destruction of the prints.

Should the donor request that the fingerprint not be destroyed and that he/she retain them for his/her own purposes, a suitable notation is to be made on the Form to that effect.

As in the case above, the donor is to be requested to sign and date the Form. A photocopy of the completed Form is to be taken which is to be filed at the Station before the original is returned.

**NOTE:** Unless given to the donor the prints should be destroyed in the presence of that person. This can be done by burning the prints in a suitable incinerator. If this is not possible, the prints are to be torn up and the pieces placed in an envelope. The envelope is to be handed to donor to dispose of as that person sees fit.



When the Latent Fingerprint Section has completed the examination of the note, it shall be the duty of the Commander of the investigation (or person nominated by that Officer) to ensure that the note is then forwarded to the Armed Hold-up Squad.

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Place the back of the hand of the person to be printed on a table and with the roller in its then inked condition, ink the whole of the palmar surface from the wrist to where the fingers join the palm.

The palm is then placed flat onto the space provided and pressed down firmly.

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Where a person in custody is believed to be from another State or country and, for the purpose of preparing an antecedent report, Police are desirous of establishing if such person has convictions recorded against him/her in that State or country, a report setting out the particulars of the present charge and date of remand should be forwarded to the Criminal Records Unit for such inquiries to be made. In these circumstances, an interstate or overseas name check is not desirable.

Similarly, where Police desire to establish the present whereabouts of a person required for interview and who is suspected of having travelled interstate or overseas, the same course of action should be followed.

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For proof by affidavit of a person's identity, see Section 23A, Evidence Act, 1898. Fingerprints are used to achieve this purpose.

71.33 REQUESTS FOR PROOF OF IDENTITY OR PREVIOUS CONVICTIONS

Where proof in terms of either of 71.30 and 71.31 is required, Police in charge of the case should communicate direct with the Commander, N.S.W. Fingerprint Section, who will make the necessary arrangements in that regard.

## 71.34 VISAS - POLICE CERTIFICATE

The Consular Authorities of certain countries require that before a visa will be issued by them, that persons desiring to enter those countries must first obtain from the Police Department, a Police Certificate indicating whether or not criminal convictions are recorded against the applicant.

## 71.35 CONSULATE REQUIREMENTS

Generally, most Consulates require a full fingerprint check be undertaken to ensure the accuracy of the information. However, applicants will be required to indicate whether the relevant Consulate they have communicated with requires:

A full fingerprint check; or

A name and date of birth check.

NOTE: Where persons desiring Police Certificates for entry into the United States of America call at a Police Station without having received a letter from the American Consul General's Office directing them to do so, they should be advised to contact that office and obtain such letter before fingerprints are taken and payment of the appropriate fee is accepted.

Police are not in a position to advise applicants of the entry requirements for various countries therefore, where applicable, Police should inform the applicant to confirm such requirements with the relevant Consulate prior to completing the P.397A Form or collecting the prescribed fee.

## 71.36 LODGEMENT/PROCESS OF APPLICATIONS

## Country

Applicants for a Police Certificate who reside in country areas will attend the Police Station nearest to their residence.

## Metropolitan

Applicants for a Police Certificate who reside in the Sydney Metropolitan Area will attend (or are to be advised to attend) the Division Head Station nearest to their residence.

## 71.37 PROCEDURES FOR HANDLING THE APPLICATION

The officer handling the application is to obtain the necessary information relevant to Parts A, B, C, from the applicant and ensure all details are included upon the P.397 Form.

Applicants will be required to indicate whether the relevant Consulate desires a full fingerprint check or a name and date of birth check.

If applicable, fingerprints are to be taken upon the Fingerprint Form P.59. In these cases where fingerprints are taken other than in connection with an offence, the reason for the submission of the fingerprints is to be endorsed upon the front of the P.59 Fingerprint Form.

## 71.38 COLLECTION OF PRESCRIBED FEE

In each case, the appropriate prescribe fee for either:

A full fingerprint check; or

a name and date of birth check,

which can be paid by cash, bank cheque or money order, will be collected from the applicant and an official receipt issued.

## 71.39 REMITTANCE OF PRESCRIBED FEE

The prescribed fee should be forwarded direct to the Accounts Branch accompanied by the duplicate copy of the P.397A Form.

## 71.40 COMPLETION OF P.397A FORM

Details of the official receipt etc., are to be included upon Part 'C' of the P.397A Form.

A check should be undertaken to ensure the P.397A Form has been completed in every detail and signed by the Officer concerned.

## 71.41 TRANSMISSION OF FORM/S TO CRIMINAL RECORDS UNIT

When a full fingerprint check is required, the original of the P.397A Form, together with the fingerprint impressions, i.e. P.59 Form, are to be promptly transmitted to the Criminal Records Unit.

NOTE: Fingerprints taken for visa purposes are not to be recorded upon the P.59E (Fingerprint Forwarding Form.)

## 71.42 ACTION BY CRIMINAL RECORDS UNIT

The Criminal Records Unit will submit the Police Certificate direct to the Consulate concerned. However, should an applicant desire that the Certificate be collected or mailed direct to him/her, provided there are no criminal convictions recorded, the request will be granted.

The Fingerprint Form P.59 is retained by the Criminal Records Unit for a period of 12 months from date of receipt, at which time it is destroyed. However, should the applicant desire that the Fingerprint Form be destroyed in his/her presence, he/she should indicate same on the P.59 Form and arrangements will be made for the prints to be returned to the relevant Police Station and destroyed in his/her presence.

## 71.43 INTERSTATE/OVERSEAS REQUESTS FOR POLICE CERTIFICATE

Communications are at times received by Police from persons residing abroad or interstate requesting the issue of a Police Certificate for visa purposes, for overseas adoption purposes and overseas residency.

Any such requests should be directed to the Criminal Records Unit. No local inquiries are to be made regarding the character of the applicant.

## 71.44 POLICE CERTIFICATES FOR EMPLOYMENT PURPOSES

Police are advised it is not the policy of this Department to supply Police Certificates to applicants for employment purposes.

## 71.45 REQUEST FOR A POLICE CERTIFICATE FOR AUSTRALIAN CITIZENSHIP

A Police Certificate will not be supplied to a person in the private sector for Australian Citizenship. The applicant should be advised to contact the Department of Immigration and Ethnic Affairs who conduct their own enquiries.

## 71.46 USE OF FINGERPRINT RECORDS AT COURTS AND BY SOLICITORS

For instructions concerning the use of fingerprint records at Courts and circumstances under which they may be shown to an offender or his/her legal representative, see Instruction 80.

## 71.47 JUVENILE OFFENDERS' RECORDS

For directions concerning the submission of P.83 Forms and the obtaining of records of juvenile offenders, see Instruction 35.

## 71.48 SUPPLY OF CRIMINAL HISTORIES

Applicants may be supplied with a copy of their criminal history for no other reason than to verify the accuracy of the information contained therein, subject to the following:

They must submit to their fingerprints being taken.

The "Full Fingerprint Check" fee must be paid.

Country Applicants for a criminal record who reside in country areas will attend the Police Station nearest to their residence.

Metropolitan Applicants for a criminal history who reside in the Sydney Metropolitan Area will attend (or are to be advised to attend) the Division Head Station nearest to their residence.

## 71.49 PROCEDURE FOR HANDLING APPLICATION

The Officer handling the application is to obtain the necessary information relevant to Parts A, B, C, from the applicant and ensure all details are included upon the P.397A Form.

Fingerprints are to be taken upon the Fingerprint Form P.59. In these cases, where fingerprints are taken other than in connection with an offence, the reason for the submission of the fingerprints is to be endorsed upon the front of the P.59 Fingerprint Form.

## 71.50 COLLECTION OF PRESCRIBED FEE

The prescribed fee for a FULL FINGERPRINT CHECK which can be paid by cash, bank cheque or money order, will be collected from the applicant and an official receipt issued.

## 71.51 REMITTANCE OF PRESCRIBED FEE

The prescribed fee should be forwarded direct to the Accounts Branch accompanied by the duplicate copy of the P.397A Form.

## 71.52 COMPLETION OF P.397A FORM

Details of the official receipt etc., are to be included upon Part 'C' of the P.397A Form.

A check should be undertaken to ensure the P.397A Form has been completed in every detail and signed by the Officer concerned.

## 71.53 TRANSMISSION OF FORM/S TO CRIMINAL RECORDS UNIT

The P.397A Form, together with the fingerprint impressions, i.e. P.59 Form, are to be promptly transmitted to the Criminal Records Unit.

NOTE: Fingerprints taken for own criminal history record purposes are not to be recorded upon the P.59E (Fingerprint Forwarding Form).

## 71.54 ACTION BY CRIMINAL RECORDS UNIT

When the fingerprint check is completed at the Criminal Records Unit, a copy of the criminal history, or, if appropriate, a certificate verifying that the applicant has no criminal history, will be forwarded to the Station where the fingerprints were taken.

The Criminal Records Unit will prepare:

A reply to the applicant or representative notifying where the record, or nil certificate can be collected.

A covering minute to the relevant Police Station, a copy of the applicant's criminal history or certificate to be supplied to the applicant or authorised representative, together with the applicants fingerprints.

## 71.55 SUPPLY OF RECORD TO APPLICANT

The applicant or his/her representative is required to produce the letter from the Criminal Records Unit at the relevant Police Station.

The member of the Service handling the matter is to be satisfied as to the bona fides of the applicant or his/her representative.

The history or certificate will then be supplied to the applicant or his/her representative.

The applicant's or his/her representative's signature, is to be obtained when being handed the history or certificate.

After supply of the history or certificate, the applicant's fingerprint impressions should be destroyed in his/her presence or in the presence of his/her representative.

The Department's file should be endorsed accordingly and the papers returned to the Criminal Records Unit for filing.

**71.56 INTENDING IMMIGRANTS TO AUSTRALIA**

Persons of foreign national origin currently visiting or temporarily residing in Australia, who intend to settle here (take up permanent resident status under the provisions of the Migration Act) are advised by the Department of Immigration and Ethnic Affairs that they are required to obtain a police character report from their country of origin.

In order to facilitate the provision of police character or penal reports, those home countries require proof of identity of such persons, including fingerprints and a photograph certified by police forces in Australia.

Applicants are also advised that the onus rests with them to arrange forwarding of the fingerprints, etc. to the appropriate authorities in their native country.

**71.57 LOCATIONS FOR PROVIDING THIS SERVICE**

Applicants in the metropolitan area are directed to attend the Division Head Station nearest their temporary residence, and those in country areas are directed to the nearest police station to their temporary residence.

**71.58 LIMITED POLICE PROCEDURE RE INTENDING IMMIGRANTS**

The only police action required is as follows:

- The taking of the fingerprint impressions upon the front of the P.59 form.

Completion of the application's details, and certification by the police officer at the top left hand corner of the P.59 form.

Certification by way of signature, rank, station and date upon the reverse side of the passport photograph.

NOTE: No check of the fingerprints is to be undertaken by police nor is there any check to be made of the Central Names Index. Such inquiries would be carried out at a later stage when the application is being processed through the Department of Immigration and Ethnic Affairs.

Collection of the prescribed fee by cash, bank cheque or money order for service and the issue of an official receipt.

The handing over of the fingerprints (P.59 form) and certified photograph to the applicant.

Remittance of the prescribed fee to Accounts Branch.

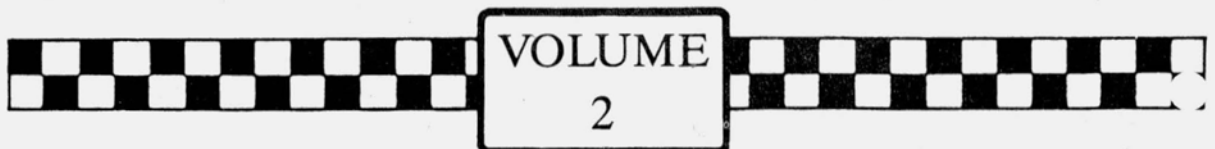
NOTE: In these circumstances, as no other documentation is prepared (e.g. a P.397A form), the remittance schedule accompanying such payments to Accounts Branch should clearly indicate the payment refers to an 'Intending Immigrant).

(Additional paragraphs 71.56, 57 and 58, August, 1988).



**NEW SOUTH WALES POLICE**

**RULES  
AND  
INSTRUCTIONS**



Revised 1.12.1989

## INSTRUCTION 78

## CORONERS AND INQUESTS

- 78.01 FUNCTIONS OF STATE CORONER
- 78.02 CORONERS' JURISDICTION
- 78.03 MAGISTRATES
- 78.04 CORONERS ACT
- 78.05 POLICE ASSISTING CORONERS
- 78.06 POWERS OF CORONER
- 78.07 POLICE CORONIAL UNIT
- 78.08 POLICE INTERNAL AFFAIRS INVOLVEMENT
- 78.09 POLICE RECORDS AND THEIR RETENTION
- 78.10 JURY IN CERTAIN CASES
- 78.11 POLICE TO ASSIST JURY
- 78.12 FATALITIES IN MINES
- 78.13 FIRES
- 78.14 P.43 FIRE INFORMATION REPORTS
- 78.15 P.43 FIRE INFORMATION REPORTS TO BE GIVEN STATION INDEX NUMBER
- 78.16 SUBMISSION OF A FURTHER FIRE REPORT
- 78.17 POLICY ON TRANSPORTING DECEASED PERSONS BY AMBULANCE
- 78.18 REMOVAL OF BODIES BY CONTRACT UNDERTAKERS
- 78.19 DEATH CERTIFICATE - ISSUE BEFORE ADMISSION TO MORGUE
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- 78.31 IDENTIFICATION OF DECEASED PERSONS TO GOVT.MEDICAL OFFICERS
- 78.32 SUICIDE NOT TO BE PRESUMED - COLLECTION OF EVIDENCE
- 78.33 CORONER'S RESPONSIBILITY



- 78.34 RETURN OF PAPERS FOR INQUEST BY LOCAL CORONER
- 78.35 DEATH IN NEW SOUTH WALES FROM INJURIES RECEIVED IN ANOTHER STATE
- 78.36 POLICE PROSECUTORS ASSISTING CORONERS
- 78.37 RECORD OF UNIDENTIFIED BODIES KEPT AT MISSING PERSONS UNIT
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- 78.40 WHERE NOTHING OF SUSPICIOUS NATURE IS EVIDENT
- 78.41 RECORDING AND CUSTODY OF PROPERTY FOUND ON DECEASED
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- 78.47 ACQUITTANCES FOR HANDING OVER PROPERTY TO RELATIVES
- 78.48 COUNTRY AREA - DISTRICT COMMANDERS TO MAKE LOCAL ARRANGEMENTS
- 78.49 EXHIBITS RELEVANT TO INQUEST
- 78.50 DEATHS WHERE BODIES NOT RECOVERED
- 78.51 VIEW OF BODY BY CORONER, ETC.
- 78.52 OBTAINING STATEMENTS REGARDING DEATHS
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## INSTRUCTION 78

## CORONERS AND INQUESTS

## 78.01 FUNCTIONS OF STATE CORONER

The Governor may appoint a State Coroner and a Deputy State Coroner. The persons appointed must be magistrates. The functions of the State Coroner are:

To oversee and co-ordinate coronial services in New South Wales.

To ensure that all deaths, suspected deaths and fires concerning which a coroner has jurisdiction to hold an inquest or inquiry are properly investigated.

To ensure that an inquest or inquiry is held whenever it is required by the Coroners Act or it is, in the State Coroner's opinion, desirable that it be held.

To issue guidelines to coroners to assist them in the exercise or performance of their functions.

To exercise any other functions conferred upon the State Coroner by the Coroners Act or any other Act.

The State Coroner may delegate his powers to the Deputy State Coroner.

In exercising his functions to oversee coronial matters generally, the State Coroner may give directions to police concerning investigations to be carried out for the purposes of an inquest or inquiry. He may also direct that an inquest or inquiry be held notwithstanding that a coroner has decided to dispense with such inquest or inquiry.

(Amended vide circular 89/18 issued 24.1.1989).

## 78.02 CORONERS' JURISDICTION

Coroners and deputy coroners are appointed by the Governor by instrument in writing to be coroner at such place specified in the instrument, or in and for the State of New South Wales. Where a coroner or deputy coroner is appointed for a specific place, he/she may exercise his/her jurisdiction throughout the State of New South Wales, except within the metropolitan police district and the police districts of Liverpool, Newcastle, Parramatta, and Ryde or any other police district which may be gazetted. In such Districts, only a magistrate may act as a coroner, although he/she may delegate his/her jurisdiction, powers and duties:

To issue burial and cremation orders.

To dispense with the holding of an inquest where death results from natural causes; or

In respect of any prescribed matters relative to his/her jurisdiction, powers and duties as a coroner.

To an officer of the court at which he/she acts as coroner and may in like manner revoke wholly or in part any such delegation. The police districts referred to herein in respect of coronial jurisdiction relate to those districts defined under section 6 of the Justices Act, 1902, and they bear no relationship to Police Administrative Districts for departmental purposes.

#### 78.03 MAGISTRATES

Magistrates have the jurisdiction, powers and duties of coroners throughout the State of New South Wales.

#### 78.04 CORONERS ACT

Police should make themselves thoroughly conversant with the provisions of the Coroners Act, No.27 of 1980, as amended.

The provisions of Part III of the Coroners Act, requires that a coroner hold or dispense with an inquiry or inquest when informed of certain deaths or fires "by a member of the Police Force".

A City Coroner has held that "a member of the Police Force" is to be interpreted as "a member of the New South Wales Police Force".

Arrangements have been made with the Australian Federal Police for deaths or fires occurring in places where police exercise control to be reported to the Commander of the nearest New South Wales police station. This procedure, of course, will apply only to those deaths or fires which occur in circumstances requiring a report to be made to the coroner in terms of the Act. Upon such a report being made by a member of the Federal Police, it will then be the responsibility of the police to carry out the necessary inquiries and make the appropriate report to a coroner.

#### 78.05 POLICE ASSISTING CORONERS

Police who are detailed to assist coroners during the course of an inquest are required to perform their duties in a completely impartial manner. Great care is to be taken to ensure that all relevant material is placed before the coroner in the proper form. Police who are, or have been, actively engaged in the investigation of the death or fire are not to perform this role.

It is the responsibility of District Training Co-ordinators to ensure that all police likely to be required to perform the duty of assisting the coroner during an inquest have a good understanding of the matters detailed in the relevant police lecture.

#### 78.06 POWERS OF CORONER

It is well established that the coroner in his investigative role has wide powers to examine persons and places. Traditionally the coroner relies upon police to ensure that an investigation is properly conducted. A coroner may request that a particular aspect receive specific attention and any such request should be executed in a proper and timely manner.

In any instance where investigating police genuinely hold serious objections to the course of action requested by a coroner, the matter should be promptly brought to the attention of the Commander, Legal Services Unit in the region concerned, in order that an appropriate direction might be given.

(Paragraphs 78.05 and 78.06 amended vide circular 89/18, issued 24.1.1989).

## 78.07 POLICE CORONIAL UNIT

The Police Coronial Unit, which is attached to the Department of the Attorney General has been formed to assist the State Coroner. The majority of the duties performed by members of this Unit relate to non-criminal matters. However, from time to time, the coroner will request police attached to the Unit to assist and advise police investigating a particular matter. Responsibility for the conduct in charge of the inquiry remains with the police officer in charge of the investigation who is to facilitate inquiries by members of the Unit and pay due regard to any advice offered in relation to the investigation generally.

## 78.08 POLICE INTERNAL AFFAIRS INVOLVEMENT

Where, during the course of the investigation of a death, fire or crime it appears that a member of the Police Force may be implicated in the perpetration of such matter/s, this fact is to be immediately reported in writing to the Commander, Police Internal Affairs Unit, in the region concerned. That officer shall be responsible for the proper investigation of the alleged breach of police discipline but shall not, unless otherwise directed, have carriage of the investigation into the death, fire or crime. Police in charge of investigations are to facilitate inquiries by members of Internal Affairs Units and pay due regard to any advice offered in relation to the investigation generally.

## 78.09 POLICE RECORDS AND THEIR RETENTION

The Schedule of Destruction of Official Books and Records prescribes that certain police records including diaries, duty books and notebooks are to be retained for five years. It is now required that, where so directed by a coroner or magistrate, such records are to be retained until released by order of the State Coroner, Chief Stipendiary Magistrate or a Judge. Where police records are retained under these circumstances an appropriate notation is to be made on the relevant record card.

(Paragraphs 78.07-78.09 amended vide circular 89/18, issued 24.1.1989).

## 78.10 JURY IN CERTAIN CASES

The Coroners Act provides that all inquests and inquiries shall be held before a coroner without a jury, provided that:

In the case of an inquest, where a relative of the deceased or the secretary of any Society or organisation of which the deceased was a member at the time of his/her death so requests; or

In the case of an inquest or inquiry, where the Minister or State Coroner so directs.

The inquest or inquiry shall be held before a coroner and a jury of six persons.

("Relative" means spouse, parent, or child who has attained the age of 18 years, or where there is no spouse, parent, or child who has attained that age, a brother or sister who has attained that age).

## 78.11 POLICE TO ASSIST JURY

At the inquest, police will, if required by the coroner, take charge of the jury, accompany them to view the body if the coroner deems it advisable to do so, and prevent interference with them whilst considering their verdict. In practice, the coroner arranges for the sheriff to take charge of the jury.

## 78.12 FATALITIES IN MINES

In connection with fatal accidents in coal mines, police will promptly inform the District Inspector of Collieries, and in other mines, the District Inspector, appointed under the Mines Inspection Act, 1901, and notify them of the date and time of the holding of the inquest.

(Mines will be taken to include quarries, dredges and other places referred to in the Mines Inspection Act. The Coal Mines Regulation Act also defines a mine).

## 78.13 FIRES

Police will:

As early as possible, report direct to the coroner on a P.43 Fire Information Report Form, the required details of all fires coming to their notice where property of value is destroyed or damaged by fire. This instruction relates not only to real property, i.e., houses and buildings, but to all property of value, including motor vehicles and their loadings, contents of buildings, crops, stock, fencing equipment, etc.

Under no circumstances are fires of property to be merely recorded on the occurrence pad without submission of a P.43 Fire Information Report Form. Particular attention is drawn to the submission of a Fire Report when motor vehicles and/or their loadings are involved in a fire.

Police should ensure that there is sufficient information contained on the P.43 form for the coroner to be informed of the cause and origin of the fire. If there is insufficient space available on the P.43 form a continuation sheet, P.41, with adequate narrative of the circumstances, should be submitted with the P.43 form.

Probationary Constables are not to be in charge of a fire investigation.

In the absence of any written notification from the Board of Fire Commissioners of New South Wales, accept that the Board does not require the holding of an inquiry in the case of a fire occurring within a fire district within the meaning of the Fire Brigades Act, 1909, and should advise the coroner accordingly.

Ascertain from the Bush Fire Committee whether an inquiry is desired in the case of a bush fire within the meaning of the Bush Fires Act, 1949, as amended (see section 12, Coroners Act).

Upon request of fire brigade authorities, afford any information obtainable as to amount and particulars of insurance upon any premises where a fire has occurred.

See that members of fire brigade staff are called to court only in cases where it is absolutely necessary.

## 78.14 P.43 FIRE INFORMATION REPORTS

The P.43 Fire Information Report Form is in a five part snap set and after being given a station index number will be distributed as follows:

Original	to the coroner (direct)
First copy	C.I.I.S.
Second copy	Detective Office
Third copy	to Arson Squad; Region Crime Squad
Fourth copy	Station copy.

78.15 P.43 FIRE INFORMATION REPORTS TO BE GIVEN STATION INDEX NUMBER

It is imperative that the P.43 Fire Information Report be given a station index number by the allocating station and that this number be in sequence with the numbers allocated by that station to the P.40 Crime Information Reports.

When a fire is confirmed as an arson, or suspected to be an arson, there will be no need to complete a Crime Information Report respecting the offence as this information is contained on the P.43 Fire Information Report Form. However where an offender is arrested a P.41 Intelligence Report/Continuation Sheet will have to be submitted to report details of the offender.

78.16 SUBMISSION OF A FURTHER FIRE REPORT

When further particulars respecting a fire come to hand after the submission of the original P.43 Fire Information Report, a P.41 form is to be submitted as a Further Fire Report.

When submitting a P.41 as a Further Fire Report the station index number of the original P.43 must be inserted in the relevant place together with 'Location of Fire' and the name of the 'Occupier' and also the name of the 'Owner'. This information is required to identify cross reference and verify the original P.43 Fire Information Report in the Crime Information and Intelligence System. The continuation sheet will then only require the inclusion of the new or altered information and an explanation respecting same in the narrative.

78.17 POLICY ON TRANSPORTING DECEASED PERSONS BY AMBULANCE

The Department of Health, Ambulance Service, has adopted the following policy concerning the removal of deceased persons by ambulance:

Transport is to be effected in all cases where ambulance officers believe that resuscitation procedures should continue.

Transport should be effected when the attending ambulance officers become aware that the deceased has agreed to donate organs or other body tissues.

Ambulance officers are not required to transport deceased persons from hospitals, convalescent homes or nursing homes to any other point.

Unless instructed by a police officer not to move a victim of collapse or accident who is apparently deceased and is in public view, ambulance officers are to remove the victim to either a hospital or doctor to have life pronounced extinct and then, if required, for admission to a morgue.

Ambulance officers are to fully co-operate with the police in all fatal and serious motor vehicle accidents where it appears criminal negligence is involved.

The police, whilst preserving the scene, should not prevent the removal of apparently dead bodies by ambulance personnel, unless there is doubt as to the manner of death or vital evidential material would be lost by removal of the body. Where there is a necessity to record the position of the body on the roadway, its position should be 'chalked' by the attending police before its removal.

Where possible, ambulance officers should preserve or hand to the police any evidence found on the body such as flecks of paint, broken headlight glass, etc.

It should be noted that police officers of the rank of Sergeant and above have the authority to direct that a body be removed by the Government Contractor (funeral director) to the nearest hospital or Government Medical Officer for the purpose of having life pronounced extinct.

In circumstances where arrangements are made with the police for the Government Contractor to remove the deceased, ambulance officers should not leave the scene until the police are in attendance.

#### POLICE ATTENDANCE AT ADMISSION TO A MORGUE

Under no circumstances must a body be admitted to a morgue without police in attendance.

Ambulance officers should undertake transport of a deceased person where it is obvious that the presence of a body, as a result of sudden death, will produce traumatic reactions in a person at the scene and transportation cannot be effected by alternative means within a reasonable time.

Unless, special circumstances prevail ambulance officers are not required to transport a person who has been deceased for more than 24 hours.

(Amended vide circular 89/73, issued 10.5.1989).

#### 78.18 REMOVAL OF BODIES BY CONTRACT UNDERTAKERS

The removal of the body of a deceased person is to be undertaken by ambulance officers, under the direction of investigating police, as set out in 78.18. Police will comply with the conditions set by the Ambulance Service.

In cases where an ambulance officer is not used to remove a deceased person, police must seek the services of a contractor for the removal, in accordance with the provisions of the contract arranged by the Government Supply Office for "Coffins and Internments (Section A - Removal of bodies....)".

Care is to be taken that a contractor is not called to an accident or other site, when a person has just died and:

It has been established that the person is an organ donor; or

there are other reasons for using the Ambulance Service.

(Amended vide circular 89/73, issued 10.5.89).

#### 78.19 DEATH CERTIFICATE - ISSUE BEFORE ADMISSION TO MORGUE

In any case where doubt exists as to whether death has ensued, immediate medical assistance should be obtained and first aid applied. However, before a dead body is admitted to a morgue, a certificate that life is extinct should be obtained from a medical practitioner and later attached to the P.79A report to the coroner. After a medical officer has certified that life is extinct, police will act under the coroner's instructions as far as practicable.



## 78.20 CIRCUMSTANCES WHERE A CORONER MUST BE INFORMED

Police are required to inform the coroner for the district or, if absent, the nearest coroner, i.e., the coroner whose residence is closest by a route which can be conveniently used, by the submission of P.79A forms (a copy of which is to be immediately filed at the station of origin) of the death of any person whose body is lying within that district and who:

Has died a violent or unnatural death.

Has died a sudden death, the cause of which is unknown.

Has died under suspicious or unusual circumstances.

Has died, and in respect of whom a medical practitioner has not given a certificate as to the cause of the death.

Has died, not having been attended by a medical practitioner within the period of three months immediately before his/her death.

Has died while under, or as a result of, or within a period of twenty-four hours after the administration to him/her of an anaesthetic administered in the course of a medical, surgical, or dental operation or procedure, or an operation or procedure of a like nature.

Has died within a year and a day after the date of any accident where the cause of the death is attributable to the accident; or

Has died in an Admission Centre or Mental Hospital, within the meaning of the Mental Health Act, 1958, in an institution within the meaning of the Children (Detention Centre) Act,, in a prison within the meaning of the Prisons Act, 1952, or in a lockup and when the person died was an inmate of the Admission Centre, Mental Hospital or institution or was in custody in the prison or lockup, or the person died otherwise while in the custody of the police.

Police are to promptly submit the P.79A form to the coroner.

Probationary Constables are not to be in charge of a deceased investigation.

## 78.21 MANNER OF DEATH TO BE SET OUT

The P.79A form should fully set out the manner of death and, where possible, a full history of the nature of any illness suffered by the deceased, and if treated by a doctor, when and by whom. A reference to any medications recently prescribed should be included on the report. A note should be obtained from any doctor who saw the deceased within a period of six months prior to death.

This note should be attached to the report. A full description of any unidentified body should be inserted in the appropriate spaces on the form. It is essential that the names of the deceased person are fully and correctly stated. Attention should be paid to the correctness of the spelling of names, and persons identifying bodies or supplying particulars of the names should be closely questioned as to the correctness of the names given. If available, official documents should be referred to for the purpose of establishing the correct name of the deceased. When it is known, the date of birth of the deceased should be shown, together with the place of birth.

Police will familiarise themselves with the contents of the P.79A form in order that they can obtain the required information to complete such form during their initial inquiries. Prepare form P.79A to the City Coroner, Glebe, in quadruplicate. The original and two copies are to be forwarded direct to the coroner. The remaining copy should be retained at the station concerned.

In all other cases prepare the form in duplicate. The original copy is to be forwarded direct to the coroner. The remaining copy may be retained at the station concerned. Additional copies of form P.79A should be completed at the request of the coroner, or in cases where specimens/exhibits are submitted for analysis or examination at the appropriate laboratory of the Department of Health. The full names and addresses of all persons and the registered numbers of all motor vehicles concerned should be indicated.

#### 78.22 COPY OF FORMS TO DEPARTMENT OF HEALTH

In the country area, where the death of a person has been reported to the coroner, police will, except in matters of a routine death, prepare an additional copy of each of the following forms:

Report of death to the coroner P.79A.

Specimen/exhibit examination P.377.

Post mortem report of medical officer.

Specimens for toxicological analysis.

Reports containing results of any other test or examination performed.

As soon as practicable after death, and without waiting for the inquest, such copies are to be sent under personal and confidential cover to the Senior Specialist, Country Forensic Services, Department of Health.

#### 78.23 SUSPICIOUS CIRCUMSTANCES - BODY FOUND BY POLICE

When the body of a deceased person is found by, or reported to, the police and it appears necessary to hold an inquest, particularly when foul play is suspected or suspicious circumstances are revealed, police will:

Carefully note in writing the position and appearance of the body.

The greatest care should be exercised before removing dead bodies found in public parks, dwelling-houses, etc. If there is any doubt or suspicion, the Patrol Commander should be consulted.

#### 78.24 IMPORTANT CASES OF SUSPECTED FOUL PLAY

In cases of suspected foul play, immediately report by the quickest method to the Division/Patrol Commander. In such circumstances, each body should before removal, be viewed by a Government Medical Officer or if unavailable a medical practitioner and photographs taken.

#### 78.25 SEARCH OF BODY AND PREMISES FOR EXHIBITS

Police are to make a minute search of the body and the place where found for any article likely to have caused death; if a medical practitioner is not present, note particularly the size, description, and position of any wounds, and do not allow the body, or any articles which could in any way be connected with the death, to be removed or altered until full investigation is completed.

If a post mortem examination is held, any weapons, bottles, packets or other things supposed to be connected with the cause of death, together with any clothing worn by the deceased showing holes caused by bullet or knife, should be produced for the information of the medical officer conducting the examination.

#### 78.26 REMOVAL TO MORGUE

Remove the body to a public or hospital morgue.

Unless the body is taken to a morgue, police will remain in charge of it until the coroner has given instructions as to the disposal of the body.

In the metropolitan area bodies should be conveyed to a public morgue not a hospital morgue.

#### 78.27 REIMBURSEMENT OF EXPENSES FOR IDENTIFYING DECEASED PERSONS

Where a death has been reported to the coroner, but the body has not been identified, a person who may be requested by police to travel a long distance to make an identification of the deceased, may be entitled to a reimbursement of reasonable expenses from the Attorney General's Department.

##### APPROVAL REQUIRED FOR PERSON TO BE REQUESTED TO TRAVEL

Before requesting persons to travel long distances for the purpose of identifying a deceased person, the police concerned should confer with their Patrol Commander, who shall ensure that the most economical means are used to effect the identification e.g., the Patrol Commander must be satisfied no other means of identification are available locally, before giving approval for a person to be requested to travel a long distance for this purpose.

Where the death is the subject of an inquest and the person making the identification is called as a witness, any claim for reimbursement of expenses incurred in connection with the identification should be made when claiming expenses for attendance at the Coroner's Court.

Should a person, who is requested to make an identification, require the Police Department to pay the fare to the place where the identification is to be made, suitable arrangements should be made for this to be done in accordance with the procedures laid down for Crown Witnesses. Any order or requisition issued for this purpose must be endorsed "Recoverable from the Attorney General's Department."

Where possible, it is intended to limit the payment of expenses to those occasions when the claimant is required to attend at the request of police for the specific task of identifying a body and who would not otherwise attend the place where the body lies.

Not all persons requested to travel to make an identification are entitled to a reimbursement, for there will be occasions when no expense is incurred or the expense is very small. In these circumstances, a claim should not be encouraged.

Similarly, where a person has travelled for some other purpose than to carry out an identification, such as to be present at the death bed, to make funeral arrangements, or to collect property belonging to the deceased, and is then requested by police to make an identification of the body, a claim for reimbursement of expenses is not considered to be justified. However, if the claim is pursued, a full report of the circumstances should be submitted with the claim, for consideration by the Attorney Generals' Department.

Where the coroner dispenses with an inquest, or where the claimant is not called as a witness, or desires payment prior to the inquest, any claims for reimbursement of the expenses incurred by the person making the identification should be the subject of a report by police, setting out full details of all expenses claimed. The report should be forwarded to the District Commander. A recommendation on the matter will be forwarded by the District Commander for consideration by the Attorney General's Department.

(Amended vide circular 86/16 issued 6.2.86).

78.28 UNIDENTIFIED BODIES FOR BURIAL

If a body is unidentified when the order for burial is given, police are to arrange for photographs to be taken as directed in 78.38 and if considered necessary obtain assistance from specialised Branches/Sections/Units of the Department.

78.29 DEATH BY VIOLENCE

In cases of death by violence, or where foul play is suspected, the Patrol Commander will take an active interest from the time the matter first comes under notice until finally dealt with.

78.30 EXPERIENCED POLICE TO CONDUCT INQUIRIES

Whenever possible, an experienced police officer should investigate any death which comes under notice or is reported in accordance with 78.14 or 78.27.

78.31 IDENTIFICATION OF DECEASED PERSONS TO GOVT. MEDICAL OFFICERS

Where such a death is reported to police the officer taking particulars of the death and to whom the body was indentedified, must personally make the identification to the Government Medical Officer.

If this is not practicable; the deceased must be identified to another police officer not being a probationary Constable who can attend the post mortem. In this instance a statement of facts concerning the death must be completed for the information of the Government Medical Officer and the officer who will attend the post mortem.

78.32 SUICIDE NOT TO BE PRESUMED - COLLECTION OF EVIDENCE

Police have the responsibility of collecting evidence for the coroner. It is therefore necessary to bear in mind that suicide is not to be presumed, but the evidence adduced before the coroner must be sufficient to show that suicide has been affirmatively proved. To establish suicide it is required that evidence be produced which conclusively shows the deceased intended to take his/her own life and this can be done in a number of ways.

Police when carrying out inquiries on behalf of the coroner should seek to establish definite evidence which would either prove or disprove suicide.

To this end police should:

Investigate carefully the place where the death occurred and the immediate area for the purposes of gathering evidence.

Make inquiries of relatives and friends of the deceased to ascertain his/her mental condition prior to the death.

Search for a suicide note or correspondence from the deceased which may indicate an intention of the deceased. This may or may not be at the scene of the death.

If any suicide note or correspondence from the deceased is located the writings including any signature should be verified as being that of the deceased by some person considered competent to do so. Family members or close acquaintances would be considered competent.

Cause inquiries to be made at hospitals and mental institutions to ascertain if the deceased had any treatment, psychiatric or otherwise prior to his/her death.

Speak to any medical practitioner who may have been treating the deceased, and ascertain the general state of health prior to death.

Inquire of his/her employer and associates at work as to the deceased's general outlook.

Make any other inquiries that could be beneficial in bringing evidence before the coroner to assist him/her in determining the reason for death having regard to the circumstances as they exist at the time.

Obtain a statement from any person, if having made inquiries it is felt that person may be able to give relevant evidence before the coroner and forward the statement to the coroner for possible use at any inquest.

Cause any document which may be of assistance to the coroner but is not in police possession to be produced at the inquest by having process issued upon the custodian.

Use the utmost tact and discretion so as not to cause undue distress to the deceased's family when making inquiries of this nature on behalf of the coroner".

#### 78.33 CORONER'S RESPONSIBILITY

Where a coroner is so informed by police of the death of a person in certain circumstances, it is his/her duty to hold an inquest unless he/she dispenses with it in accordance with the provisions of the Coroners Act.

(Once a coroner has been so informed, he/she cannot divest himself/herself of jurisdiction in favour of another coroner, except as provided in section 16 of the Act).

#### 78.34 RETURN OF PAPERS FOR INQUEST BY LOCAL CORONER

Cases arise where a person receiving injuries in a country centre is transported to Sydney or a larger country town for treatment and subsequently dies at that place as a result of the injuries received.

In such instances, the death should be reported to the coroner nearest to the place of death.

Where the coroner at such place is satisfied that the cause of death arose at some other place than that at which he/she holds office or ordinarily acts as coroner and that, on the grounds of public convenience, the inquest should be held by the coroner where the cause of death arose, then he/she will arrange for the P.79A forms, statements of identification to police, statements of identification by police to the Government Medical Officer, and the report of examination of the body by the Government Medical Officer, to be forwarded to that coroner.

78.35 DEATH IN NEW SOUTH WALES FROM INJURIES RECEIVED IN ANOTHER STATE

Where a person received injuries interstate and dies in New South Wales as a result of those injuries, a coroner in this State has power to hold an inquest and, if he/she forms the opinion that a prima facie case for murder or manslaughter has been established against a known person, he/she may forward the depositions to the Attorney-General.

78.36 POLICE PROSECUTORS ASSISTING CORONERS

At the larger centres, police prosecutors assist coroners in the conduct of their courts. At other places where cases of a complex nature are involved, where it is considered that the services of a police prosecutor should be obtained an application, together with copies or relevant statements, should reach the office of the Commander, Legal Services of the Region concerned, at least seven (7) days before such hearing. The latter officer will decide whether such assistance is warranted.

78.37 RECORD OF UNIDENTIFIED BODIES KEPT AT MISSING PERSONS UNIT

Information concerning unidentified bodies is recorded at the Missing Persons Unit for checking against missing persons record cards to assist in possible identification.

Where finger prints have failed to identify a body and there are no other means of identification, police will submit a full report on an Intelligence Report Form P.41 to the Missing Persons Unit, setting out:

Full description of the body, including apparent age.

Length of time dead.

Particulars regarding clothing and jewellery found on body.

78.38 DENTAL CHART AND PHOTOGRAPHS OF UNIDENTIFIED BODIES

A dental chart should be attached to the report as well as a full length photograph of the body. The head should also be photographed, one taken directly above head (full face) and one taken side on to head (profile). Police responsible for the taking of photographs of deceased persons are to ensure that, if possible, they are taken before the post mortem examination is carried out. They are also to ensure that the face of the deceased person has been cleaned up, hair tidied, and eyes opened, before taking the photographs, so as to facilitate identification by members of the public. These photographs, taken as set out above, should be enlarged to a reasonable size.

Copies of each of the photographs should be attached to the P.79A form filed at the station. Copies of the photographs should also be supplied to the coroner for filing.

## 78.39 SKELETAL MATERIAL SUSPECTED OF BEING OF HUMAN ORIGIN

In the case of any skeletal material suspected of being of human origin being brought to the notice of police as a result of:

- Agricultural procedures
- General earthworks or roadbuilding
- Erosion or ground movement
- Keepsakes being handed to authorities
- Archaeological exploration, or
- Being simply located in a previously concealed situation.

The coroner should be informed by submission of a P.79A.

The investigation in respect of skeletal remains shall be the same as for deceased persons.

## 78.40 WHERE NOTHING OF SUSPICIOUS NATURE IS EVIDENT

Where nothing of a suspicious nature is evident and the material is believed to be of ancient Aboriginal origin:

Endeavour to ensure that the site or immediate area is not further disturbed until the attendance of experts.

Where any doubt exists as to aboriginality, contact nearest physical evidence police.

Contact the appropriate Regional Office of the National Parks and Wildlife Service and advise:

- The location of the discovery
- Features of the site
- Police in charge
- Contact telephone
- Any other relevant information
- Inform Police Aborigine Liaison Unit, within the Region concerned.

For detailed procedures see Instruction 38.14 - 38.22.

## 78.41 RECORDING AND CUSTODY OF PROPERTY FOUND ON DECEASED

It is the responsibility of police to search the body of a deceased person and take possession of all money, jewellery, papers and other property found prior to the body being stripped by the morgue attendant and enter same in the record book at the morgue and in the miscellaneous property and receipt book at the station in the district in which the death took place.

Where there is a ring on any finger of a body, and it is not possible to remove it in the normal manner, it should be left on the body and reference made to its whereabouts in any record made of the deceased's property. The relatives of the deceased are to be advised and their consent obtained.

Particulars of the property should also be included in the report furnished to the coroner on the P.79A form.

When a body is being conveyed to the morgue, either by ambulance, or contractor for the removal of bodies, the police accompanying it should not leave it unattended until the necessary search of the clothing has been carried out.

The search should be undertaken in the presence of either the morgue attendant, ambulance officer, or the employee/s of the removalist.

## 78.42 INSTRUCTIONS RE CITY MORGUE, GLEBE

The following procedure will be followed by police in respect of the handling of property and clothing found on the body of a deceased person conveyed to the City Morgue, Glebe:

All property other than clothing shall be removed from the body and taken into possession by police conveying and/or arranging the admission of the body to the morgue. The property is to be removed and checked by police in the presence of a morgue attendant. Particulars of the case, together with a full description of the property found on the body, are to be entered in the morgue admission book by the member of the police, who shall endorse such entry with his/her signature, rank and station, and in the case of a Constable, his/her registered number. The entry shall be countersigned by the morgue attendant. The Constable's name, rank and station are to be clearly printed on this record.

## 78.43 PROPERTY REMOVED FROM A BODY BEFORE ARRIVAL OF POLICE

In the event of property being removed from the body before the arrival of police at the scene, such property is to be taken into possession by such member. In such a case, the member will carefully examine the property in the presence of the person handing it over, enter particulars in his/her official notebook, obtain such person's signature and take the property with the body to the morgue.

The entry shall be made in the morgue admission book by the police concerned. This entry will contain particulars of how the property came into the possession of the member concerned and include the name and address of the person from whom it was received. In addition, a rubber stamp, bearing the words "Property Not Removed at City Morgue", is to be impressed on the entry in such cases and signed both by the member of the police concerned and the morgue attendant.

Care should be taken to ensure that particulars of the property are entered on the appropriate form of receipt.

## 78.44 ACQUITANCES FOR AND/CUSTODY OF DECEASED'S PROPERTY

The property will then be conveyed to the police station in the Patrol in which the death took place by the police concerned, who will ensure that full particulars of the property are entered in the miscellaneous property and receipt book PAB.16. The miscellaneous property receipt which shall be issued in respect of such property shall be forwarded to the City Morgue, together with the receipt which was previously removed from the morgue admission book and which is marked "police copy". These receipts will be filed at the City Morgue in the morgue admission book.

Police will ensure that the entry in the miscellaneous property and receipt book coincides with the entry in the morgue admission book.

In every instance, the miscellaneous property receipt will be endorsed to identify it with the morgue admission book entry to which it applies, e.g., "Property of the late James Brown, City Morgue Admission Book No.2, page 24".



## 78.45 REMOVAL OF CLOTHING FROM BODIES

Clothing worn by a deceased person must remain on the body until a direction is received from the Director of Forensic Medicine or one of his/her medical assistants for its removal. Upon receipt of such a direction, the clothing will be removed from the body by the attendant on duty and dealt with in accordance with the procedure outlined in previous clauses of this paragraph by the member of the police who arranged for the admission of the body to the City Morgue, particulars being entered on the appropriate form of receipt in the morgue admission book.

## 78.46 DISPOSAL OF CLOTHING WORN BY DECEASED

Police should endeavour to obtain the written direction of relatives as to the disposal of the clothing worn by the deceased.

If the relatives do not require the return of the clothing the morgue staff will dispose of same. Police are to itemise the clothing and the facts of disposal in the morgue register. Police are also to include in the morgue register the reference to the police record where the relatives directions are recorded.

If the relatives require the return of the clothing police will take possession of same, enter it in the morgue admission book and deal with it in accordance with the procedures detailed in 78.44.

The procedures detailed will be followed whether or not the clothing is of an obnoxious nature.

If a relative cannot be readily contacted, the authority of the Coroner, or where the deceased has died intestate, the Public Trustee, will be sought for the destruction of the clothing. In either case, verbal approval will be sufficient, and the copy of the miscellaneous property receipt should be endorsed 'clothing destroyed by authority of the Coroner/Public Trustee', as the case may be.

## 78.47 ACQUITTANCES FOR HANDING OVER PROPERTY TO RELATIVES

When the property of the deceased person has been handed to a relative or the Public Trustee, as the case may be, a suitable acquittance is to be obtained for the miscellaneous property and receipt book at the station concerned.

## 78.48 COUNTRY AREA - DISTRICT COMMANDERS TO MAKE LOCAL ARRANGEMENTS

In the country area, where practicable, directions laid down herein in respect of the City Morgue, Glebe, should be followed. District Commanders should confer with local coroners and issue any additional instructions which may be necessary in a particular area.

## 78.49 EXHIBITS RELEVANT TO INQUEST

In all cases whether or not criminal proceedings are pending, where an exhibit, whether motor vehicle, part thereof or other type of article, is in possession of police and which materially relates to the cause of the death of a person or the cause of a fire, such exhibit should be retained in police custody pending a discussion of the circumstances with the Coroner, or, in his/her absence, the acting or deputy coroner, and a direction given by him/her as to its disposal. So far as motor vehicles are concerned, if requested by the coroner, a mechanical examination should be conducted to ascertain whether a defect may have been a contributory factor to the fatality.

These instructions are not intended to apply in instances where an indictable charge has been preferred against some person relating to the cause of death being investigated. In such cases, by virtue of section 19 of the Coroners Act, 1980, the coroner merely hears evidence as to the identity of the deceased person and the place and date of his/her death and terminates the inquest. The indictable charge or charges are then the subject to proceedings in a Local Court and the exhibits involved should be dealt with in accordance with the provisions of Instruction 33.

78.50 DEATHS WHERE BODIES NOT RECOVERED

In cases of death where the bodies are not recovered, careful investigation should be made and a report of full particulars furnished to the Coroner within a period of fourteen days.

78.51 VIEW OF BODY BY CORONER, ETC.

A view of the body of a deceased person or of the scene of a fire, shall not, upon any inquest or inquiry, be taken by the coroner, or where there is a jury, by the jury, unless the coroner deems it advisable to do so.

78.52 OBTAINING STATEMENTS REGARDING DEATHS

Police who officially report the death to the Coroner by preparing and signing the P.79A form are subject to the directions of the coroner and bear the responsibility for collection of evidence, obtaining statements, warning nominated witnesses for attendance at the inquest, and attending the inquest themselves. When the coroner gives a direction to the reporting police to supply the statements of all witnesses the police shall comply as soon as possible and in any case, within twenty one (21) days of the date of such request.

When preparing statements, police should exercise care in spelling and the compilation as they will form part of the official coroners record. The original and one copy of the statements are to be forwarded to the coroner.

Police who make initial inquiry into a death, the cause of which arose outside their patrol, shall be required to obtain statements only to establish the identity of the deceased and the place and date of death. The Patrol Commander for the location in which the cause of death arose will ensure that other necessary statements are obtained for the information of the local coroner.

Police are to bear in mind the relevant parts of 78.27.

78.53 CONSENT OF CORONER REQUIRED FOR RELEASE OF INFORMATION

Statements obtained by police from witnesses or reports of results of inquiries are not to be made available to any person without the consent of the coroner, except that a copy of a witness' own statement may be handed to him/her at the time it is made, see also Instruction 132, supply information to the media re deaths, etc..

78.54 DELAYS IN SUBMISSION OF REPORTS ETC.

It is essential that police submit P.79A forms without delay and in any case within 24 hours, in order that funeral arrangements can be completed as soon as possible after the death has been reported to them.

It is appreciated that on occasions difficulties may be experienced in interviewing witnesses or next-of-kin. However, where it is expected that there will be considerable delay in this regard, the P.79A forms should be endorsed accordingly and submitted to the coroner for his/her information so that no undue delay is experienced in the burial of the deceased. Any statements from witnesses or next-of-kin should be obtained and forwarded to the coroner as soon as possible as set out above. The submission of the P.79A form should not be withheld or delayed because of the proper formal identification (submit P.79A as 'unidentified') or witnesses statements are not readily available.

Police are not to delay the submission of the P.79A report by availing themselves of rest days. The rest days should be deferred in favour of submitting the P.79A report.

**78.55 REPORT TO CORONER WHEN PERSON CHARGED WITH AN INDICTABLE OFFENCE**

Where a person dies a violent or unnatural death and a person has been charged with an indictable offence, e.g. murder or manslaughter etc., in which the question of whether the person charged caused such death is in issue, or in the case of a fire, a person has been charged with an indictable offence, e.g., arson, in which the question as to whether the person charged caused such fire is in issue, police will inform the coroner of the fact that such person has been so charged as soon as practicable. These details are to be entered on the P.79A report presented to the Coroner.

**78.56 HEARING OF INDICTABLE OFFENCES**

Where a person is charged with an indictable offence, the coroner should be contacted as to the holding date of the inquest and the defendant remanded to the appropriate Local Court.

**78.57 INDICTABLE OFFENCE - NO PERSON CHARGED**

If no person has been charged with an indictable offence, the coroner may take all the available evidence and if such evidence establishes a prima facie case for an indictable offence against a known person, the coroner will terminate the inquest or inquiry, and forward to the Director of Public Prosecutions the depositions with a statement, signed by the coroner, setting out that a prima facie case for an indictable offence has been established against a known person.

**78.58 SUMMARY OFFENCE: PERSON CHARGED/INFORMATION LAID**

If a person has been charged or an information laid for a summary offence, or such is proposed, in circumstances connected with a death or fire those proceedings must be adjourned until after the coroner has held the inquest/inquiry or dispensed with the holding of same.

The reason for this procedure is that if a coroner terminates an inquest/inquiry (under section 19 (1), Coroners Act, 1980, as amended), as explained in 78.57 the Director of Public Prosecutions is in a legal dilemma in considering an ex-officio indictment if a person has been dealt with by a court for a summary offence.

Some examples of summary proceedings being; supplying drugs to a person who dies from a overdose, trespassing on premises upon which a fire occurs, negligent driving or lower range P.C.A., D.U.I.

## 78.59 WITNESSES REQUIRED TO ATTEND AN INQUEST

Police will warn the undermentioned witnesses to attend an inquest:

Person/s who found the body.

Person/s knowing any circumstances connected with the death, including a person who may be criminally liable.

The person/s who identified the body to police.

Medical practitioners who can give evidence concerning the death.

However, the responsibility for deciding which witnesses should be called to give evidence rests on the coroner and if the police officer conducting the inquiry is in doubt in this regard, the coroner should be consulted. Frequently, coroners permit the admission of medical certificates, etc., at an inquest, dispensing with the actual attendance of the witness.

Where it appears that a witness will not appear voluntarily, police should obtain a summons from the coroner.

## 78.60 ADVISE NEXT-OF-KIN AND WITNESSES IN AMPLE TIME

Police will advise the next-of-kin and all witnesses of the time and the date of the hearing of the inquest and of any subsequent adjournment thereof. Such information should be passed to the next-of-kin personally and in ample time before the holding of the inquest.

## 78.61 PRODUCTION OF ARTICLES

Police will produce at the inquest any papers or other property found on the body of the deceased, and any weapon or instrument that might be supposed to have been the means of death, or any bottle or papers containing, or thought to have contained, poison (any firearms must be expertly tested at the Ballistics Unit and a certificate obtained for presentation to the court).

## 78.62 REPORT CORONER'S FINDING

At the conclusion of the inquest or inquiry, police are to report the result on the back of the P.43 or P.79A forms being held. In the cases of open verdicts, members should express any opinion or view they may have as to the cause of the death or fire. A copy should be filed at the station and the other forwarded to the Patrol Commander who will, when satisfied as to the correctness of the report and that all aspects have been completed, file the form at his/her office.

## 78.63 PROPERTY, IF DIED INTESTATE

When an inquest has been held in the case of a deceased who has died intestate, leaving property, report promptly to Public Trustee's agent, and when property is handed over, obtain receipt, which should be filed at the police station concerned. The name of the agent should be shown on the P.79A form, see Instruction 58.

## 78.64 DEATH FROM DROWNING

Immediately after the conclusion of an inquest into the death of a person from drowning, furnish a report, in duplicate, direct to the Region Commander, for transmission to the Royal Life Saving Society, Australia, setting out:

The locality of the drowning.

Brief facts of the incident.

The cause of the drowning, if known.

In the case of a swimming pool drowning, whether the pool is an above or below ground level type, if surrounded by a fence or only fenced off from the street, and whether the deceased was a resident or visitor.

In the case of drowning of a rock fisherman, whether he/she was alone.

In the case of drowning in a private dam, the type and depth of the dam.

The coroner's finding.

Where police had occasion to attempt resuscitation, the type of resuscitation used, the length of time carried out, and whether the deceased, at any time, showed any sign of recovery.

Reports are not required in cases of suicide drownings, but they are in cases of drowning in submerged vehicles.

## 78.65 SOURCE OF SUPPLY OF POISON

In giving evidence at inquests into the deaths of persons from poisoning, police should state whether it was possible to ascertain the source of supply of the poison and whether the package or bottle, etc., bore the label of the manufacturer and distributor and was otherwise labelled in accordance with the regulations made in pursuance of the Poisons Act. At such inquests, also, the source of supply of the poison should be ascertained from the witness, if possible.

## 78.66 FATAL ACCIDENTS IN FACTORIES, ETC., ELECTRIC SHOCK AND GAS DEATHS

When a fatal accident occurs in a factory or is associated with use of machinery, e.g. cranes and trench diggers, the Department of Industrial Relations and Employment or its local representative should be promptly informed, and further notified of the date fixed for the inquest. The "supplying authority" should be similarly advised where death was caused by electrocution or gassing.

## 78.67 MUNICIPAL OR SHIRE EMPLOYEES, ETC.

A fatality to any employee of any municipal or shire council, the town or shire clerk is to be informed. Likewise fatalities to employees of public or private institutions are to be reported to the Management/Administration of those organisations.

## 78.68 DEFENCE PERSONNEL TO BE NOTIFIED OF DECEASED MEMBERS

If the deceased is a member of the defence forces, the appropriate authority should be contacted without delay and informed of the occurrence.

**78.69 ANALYSIS OF SUBSTANCES FOR INQUESTS**

For analysis of any substance in connection with an inquest or inquiry, see Instruction 33.

**78.70 DECEASED PERSONS WEARING DIVING EQUIPMENT**

Where police are required to inquire into the death of a person who at the time was wearing a compressed air apparatus and weight belt, the Police Diving Section can be of assistance to them. In such cases, in addition to their other duties, the police should take possession of the complete apparatus and belt as an exhibit. At the same time, they should seal and conserve any compressed gas within the apparatus. Particular notice should be taken of the condition of the apparatus and its method of attachment to the deceased. Photographs should be taken of the apparatus in its original condition, if possible.

The diving apparatus and weight belt, together with a covering report, should be forwarded to the Commander, Police Diving Section, who will arrange for a sample of the gas to be tested by the Government Analyst and a physical test to be carried out by a qualified member of the Police Diving Section. The weight belt will be weighed by the Department of Weights and Measures and a certificate obtained. Statements, certificates and photographs will then be prepared for the police in charge of the case for presentation to the coroner.

**78.71 PROCEDURES-POST MORTEM EXAMINATIONS**

For procedure to be followed by medical officers conducting post mortem examination, see Instruction 33.

**78.72 POST MORTEM - REQUIREMENTS WHEN MURDER CHARGE LIKELY**

For requirements when a post mortem examination is to be undertaken in the country in a case in which a person has been charged or is likely to be charged with murder, see Item 33, Police Reference Book.

**78.73 REMOVAL OF BULLETS AT POST MORTEM EXAMINATION**

Doctors conducting post mortem examinations of persons suspected of having been murdered by use of a firearm should be asked the direction taken by the bullet after entering the body and before striking an internal obstacle-bone, etc. They should be requested to exercise care in extracting bullets to prevent, as far as possible, damage to the bullet markings by forceps or probes.

**78.74 BULLETS AND OTHER ITEMS REMOVED FROM THE BODY**

Any bullets or items removed during autopsy are to be obtained from the Government Medical Officer (with his/her permission) and retained by the specialist police personnel for examination and or later production to the coroner. Exhibit items removed during autopsy (excluding specimens and items for analysis) are not to be left at the morgue.

After the inquest hearing, or where such is dispersed with the exhibit is to be disposed of in accordance with, Police Instruction 33.

## 78.75 CORONERS EXHIBITS GENERALLY

Physical exhibits seized by police during the coronial investigation are to be retained by police and recorded in accordance with Police Instruction. Where they are believed to be the instrument, cause, method or otherwise relevant to the death they are to be presented to the Government Medical Officer performing the autopsy. Thereafter they are to be retained by police for later production to the Coroner, if required.

Physical exhibits should be photographed and these photographs placed with the coroners brief. (See Instruction 33).

Exhibits may be disposed of in accordance with Instruction 33 after the inquest or when the holding of same has been dispensed with.

## 78.76 TEACHING HOSPITALS-POST MORTEM EXAMINATIONS

In Sydney, the State or Westmead Coroner may allow certain teaching hospitals to conduct post mortem examinations.

The procedure in each instance is:

Police are to be notified of the death by the hospital authorities in the usual manner and informed that it is proposed to seek the permission of the coroner to conduct the post mortem examination in the hospital.

A nominated person from the hospital, the identity of whom will previously be known to the coroner, will communicate with the coroner or his/her clerk and request permission for the post mortem examination to be conducted at the hospital.

The coroner will communicate with the police concerned to ascertain if the case is one where permission can be granted for the post mortem examination to be conducted at the hospital.

## 78.77 CASES WHERE POST MORTEM WILL NOT BE CONDUCTED AT HOSPITALS

Permission will not be granted for hospitals to conduct autopsies in the following cases:

Where the circumstances which resulted in the death of the person concerned give rise to the possibility of some person or persons being charged with the commission of an indictable offence (the coroner, in the exercise of his/her discretion, may not permit an autopsy at teaching hospitals where the cause of death is attributable to physical violence as opposed to a motor vehicle collision).

Where the death has occurred by suspected poisoning or overdose of a drug.

While the deceased was under, or within a period 24 hours after the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation or procedure unless the hospital desiring to conduct the autopsy first obtains the consent of a "relative" as defined in section 4 of the Coroners Act.

Where the next-of-kin (which expression includes a de facto relationship) has requested that a post mortem examination be conducted by a Government Medical Officer. Where there is no next-of-kin, the hospital may conduct a post mortem examination, subject to all other requirements being satisfied.

**78.78 PROCEDURE WHERE APPROVAL GIVEN FOR HOSPITAL POST MORTEM**

If approval is given for the post mortem examination to be conducted at the hospital, the police concerned will immediately take steps to have the body of the deceased identified to them at such hospital by a relative or other acceptable person. The doctors or hospital staff are not acceptable persons in these circumstances, the police concerned are to identify the body to the hospital pathologist authorized to conduct the post mortem examination. If this is not practicable, police may identify such body to some other person in authority at the hospital, preferably a medical officer, but certainly not one of the nursing staff. Such person can then later identify the body to the pathologist. In such cases, however, the method of identification is to be clearly set out in the statement of evidence prepared by the police for the information of the coroner.

**78.79 DELIVERY OF INTERIM POST MORTEM REPORTS TO CORONER**

Interim post mortem reports following an autopsy are to be delivered personally by the hospital authorities to the office of the State Coroner no later than 1 pm on the date of the examination, or if the post mortem examination is conducted in the afternoon, by 9am the following morning. The full pathological report should be delivered to the coroner by the hospital authorities within a reasonable time thereafter.

**78.80 AUTOPSIES - RESPONSIBILITIES OF HOSPITALS, MEDICAL STAFF AND POLICE**

After a post mortem examination has been conducted at a hospital, the body is to remain at the hospital for disposal and not transferred to the City Morgue. The coroner may issue an order to the hospital relating to the release of the body for burial or cremation after he/she has received the interim post mortem report.

Police, in these cases, will prepare P.79A reports and deliver them personally, not mailed, to the Coroners Office.

The medical officer performing the autopsy is to make himself/herself available for subsequent discussion with police and/or the coroner, if required, and should also be available for the purpose of giving evidence at the Coroner's Court, if and when called.

The hospital concerned will be responsible for the conveyance to the Government Analyst of organs or specimens required for analysis, and the person or persons transporting them should be available to give evidence to this effect, if required.

**78.81 TRANSPLANTS**

The Coroner authorizes the transplant of organs from cadaver donors and, invariably, following such transplant, directs that an autopsy be performed on the body of the deceased at that hospital. In such cases, the procedure outlined in the preceding paragraphs should be followed.

**78.82 POLICE REQUIRED TO PRESENT EVIDENCE**

Where the Coroner has allowed post mortem examinations to be conducted in accordance with the provisions of the two preceding paragraphs, police are still required to conduct investigations and present evidence to the coroner, etc., as directed in this Instruction.



78.83 ASSISTANCE AT POST MORTEM EXAMINATIONS

As the care of dead bodies taken to public hospital morgues by the police is wholly a police duty, when it becomes necessary to obtain assistance, the services of the hospital wardsman should be availed of where possible. The responsibility for payment of fees in these instances will be borne by the Department of Health and will be met by the hospital where the service is provided. If it is not possible to obtain the services of the hospital wardsman, assistance may be obtained from undertakers. In these cases, the payment of fees will be borne by the Police Department.

78.84 FATALITIES CAUSED BY AIR ACCIDENTS, POST MORTEM EXAMINATIONS

In cases of aircraft crash fatalities police in charge will immediately notify the Coroner. Local Coroners will contact the State Coroner who will give necessary directions as to the conduct of autopsies.

78.85 MASS DISASTER-AIRCRAFT OR PUBLIC TRANSPORT ACCIDENT

In the case of a mass disaster occasioned by an aircraft or of a regular public transport accident (i.e., civilian airlines) involving a large number of fatalities, the Division of Forensic Medicine in Sydney will undertake the post mortem examinations and pathology required. In these circumstances, the area pathologist will not be involved.

The Sergeant in charge, State Coroners Court, Glebe, is to be informed immediately by telephone.

78.86 FORWARDING OF BIO-CHEMICAL AND HISTOPATHOLOGICAL MATERIAL

The pathologist will forward bio-chemical and histopathological material to Sydney for analysis by the Division of Forensic Medicine. A procedure similar to that at present in operation will apply, where police will arrange for the transportation of the material. The Australian Department of Transport will supply the necessary packaging material for this purpose.

78.87 BODIES CONVEYED TO ANOTHER CENTRE FOR EXAMINATION

In all cases where it is necessary to convey bodies to another centre for the purpose of performing a post mortem examination, the cost of conveyance will be met by the Department of Transport, as will all costs and expenses occasioned by medical practitioners in attending to perform post mortem examinations. Doctors should be instructed to forward their claim direct to that Department. The means of conveyance of bodies will be by a method decided after consultation between the police and Air Transport Group.

78.88 AIRCRAFT FATALITIES-INQUESTS

Where an inquest is held following the death of a person killed by an air accident, police should ensure that the Department of Transport is notified in sufficient time as to the date of hearing.

78.89 QUESTIONING OF CITY MORGUE ATTENDANTS BY POLICE

In the event of police requiring to interview morgue attendants employed at the City Morgue, Glebe, permission should first be obtained from the Director, Division of Forensic Medicine.

78.90 DEATHS ARISING FROM BOATING ACCIDENTS

In respect of deaths resulting from boating accidents, see Instruction 61.

78.91 CONTRACTS FOR REMOVAL OF DEAD BODIES, ETC

The Government Supply Office arranges contracts with funeral directors throughout the State (to cover a period of two years) for:

The removal of dead bodies  
The supply of coffins  
Interments; and  
other services associated with:

Overdate bodies  
Vermin infested bodies; and  
burial bags.

District Commanders are notified each month, directly from the Government Supply Office, by the supply of microfiche records, of these details and shall familiarise themselves with any special conditions applicable to the contracts with funeral directors servicing the particular district.

78.92 NEXT OF KIN MAY MAKE ARRANGEMENTS

The next-of-kin or legal representative of the deceased person may seek police permission to use the services of a funeral director of his/her choice to remove the cadaver to the morgue or such other place as may be directed by police, who will grant approval for this action, unless there is a valid reason for refusal. Accordingly, police are to refrain from obtaining the services of the Government contractor until they have visited the place where the cadaver is lying.

When acceding to the request, police must advise the applicant that the removal is to be made under the supervision of police and the cost will not be borne by the Police Department or the Government.

78.93 NATURE OF SERVICE UNDER CONTRACTS

The services to be provided by funeral directors under the contracts are specific, but the conditions of the contracts impose no obligation on any private person to use the service of the contractor for private funerals. As the choice of a funeral director for privately arranged interments is entirely at the discretion of the relatives, police are not to make any recommendation to influence this decision.

78.94 UNSATISFACTORY SERVICE BY CONTRACTOR

If the services of a funeral director, who is a Government contractor, are unsatisfactory, the District Commander will take action to directly advise the State Contracts Control Board, Government Supply Office, of the deficiency.

78.95 DEATHS OF PENSIONERS

For procedure regarding deaths of pensioners or other Social Security beneficiaries, see Instruction 43 under the heading "Social Security, etc."

**78.96 PATHOLOGICAL EXHIBITS**

For the procedure to be adopted in submitting post mortem exhibits for pathological examination and/or analysis, see Instruction 33.

**78.97 CREMATION-POLICE NOT TO BECOME INVOLVED UNNECESSARILY**

Where a person does not die a violent or unnatural death and there are no suspicious circumstances in connection with the death and the next-of-kin desire the body of the person to be cremated but the medical referee appointed under part X of the regulations under the Public Health Act, 1902, refuses to permit this action due to the certificates by the two medical practitioners not complying with regulation 78, and representations are made to police to have the body conveyed to a morgue, police should not, where it is clear that there are no suspicious circumstances or other considerations such as unexplained death, intervene in the matter, but leave the representatives of the deceased person to make appropriate arrangements for disposing of the body either by cremation or burial. The attention of the persons making the representations should be drawn to the provisions of part X of the above mentioned regulations.

**78.98 WEATHER REPORTS**

When information is required by police in connection with the preparation of a report for a coronial inquiry or other investigation respecting weather observations and forecasts, a request is to be made in writing to the Regional Director for New South Wales, Bureau of Meteorology, Sydney. Such request should contain the reason why the information is required and the Bureau's Reference No.4067/62A should be quoted.

**78.99 REQUESTS FOR WEATHER REPORTS**

It should be noted that such requests must be received by the Bureau at least three clear working days prior to the date upon which the information is required. In the case of forecasts, requests should be received as soon as possible after the event. These records are not permanently retained and may be destroyed after 3 months.

**78.100 FATAL OR SERIOUS ACCIDENTS ON S.R.A. TRAINS**

In the event of a fatality or serious accident involving trains within the greater Sydney Metropolitan Area, the police officer or State Rail Authority officer first in attendance at the scene shall assess the situation and immediately notify the Commander of the Police or State Rail Authority, Communications Section.

The Commander of the respective Communications Section shall immediately arrange for the attendance of:

Ambulance Services  
Rescue units, where necessary.  
Police of the Physical Evidence Section  
A relief train driver.

## 78.101 ADDITIONAL RESPONSIBILITIES OF OFFICER FIRST ON SCENE

The police officer or officer of the State Rail Authority first in attendance shall in appropriate cases also take action to:

Have the driver of the subject train breath tested by an authorized State Railway Authority member or, where such a member is not available, a member of the Police Force.

Should the breath test prove positive, arrange for the services of the Breath Analysis Unit and any further appropriate action in that regard.

Ensure that, wherever practicable the driver and all other witnesses are detained at the scene for interview by police.

Police attending the scene, in addition to the aforementioned action shall:

Ensure that no more police than are absolutely necessary to control the situation are permitted to enter upon the permanent way and then only in the company of a State Rail Authority member experienced in safe working procedures.

Make a preliminary assessment of whether criminal proceedings are likely on the facts then known, i.e. having regard to the state of sobriety of the driver or other obvious serious negligence, or circumstances.

Where the driver has tested positive or other serious negligence attributable to the driver is apparent, request the State Rail Authority to immediately remove the train from service and stable it in an appropriate place for scientific examination, in other cases the train is to be permitted to proceed as soon as practicable after the person or body has been removed from the permanent way on the understanding it may have to be examined at some later time.

## 78.102 DELAYS TO STATE RAIL AUTHORITY OPERATIONS

Only in the most exceptional cases are State Rail Authority operations to be delayed merely for the purpose of photographing the train and/or body on-site.

As soon as practicable, inform the station master at the particular place of the likely delay in resuming services in order that an appropriate announcement to commuters may be made.

## 78.103 INTERVIEWING THE TRAIN DRIVER/WITNESSES

In the absence of any medical reason to the contrary interview the train driver at the scene.

Interview all available witnesses including State Rail Authority employees. These interview are to be in the form of the normal police accident site investigation interview and, in the majority of instances, will entail the member of the Police Force seeking information of the circumstances surrounding the occurrence and making notes in an official notebook.

Not take objection to the presence of an experienced member of the T.I.B or other representative for the State Rail Authority whilst the police are interviewing the driver or other State Rail Authority witnesses at the scene. An interview should not be delayed for the purpose of such representatives being present.

Be responsible for contacting and continuing liaison with the State Rail Authority District Traffic Superintendent for the particular area.

**78.104 RELEASE OF FORMAL EVIDENCE SUBJECT TO CORONER**

Subject to any direction to the contrary by the coroner, there is no objection to:

The State Rail Authority District Traffic Superintendent being informed of the nature and import of on-site interviews conducted by police.

Copies of photographs taken by the Police Physical Evidence Section being supplied to the State Rail Authority.

State Rail Authority officers interviewing the driver and other witnesses.

In those instances where it is necessary to take detailed, formal statements from the driver and witnesses there is no objection, in the absence of a contrary direction by the coroner, to this process being conducted jointly by the District Traffic Superintendent (State Rail Authority) and the member of the Police Force in charge of the investigation.

Police are responsible for the timely presentation of evidence to the coroner. Should difficulty occur the matter should be reported through normal channels.

**78.105 TRAIN FATALITIES IN COUNTRY AREAS**

In relation to train fatalities occurring outside the greater Sydney Metropolitan Area, the procedures are basically the same with the exception that the train is to be permitted to proceed with its passengers as soon as practicable to its destination, where any necessary scientific examination is to occur.

(Paragraphs 78.100-105 amended vide circular 88/192 issued 17.11.1988).

**78.106 DEATHS IN CUSTODY**

In instances of death in custody police are to immediately report same to the Coronial Investigation Unit in addition to the usual procedures.

**78.107 DESTITUTE DEATHS - CERTIFICATE ISSUED**

In circumstances where the bodies of destitute persons are transported to the City Morgue for storage, pending burial, police will forthwith submit a comprehensive report for the information of the Sergeant in charge of the City Morgue.

## INSTRUCTION 127

## POLICE FORCE PLANS

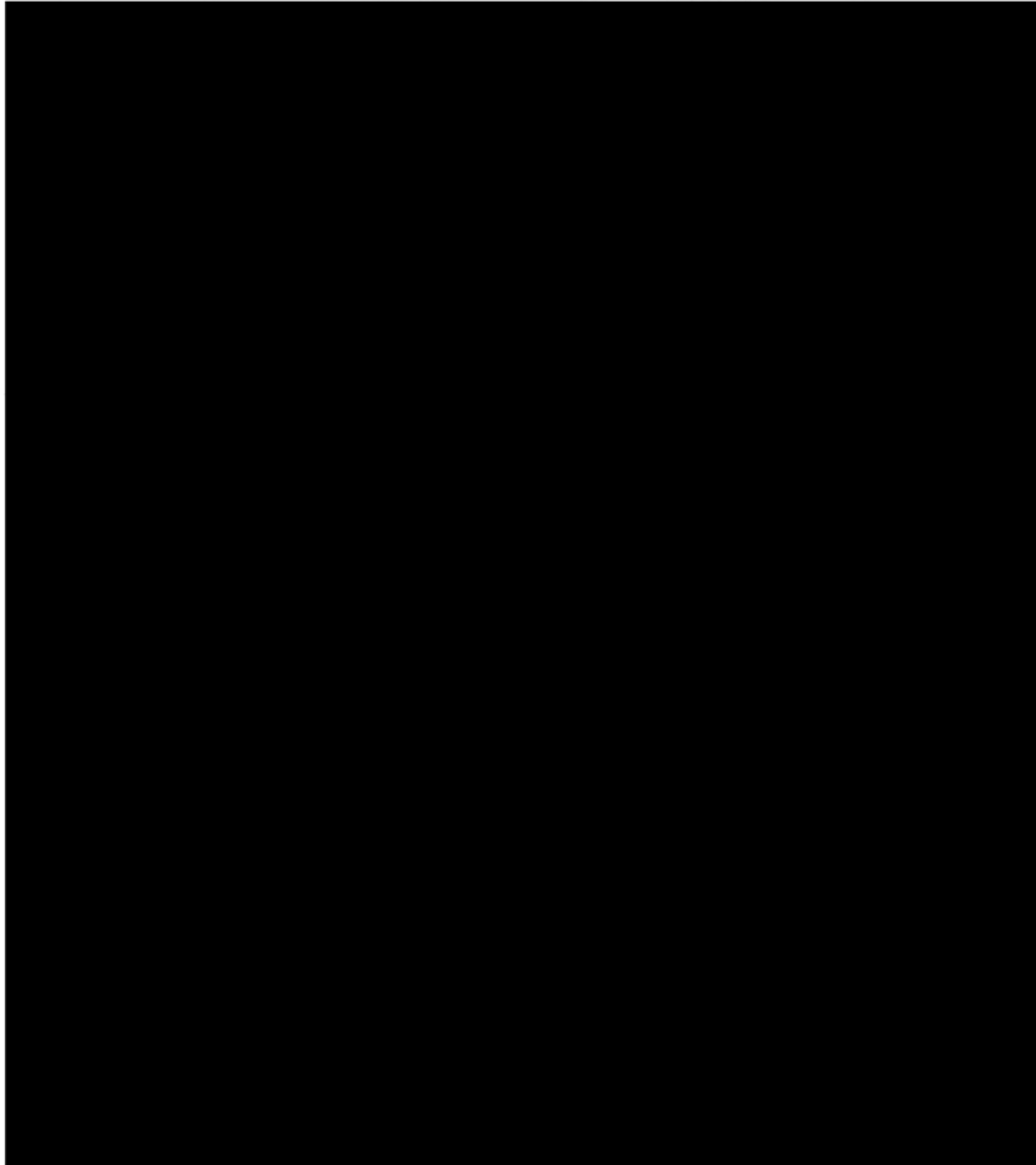
- 127.01 INTRODUCTION
- 127.02 POLICE WITNESS PROTECTION PLAN
- 127.03 PERSON AT RISK - DEFINITION
- 127.04 SERIOUS CRIME - DEFINITION
- 127.05 APPLICATION FOR PROTECTION
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- 127.07 THE MAJOR INVESTIGATION PLAN - PROVISIONS OF
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- 127.11 PROVISION OF SPECIALIST ASSISTANCE
- 127.12 MAINTENANCE OF MAJOR INVESTIGATION PLAN
- 127.13 N.S.W. POLICE INFORMANT/REWARD PLAN - RESPONSIBILITY FOR  
ADMINISTRATION OF
- 127.14 REGISTRATION OF POLICE INFORMANTS
- 127.15 REGISTRATION DETAILS
- 127.16 RESPONSIBILITIES OF REGISTRAR
- 127.17 DUTIES OF A CASE OFFICER
- 127.18 N.S.W. POLICE REWARDS SYSTEM
- 127.19 REWARD EVALUATION COMMITTEE
- 127.20 APPLICATIONS FOR REWARDS
- 127.21 PRESENTATION OF REWARDS

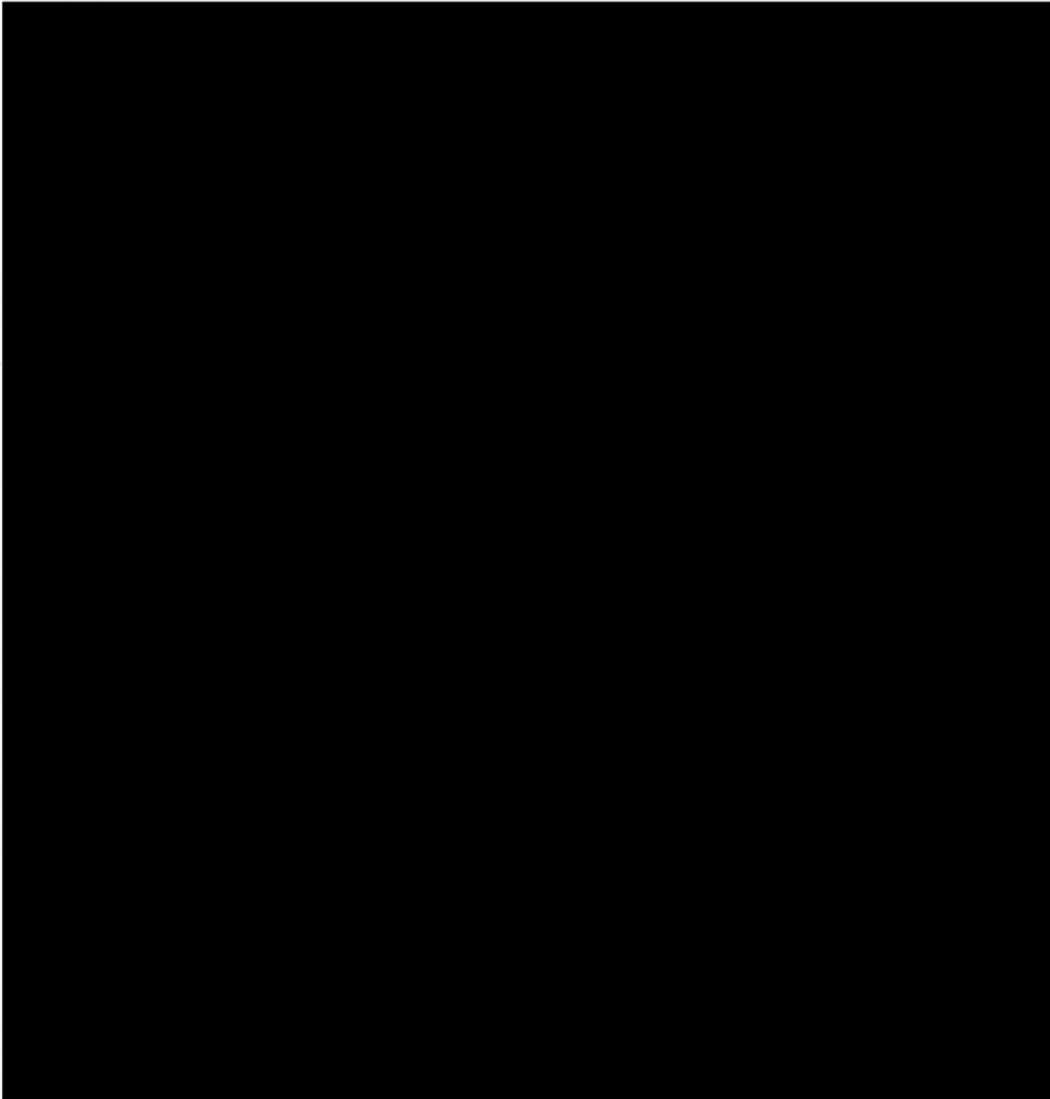
INSTRUCTION 127

POLICE FORCE PLANS

127.01 INTRODUCTION

This Instruction outlines requirements of various plans which have been formulated for implementation in certain circumstances. Police should refer to those plans for complete directions and procedures.





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## THE MAJOR INVESTIGATION PLAN

### 127.07 THE MAJOR INVESTIGATION PLAN - PROVISIONS OF

The Major Investigation Plan has been developed to facilitate the co-ordination of investigative resources across Regions under the concept of regionalisation. The Plan provides, inter alia, for:

The formulation of task forces for the specific purpose of resourcing a 'major investigation' utilising Region resources, and

Providing specialised resources to a Region for the purpose of investigating a particular crime or incident.

In both instances, it is necessary for it to be shown to the State Commander that such a course of action is either necessary or desirable.

### 127.08 MAJOR INVESTIGATIONS - DEFINITIONS

A 'Major Investigation' is any investigation relating to a crime or incident which is of such a nature to cause particular concern to the Government or the public, and where, in the opinion of the State Commander, the investigation of such crime or incident is beyond the resources of a single Region or is, in the interests of Police effectiveness, or the administration of justice, a matter the State Commander considers necessary and/or desirable to declare a major investigation.

A 'Major Investigation' may include murder, kidnapping, serious sexual assault, fires/explosions of a serious nature, extortion, conspiracy or any other crime or incident which, due to special circumstances, may be so designated by the State Commander.

### 127.09 DECLARATION OF A MAJOR INVESTIGATION

Action to have a crime or incident declared a 'Major Investigation' may be instigated by the State Commander or by a Region Commander. The final decision in each case rests with the State Commander who, where appropriate, in consultation with the Commissioner, will determine the nature, extent and objectives of any task force, appoint the Commander and Deputy Commander for the Task Force, and determine the resource commitment required of each Region/Group or Branch and notify the Commander of each affected area of his decision.

### 127.10 RESPONSIBILITY AND TENURE OF TASK FORCE

Each Task Force, whatever the composition of its personnel, is to perform duty as an independent unit under the control of the Commander, State Investigative Group. The Commander of that Task Force is to be responsible and accountable for the conduct of the investigation from the time that person notifies the Region/Group/Branch Commander that he/she has taken control, until the Task Force is dissolved by direction of the State Commander. All Task Forces are to operate on a budget managed by the Commander, State Investigative Group.

127.11 PROVISION OF SPECIALIST ASSISTANCE

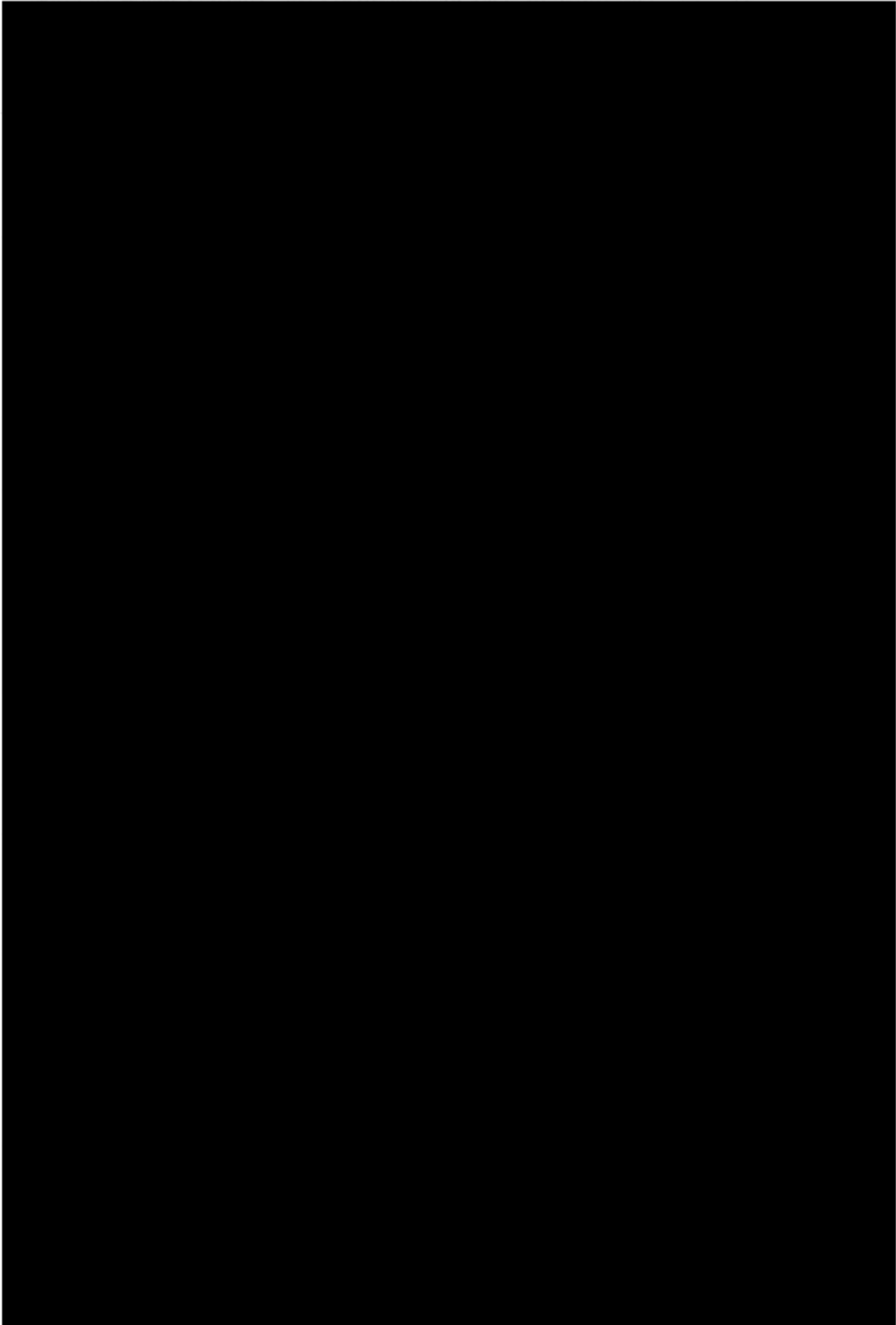
The Major Investigation Plan provides that, where the State Commander is satisfied that in the interests of effectiveness, it is desirable to allocate additional specialist assistance to a Region such a course of action may be directed.

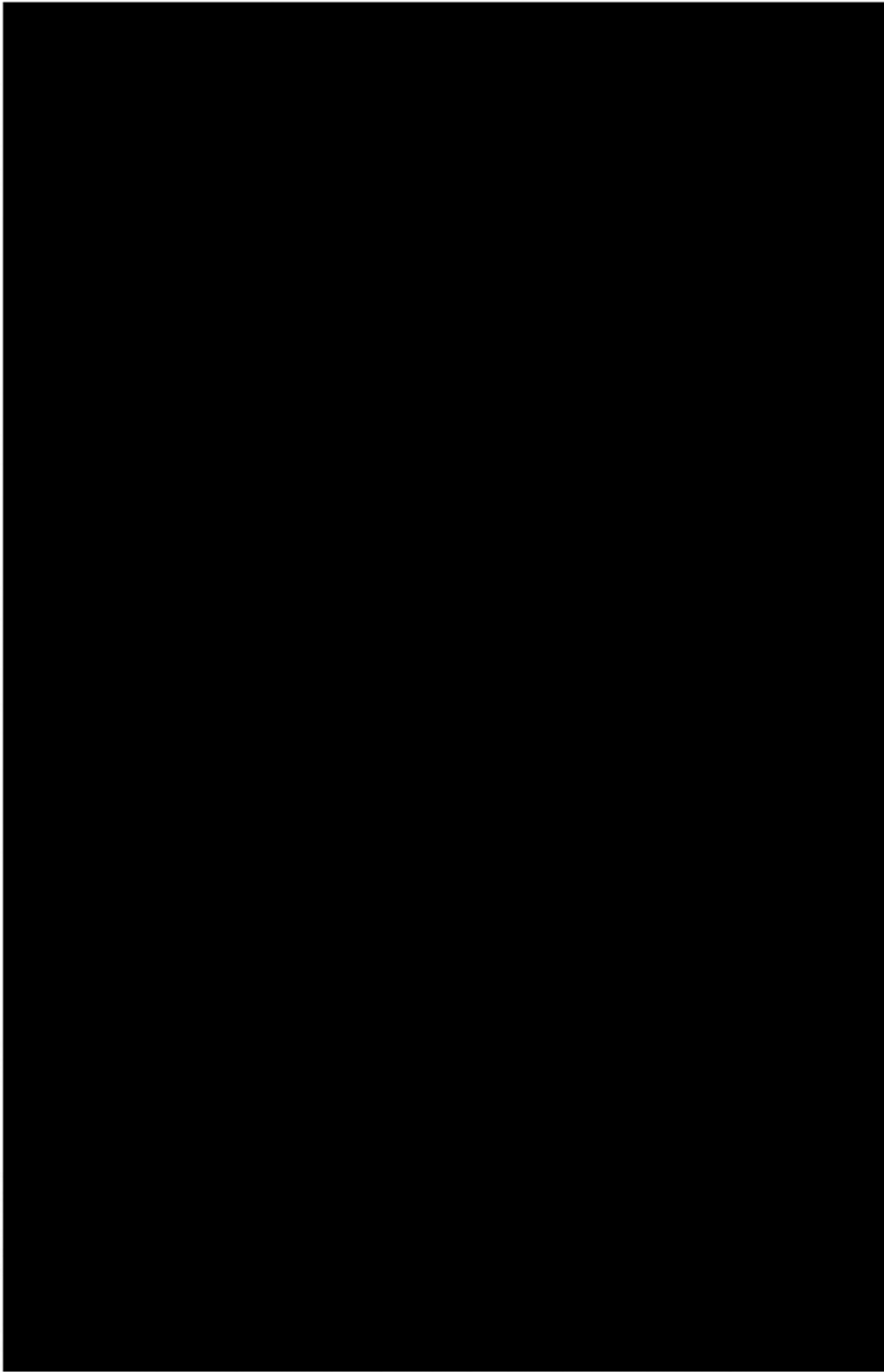
In any such case, the subject resources are to be committed for only as long as is necessary under all the circumstances and are to fall under the control of Officers in the Region requesting assistance. The costs, other than basic salaries, are to be met by that Region. This provision is designed to overcome genuine shortfalls in specialist expertise resulting from the necessary commitment of local resources.

127.12 MAINTENANCE OF MAJOR INVESTIGATION PLAN

A copy of the Major Investigation Plan has been issued to each Region/Group/District/Branch and Division Commander. It is to be filed in the State Plan File maintained at such Commander's Office and be available to Officers and other Police. The Plan contains a wealth of detail in respect to responsibilities, duties and procedures, much of which would be of value to those seeking to lead investigations at Division level. The Commander, State Investigative Group is responsible to ensure the Plan is amended when necessary.

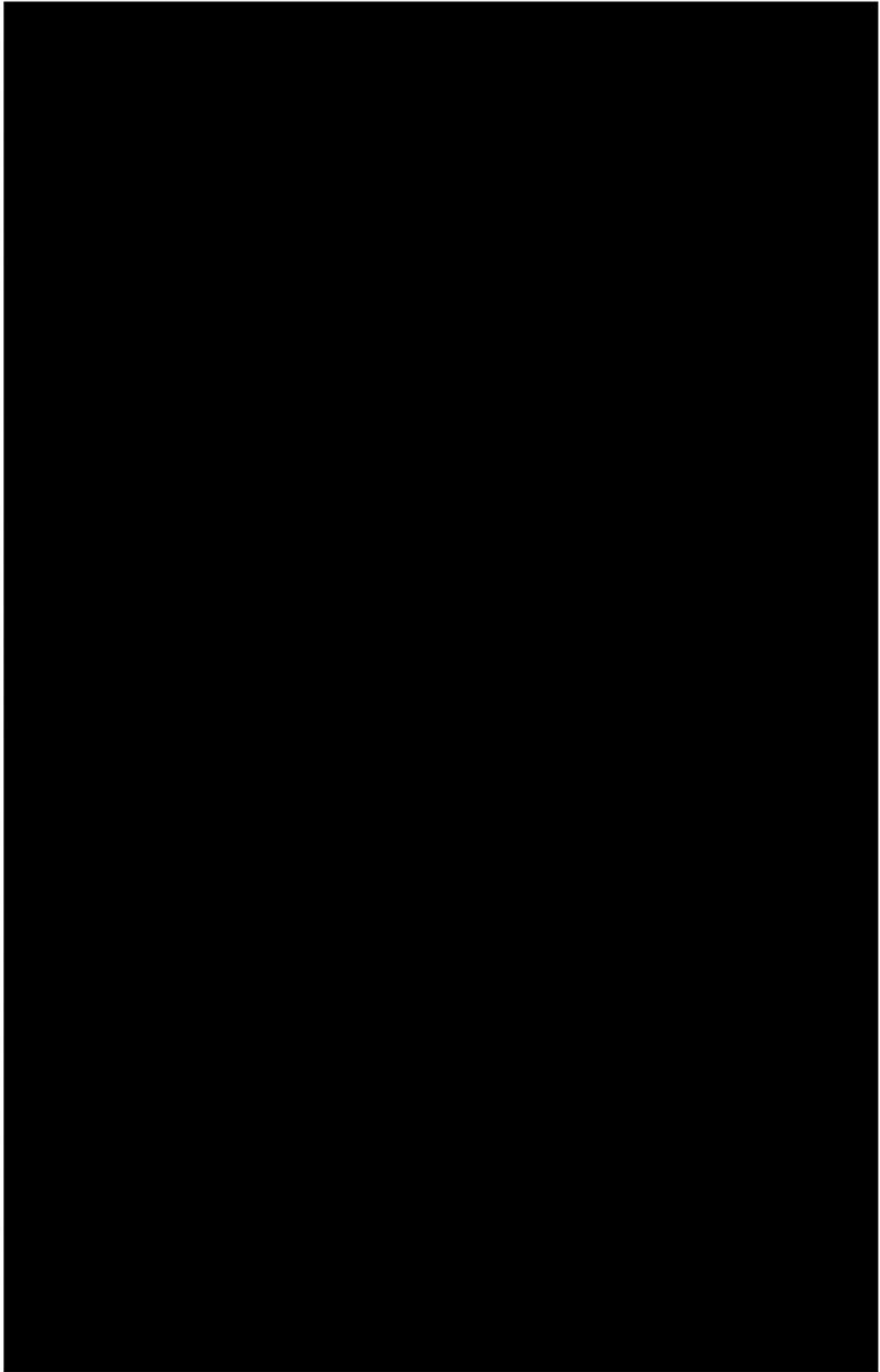
N.S.W. POLICE INFORMANT/REWARD PLAN





and the Research Director, Intelligence Office,



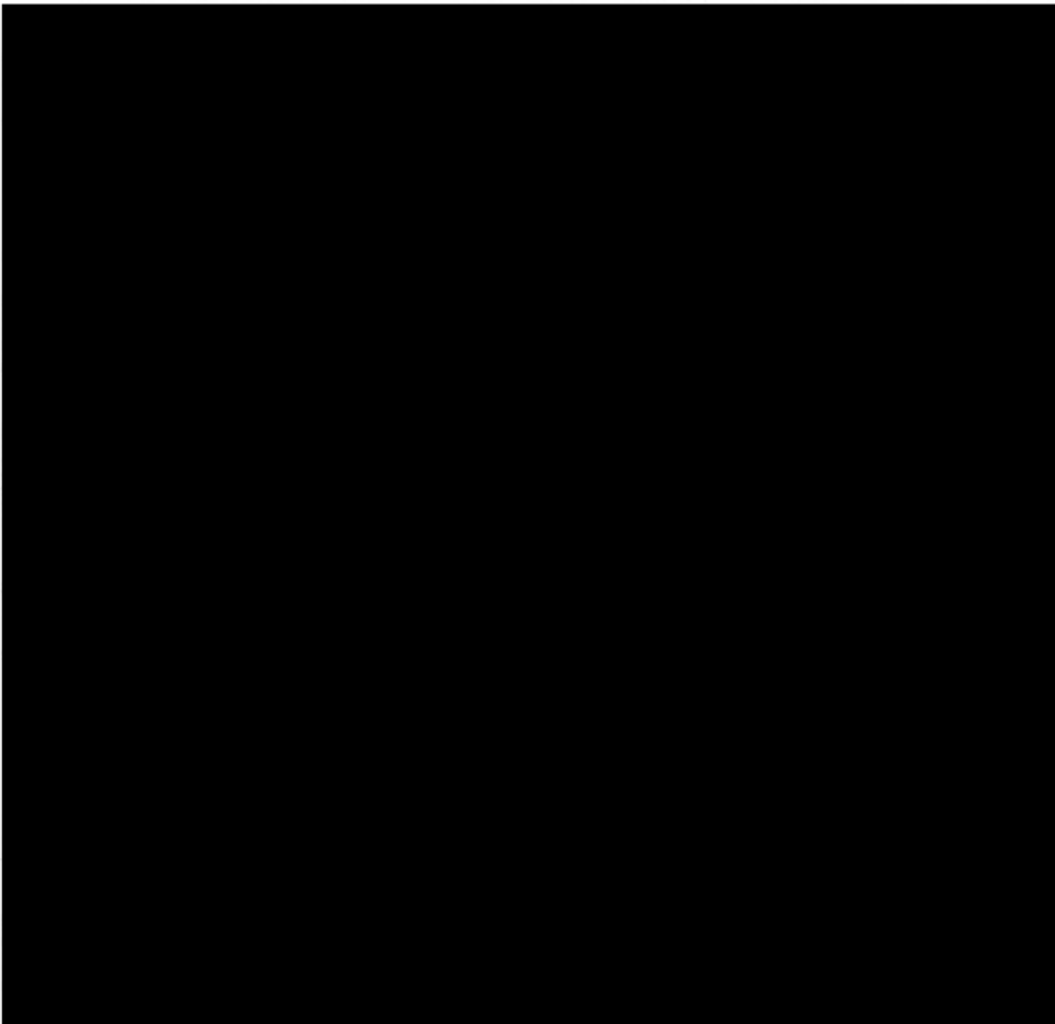


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117.20 APPLICATIONS FOR REWARDS

Applications for each reward, irrespective of the scheme applied, must be by way of a written report by the Officer in charge of the matter and shall include the following details:

- The nature of the offence.
- The real or potential danger involved.
- The value of property recovered.
- Whether any information was volunteered or obtained as the result of a police search.
- The value of the information/assistance given in terms of charges laid.
- Whether the informant gave evidence at any proceedings.
- The result of any proceedings.
- The character of the informant particularly where a reward is being considered.