

Chapter 4 – Property

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4.1 Introduction

In the course of their duty, members regularly come into possession of property. This creates a number of problems for the Service.

The first of these is accountability. When property is in possession of the Service there exists an obligation to store and maintain the property in the condition it was received. There is a further obligation to account for every item in possession of the Service.

A second problem involves efficiency. Due to the large amount of property which is handled by the Service systems must be in place to do so efficiently.

These systems should provide for continuity of possession of evidence as well as the efficient and safe handling practices of property.

For these reasons the instructions contained in this chapter have been developed to provide an efficient and accountable system which may be applied in a manner suitable to each region.

4.2 References to legislation

Frequent reference to legislation is made which impacts on the contents of this chapter. This chapter should be read in conjunction with those statutes, which can be accessed from the legislation page on the QPS Corporate Intranet (Bulletin Board).

4.3 Definitions

For definitions see [Service Manuals Definitions](#).

4.4 Property system – general information

4.4.1 Property system objectives

Also refer to s. 687: 'Object of pt 3' of the *Police Powers and Responsibilities Act*.

POLICY

Property which comes into the possession of the Service should be retained for as short a period as possible prior to disposal. While in the possession of the Service, property is to be handled in an efficient, safe and accountable manner.

Members should ensure that continuity of possession of evidence is maintained.

Members should refer to s. 4.4.8: 'Safety considerations' of this chapter which addresses considerations relating to the importance of safety in the handling of property.

4.4.2 Property to be disposed of as soon as possible

Also refer to ss. 623: 'Right to inspect seized documents', 687: 'Object of pt 3', 688: 'Responsibilities of police officer taking possession of relevant thing' and 691: 'Return of relevant things' of the *Police Powers and Responsibilities Act* and s. 4.7.4: 'Retention of exhibits (generally)' of this chapter.

POLICY

Property coming into a member's possession is to be disposed of as soon as statutory provisions allow. When property is seized to provide evidence in a court or other proceedings, unless some reason exists which makes it desirable that a court view the exhibit, secondary evidence should be presented where possible.

Photographs should be taken of the property, necessary scientific or other examinations made and any other available secondary evidence gathered, as soon as reasonably practicable. The property should then be returned to the owner, destroyed, or otherwise disposed of as appropriate.

The only exceptions to this policy are where it is necessary to retain:

- (i) a relevant thing for a reasonable time:
 - (a) to prevent a person using the thing to cause harm to himself, herself or someone else;
 - (b) to prevent an offence or a breach of peace happening; or
 - (c) to prevent the thing being used for an act of domestic violence or associated domestic violence; or

(ii) a relevant thing the Commissioner is satisfied is inappropriate to return it because of the nature or value of the thing or the circumstances of the offence to which it relates (e.g. fibres taken from a carpet at a crime scene because the fibres have little value or clothing worn by a victim at the time of a sexual assault because of the distress returning the clothing to the victim may cause);

(iii) originals of documents when required as evidence, and which must be produced in original form;

(iv) property where a defendant or legal representative has indicated an intention to seek to have original evidence produced or independently tested; or

(v) property which is otherwise required to be kept by the provisions of this chapter or legislation.

Where more than one person is or may be charged with any offence(s), which involves the seizure of property, the reporting officer is to ensure that secondary evidence is gathered or, where appropriate, the property is retained until all proceedings are finalised or appeal periods, where applicable, have lapsed.

In the case of money, see s. 4.11.1: 'Australian currency' of this chapter.

4.4.3 Property procedures

POLICY

It is recognised that the peculiarities of different geographical areas of the State result in diverse limitations on the ability of members to store, transport and secure property. For this reason an approach has been developed which will allow officers in charge of regions or commands the flexibility to develop and maintain property storage and handling procedures consistent with the needs of their area of responsibility. Regional procedures will supplement the specific organisational standards for receiving, receipting, recording and disposing of property.

Members claiming property

POLICY

Members who come into possession of property as a consequence of their duty may not later claim that property.

Members absent from duty

ORDER

Where a member is absent from duty for an extended period, or is otherwise unable to meet any requirement of this chapter, that member's supervising officer is to either undertake the duty required, or assign another member to do so.

Where this chapter imposes a responsibility on a member to take any action or make any enquiry, that member is to record what action has been taken in a manner appropriate to the circumstances.

4.4.4 Documentation to be minimised

POLICY

An officer taking possession of property should, in most cases, complete a notebook entry or Field Property Receipt (QPB32A) and invite the person from whom the property was taken to countersign the notebook or receipt.

When a person signs a notebook or QPB32A, the act of signing is not intended to establish a lawful claim to the property by that person. It is simply an indication, where appropriate, that the person wishes to be given the opportunity to exercise a claim, or verify that the description of the property, as recorded by the officer is accurate.

4.4.5 Covert operations (property handling)

The provisions of Chapter 20: 'Other standard safeguards' of the *Police Powers and Responsibilities Act* do not apply to functions of a police officer performed in a covert way, including, for example, anything done under a covert search warrant (see s. 620: 'Chapter does not apply to covert operations' of the *Police Powers and Responsibilities Act*).

Sections of Chapter 20 relevant to property are:

s. 622: 'Receipt for seized property'

s. 623: 'Right to inspect seized documents'

s. 637: 'Supplying police officer's details'

POLICY

Officers performing duty as a covert operative in the course of an authorised covert operation, or otherwise undertaking a legitimate covert role, are exempted from the specific provisions of this chapter, provided that this exemption shall only apply when compliance with this chapter would jeopardise the success of the covert operation or the safety of the covert operative, or other persons.

ORDER

In instances where an officer obtains possession of property as a result of a covert operation or action, the officer who is the appointed exhibit officer for that operation is to assume the responsibilities of the reporting officer. Possession of

the property is to be passed from the covert operative to the appointed exhibit officer in accordance with the procedures set down in the relevant operational order.

4.4.6 Exercise of discretion

Also see ss. 4.8: 'Disposal of property' and 4.17: 'Recommended disposal or destruction methods of things' of this chapter.

POLICY

The procedures outlined in this chapter require certain officers to exercise their discretion in the disposal of property. When officers are authorised to exercise discretion, all care must be taken to obviate any adverse comment which could be directed at members or the Service due to an actual or apparent conflict of interest.

Situations which constitute a conflict of interest include, but are not limited to situations in which:

- (i) a friend, relative or business associate of an officer exercising discretion will benefit from the disposal of the thing;
- (ii) an organisation of which the officer is a past or present member is a potential recipient of the property, whether by purchase or donation;
- (iii) the item is of particular interest to an officer exercising discretion through personal interests such as a hobby;
- (iv) a friend, relative or business associate of an officer exercising discretion has a particular interest in the property through personal interest such as a hobby; and
- (v) any set of circumstances which may give rise to claims of an unfair advantage to any person or organisation, including an unfair advantage to the Service.

ORDER

Where officers are authorised to dispose of property at their discretion and an apparent conflict of interest arises, officers are not to dispose of the property. Officers are to forward a report setting out the circumstances of the matter to the next most senior officer in line control, who is to then assume responsibility for disposal.

4.4.7 Establishing value of property

POLICY

Authorisation for disposing of property is, in some instances, based on the value of the property. An officer who exercises any authority based on an estimate of property value must be satisfied that the estimate is substantially accurate. The nature of the property will dictate how the valuation is made. It may be necessary, in the case of rare items or items which require a professional valuation, to seek that estimation from a person with appropriate knowledge or qualifications in a particular field (also see s. 4.8.4: 'Disposal of things forfeited to the State' and Appendix 4.1: 'Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*' of this chapter).

For property that has no value refer to s. 4.7.14: 'Forfeiture of property considered to have no value' of this chapter.

4.4.8 Safety considerations

POLICY

Safe property handling practices and the safety of members of the Service and the public are of paramount importance.

Officers in charge should ensure that safe practices and property handling procedures (e.g. contaminated waste removal, procedures relating to hazardous property and communicable diseases) are in place at establishments under their control. This includes the provision of resources (e.g. sharp receptacles, gloves, signage/placards).

Members should also refer to the following Service documents relating to health and safety:

- (i) 'First Aid and Infection Control', and 'Management of Blood/Body Fluid Exposures and Skin Penetrations' within Safety and Wellbeing of the Human Resources Policies;
- (ii) ss. 2.8.2: 'Search (places)', Appendix 16.9: 'Guidelines for conducting personal searches', and Appendix 2.8: 'Risk control measures for conducting searches of places' of this Manual; and
- (iii) Competency Acquisition Program unit number QCW 007: 'Workplace Health and Safety: Practices and Procedures'.

See also s. 4.14.2: 'Dangerous/noxious things' of this chapter.

General safety procedures (summary)

To prevent or minimise exposure to risks associated with handling and storage of dangerous drugs and drug related things, the following precautions should be observed:

- (i) food should not be consumed in any area in which drug samples are stored;
- (ii) drug storage areas should be well ventilated with fresh air;

- (iii) to prevent dust build up, closed cupboards should be used in preference to open shelving for the storage of drugs;
- (iv) drugs should be sealed in suitable bags as soon as possible;
- (v) syringes and other sharp objects are to be placed in sharps disposal containers, or other suitable hard packaging;
- (vi) suitable protective gloves should be used at all times when handling any drugs or drug related things;
- (vii) Australian Standard AS 1716 active chemical cartridge type breathing masks should be worn at all times in unventilated property storage areas, and for any exposure to mouldy cannabis plants or material or air borne particles of powders and vapours of liquids; and
- (viii) on completion of handling any drug or drug related thing, members should immediately wash their hands, taking care not to touch the mouth or face with their hands until this is done.

Hazard control (use of personal protective equipment)

The hierarchy of hazard control methods, from most desirable to least desirable, is generally regarded to be:

- (i) removal of the hazard by design and engineering controls;
- (ii) substitution of the source of the hazard with a safer source;
- (iii) changing the process by which the source of the hazard is handled;
- (iv) enclosure or isolation of the process which creates the hazard;
- (v) removal of the source of the hazard;
- (vi) segregation of personnel from the source of the hazard; and
- (vii) providing personal protective equipment to minimise risk of exposure to the hazard.

Although use of personal protective equipment is the least desirable method of controlling exposure to hazards, and should be used as the last option, it is often the only method available to members involved with handling and storage of drugs.

Whilst levels of risk may vary with particular circumstances, members should always adopt the highest level of personal protection available. If a member has any doubts as to the suitability of personal protective equipment available to them for exposure to a particular drug, they should seek advice before subjecting themselves to such exposure.

4.5 Property points

ORDER

A member is not to store or hold any property at any place other than a property point which has been designated as such by the officer in charge of the region or command, or by these instructions as a point for the storage of that class of property.

Property to be stored in property points

ORDER

Members are to ensure property in the possession of the Service is stored at a declared property point and is not stored at any other location. Property may be removed from a property point in accordance with the instructions outlined in this chapter. However, this extends only to removal for specific purposes. Where applicable, it must be returned to the same or another property point as soon as possible.

4.5.1 Designation of property points

POLICY

An officer in charge of a region or command is to designate, in writing, police stations, police establishments or other places as points at which property is to be stored, or where a particular class of property is to be stored.

These designated property points are to apply in respect to property taken possession of or seized under the *Police Powers and Responsibilities Act* or any other Act or otherwise coming into the possession of police.

Unless a place is a police station or establishment, a property point is only to be designated with the consent of the occupier of the place.

PROCEDURE

Property points will normally be maintained at police stations or establishments, but may be maintained at any other location which meets the needs of the region or command and provides a safe and secure place for storage of property or a particular class of property.

Property points may include:

- (i) a secure room or rooms within a police station or establishment;
- (ii) vehicle holding yards, whether owned by the Commissioner or otherwise;
- (iii) livestock holding areas;
- (iv) bank night-safe facilities;
- (v) safes and drop safes installed at police stations or establishments; or
- (vi) any other secure location, either static or mobile, which meets the needs of a region or command for the safe storage of property, either permanently or for a limited period. An example may be the use of a mini-storage shed for a limited period after the closure of an operation.

POLICY

Property points may also be maintained jointly for the use of more than one division, district, or region.

4.5.2 Establishing property points (responsibilities of officers in charge of a station or establishment)

ORDER

Officers in charge of stations or establishments are to, when required by the officer in charge of a region or command, identify locations within the division which are suitable for use as property points. The officer in charge of the station or establishment is to furnish a report to the officer in charge of the region or command with the following information:

- (i) the location of the proposed property point;
- (ii) a description of the construction materials;
- (iii) internal layout, if the location is a room or facility;
- (iv) a description of all possible entry points;
- (v) security measures in place at the location;
- (vi) an assessment of any security installations which may be required, inclusive of any cost associated with establishing those arrangements;
- (vii) if the property point is, or includes a safe, the type and description of the safe;
- (viii) proposed access arrangements, including hours during which access will be available;
- (ix) staff required to operate the property point and access to analysis facilities;
- (x) types of property which would be suitable or unsuitable for storage at that point, the reasons for this assessment and disposal arrangements;
- (xi) recommendations as to which station or establishment the property point should be attached;
- (xii) recommendations as to which member is to be the property officer for a particular property point if a member other than the officer in charge is to be appointed as such;
- (xiii) availability of property handling equipment (e.g. night safe, heat sealing machine); and
- (xiv) any other budgetary considerations.

In the event that an officer in charge of a station or establishment is unable to identify any possible property points within the division, a report is to be submitted to the officer in charge of the region or command outlining that fact.

POLICY

If conditions at a property point change so that security, storage capability, access or safety is significantly affected, or if existing facilities are known to be inadequate, the officer in charge of the station or establishment should advise the officer in charge of the region or command as soon as possible.

The officer in charge of a region or command is responsible for implementing a system for the storage and handling of property within the region or command that is consistent with the standards in this chapter.

4.5.3 Appointment of property officers

Schedule 6: 'Dictionary' of the *Police Powers and Responsibilities Act* defines the term 'property officer'.

Delegation No. D 24.2 of the Handbook of Delegations and Authorities identifies the delegated power/function to appoint members as property officers.

POLICY

Where considered appropriate, officers in charge of regions or commands or district officers are to appoint a property officer for each designated property point within their area of responsibility.

If a property officer is not appointed for a particular property point, the officer in charge of the police station or police establishment in the district in which the property point is established is the property officer for the particular property point.

Where a property point is established at a place which is not a police station, the property officer is also responsible for the performance of duties required to be undertaken by the officer in charge of the police station/establishment in the district under this chapter.

4.5.4 Evidence Management, Public Safety Business Agency (PSBA)

POLICY

With respect to Evidence Management, , Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA, or any storage facility under the control of the officer in charge of that establishment:

- (i) the property officer will be the Officer in Charge, Evidence Management, , Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA, or the officer acting in that position;
- (ii) any responsibilities of the district officer will become the responsibility of the Executive Manager, , Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA; and
- (iii) any responsibilities of an officer in charge of a region or command will become the responsibility of the General Manager, Business Services Division, PSBA.

4.5.5 Regional property plans (responsibilities of officers in charge of a region or command)

PROCEDURE

In formulating a regional property plan, officers in charge of a region or command should undertake a regional evaluation which involves:

- (i) identifying any property storage and transport needs created by geographical factors which are peculiar to the region or command;
- (ii) identifying and taking into account any classes of property which are likely to come into possession of members in that region;
- (iii) reviewing locations presently in use as property rooms and identifying locations and sites which are potentially useful as property points;
- (iv) evaluating locations and sites and identifying those suitable for use as property points;
- (v) considering the occupational health and safety aspects of handling various classes of property, e.g. completion of the hazardous substances register and hazardous substance risk assessment;
- (vi) determining whether any potential property point is unsuitable for the storage of any particular class of property, e.g. for dangerous/noxious or hazardous substances;
- (vii) considering staff arrangements which allow the lodging of any class of property in accordance with the provisions of this chapter; and
- (viii) identifying the resources which are required to give effect to the provisions of this chapter, e.g. appropriate safety equipment, adequate storage facilities, and signage for dangerous/noxious or hazardous substances.

Format of property plans

ORDER

Officers in charge of regions or commands are to formulate written procedures which implement the instructions in this chapter within their region or command. They are to also disseminate those procedures to members under their control. The procedures are to be based on the requirements identified during the regional evaluation and are to comply with the provisions of this chapter. The procedures are to designate:

- (i) the places, locations, or sites which are to be used as property points;
- (ii) the member who is to act as the property officer at each property point;
- (iii) the classes of property that are not to be stored at each property point, e.g. drugs or dangerous/noxious or hazardous substances;
- (iv) the procedures for dealing with classes of property with no practical intrinsic value;
- (v) procedures for the transport and storage of property which will enable members within the region to lodge property at a property point without delay;
- (vi) the security arrangements which are to be in place at each property point;
- (vii) any safety procedures to be followed, e.g. emergency response plans, the use of ventilation equipment, the addition of signage or placards; and

(viii) the procedures to be adopted for disposal of property by auction in line with corporate guidelines.

Provision of resources (responsibilities of officers in charge of a region or command)

POLICY

Officers in charge of regions or commands should ensure that all resources necessary for the functioning of the regional property storage and disposal system are provided at the appropriate locations.

PROCEDURE

The following resources may be required to facilitate property plans:

- (i) appropriate forms;
- (ii) a supply of polytubing (continuous plastic roll), a heat-sealing machine and a set of scales suitable for weighing small amounts of drugs at all property points designated as suitable for the storage of drugs or drug utensils;
- (iii) a supply of property bags sufficient for the operational needs of all members within the region;
- (iv) the allocation of staff;
- (v) drop safes at police stations and establishments;
- (vi) vehicle holding areas which are accessible to all members for the lodging of vehicles;
- (vii) property handling equipment;
- (viii) a safe;
- (ix) a photocopier (see s. 623: 'Right to inspect seized documents' of the *Police Powers and Responsibilities Act*); and
- (x) safety equipment e.g. ventilation fans, signs or placards.

4.5.6 Responsibilities of officers in charge of a district

POLICY

District officers should act in a controlling role and have the responsibility of maintaining the integrity of property points and the property handling system as it affects the district. This should include, in addition to a complete annual audit and any audit of all property point holdings at the time of relinquishment of the role and functions of a property officer, periodic but less comprehensive inspections.

The performance of the controlling function should entail on-going monitoring of practices to ensure:

- (i) compliance by members with any legislation, the procedures in this Manual and local procedures;
- (ii) suitability of Service procedures to local needs;
- (iii) efficiency and suitability of local procedures; and
- (iv) that resources allocated to support property handling systems are appropriately allocated and used efficiently.

ORDER

Where the district officer becomes aware that:

- (i) legislation, or Service or local policies or orders relating to property are not being complied with; or
- (ii) Service or local procedures are not appropriate to meet local needs;

that officer is to take action, either managerial or disciplinary, to rectify the situation. Where the situation may not be remedied with district resources, the officer in charge of the district is to immediately report the matter to the officer in charge of the region.

4.5.7 Audit of property points

ORDER

Officers in charge of districts are to, at least once in every twelve month period, audit or ensure that every property point within the district is audited.

In addition to the annual audit, district officers are to audit all property point holdings at the time of relinquishment of the role and functions of a property officer.

During the course of an audit, the officer assigned to conduct the audit is to:

- (i) inspect the physical security of the property point;
- (ii) inspect the physical security of all safes, strong rooms or other security containers;
- (iii) evaluate any workplace health and safety issues and safeguards which are in place or which should be put in place;

(iv) ensure that all unfinalised property entries recorded in QPRIME in relation to property items stored at their particular property point correspond to property which is held at that property point or that an entry identifies the location of where the property is held;

(v) in cases where the property recorded in the unfinalised property entry is being held elsewhere than at that property point, the audit officer is to be satisfied of the veracity of the entry and whether the property should be returned with a view to disposal;

(vi) ensure that all property held at the property point is recorded in an unfinalised QPRIME property entry, or are at court, or at a place for the purposes of analysis (including any weapons and dangerous drugs);

(vii) inspect all receipt books and books of account relating to cash handling;

(viii) ensure that no property is stored or left in or around the property point which has not been processed according to the provisions of this chapter; and

(ix) ensure that the combination of any safe is changed more than once annually and when a property officer is transferred, or relieved of the duties of an appointed property officer.

See 'Property Management: Audit, Inventory Property' of the QPRIME User Guide.

See also s. 4.14: 'Action in special cases (weapons, weapon related things, ammunition, dangerous/noxious and potentially harmful things)' of this chapter.

4.5.8 Auditing officer

ORDER

When a district officer elects to delegate the duty of property point inspections to another officer, that duty is to be delegated to an officer of commissioned rank or an officer for the time being acting as a commissioned officer.

4.5.9 Minimum storage requirements

POLICY

The following table outlines the minimum storage requirements for various classes of property:

Class of property	Minimum standard of storage facility
Animals	<p>Adequate space or arrangements to allow the animal sufficient exercise consistent with the needs of that species.</p> <p>Shelter and sleeping area consistent with the needs of the particular species and relevant husbandry practices.</p> <p>Consideration should be given to the storage of animals in a local government pound.</p> <p>Also see s. 4.16.4: 'Caring for animals in police possession' of this chapter.</p>
Money and easily transportable valuables	<p>A keyed or combination safe to which no person, except the property officer and/or officer in charge of the station or establishment, has access.</p> <p>This does not preclude the use of a drop safe or bank night safe for after-hours lodgement of money.</p> <p>Secured in heat-sealed plastic bag or envelope with seal signed by investigating officer and property officer.</p>
Drug matter	<p>A lockable area separate from other property storage areas (also see s. 4.10: 'Action in special cases (drugs)' of this chapter). In the case of smaller items of drug matter, this need may be met with the use of a keyed or combination safe.</p> <p>Any property point, at which it is intended to store drug matter, should be provided with a supply of polytube plastic, a heat-sealing machine, large and small paper property bags, sealing tape and an accurate set of scales capable of measuring small quantities of drugs.</p> <p>The storage requirements for drugs should be considered in the light of the purpose and length of time that the drugs are required to be stored. Officers need to be mindful that the length of time required to store drugs must be kept to a minimum.</p> <p>Storage facilities at property points used for dangerous drugs should be ventilated using a suitable continuous exhaust fan and be isolated from any air conditioning used for general workplaces. The exhaust outlet for</p>

the fan should be situated well away from any inlet used for air conditioning.

Exposure to airborne fungal spores in drug storage facilities which do not have suitable exhaust fan(s) installed is to be considered a high risk, and appropriate precautions should be taken.

Cannabis plants or samples which still contain noticeable moisture are to be stored in 'Gar bags (DRY)' for larger amounts, or paper envelopes. The open ends of these bags or envelopes are, wherever possible, to be folded, stapled and sealed with tape. Packaging of green cannabis in plastic bags or other similar sealed containers may cause evidentiary value to be lost through deterioration of the material by rotting. Wherever possible, cannabis (particularly plants) should have all surface moisture removed by air drying before storage.

All other types of drug matter are to be secured in heat-sealed polytubing or a property bag.

Drug matter requiring analysis is to be packaged in a way which avoids cross-contamination. Individual items for analysis are to be packaged in separate plastic bags and the packaged items are then to be placed together in one heat sealed plastic bag. Items which are made up of a number of parts, such as a smoking utensil consisting of a bottle, a cone and a hose, are to be packaged as one item unless the parts were separate when originally seized.

Drug matter not requiring analysis is to be similarly packaged, but not placed in the same bag as drug matter requiring analysis.

Bags containing drug matter are to have the seal signed by the investigating officer wherever possible, property officer, and where the seal is broken for scientific examination and resealed, signed by the person making the scientific examination.

Vehicles

A fenced yard with lockable gates.

4.6 Receiving property

Field Property Receipt (QPB32A)

POLICY

The Field Property Receipt (QPB32A) is an accountable form and consists of an original and three copies. It is supplied in a book of ten forms. The primary function of the form is to provide a receipt for property received by members in the performance of their duty, and is intended to be used in the field wherever practicable. Correct use of the form minimises double entries of information relating to received property in notebooks and in the relevant QPRIME occurrence record. Where QPRIME is available and appropriate for use, a QPB32A is not to be used.

Structure of the form is as follows:

- (i) original (white) – to be retained by reporting officer;
- (ii) copy #1 (blue) – for O/C of reporting officer's station/establishment;
- (iii) copy #2 (pink) – to be given to person from whom property taken etc. (receipt copy); and
- (iv) copy #3 (buff) – to be attached to QP 0760: 'Property Receipt' and lodged with property item.

Where the property is not lodged immediately at a property point, the buff copy is to be attached to the property pending lodgement at the property point.

QPB32A may be issued for more than one thing

PROCEDURE

A single QPB32A may be issued for more than one thing taken possession of, provided the things:

- (i) relate to the same finder/incident;
- (ii) relate to the same suspect or warrant; or
- (iii) were taken from a person or place at the one time or during a single period of searching; and

the form contains an entry for each different thing, or for each different type of thing that can be described collectively.

Where the quantity of property taken possession of cannot be adequately described on the relevant space of the QPB32A, a separate list of the property should be made. The original and copies of such a list should:

- (i) include the QPB32A number to which they relate on each page;
- (ii) be numbered on each page sequentially; and
- (iii) be signed on each page by the reporting officer.

When completed, the original of the list should be attached to the original of the QPB32A, and a copy of the list should be attached to each of the copies of the QPB32A. Any such list forms part of the relevant copy of the QPB32A.

4.6.1 Initial responsibilities of reporting officer when taking possession of property

T The *Police Powers and Responsibilities Act* and s. 5: 'Receipt for seized property' of the Responsibilities Code contain provisions relating to the responsibilities of officers seizing or taking possession of property.

POLICY

A member who takes possession of property becomes the reporting officer and is responsible for correctly lodging the property at a property point as soon as reasonably practicable after taking possession of it, unless:

- (i) the property is earlier returned, destroyed or disposed of pursuant to an Act, law or Service policy; or
- (ii) it is necessary to keep the property for use during questioning or for an investigative procedure involving it. In such a case, the property is to be lodged at a property point as soon as reasonably practicable after the reason for keeping it ends.

The reporting officer is responsible for property taken possession of until such time that it is stored at a property point or until it is earlier returned, destroyed or disposed of pursuant to an Act, law or Service policy.

The reporting officer is also responsible for making or ensuring that all inquiries are made to locate any lawful claimant and to facilitate the lawful disposal of the property.

As soon as reasonably practicable after taking possession of property, the reporting officer is to complete a QPRIME property entry and:

- (i) a QPB32A: 'Field Property Receipt' for the property; or
- (ii) an entry in an official police notebook if a QPB32A is:
 - (a) not available; or
 - (b) is not otherwise required under this chapter and no other form of receipt or record of the property is required to be completed (e.g. an official notebook entry would not be required where an Official Receipt for money received as satisfaction of a warrant is completed);

at the scene and, if practicable, in the presence of the relevant person.

Entries made in a QPB32A, official police notebook or QPRIME property entry should not make reference to the relevant person as a suspect or similar term which may indicate that they are a suspect for any offence.

Recording description of property

POLICY

Descriptions of property entered in a QPB32A, official police notebook or QPRIME property entry should contain sufficient detail to clearly identify the item/s, and include, where applicable, model numbers, serial numbers or any other distinctive markings.

Any damage to or defects with the property should also be recorded in the entry. In some cases, it may also be prudent to have any damage or defects photographed as soon as practicable after the property is taken possession of.

Entries in the description field of the QPB32A should be ruled off after the last entry as applicable.

Circumstances where a QPB32A is not required to be completed

POLICY

A QPB32A is not required to be completed at any stage for any property or thing where the Official Police Notebook and/or a QPRIME entry is made at time of receiving the property. The exception to the use of the QPB32A, Official Police Notebook and/or QPRIME entry is:

- (i) that is not required as evidence:
 - (a) which is a vehicle for which the issue of a QP 0103: 'Notice to owner re seizure of vehicle or animal' is appropriate (see s. 4.15: 'Action in special cases (vehicles or loads or other things)' of this chapter); or
 - (b) and is money received as payment of bail, satisfaction of a warrant, or other over the counter transaction where a QP 0220A: 'Official Receipt' or a General Purpose Receipt is issued (see s. 4.11: 'Action in special cases (money)' of this Manual); or

(ii) that is required as evidence and:

(a) where applicable, a copy of a Property Register entry relating to the property is to be issued to the property officer for the property point at which the property was previously lodged (see s. 4.6.10: 'Property received from another property point' of this chapter); or

(b) the property has been taken possession of during a covert operation or under a covert search warrant (see s. 4.4.5: 'Covert operations (property handling)' of this chapter).

See ss. 2.3.6: 'Official police notebooks and diaries' of the Management Support Manual, 1.11: 'QPRIME occurrences' and 4.6: 'Receiving property' of this Manual.

4.6.2 Action where property taken possession of cannot be recorded at scene

ORDER

In circumstances where the quantity and type of property being taken possession of renders it impractical to accurately record the full description of the property at the location at which it is taken possession of (e.g. seizing large amounts of currency), a full description of property in the QPB32A (Field Property Receipt) or official police notebook entry completed at the time of taking possession of the property is not required. In such circumstances, reporting officers are to:

- (i) where practicable, securely seal the property in question in a suitable container(s) in the presence of the person from whom it was taken, if applicable;
- (ii) if practicable, ensure that a second officer, senior in rank to the reporting officer is present to witness the sealing process;
- (iii) sign and date the seal(s) and, if applicable, invite and allow the person from whom the property was taken to sign and date the seal(s). The witnessing officer is to also sign and date the seal(s);
- (iv) include in the relevant QPB32A or notebook entry a brief description of the property;
- (v) otherwise comply with the provisions of this chapter relating to receiving property;
- (vi) as soon as practicable after taking possession of the property, unseal the property and record a full description of it. In the case of money, this is to include a list of serial numbers and denominations;
- (vii) if practicable, ensure that a second officer, senior in rank to the reporting officer is present to witness the unsealing and recording process; and
- (viii) if applicable, invite and allow the relevant person to witness its unsealing and recording.

4.6.3 Action by reporting officer subsequent to taking possession of property

POLICY

Following the completion of a QPB32A (Field Property Receipt), official police notebook or QPRIME entry, the reporting officer is to:

- (i) invite and allow the relevant person to complete the declaration and acknowledgement at the bottom of the QPB32A, or sign the relevant section of the notebook. If possession of the item is of itself unlawful, this person is to be advised that the declaration as to whether the person wishes to claim the property on the QPB32A does not apply;
- (ii) explain to the relevant person that there is no obligation for them to sign the QPB32A or entry in the notebook;
- (iii) explain to that person that the purpose of signing QPB32A or notebook is to verify the details entered thereon by the reporting officer and, in appropriate cases, to indicate whether the person wishes to claim the property;
- (iv) as soon as reasonably practicable:
 - (a) give, or cause to be given to the relevant person the pink copy of the QPB32A; or
 - (b) if the property was taken possession of from premises and the occupier of the premises is not present, leave the pink copy of the QPB32A in a conspicuous place at the premises;
- (v) if a QPB32A is not completed at the time of taking possession of the property, advise the relevant person:
 - (a) that a photocopy detailing the property taken possession of will be given as soon as reasonably practicable after the property has been taken to an appropriate property point, regardless of whether that person has signed the notebook entry; and
 - (b) where the property is to be taken;
- (vi) if a QPB32A is not fully completed (e.g. in the case of a large quantity of property) at the time of taking possession of the property, advise the relevant person that a detailed list of the property will be forwarded as soon as reasonably practicable after the property has been taken to an appropriate property point and the property recorded, regardless of whether that person has signed the original QPB32A;

(vii) convey the property as soon as practicable to the nearest or most convenient property point designated as suitable for storing that type of property (see s. 688: 'Responsibilities of police officer taking possession of relevant thing' of the *Police Powers and Responsibilities Act*);

(viii) if a QPB32A was not completed, complete a QPB32A and, as soon as reasonably practicable, give or cause to be given to the relevant person the receipt (pink) copy of the QPB32A. This may include personal delivery, delivery by post or other suitable method, depending on the circumstances;

(ix) if a QPB32A was not fully completed (e.g. in the case of a large quantity of property), as soon as reasonably practicable complete a detailed list of the property and give or cause to be given to the relevant person a copy of the list. This may include personal delivery, delivery by post or other suitable method, depending on the circumstances. Also, ensure a copy of the list is attached to each copy of the relevant QPB32A (see section titled: 'QPB32A may be issued for more than one thing' under s. 4.6: 'Receiving property' of this chapter);

(x) ensure an appropriate QPRIME occurrence entry is made and each item of property in the QPRIME occurrence is tagged indicating the current location of the property see 'Property Management: Lodge Property' of the QPRIME User Guide;

(xi) generate a QP 0760: 'Property Receipt' from the QPRIME entry;

(xii) hand the property to the property officer or the person for the time being acting in that capacity or where there is no property officer, ensure the property is lodged at a property point in accordance with local procedures; and

(xiii) record the occurrence number onto the QPB32A; and:

(a) retain:

- the original of the QPB32A; and
- the original of the 'Property Receipt' entry; and

(b) distribute:

- the blue copy of the QPB32A to the reporting officer's officer in charge;
- the buff copy of the QPB32A to the property officer; and
- if applicable, the pink copy of the QPB32A to the relevant person (see paragraph (viii) above).

Paragraphs (v) to (xii) do not apply to members of the Fraud and Cyber Crime, State Crime Command who have taken possession of property which consists entirely of documents. Members of the Fraud and Cyber Crime, State Crime Command should ensure that the property is entered in QPRIME and a receipt is forwarded as per paragraph (iv) above.

Action where QPB32A or official police notebook entry not required

Where property is taken possession of for which a QPB32A or an official police notebook entry is not required and:

(i) the property is required to be retained; and

(ii) there is no other scheme in place for the retention of the property (e.g. property of a prisoner pursuant to s. 4.6.16: 'Property of persons detained or arrested' of this chapter);

the reporting officer should comply with points (vii), (x) and (xi) immediately above with respect to that property.

4.6.4 Action on taking possession of drug matter

ORDER

Officers who seize drug matter are to ensure that an entry concerning the drug matter is recorded in QPRIME for the relevant offence (see s. 1.11: 'QPRIME (Policelink entered occurrences)' of this Manual) before the property is stored at the property point.

POLICY

This section does not apply to drug matter destroyed pursuant to s. 705: 'Destruction of drug matter soon after seizure' or disposed of pursuant to s. 707: 'Alternative to destruction if drug matter is thing used in the commission of a drug offence' of the *Police Powers and Responsibilities Act*.

POLICY

Officers who seize or take possession of property which consists wholly or partly of drug matter should:

(i) place that property in a suitable property bag;

(ii) seal the bag;

(iii) enter the following information on the bag:

- (a) the officer's name, rank, registered number and station;
- (b) the date and time of taking possession of the property;

- (c) if applicable, the name and address of the person from whom the property was taken; and
- (d) a full and complete description of the property (see 'Standardised drug descriptors' in s. 4.10: 'Drugs and drug utensils' of this chapter); and

(iv) if applicable:

- (a) warn the person that they are not obliged to sign the bag; and
- (b) invite the person from whom the property was taken to sign the bag at an appropriate position on the bag.

Officers taking possession of drug matter that:

- (i) is too large to fit into a property bag; or
- (ii) possesses features that would make storage in a property bag undesirable and unsafe;

should seek advice from the officer in charge of the property point as to the need to contain such property and the most suitable method of containing or wrapping the property. An example of such property may include large glass beakers used in the preparation of some drugs.

4.6.5 Receiving suspected dangerous drugs from Queensland Health employees

POLICY

When police are contacted by Queensland Health employees who state they have received from any person or located a suspected dangerous drug in the course of their duties:

- (i) where the quantity of the dangerous drug is reasonably believed to be more than the quantity specified in Schedule 3 of the Drugs Misuse Regulation; or
- (ii) where the quantity of the dangerous drug is reasonably believed to be less than the quantity specified in Schedule 3 of the Drugs Misuse Regulation, and it is believed that sufficient evidence exists which could lead to the successful prosecution of an offender in relation to the dangerous drugs, (see also section: 'Queensland Health employees assisting police with investigations in relation to located dangerous drugs');

officers are to:

- (a) attend at the location;
- (b) take possession of the suspected dangerous drug;
- (c) investigate the circumstances surrounding the location or receiving of the dangerous drug with a view to prosecuting an offender; and
- (d) subsequently dispose of the dangerous drug in accordance with relevant Service policy. See ss. 4.8: 'Disposal of property' and 4.10.5: 'Applications for forfeiture orders (drug matter)' of this Manual; and

(iii) where the quantity of the dangerous drug is reasonably believed to be less than the quantity specified in Schedule 3 of the Drugs Misuse Regulation, and it is believed insufficient evidence exists for the successful prosecution of an offender in relation to the dangerous drugs, (see also section: 'Queensland Health employees assisting police with investigations in relation to located dangerous drugs') officers are to advise the Queensland Health employee:

- (a) that police will not be taking possession of the suspected dangerous drug; and
- (b) to dispose of the drug in accordance with s. 125: 'Prescribed persons permitted to receive and dispose of dangerous drugs' of the *Drugs Misuse Act*.

Section 125: 'Prescribed persons permitted to receive and dispose of dangerous drugs', of the *Drugs Misuse Act*, authorises persons from Queensland Health to receive and later dispose of anything which is believed to be a dangerous drug from any person. This applies to all suspected dangerous drugs, providing the quantity of the drug received is suspected to be less than the quantity specified in the Drugs Misuse Regulation, Schedule 3: 'Specified quantities for particular dangerous drugs'.

Queensland Health employees assisting police with investigations in relation to located dangerous drugs

Section 142: 'Confidential information may not be disclosed' of the *Hospital and Health Boards Act*, requires Queensland Health employees to preserve confidentiality of a person who is in receipt of a health service. As a result, nursing and other health employees cannot pass onto police directly or indirectly, any information about persons acquired in the course of their duties and which could identify a person who is receiving or has received a public sector health service.

POLICY

Officers are to be mindful of the limitations on nursing and other health employees to supply police with information in relation to the circumstances of receiving dangerous drugs from persons in the course of their duties.

Officers are to take these factors into consideration when determining the likelihood of sufficient evidence existing for the successful prosecution of an offender. This factor will then determine whether police should attend the location nominated by a Queensland Health employee and collect the suspected dangerous drugs or advise Queensland Health to dispose of the drugs in compliance with s. 125 of the *Drugs Misuse Act*.

4.6.6 Enquiries to be made by reporting officer

Also refer to s. 688: 'Responsibilities of police officer taking possession of relevant thing' of the *Police Powers and Responsibilities Act*.

ORDER

When a member takes possession of property, and the rightful owner of the property is not known, that member is to make full enquiries to locate all lawful claimants to the property. Enquiries are to include, where appropriate a thorough check of all Service computer systems which may provide information about the property or the owner.

However, a reporting officer who believes that, because of the nature of a thing, it may not be appropriate to return it to its owner or person who had lawful possession of it before it came into police possession, is to seek a direction from their officer in charge as to whether the thing should be returned.

Officers in charge who receive a request for a direction under this policy and who are satisfied that it is not appropriate to return the thing to its owner or person who had lawful possession of it before it came into police possession, are to:

- (i) advise the requesting officer of their decision;
- (ii) make an order that the thing be forfeited to the State (see s. 4.7.9: 'Forfeiture orders' of this chapter); and
- (iii) direct that the thing be disposed of by destruction (see s. 4.8.4: 'Disposal of things forfeited to the State' of this chapter).

Example

It may be deemed inappropriate to return clothing worn by a victim at the time of a sexual assault because of the distress returning the clothing to the victim may cause.

4.6.7 Responsibilities of property officers

Section 67: 'Functions of a property officer' of the Responsibilities Code contains provisions relating to the responsibilities of property officers.

Additionally, this chapter provides authority for property officers to destroy or dispose of property.

POLICY

Appointed property officers should be responsible for the efficient management of the property points under their control. This includes establishing and/or maintaining procedures for recording the movement of all property coming into and leaving that property point. Property officers should also be responsible, subject to available resources, for storing all property in a manner which is secure and safe, as well as providing advice to their officer in charge regarding any inadequacies of the property point.

ORDER

With respect to property lodged at their property point, property officers who discover any discrepancies or signs of tampering with:

- (i) property consisting of drugs or drug related utensils, are to immediately advise their officer in charge and the regional duty officer or other commissioned officer in charge; or
- (ii) other property, are to advise their officer in charge as soon as reasonably practicable.

Staff members (authorisation to possess dangerous drugs and weapons)

POLICY

Staff members performing duties of a property officer are authorised under s. 125: 'Prescribed persons permitted to receive and dispose of dangerous drugs' of the *Drugs Misuse Act* to have possession of a dangerous drug whilst actually performing these duties.

For Service policy on possession of Service weapons by staff members, see s. 14.4.2: 'Staff members – authorisation to possess or use weapons as part of the performance of their duty' of this Manual.

4.6.8 Action by property officer on receipt of property

A property officer who receives property of a class that does not have a QPB32A completed is to complete a QPRIME occurrence in relation to the property ensuring that the description of the property as entered is correct and comply with the provisions set out in (i) to (viii) below, with the exception of those provisions which refer to an action required with respect to a QPB32A.

PROCEDURE

When any member lodges property at a property point for which a QPB32A has been issued, the property officer should:

- (i) receive the property, ensuring that it is accompanied by the buff copy of a completed QPB32A;
- (ii) ensure that the property corresponds with the description of the property as entered on the QPB32A. Where the description of the property received is inconsistent with the property described on the QPB32A the property officer should:
 - (a) advise the reporting officer of the inconsistency;
 - (b) request the reporting officer to make and initial any necessary changes to the description of the property on the property point copy of the QPB32A; and
 - (c) countersign the change to the entry;
- (iii) ensure an appropriate QPRIME occurrence has been created and each item of property has been tagged within 'Stores Management' of the occurrence. Update each individual item of property in QPRIME indicating its movement see QPRIME User Guide;
- (iv) where the property consists of drugs or drug related utensils which are not received in a property bag, seal the property in a property bag(s), ensuring utensils are sealed separately from drugs, and have the reporting officer endorse the property bag(s) accordingly;
- (v) where the property consists of drugs or drug related utensils which are already contained in a sealed property bag, ensure that the seal of the bag is intact and the bag shows no signs of being tampered with. Where the seal of a sealed bag is not intact:
 - (a) make inquiries as to why the seal is not intact. If satisfied from inquiries that the seal had not been broken unlawfully or in contravention of Service policy:
 - accept the property and make an appropriate notation in the QPRIME occurrence;
 - seal the property in another property bag or, where possible, reseal the original property bag;
 - have the reporting officer endorse the property bag accordingly; and
 - immediately advise the regional duty officer or other commissioned officer in charge of the matter;or
 - (b) and any doubts exist as to why the seal is not intact, avoid handling the bag without gloves and immediately advise the regional duty officer or other commissioned officer in charge of the matter; and
- (viii) where the property consists of drugs or drug related utensils and the bag, other than the seal, in which they are stored shows signs of having been tampered with, avoid handling the bag without gloves and immediately advise the regional duty officer or other commissioned officer in charge of the matter.

4.6.9 Action by property officer subsequent to receipt of property

ORDER

After receiving property and ensuring the appropriate QPRIME occurrence in relation to the property has been entered and the property movement details updated, the property officer is to, as soon as reasonably practicable thereafter:

- (i) print the QP 0760: 'Property Receipt' from the QPRIME entry;
- (ii) hand a copy of the QP 0760: 'Property Receipt' to the officer lodging the property;
- (iii) securely attach a copy the QP 0760: 'Property Receipt' to the property in a conspicuous place. If a QPB32A (Field Property Receipt) has been issued for the property, join copies of both the QP 0760: 'Property Receipt' and the QPB32A together before securely attaching both to the property;
- (iv) if a QPB32A has not been issued for the property, give or cause to be given to the relevant person a copy of the QP 0760: 'Property Receipt';
- (v) store the property;
- (vi) where a QPB32A has been completed and issued, scan a copy of the QPB32A as an attachment to the relevant QPRIME occurrence;
- (vii) update the storage details for the property in the QPRIME occurrence (see QPRIME User Guide); and
- (viii) in the case of property seized in connection with a coronial investigation, ensure the QPRIME expected disposal date for the property is changed from 60 days to 180 days, from the date the property was taken possession of, to allow for finalisation of the coronial findings and for the Coronial Support Unit to upload coronial findings to the relevant QPRIME occurrence (see QPRIME User Guide).

4.6.10 Property received from another property point

ORDER

Where property officers receive property which has previously been stored at another property point, they are to update the movement details for the property item in 'Stores Management' within QPRIME. Where appropriate, include the name of the corresponding station/establishment.

4.6.11 Test/examination of property

Sections 618: 'Power to examine seized things' and 619: 'Extent of power to examine seized things' of the *Police Powers and Responsibilities Act* contain provisions relating to the seizure and examination of things seized under that Act.

Section 618 provides that the power to seize a thing under the *Police Powers and Responsibilities Act* includes and always has included a power to examine a thing and power to arrange someone else to examine the thing.

Section 619 provides that the power to examine the thing seized under the *Police Powers and Responsibilities Act* includes, and always has included, a power to do something that is reasonably necessary for, or as part of, a scientific or other investigative procedure involving the thing, even though doing the thing may damage the thing or destroy it.

Examples include:

- (i) performing an analysis involving the thing;
- (ii) making an appraisal of the thing;
- (iii) inspecting the thing;
- (iv) perusing the thing;
- (v) scanning the thing; and
- (vi) sifting the thing.

POLICY

Members performing any examination of a thing seized under the *Police Powers and Responsibilities Act* may perform such examination in accordance with the provisions of ss. 618 and 619.

ORDER

Property officers are to ensure that when any test or examination of property is conducted within the property point (excluding tests or examinations conducted on a vehicle held in a property point which is a vehicle holding yard), the property officer, or other member performing duty at the property point, is in attendance during that examination.

4.6.12 Temporary removal of property from property points

POLICY

Property should not ordinarily be removed from a property point unless the removal is for the purposes of disposal. Exceptions to this policy include removing property for court purposes, or for the purpose of any test, examination, or analysis which cannot be undertaken at the property point. Generally, where any test, examination, analysis or similar action required of the property can reasonably be undertaken at the property point, that action should be taken.

ORDER

A member who temporarily removes property, or part of some property from a property point is to ensure that, at the time of the removal, the 'Stores Management' tab of the relevant property entry in the QPRIME occurrence is updated, showing:

- (i) the date the property is removed;
- (ii) an indication that the property has been removed;
- (iii) a description of the property removed;
- (iv) their name and rank/designation; and
- (v) the reason for removing the property.

See QPRIME User Guide.

POLICY

The above order does not apply in instances where the member concerned does not have immediate access to the QPRIME occurrence. In such a case, the member is to ensure that the relevant QPRIME occurrence is updated as soon as practicable after the removal.

A member who removes property from a property point for the purpose of delivering that property to non-Queensland Police Service personnel (e.g. Office of the Director of Public Prosecutions) and delivers that property, is to obtain a receipt from the recipient listing all property received. That receipt is to be returned to the property point from where the

property was removed, and the property officer, or other member performing duty at the property point is to scan the receipt as an attachment to the relevant QPRIME occurrence.

Also see s. 3.8.20: 'Delivery of documentary exhibits to the Office of the Director of Public Prosecutions' of this Manual.

A member who removes property from a property point is solely responsible for that property during the time that it is shown in the QPRIME occurrence as being out of the property point. A member who removes property from a property point is to return that property to a property point immediately it is no longer required to be out of the property point unless the property is finalised in accordance with s. 4.6.14: 'Finalising a property entry in QPRIME' of this chapter.

Forensic Examination

POLICY

Where property/exhibits that require internal forensic examination i.e. forensic examination by an organisational unit within the Queensland Police Service, are removed from a property point, the original reporting officer is to ensure that a general report is tasked within the QPRIME occurrence to the organisational unit conducting the examination outlining:

- (i) date and type of court proceedings (if known);
- (ii) court location and file no (if known);
- (iii) date exhibit seized;
- (iv) whether the exhibit(s) pose any known biohazard or high chemical risk (if yes provide details);
- (v) has exhibit(s) been stored within fridge or freezer prior to submission;
- (vi) examinations required and order of testing priority; and
- (vii) exhibit return/disposal – authorisation (if appropriate).

Where property/exhibits that require external forensic examination i.e. forensic examination by an organisation outside of the Queensland Police Service (e.g. Queensland Health Scientific Services), are removed from a property point the original reporting officer is to ensure that a 'Submission of Articles for Forensic Examination' form (QP 0127) is completed and where appropriate checked by a forensic officer. See s. 2.19.6: 'Lodgement of forensic samples for testing' of this Manual. The original QP 0127 is to accompany the property and the property office copy is to be scanned as an attachment to the relevant QPRIME occurrence.

Where property lodged and examined at Queensland Health Scientific Services or other place is required to be returned to the Queensland Police Service, the property officer at the original property point where the property was last held prior to lodgement at Queensland Health Scientific Services or other place, is responsible for arranging for the return of the property to the property point.

4.6.13 Finalising a property entry in QPRIME

POLICY

A property entry in QPRIME is considered finalised when:

- (i) documentation has been received and either filed at the property office or station/establishment or where required, scanned and attached to the relevant QPRIME occurrence. Such documentation is to indicate that each and every item of property to which the entry, including, if applicable, the relevant QPB32A, refers has been disposed of or has been stored at another property point. Documentation of this type includes, but is not limited to:
 - (a) an indemnity receipt from a person or member to whom the property has been delivered;
 - (b) a receipt showing the property has been received at the Forensic Chemistry Section;
 - (c) a receipt from a State Environmental Health Officer, local Health Inspector, Hospital Superintendent or Government Medical Officer indicating that the property has been destroyed;
 - (d) a QPB32A from another property point to which the property has been taken;
 - (e) a receipt from courthouse staff indicating that the property has been admitted as an exhibit, and retained by the court; or
 - (f) the receipt from a member who has destroyed the property; and
- (ii) fully complete the 'Dispose' tab within 'Stores Management' for the QPRIME entry.

Form of receipt for destroyed property

The form of receipt for destroyed property, as required in paragraphs (iii) and (vi) above may include:

- (i) a copy of a suitable entry in police notebook;
- (ii) a direct entry in the 'Dispose' tab within 'Stores Management' for the QPRIME entry; or
- (iii) a separate document;

signed by the person declaring the property, listed in the relevant entry, has been destroyed.

Finalising property in QPRIME

ORDER

When each and every entry of property is finalised, the property officer is to ensure that all property items within the relevant QPRIME occurrence are appropriately finalised using the 'Dispose' tab within 'Stores Management' see also 'Property Management: Audit, Inventory Property' of the QPRIME User Guide.

Members cannot complete the 'Dispose' tab within 'Stores Management' for a QPRIME property entry unless they are the appointed property officer for that property point, or are acting in that position. Members are not to complete the 'Dispose' tab within 'Stores Management' for a QPRIME property entry unless they have received documentation which indicates that all items of property to which that entry refers has been disposed of, moved to another property point, or has been disposed of by a court.

4.6.14 Supplying disposal documentation

ORDER

Members who dispose of an item of property, in addition to complying with all other provisions of this chapter, are to obtain the documentation generated by the disposal of the property and deliver or forward that documentation to the relevant property officer as soon as possible.

4.6.15 Corroboration required for the seizure and handling of property

For the purpose of this section the term 'high risk property' includes property that is not easily identifiable and is easily transportable and or convertible to cash. Money and illicit drugs are the major risks.

The importance of corroboration in the handling of property (from the point of seizure until its disposal), cannot be overstated. Whilst the *Police Powers and Responsibilities Act* and *Police Powers and Responsibilities Regulation* set out the mandatory legislative powers and responsibilities for police when seizing and later dealing with property, additional corroborative practices should be sought wherever possible to reduce allegations of corrupt or improper activities.

Types of corroboration include:

- (i) notifying the relevant Police Communications Centre that property has been taken possession of;
- (ii) sealing items of property in property bags, preferably at the scene (the term 'property bag' is defined in the Service Manuals Definitions);
- (iii) the presence of any person at the time of seizure or handling including:
 - (a) a suspect;
 - (b) another officer;
 - (c) a commissioned officer; and/or
 - (d) an independent person; and/or
- (iv) the use of audio, video and/or photographic equipment. It is good practice to record the counting of seized money with video equipment at the scene in a continuous manner. The footage should depict the scene and remain static during the counting process.

These corroborative practices are listed from least to most effective and officers are not restricted to using only one.

Officers undertaking an emergency search and seizure of property are required to make risk assessments at the scene and adopt appropriate corroborative practices. These are likely to be those available at short notice. In the majority of cases however, officers will have the benefit of time, which allows for planning, and a greater range of extra corroborative practices can be considered (also see s. 2.8: 'Entry, Search and Seizure' of this Manual).

Example

Where the execution of a search warrant is likely to result in the seizure of a large quantity of high risk property, it may be appropriate to organise corroborating practices including corroborating officer(s); a commissioned officer, placing seized property within property bags at the scene and the use of audio, video and photographic equipment.

POLICY

Whenever a member intends to seize, handle or dispose of property, they should conduct a risk assessment to determine what level of corroborative practices should be adopted.

Officers should consider all options available and choose the most suitable level of corroboration available within the constraints of time, place and circumstances. Although, ideally, the highest level of corroboration should be adopted for all types of property, it is recognised that this is not always possible. High risk property, however, should always attract adoption of the highest level of corroboration possible.

PROCEDURE

The risk assessment process is outlined in Chapter 15: 'Risk Management' of this Manual, however with respect to corroboration and the handling of property the following points should be considered:

Identification of risks

The risks associated with the handling of the property should be identified. Depending on the circumstances, risks may include:

- (i) the possibility of loss or damage to the property;
- (ii) problems with security and the continued chain of possession; and
- (iii) the potential allegations of misconduct (e.g. allegations of disparity between the property lodged and that seized or taken possession of).

Risk analysis

After the potential risks involved in dealing with the property are identified, the following issues should be considered:

- (i) does the property fall within the category of 'high risk property'?
- (ii) what is the probability of a risk related event actually occurring given the time, place and circumstances surrounding the seizure, handling or disposal of the property?
- (iii) what is the cost involved to the officer and the Service if it does occur?; and
- (iv) what are the costs (in time and resources) involved in using different corroborative practices to minimise the risks identified?

4.6.16 Property of persons detained or arrested

POLICY

Persons who are arrested or detained are often in possession of property which, if left unsecured or unattended, could be stolen or damaged. Although officers are to deal expeditiously with the person arrested or detained, the offenders, wherever practicable, should be afforded the opportunity of securing property in their possession or making suitable arrangements for its safekeeping. Measures taken may include the locking of residences, premises or motor vehicles or allowing the person to make arrangements for the towing or removal of a vehicle.

Persons in custody are to be informed that they are fully responsible for any costs which may arise and that the Service is in no way responsible for any charges in respect of the storage of property or the towing of vehicles.

When officers making an arrest or detaining a person consider that the offender is incapable of making a rational decision because of some apparent mental or other disability, that member is to take the necessary action to ensure the safekeeping of the person's property.

When the person detained is in possession of personal items of property such as luggage, etc., which cannot be secured or left in the care of a person acceptable to the detainee, that property is to accompany the detainee, and in cases where the detainee is conveyed to a watchhouse, it is to be processed and accounted for in accordance with 'Property of prisoners' of this Manual.

Property of prisoners

POLICY

The receiving officer is to ensure that property taken from a prisoner at the watchhouse is accurately recorded in the relevant Custody Report (Full) entry in QPRIME for that prisoner.

PROCEDURE

The receiving officer is to:

- (i) itemise in the QPRIME Custody Report (Full) each article taken from a prisoner;
- (ii) ensure that the prisoner makes a suitable notation if the prisoner requires all or part of that prisoner's property to be given to another person, and obtain a signature (electronic or otherwise) from the person receiving the property against the relevant QPRIME Custody Report (Full) entry;
- (iii) record any additional property delivered to a prisoner against the QPRIME Custody Report (Full) entry for that prisoner;
- (iv) request the prisoner provide an electronic or other signature in the QPRIME Custody Report (Full) entry in respect of property returned when the prisoner is released from custody; and
- (v) where possible, if a prisoner is unable or refuses to sign the QPRIME Custody Report (Full) entry, return the prisoner's property in the presence of another police officer or watchhouse officer and record the procedure against the relevant QPRIME Custody Report (Full) entry in the Detention log.

POLICY

On commencing duty, the watchhouse manager is to ensure that a check of prisoners' property is undertaken and is to report any discrepancy to the regional duty officer, patrol group Inspector or district duty officer as soon as practicable.

4.7 Storage and handling of property

4.7.1 Storage of property

POLICY

Different types and classes of property impose various conditions in terms of storage, handling and disposal. In addition, certain legislation imposes obligations on an officer seizing property under that legislation. It is the responsibility of the reporting officer to comply with the provisions of any legislation which imposes such an obligation.

ORDER

The reporting officer is to make all enquiries and to arrange all tests or examinations so as to facilitate the lawful disposal of any property. Regional arrangements may require that the actual disposal of a particular class of property be undertaken by a person other than the reporting officer. In the above cases, the responsibility for disposal remains with the reporting officer.

When a property officer is required, or elects to destroy property in accordance with the provisions of this chapter, the responsibility for its disposal by destruction rests with that property officer.

Where reporting officers or property officers are, for any reason, unable to fulfil their responsibilities pursuant to this chapter, the *Police Powers and Responsibilities Act* or the Responsibilities Code, officers in charge are to ensure that these responsibilities are met by another member.

(See also ss. 4.4.2: 'Property to be disposed of as soon as possible' and 4.4.8: 'Safety considerations' of this Manual).

4.7.2 Dealing with exhibits

Chapter 21, Part 3: 'Dealing with things in the possession of Police Service' of the *Police Powers and Responsibilities Act*, and Part 8: 'Dealing with things in the possession of Police Service' of the Responsibilities Code specifically relate to the retention and disposal of things seized under the *Police Powers and Responsibilities Act*.

POLICY

Except in the case of documents, or where otherwise indicated in this chapter, members should not retain exhibits for production in court but should have them available and offer secondary evidence in place thereof. Where it is necessary to produce the original of any document as proof of the contents thereof, and where the document is available, secondary evidence may not be accepted. In all other cases, members should present secondary evidence unless compelling reasons exist to retain the property in kind, including a requirement of the legislation under which the property was seized.

The decision to retain property as an exhibit, or to dispose of it and present secondary evidence, rests with the reporting officer. While it is the policy of the Service to present secondary evidence wherever possible, it is recognised that in some cases it will be desirable to present the original exhibit.

Members considering the retention or disposal of exhibits should attempt to minimise any inconvenience to the owner of the property. It is desirable that in all cases exhibits should be returned to the owner, except in cases where compelling reasons exist not to do so, or where there is some reason to believe that returning the property to the owner will affect the outcome of the case.

Members should consider returning the property to the owner and seek from that person an undertaking that they will produce the property before a court in any later proceeding involving the property. Such an undertaking may be requested as a condition of an order made relating to the return of property pursuant to s. 696: 'Orders issuer may make in relation to seized thing' of the *Police Powers and Responsibilities Act* and s. 68: 'Order after property seized' of the Responsibilities Code, or may be sought from the owner of the property at the discretion of the member concerned. A Form QP0698: 'Undertaking to produce a thing before a Court' available from QPS Forms Select may be used for the purpose of having the owner of the property produce the thing(s) to a court.

In the case of drugs and drug utensils see s. 4.7.1: 'Storage of property' and s. 4.10: 'Action in special cases – drugs' of this Manual.

4.7.3 Seizure of documents

POLICY

A member taking possession of a document should attempt to minimise any disruption caused by the seizure of that document to the commercial activity of the person or company from whom the document is taken.

ORDER

Reporting officers who seize documents are to, in addition to other requirements of this Manual and legislation relating to the seizure of property, ensure compliance with the provisions of s. 623: 'Right to inspect seized documents' of the *Police Powers and Responsibilities Act*.

4.7.4 Retention of exhibits (generally)

See s. 687: 'Object of pt 3' of the *Police Powers and Responsibilities Act*, and s. 4.4.2: 'Property to be disposed of as soon as possible' of this chapter.

ORDER

Reporting officers, with respect to any seized property, are to comply with the provisions of s. 691: 'Return of relevant things' of the *Police Powers and Responsibilities Act*.

Where it is considered desirable to retain seized property, the reporting officer is to seek an appropriate order pursuant to s. 695: 'Application for order in relation to seized things' of the *Police Powers and Responsibilities Act* and s. 57: 'Order after property seized' of the Responsibilities Code.

POLICY

Exhibits may be retained where compelling reasons exist. This will include instances where circumstances dictate that it is necessary or highly desirable that the property should be viewed by a court or jury.

Reasons for which it may be desirable to retain the original evidence include circumstances where:

- (i) the exhibit is a murder weapon;
- (ii) the exhibit is a document or money which must be retained in original form for evidentiary/court purposes (including 'tainted' property);
- (iii) in the case of an offence involving property, the suspect denies the charge and maintains a claim to the property;
- (iv) the exhibit has certain characteristics which would tend to prove a matter before a court, and where those characteristics cannot be explained or presented in another way;
- (v) the exhibit appears to be the subject of contentious or conflicting opinions by expert witnesses; or
- (vi) the suspect or the suspect's legal representative has indicated a desire to have the exhibit independently tested, examined or analysed.

In all cases where an officer elects to retain an exhibit rather than present secondary evidence, the officer should be in a position to justify the decision to do so, consistent with the provisions of this chapter.

When no longer required to be retained, investigating officers should dispose of such exhibits in accordance with s. 4.8: 'Disposal of property' of this chapter unless otherwise directed by an order of a court.

4.7.5 Extended retention of exhibits

Generally, exhibits which have been seized and retained in respect of an investigation which has concluded with no suspect being identified and where there is little or no likelihood of identifying a suspect should be disposed of.

However, it may be necessary to retain exhibits for extended periods of time in cases of serious offences where no suspect has been identified, or where a suspect is known to have absconded and the matter is, for the time being, inactive. In such instances, these exhibits and original copies of any related documents such as statements and certificates are required to be securely stored. The following policy provides a consistent approach to this issue whilst allowing cognisance of relevant regional considerations.

POLICY

The investigating officer with respect to an investigation which has been inactive for an extended period of time and for which, because of the nature of the matter, it is desirable to retain exhibits and any related documents, should ensure that:

- (i) any exhibits relating to the investigation which are still desirable to be retained for evidentiary purposes; and/or
- (ii) any statements and other documents relevant to the investigation to which the exhibits relate;

are lodged at an appropriate regional property point nominated for this purpose.

An 'extended period of time' for this policy is:

- (i) 12 months after the date the last inquiry was made with respect to the matter; or
- (ii) a period of time less than 12 months after the inquiry was made with respect to the matter in circumstances which the investigating officer reasonably believes is appropriate in the circumstances.

Investigating officers are to notify the relevant property officer of any property item within QPRIME that relates to an investigation which has been inactive for an extended period of time.

Officers in charge of regions or commands should ensure that a property point or property points within their respective areas are identified and nominated in their regional property plan as being appropriate for the lodgement of exhibits and accompanying documents for the purposes of this policy.

4.7.6 Prosecutor to request order at end of hearing or trial

Property which has come into the possession or custody of a court in connection with any charge, or has been retained by the reporting officer, should be disposed of in accordance with an order made by the relevant court.

POLICY

Police prosecutors responsible for presenting a case are to, wherever applicable, make an application for an order from the court, pursuant to s. 701: 'Disposal of seized things at end of proceeding' of the *Police Powers and Responsibilities Act*, relating to the disposal of property which has been retained by police at the completion of the hearing.

Arresting officers should, where appropriate, discuss with the responsible prosecutor (including Office of the Director of Public Prosecutions prosecutors) the type of order relating to the disposal of property which is to be sought from the court.

Types of orders, which may be sought, include:

- (i) an order for the return, forfeiture, destruction or disposal of the property;
- (ii) an order that the property be dealt with by way of a proceeding under ss. 693: 'Application by owner etc. for return of relevant things' or 694: 'Application by police officer for order if ownership dispute' of the *Police Powers and Responsibilities Act*, or a forfeiture proceeding; or
- (iii) an order that the Service retain the thing until it is dealt with according to law.

Where an order relating to property is made under s. 701 of the *Police Powers and Responsibilities Act* the police prosecutor who applied for the order is to advise the officer in charge of the arresting officer's station by sending a task within QPRIME that the order has been made, and of the terms of the order.

Officers in charge who are advised that an order under this policy has been made with respect to property for which an officer under their control is responsible are to ensure that the terms of the order are complied with as soon as possible after the expiry of any relevant appeal period.

When a matter is finalised in court and property is forfeited to the State, prosecutors should record the correct section and Act under which the property was forfeited, provided they are still in possession of the Court Brief (QP9) at the time the forfeiture is made.

Guideline 52(iv): 'Conviction based confiscations' of the Director of Public Prosecutions (State) Guidelines.

4.7.7 Exhibits retained by the court

POLICY

When an item is tendered as an exhibit, and the court intends to retain that exhibit for the duration of the proceedings, the depositions clerk will enter all such property into the court's property register. In the case of drugs, the police prosecutor is to apply to the court to have the drugs returned to the arresting officer at the end of each day the drugs are required as an exhibit. See s. 3.4.12: 'Drug exhibits' of this Manual.

An officer who receives possession of drugs as a result of an order given by a court during a proceeding is to deliver those drugs to a suitable property point. That officer is responsible for the return of the drugs to the court on the next day the court is in session if the court still wishes to use the drugs as an exhibit. Drug exhibits no longer required by the court are to be disposed of in accordance with this chapter.

At the completion of a matter, the courts usually make a direction for the disposal or return of property that has been used as exhibits. The reporting officer should make inquiries to ensure that all exhibits have been accounted for and removed from the court as directed and disposed of in accordance with any order of the court, any legislative requirement, or Service policy.

4.7.8 Retention of exhibits after person committed for trial or sentence

POLICY

To ensure the security of exhibits to be produced at superior court proceedings, arresting officers should retain possession in accordance with the requirements of this chapter. Documentary exhibits tendered during committal proceedings should remain with the file on the proceedings for forwarding to the appropriate office of the Director of Public Prosecutions (State).

Documentary exhibits include exhibits such as photographs, certificates, audio/video tapes and transcripts.

At the conclusion of committal proceedings where a person is committed for trial or sentence, police prosecutors are to request the presiding Magistrate to make an order that all non-documentary exhibits be returned to the custody of the arresting officer for production at any future proceedings.

Arresting officers are to ensure that property returned to their possession by a court at the conclusion of a committal proceeding is promptly dealt with in accordance with this chapter.

4.7.9 Forfeiture orders

Property in the possession of the Police Service may be forfeited to the State by the Commissioner under the provisions of:

- (i) s. 701: 'Disposal of seized things at end of proceeding';
- (ii) s. 718: 'Order for forfeiture of particular relevant things'; and
- (iii) s. 719: 'Order for forfeiture of relevant things connected with offences';

of the *Police Powers and Responsibilities Act*.

Additionally, s. 154: 'Power to forfeit' of the *Animal Care and Protection Act* provides that the Chief Executive of the Department of Environment and Heritage Protection may decide to forfeit an animal that has been seized under s. 146(2)(d): 'Power in relation to offences involving animals' of the *Police Powers and Responsibilities Act*.

If forfeiture is to be sought under s. 154 of the *Animal Care and Protection Act*, see s. 4.16.3: 'Disposal of animals under the Animal Care and Protection Act' of this chapter.

See s. 4.7.14: 'Forfeiture of property considered to have no value' of this chapter regarding procedures for property that has no value.

POLICY

Reporting officers or, where appropriate, property officers should make an application for an order for the forfeiture of property pursuant to the provisions of ss. 718 or 719 of the *Police Powers and Responsibilities Act* as soon as practicable after becoming aware that the property is suitable for forfeiture under those provisions (a 'forfeiture order application').

Forfeiture order applications under s. 718 of the Police Powers and Responsibilities Act

POLICY

Forfeiture order applications pursuant to the provisions of s. 718: 'Order for forfeiture of particular relevant things' of the *Police Powers and Responsibilities Act* should be made if the relevant thing has been in the possession of the Police Service for at least 60 days and only if:

- (i) the owner of the thing cannot be found after reasonable inquiries; or
- (ii) having regard to the nature, condition and value of the thing, it is not reasonable to make inquiries about its owner; or
- (iii) has been unable, after making reasonable efforts, to return the thing to its owner.

PROCEDURE

A QP 0726: 'Notice to owner regarding order for forfeiture of particular relevant thing' (written notice) (available on QPS Forms Select) must be given to the owner, if known, at least 30 days prior to forfeiture. If the owner is unknown, the 'written notice' may be given by advertisement in a state-wide available newspaper or on the police service internet site (see s. 718(3) and (4) of the *Police Powers and Responsibilities Act*).

However, in accordance with 718(5), if the value of the relevant thing is less than the cost of giving the notice to the owner or by advertisement, the giving of the notice does not apply.

See s. 4.7.12: 'The giving of a notice under ss. 126, 139, 728, 718 or 719 of the *Police Powers and Responsibilities Act*' for details on how to give such notice.

Such applications should contain a copy of the 'Property evidence report' within QPRIME for the relevant property item and any other relevant documents relating to the property, including:

- (i) details of all efforts and inquiries conducted to find and/or return the property to its owner; or
- (ii) justification as to why it is not considered reasonable to make inquiries about its owner;
- (iii) details of:
 - (a) any written notice given in accordance with the provisions of ss. 718 subsections (3) and (4) of the *Police Powers and Responsibilities Act*; or
 - (b) why a written notice was not given pursuant to s. 718(5) of the *Police Powers and Responsibilities Act*; and
- (iv) an approximate value of the property, including any supporting documents if deemed appropriate.

Forfeiture order applications under s. 719 of the Police Powers and Responsibilities Act

POLICY

Forfeiture order applications pursuant to the provisions of s. 719: 'Order for forfeiture of relevant things connected with offences' of the *Police Powers and Responsibilities Act* should be made if the relevant thing:

- (i) has been used in the commission of an offence; or
- (ii) has been retained to prevent the use of the thing being used in the commission of an offence; or
- (iii) is not authorised, justified, excused by law to possess.

A QP 0702: 'Notice to owner regarding order for forfeiture of particular relevant thing connected with offences' (written notice) (available on QPS Forms Select) must be given:

- (i) to the owner, if known;
 - (a) if the owner is unknown, the 'written notice' may be given by advertisement in a state-wide available newspaper, or:
- (ii) the person who appeared to have possession of it before seizure.

See s. 719(4) of the *Police Powers and Responsibilities Act*.

However, in accordance with 719(5), if the value of the relevant thing is less than the cost of giving the notice, the giving of the notice does not apply.

See s. 4.7.12: 'The giving of a notice under ss. 126, 139, 728, 718 or 719 of the *Police Powers and Responsibilities Act*' for details on how to give such notice.

Such applications should contain a copy of the property section of the relevant QPRIME occurrence entry and any other relevant documents relating to the property, including:

- (i) evidence or justification that the property is of a type to which s. 719(1) of the *Police Powers and Responsibilities Act* applies;
- (ii) details of:
 - (a) any notice or advertisement given or advertised pursuant to s. 719(4) of the *Police Powers and Responsibilities Act*; or
 - (b) why a notice or advertisement was not given or advertised pursuant to s. 719(5) of the *Police Powers and Responsibilities Act*; and
- (iii) an approximate value of the property, including any supporting documents if deemed appropriate.

The making of forfeiture orders under ss. 718 or 719 of the Police Powers and Responsibilities Act

Appendix 4.1: 'Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*' of this chapter lists the classes of member who may make an order for the forfeiture of property pursuant to ss. 718 or 719 of the *Police Powers and Responsibilities Act*, and the corresponding maximum value of that property (a 'forfeiture order'). Delegation No. D 24.22 and D 24.23 of the Handbook of Delegations and Authorities.

Officers in charge who receive a forfeiture order application for property of a value for which they are unable to make a forfeiture order are to refer the application to a suitable member for consideration. In relation to drug matter, an officer in charge of a station or establishment may direct the forfeiture of the thing regardless of the value of the drug matter. However, drug matter may not be forfeited by an officer in charge of a station or establishment who is directly involved in the seizure of the thing. In these cases such forfeiture is to be made by the officer in charge's supervising commissioned officer.

Upon receipt of a forfeiture order application members who may make a forfeiture order with respect to that property are to satisfy themselves that:

- (i) all conditions relating to the making of the order, as required under the relevant provisions ss. 718 or 719 of the *Police Powers and Responsibilities Act*, have been complied with or fulfilled; and
- (ii) the stated approximate value of the property is reasonable, and if deemed appropriate, supported by documentation (e.g. for a motor vehicle, an extract of the market value of the vehicle from Glass's Guide or the Red Book may be appropriate if the vehicle had no non-standard modifications, or for some types of property, reference to average prices in the Trading Post or classified section of a newspaper may be deemed appropriate).

before making the forfeiture order.

A forfeiture order is to:

- (i) be made in writing; and
- (ii) identify the relevant section of the *Police Powers and Responsibilities Act* the forfeiture has been made under; and

may include a direction as to how the property subject of the forfeiture order is to be dealt with (see s. 4.8.4: 'Disposal of things forfeited to the State' of this chapter).

Action on receipt of forfeiture order

POLICY

Reporting officers or property officers who receive a forfeiture order under this policy are to:

- (i) ensure that a copy of the order is scanned as an attachment to the relevant QPRIME occurrence entry; and
- (ii) comply with the provisions of s. 4.8.4: 'Disposal of things forfeited to the State' of this chapter with respect to the property.

Officers in charge who make, or are advised that a forfeiture order under the provisions of this policy has been made with respect to property for which an officer under their control is responsible are to ensure that the reporting officer or property officer comply with the provisions of s. 4.8.4: 'Disposal of things forfeited to the State' of this chapter with respect to that property.

4.7.10 Orders in relation to seized things

Section 695: 'Application for order in relation to seized things' of the *Police Powers and Responsibilities Act* places a responsibility on a police officer who seizes a thing to, within thirty days after:

- (i) the police officer seizes the thing;
- (ii) a proceeding started in relation to the thing seized is discontinued without any order being made in relation to the thing; or
- (iii) the consent of the owner of the thing or the person who had lawful possession of the thing before it was seized is withdrawn;

apply to a justice of the peace (magistrates court) or a magistrate (the 'issuer') for an order under s. 696 'Orders issuer may make in relation to seized thing' of the *Police Powers and Responsibilities Act* in relation to the thing unless certain specified conditions apply (see s. 695(2) of the *Police Powers and Responsibilities Act*).

POLICY

Officers who are required to make an application for an order in relation to seized things pursuant to s. 695 of the *Police Powers and Responsibilities Act* are to ensure such applications are made within the relevant time limit.

PROCEDURE

Officers making an application pursuant to s. 695) of the *Police Powers and Responsibilities Act* should:

- (i) complete, as far as possible:
 - (a) QP704: 'Application for order in relation to thing seized'; and
 - (b) QP705: 'Order in relation to thing seized';
- (ii) swear the QP704 before a suitable issuer and provide the issuer with the original of both forms for consideration;
- (iii) where applicable, provide any further information and/or make any amendments to the QPS QP705 as required by the issuer;
- (iv) retain a copy of the completed and/or amended QP704 and the original of the completed QP705;
- (v) ensure that a copy of each completed form is scanned as an attachment to the relevant QPRIME occurrence entry;
- (vi) advise their officer in charge and property officer responsible for the property point at which the seized thing is held of the nature of the order made and give them a copy of the order; and
- (vii) take whatever action in relation to the things as is indicated on the completed QP705.

POLICY

Officers in charge who are advised that an order under this policy has been made with respect to property for which an officer under their control is responsible are to ensure that the terms of the order are complied with.

4.7.11 Dealing with property taken possession of by virtue of specific Acts (approval of officers as public officials)

In most instances, property taken possession by officers should be dealt with in accordance with the relevant sections of the *Police Powers and Responsibilities Act*. In some instances however, officers may take possession of and deal with property under the provisions of other Acts. An example may be where an officer is exercising the powers of an investigator when seizing a vehicle suspected of being used in contravention to provisions of the *Liquor Act*. See s. 13.4.3: 'Liquor and licensed premises' of this Manual.

Before an officer may exercise the powers of a public official under other Acts, they must first have been given the approval of the Commissioner to do so (see ss. 13 or 14 of the *Police Powers and Responsibilities Act*). Prior to giving such approval, the Commissioner, or delegated officer, must first satisfy themselves that the relevant officer has the necessary experience or expertise for the authorising law, or has satisfactorily completed a suitable training course.

ORDER

Officers who intend to exercise powers relating to property under any Act other than the *Police Powers and Responsibilities Act* are to firstly ensure that they have the necessary lawful authority, including approval pursuant to ss. 13 or 14 of the *Police Powers and Responsibilities Act*, to do so.

Whenever officers seize property under the provisions of a particular Act, they are to comply with specific provisions that are applicable to that Act in relation to the property seized.

See s. 13.3: 'Public Officials' of this Manual.

4.7.12 The giving of a notice under ss. 126, 139, 710, 718 or 719 of the Police Powers and Responsibilities Act

Sections 126: 'Steps after seizing vehicle, load or other thing', 139: 'Steps after seizing animal', 710: 'Destruction notice may be given to person', 718: 'Order for forfeiture of particular relevant things' and 719: 'Order for forfeiture of relevant things connected with offences' of the *Police Powers and Responsibilities Act* require the giving of notices with respect to various types of property.

However, ss. 718(5) and 719(5) of the *Police Powers and Responsibilities Act* do not require the giving of a notice if the cost of giving the notice is more than the value of the property involved.

Form of notice

PROCEDURE

Notices to be given pursuant to ss. 126, 139(1), 710, 718(3) or 719(3) of the *Police Powers and Responsibilities Act* should be made using the following pro-formas available on either QPRIME or QPS Forms Select:

- (i) for s. 126 – QP 0703: 'Notice to owner re seizure/moving of vehicle, load or other thing' (available in QPRIME);
- (ii) for s. 139(1) – QP 0703A: 'Notice to owner re seizure of animal' (available in QPRIME);
- (iii) for s. 710 – Form 49: 'Destruction Notice (Drugs)' (PPRA 2000) (available in QPRIME);
- (iv) for s. 718(3) – QP 0726: 'Notice to owner regarding order for forfeiture of particular relevant things' (available on QPS Forms Select); and
- (v) for s. 719(3) – QP 0702: 'Notice to owner regarding order for forfeiture of relevant things connected with offences' (available on QPS Forms Select).

Who should give a notice

POLICY

The reporting officer is to ensure notices which must or may be given pursuant to ss. 126, 139(1), 710, 718(3), or 719(4) of the *Police Powers and Responsibilities Act* are given.

However, where notices are required to be given by way of advertisement in a newspaper circulating generally throughout the State or in a locality, or on the Service website, the property officer is responsible for ensuring such notices are placed in the relevant newspaper or completed on the Service website.

How a notice should be given

POLICY

Notices to be given pursuant to ss. 126, 139(1) of the *Police Powers and Responsibilities Act* should be given by means of:

- (i) personal delivery; or
- (ii) where it is not practicable to give the notice by personal delivery – advertisement in a newspaper circulating generally in the locality in which the vehicle or animal was found.

Notices to be given pursuant to ss. 710, 718(3) or 719(4) of the *Police Powers and Responsibilities Act* should generally be given by means of:

- (i) personal delivery;
- (ii) where it is not practicable to give the notice by personal delivery – registered post provided by Australia Post to the address of the place of residence or business of the person last known to the reporting officer. Notices may also be given by leaving the notice at, or sending it by telex, facsimile or similar facility to the address of the place of residence or business of the person last known to the reporting officer;

(iii) for a notice to be given pursuant to relevant provisions of ss. 718(4) or 719(4) of the *Police Powers and Responsibilities Act* only – advertisement in a newspaper circulating generally throughout the State; or

(iv) for a notice to be given pursuant to the relevant provisions of ss. 710(3) or 718(4) of the *Police Powers and Responsibilities Act* only – the Service website.

Officers who give notices by leaving the notice at, or sending it by telex, facsimile or similar facility to the address of the place of residence or business of the person last known to the reporting officer, are to ensure a suitable written record of the giving of notice is made and retained.

Also see s. 39: 'Service of documents' of the *Acts Interpretation Act*.

When notice given by post taken to be effected

The giving of a notice by post to the address of the place of residence or business of the person last known to the reporting officer is taken to be effected at the time which the letter would be delivered in the ordinary course of the post, unless the contrary is proved (see s. 39A: 'Meaning of service by post etc. of the *Acts Interpretation Act*).

POLICY

A notice which has been sent by post and which is returned unclaimed has not been properly given and alternative means of giving the notice should be used.

The giving of a notice by newspaper advertisement

POLICY

There is no limitation of time in which to place an advertisement in a newspaper, pursuant to ss. 718(4) or 719(4) of the *Police Powers and Responsibilities Act*. In deciding when to place an advertisement the reporting officer or property officer should consider whether it would be more cost effective and/or administratively efficient to wait until a number of items of property comprising various QPRIME property entries require forfeiture to the State. In appropriate cases, listing all the property in the one advertisement may be preferable to placing specific advertisements for each item or items associated with individual QPRIME property entries.

The giving of a notice on the QPS external website

POLICY

Notices required to be given on the Service website pursuant to ss. 710 or 718(4) of the *Police Powers and Responsibilities Act* are published on the relevant web page designed for that purpose (under the 'Services Online' link on the Service website).

The Manager, Communication and Contact Branch is responsible for facilitating the publishing of notices under ss. 710 or 718(4) of the *Police Powers and Responsibilities Act* on the Service website and ensuring that the content of the relevant web pages complies with the requirements of the relevant provisions of the *Police Powers and Responsibilities Act*.

In deciding when to complete a notice on the Service website, the property officer should consider whether it would be more administratively efficient to wait until a number of items of property comprising various QPRIME property entries require destruction or forfeiture to the State. In appropriate cases, listing all the property in the one entry may be preferable to placing specific notices for each item or items associated with individual QPRIME property entries.

For individual notices under s. 710 the following details are required to be entered on the relevant web page in respect of each drug matter:

- (i) date the notice is given (i.e. the date the notice appears or will appear on the internet e.g. 7 September 2006 (see s. 710(5) of the *Police Powers and Responsibilities Act*));
- (ii) QPOL Ref No. (i.e. appropriate internal reference number which allows easy identification of the drug matter e.g. A17376);
- (iii) date seized (i.e. the date the drug matter was seized e.g. 6 June 2006);
- (iv) place seized (i.e. suburb, town or city where the drug matter was seized. This is not to include street address details e.g. Caboolture); and
- (v) analyst's certificate's description (i.e. description as provided on the applicable analyst's certificate e.g. 1 gram of Cannabis Sativa).

For individual notices under s. 718 the following details are required to be entered on the relevant web page in respect of each relevant thing(s):

- (i) date the notice is given (i.e. the date the notice appears or will appear on the internet);
- (ii) place where relevant things are held (i.e. station or establishment where relevant things are held);
- (iii) date relevant things are liable for forfeiture (i.e. at least 30 days from date notice is given (see s. 710(3) of the *Police Powers and Responsibilities Act*);

- (iv) QPOL Ref No. (i.e. appropriate internal reference number which allows easy identification of the drug matter e.g. QPRIME occurrence number);
- (v) description of property. This should include sufficient identifiable features that will assist an owner in identifying their property. However, it should be borne in mind that the provision of too much detail may, among other things, enable false claims of ownership;
- (vi) photograph of the property, if available; and
- (vii) contact details of the relevant member at the station or establishment including the preferred method of contact.

Notices under ss. 710 and 718 of the *Police Powers and Responsibilities Act* are to be published and appear on the Service website for a minimum of 30 days prior to being removed.

User roles and training

PROCEDURE

Notices can be given on the Service website via any Service computer using the Content Management System (CMS). The CMS is an application that centralises and automates the creation, approval and deployment of web-based information content.

To publish and approve details of notices under this policy, the following user roles and corresponding member designations apply:

- (i) author – any member (lower rank or designation than senior sergeant);
- (ii) editor – senior sergeant; and
- (iii) authoriser – commissioned officer.

Each role has minimum authoring rights (i.e. may create, edit, copy, move, delete and submit pages) with the editor and authoriser having additional rights to that of the author. Further information regarding access levels and user roles can be found in the Content Management System User Guide.

POLICY

Generally, property officers should perform the roles of author, the officer in charge of the station or establishment where the property point is located should perform the role of editor and the officer in charge's supervising commissioned officer or the district officer should perform the role of authoriser. However, it is acknowledged that there will be local factors such as geographical, resource or logistical considerations which may make it more preferable for other members to perform the roles of author and editor. The role of authoriser must always be performed by a commissioned officer.

Officers in charge of regions are to, in consultation with officers in charge of stations or establishments where property points are located, ensure that regional or district policies are developed which designate appropriate members within their area of responsibility to undertake the roles of author, editor and authoriser for the purpose of placing notices on the Service website. In deciding which members are to perform the roles of author, editor and authoriser, consideration is to be given as to whether the publishing of notices should occur on a regional, district or divisional basis.

Officers in charge of regions are to ensure that members designated for placing notices on the Service website are sufficiently trained in the use of CMS and granted system access for that purpose. Requests for training and system access are to be approved by the officer in charge of the region prior to forwarding an email message to Service Help Desk.

Web page approval

PROCEDURE

After completing the required notice details on the unpublished web page ('Notice of impending destruction/forfeiture of property in possession of the Queensland Police Service') members designated as authors are to submit the proposed changes to the editor for approval.

Once the web page content or changes are submitted, automatic email notification will be forwarded to the member designated as editor. On approval of the page content by the editor, automatic email notification will be forwarded to the authoriser.

Upon receiving email notification, editors and authorisers are to:

- (i) select/follow the link to the unpublished web page provided in the e-mail. The authored page content will appear at the top of the page and the publishing console will appear below the footer information;
- (ii) review the notice details contained in the page and make changes if necessary. If changes are made to the page by an editor or authoriser, the page will need to be submitted again to restart the approval process, and:
 - (a) if satisfied as to the content of the page, approve it by scrolling down to the publishing console and selecting 'approve'; or

(b) if not satisfied as to the contents of the page, decline it by scrolling down to the publishing console and selecting 'decline', then notify the author or editor of the decline and the reasons for the decline so that remedial action can be taken as appropriate as there is no automatic email notification that the page was declined to the author or editor. Automatic notification will occur for approved changes only.

Once approved by the authoriser, the unpublished web page content will be published on the Service website within the hour.

Any enquiries regarding the Content Management System should be referred to the relevant RIRM in the first instance. Urgent matters may be referred to Web Services, Information Resource Centre34, Information and Technology Division.

4.7.13 Application by owner or claimant for return of relevant thing

Sections 692: 'Application by owner etc. for return of relevant thing' and 693: 'Application by owner etc. for court order for return of relevant thing' of the *Police Powers and Responsibilities Act* contain provisions allowing a person who claims to have a legal and equitable interest in a relevant thing to apply to the Commissioner or a court for the return of the relevant thing to the person or delivery of the relevant thing to a nominee in certain circumstances. (See s. 6.1: 'Introduction' of the Management Support Manual regarding who can accept a document on behalf the Commissioner).

Applications made pursuant to s. s. 692 or copies of applications made pursuant to s. s. 693 received by members are to be referred back to the applicant for the correct giving or service upon the Commissioner via the Manager, Community Contact Command.

POLICY

The Manager, Community Contact Command is to ensure that any applications made pursuant to s. 692 or copies of applications made pursuant to s. 693 of the *Police Powers and Responsibilities Act* for the return or delivery of a relevant thing to a person and received on behalf of the Commissioner, are forwarded to:

- (i) for applications made pursuant to s. 692, the officer in charge of the station or establishment where the property subject of the application is stored; or
- (ii) for copies of applications made pursuant to s. 693, the officer in charge of the prosecution corps where the application under s. 693 is to be heard.

Officers in charge of stations or establishments, who receive an application under s. 692 of the *Police Powers and Responsibilities Act*, may exercise any power, function or duty of the Commissioner pursuant to that section (see Delegation No. D 24.18 of the Handbook of Delegations and Authorities).

After proper consideration of the matter, officers in charge may:

- (i) return or cause the thing to be returned to the applicant;
- (ii) deliver or cause the thing to be delivered, to the nominee as requested by the applicant; or
- (iii) refuse to return the thing.

The decision made by an officer in charge is to be in writing and given to the applicant.

Officers in charge who cannot make a determination under s. 692 for any reason, should refer the matter to their supervising commissioned officer for consideration and determination.

Officers in charge of prosecutions corps who receive a copy of an application under s. 693 of the *Police Powers and Responsibilities Act* which is to be heard in their area of responsibility, are to make the necessary arrangements and require the necessary information from members to ensure the Commissioner is appropriately represented at the hearing.

Prosecutors who are required to attend any hearings of applications under s. 693 of the *Police Powers and Responsibilities Act* are to ensure appropriate assistance is given to the court in making a determination and appropriate submissions are made to the court as to whether or not the relevant thing should be returned to the applicant or delivered to a nominee, or whether any conditions should be placed on the return of the thing to the person.

4.7.14 Forfeiture of property considered to have no value

Section 690: 'Forfeiture in particular cases' of the *Police Powers and Responsibilities Act* provides that if Chapter 21, Part 3, ss. 686 to 724: 'Dealing with things in possession of the police service' of that Act applies to a thing and the Commissioner is satisfied the thing has no value, the thing is forfeited to the State.

Without limiting s. 690, examples of property considered to have no value may include property such as keys, bicycles, sunglasses, empty wallets, old personal cards, damaged furniture, discarded clothing and small amounts of drug matter.

Officers in Charge of Stations or Establishments may exercise the Commissioner's function under s. 690 (see Delegation No. D 24.18 of the Handbook of Delegations and Authorities).

POLICY

Reporting officers for a thing to which Chapter 21, Part 3 applies and has no value are to apply to their officer in charge for the property to be forfeited under s. 690 of the *Police Powers and Responsibilities Act*.

In their application to the officer in charge, the officer is to include a justification as to why the thing is considered to be of no value. This is to include that the thing:

- (i) is not in a saleable condition and therefore cannot be sold at auction;
- (ii) has no practical intrinsic value;
- (iii) has no evidentiary value; and
- (iv) has no known owner or lawful claimant; or
- (v) that the thing is drug matter and has no legal value.

Officers in charge should, among other things, consider the nature, condition and saleability of a thing when making a determination as to whether the thing is of no value. Upon determination by the Officer in Charge that a thing has no value, the thing is forfeited to the State.

General property forfeited under s. 690 of the *Police Powers and Responsibilities Act* is to be disposed of under s. 4.8.4: 'Disposal of things forfeited to the State' of this chapter and property relating to drug matter forfeited is to be disposed of under s. 4.10.4: 'Action to dispose of or destroy drug matter' of this chapter.

4.7.15 Evidence of continuity of possession (Running Statements)

Section 724: 'Evidentiary provision about particular things in the possession of the police service' of the *Police Powers and Responsibilities Act* is an evidentiary provision relating to running statements. This section provides that certain documents (i.e. certificate signed by the commissioner and a copy of a running statement) are evidence of what it is stated within the documents.

The Commissioner's power to sign a certificate pursuant to s. 724(2) of the *Police Powers and Responsibilities Act* has been delegated to officers in charge of stations or establishments and commissioned officers (see Delegation No. D 24.46 of the Handbook of Delegations and Authorities).

Forms

The following forms apply to the provisions of s. 724 of the *Police Powers and Responsibilities Act*:

- (i) QP0694: 'Running Statement (About Relevant Things in the Possession of the Police Service);
- (ii) QP0694A: 'Running Statement (About Relevant Things in the Possession of the Police Service – Supplement); and
- (iii) QP684: 'Evidentiary Certificate (About Relevant Things in the Possession of the Police Service).

Running statement

See s. 724(7) of the *Police Powers and Responsibilities Act*.

POLICY

Running statements are completed in relation to a relevant thing in the possession of the Service that is evidence of the commission of an offence.

Investigating officers may decide to use running statements to later prove continuity of possession in relation to an exhibit which is a relevant thing in a criminal proceeding.

The investigating officer is responsible for ensuring a running statement is initially prepared and accompanies the exhibit. The running statement is a contemporaneous record of each person in the chain of possession.

The running statement is to include:

- (i) identification as a running statement;
- (ii) a description of the relevant thing in the possession of the Service that is evidence of the offence to which it relates;
- (iii) sufficient identification of the offence to connect it to the proceedings in which the certificate is evidence;
- (iv) where and when the relevant thing was found;
- (v) who found the relevant thing;
- (vi) the name of each person to whom the thing was given after it was found;
- (vii) before the relevant thing was given to each person who had possession of it, the relevant thing was kept secure from tampering; and

(viii) how the thing was dealt with by each person who had possession of it including, but not limited to, how, when and by whom it was transported from person to person or place to place.

ORDER

Members taking possession of an exhibit which is accompanied by a running statement are to complete the relevant parts of the running statement prior to giving the exhibit to another member.

PROCEDURE

When required to prove continuity of possession in relation to an exhibit in a criminal proceeding for which a running statement has been completed, the investigating officer is to:

- (i) complete an evidentiary certificate in relation to the running statement and attach a copy of the running statement relating to the exhibit;
- (ii) ensure the completed evidentiary certificate is signed by a commissioner's delegate; and
- (iii) attach the signed certificate and copy of running statement to the brief of evidence for production in court.

Investigating officers should continually liaise with the prosecuting authority in a criminal proceeding and whenever it is intended to rely on a certificate, at least 14 business days before the hearing day, give a copy of the certificate to the defendant or the defendant's lawyer.

An officer who gives a certificate to the defendant or defendant's lawyer, should explain to the defendant or defendant's lawyer that, pursuant to s. 724(5) of the *Police Powers and Responsibilities Act*, if the defendant intends to challenge a matter stated in the certificate, the defendant must, at least 10 business days before the hearing day, give the prosecuting authority (i.e. police service or Director of Public Prosecutions) notice, in the approved form, of the matter to be challenged. The Form 109: 'Challenge Notice' is the approved form which is to be used for this purpose.

If challenge notice is received

If the defendant gives the prosecuting authority a Form 109: 'Challenge Notice', the certificate stops being evidence of the matter challenged.

Members receiving a completed challenge notice from the defendant are to note the date and time of receipt and notify the investigating officer.

The investigating officer, upon being notified of the service of the challenge notice by the defendant, is to:

- (i) notify and provide the relevant prosecutor with a copy of the challenge notice; and
- (ii) ensure that alternative evidence of continuity of possession is available (i.e. witness statements) and that relevant witnesses are notified and are available to attend and give evidence in the criminal proceeding as required.

ORDER

Members requested to provide a challenge notice by the defendant or defendant's lawyer, are to comply with such request and provide a copy of a Form 109 to the defendant or defendant's lawyer as soon as practicable.

4.8 Disposal of property

The circumstances under which property comes into the possession of police will generally dictate how that property is to be disposed of. In most circumstances, the way in which property in the possession of the Service is to be disposed can be found in the relevant provisions of the *Police Powers and Responsibilities Act* and this chapter.

In a small number of cases, other legislation may require certain types of property to be disposed of in different ways (see s. 4.7.11: 'Dealing with property taken possession of by virtue of specific Acts (approval of officers as public officials)' of this chapter) or the type of property dictates the disposal method e.g. electronic devices and storage media (high risk data (see s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter).

The following provisions of the *Police Powers and Responsibilities Act* relate to disposal of property in possession of the police service:

- s. 127: 'Recovery of seized vehicle';
- s. 140: 'Recovery of seized animal';
- s. 688: 'Responsibilities of police officer taking possession of relevant thing';
- s. 690: 'Forfeiture in particular cases';
- s. 691: 'Return of relevant things';
- s. 692: 'Application by owner etc. for return of relevant thing';

- s. 693: 'Application by owner etc. for court order for return of relevant thing';
- s. 694: 'Application by police officer for order if ownership dispute';
- s. 695: 'Application for order in relation to seized things';
- s. 696: 'Orders issuer may make in relation to seized thing';
- s. 697: 'Cost recovery for animal held by commissioner under order under s 696';
- s. 698: 'Voluntary surrender of animal to State';
- s. 699: 'Appeal if letter of demand given under s 697';
- s. 700: 'Deciding appeal';
- s. 701: 'Disposal of seized things at end of proceeding';
- s. 702: 'Commissioner to decide way of destruction or disposal';
- s. 703: 'Application of div 3';
- s. 704: 'Definition for div 3';
- s. 705: 'Destruction of drug matter soon after it is seized etc.';
- s. 706: 'Steps police officer must take before destroying drug matter under s 705';
- s. 707: 'Alternative to destruction if drug matter is thing used in the commission of a drug offence';
- s. 708: 'Application of sdiv 3';
- s. 709: 'Definitions for sdiv 3';
- s. 710: 'Destruction notice may be given to person';
- s. 711: 'What destruction notice must state';
- s. 712: 'Making sample of drug matter available';
- s. 713: 'When drug matter may be destroyed';
- s. 714: 'Disposal of weapons';
- s. 716: 'Perishable things';
- s. 718: 'Order for forfeiture of particular relevant things';
- s. 719: 'Order for forfeiture of relevant things connected with offences';
- s. 720: 'Application of div 7'; and
- s. 721: 'Dealing with forfeited things'.

POLICY

This section applies generally to all cases of disposal of property held by the Service.

ORDER

Before disposing of property, members are to ensure that the correct authority for the disposal is to be used.

PROCEDURE

Methods by which property may be disposed of include, but are not limited to:

- (i) destruction;
- (ii) discarding as refuse;
- (iii) donation to a charitable body;
- (iv) donation to a particular group, e.g. a school;
- (v) donation to an individual who is apparently deserving of the property, or who, in the case of animals, may be prepared to care for the animal;
- (vi) appropriation for use of the Service or another government department. (See s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter);
- (vii) sale at public auction (see also s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter);
- (viii) assigning to an individual or company in lieu of an outstanding debt which has accrued in relation to the storage or handling of the property, where the property is of little value, or the debt is of a value comparable to that of the property; or

(ix) returning the property to the owner or other person who has a clear and lawful claim to the property. (Note – ownership may have been subrogated to an insurance company. See s. 4.18.1: ‘Change of ownership’ of this chapter.)

Disposal of property by sale is generally to be done by way of public auction. Property is only to be disposed of by way of sale by tender at the specific order of a court (see ss. 4.19: ‘Public auction’ and 4.20: ‘Sale by tender’ of this chapter).

Section 4.17: ‘Recommended disposal or destruction methods of things’ of this chapter lists recommended methods of disposal or destruction for different types of property.

Where a reporting officer may dispose of or destroy property pursuant to this chapter, the property officer responsible for the property point at which that property is held may dispose of or destroy that property, subject to receiving approval from the reporting officer or the reporting officer’s officer in charge.

Requirements for disposal (generally)

POLICY

Property in the possession of the Service, should be disposed of in one of the following ways:

- (i) for property that was not seized:
 - (a) and it is lawful for a person to have possession of it, by returning the property to its owner or the person who had lawful possession of it before it came into the possession of the Service; or
 - (b) that has been forfeited to the State pursuant to ss. 718: ‘Order for forfeiture of particular relevant things’ or 719: ‘Order for forfeiture of relevant things connected with offences’ of the *Police Powers and Responsibilities Act*, in accordance with the provisions of s. 4.8.4: ‘Disposal of things forfeited to the State’ of this chapter;

(ii) for seized property:

- (a) which is not required to be retained;
- (b) which is lawful for a person to have possession of it; and
- (c) is not otherwise subject of an order of a justice;

by returning the property to its owner or the person who had lawful possession of it before it came into possession of the Service (see s. 691 of the *Police Powers and Responsibilities Act*);

(iii) for seized property to which s. 695 of the *Police Powers and Responsibilities Act* applies, in accordance with any order made pursuant to s. 696 of that Act;

(iv) for property subject of a proceeding, in accordance with any order given by a court with respect to that property (see s. 4.7.6: ‘Prosecutor to request order at end of hearing or trial’ of this chapter);

(v) for property forfeited to the State under this Act or any other Act, in accordance with s. 4.8.4: ‘Disposal of things forfeited to the State’ of this chapter;

(vi) for property concerning which there is a dispute as to its ownership, by complying with s. 4.8.2: ‘Disputed ownership (disposal)’ of this chapter;

(vii) otherwise in accordance with specific legislative provisions relating to a class of property (e.g. ss. 140, 705, 707, 710, 714 and 716 of the *Police Powers and Responsibilities Act*); or

(viii) for found property, in accordance with ‘Disposal of unclaimed property’ and ‘Disposal of property to finder’ of this section.

Appendix 4.1: ‘Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*’ of this chapter lists the classes of member who may make:

- (i) an order for the forfeiture of property pursuant to ss. 718 or 719 of the *Police Powers and Responsibilities Act*;
- (ii) a direction as to how forfeited property may be dealt with, pursuant to s. 721 of the *Police Powers and Responsibilities Act*; and
- (iii) a direction as to how a vehicle or animal may be disposed of with, ss. 140 or 127 of the *Police Powers and Responsibilities Act*;

and the corresponding maximum values of that property, vehicle or animal for each listed class of member.

Where the value of a thing to be disposed of is more than \$10,000.00, it should be disposed of by sale by auction.

See s. 4.4.7: ‘Establishing value of property’ of this chapter.

Disposal by way of destruction

POLICY

Where property, other than drug matter, is to be disposed of by way of destruction in accordance with the requirements of this chapter, the property should generally be destroyed by the reporting officer or a property officer in the presence of their officer in charge, or person nominated by their officer in charge.

Officers in charge of stations or establishments should, wherever practicable, witness the destruction of property undertaken pursuant to this chapter by members under their control. When not practicable, the officer in charge should ensure a suitable person witness the destruction.

PROCEDURE

A reporting officer or property officer who destroys property pursuant to this chapter should, as soon as practicable after destruction:

- (i) complete a suitable receipt (see s. 4.6.13: 'Finalising a property entry in QPRIME' of this chapter) including in it the name and relevant contact details of the person witnessing the destruction, and where practicable, that person's signature; and
- (ii) ensure the receipt is scanned as an attachment to the relevant QPRIME occurrence relating to the destroyed property.

Where property is to be destroyed by a contractor, the reporting officer or property officer should, wherever practicable:

- (i) witness the destruction of the property; and/or
- (ii) obtain relevant details, including the signature, of the contractor on the receipt for the destroyed property before scanning the receipt as an attachment to the QPRIME occurrence relating to the destroyed property.

(Also see s. 4.10.4: 'Action to dispose of or destroy drug matter' of this chapter and s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter).

Disposal of unclaimed property

POLICY

Unclaimed property should be disposed of as soon as statutory provisions allow.

Generally, unclaimed property is to be disposed of in accordance with the provisions of ss. 4.7.9: 'Forfeiture orders' (in particular, provisions relating to forfeiture order applications under ss. 718: 'Order for forfeiture of particular relevant things' and 719: 'Order for forfeiture of relevant things connected with offences' of the *Police Powers and Responsibilities Act*), 4.7.14: 'Forfeiture of property considered to have no value' (relating to s. 690: 'Forfeiture in particular cases'), and 4.8.4: 'Disposal of things forfeited to the State' of this chapter.

Where a lawful claimant to or the finder of property indicates that they do not wish to claim the property, the member authorised to dispose of the property should obtain, or cause to be obtained from such persons a relinquishing order (QP368: 'Relinquishing Order' available in QPRIME or on the Field Property Receipt) relating to the property.

Relinquishing orders are to be scanned as an attachment to the relevant QPRIME occurrence.

Animals seized pursuant to s. 137: 'Removal of animals from roads or other places' of the *Police Powers and Responsibilities Act* are to be disposed of in accordance with the relevant provisions of s. 4.15.5: 'Vehicles uncollected or unclaimed' of this chapter.

See s. 4.4.7: 'Establishing value of property' and s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter.

Disposal of property to finder

POLICY

A person who finds property and hands it to police may make a claim for that property.

Found property may be returned to its finder who wishes to claim it only:

- (i) after reasonable inquiries and efforts have failed to locate its owner or any other person who may claim to be entitled to possession of the thing;
- (ii) after the expiry of sixty days from the date the property came into possession of the Service;
- (iii) if it is lawful for its finder to possess the property; and
- (iv) if it is considered appropriate that the thing be returned to its finder (see s. 4.6.6: 'Enquiries to be made by reporting officer' of this chapter).

Found property which cannot be returned to its finder under the provisions of this section should be treated as unclaimed property.

4.8.1 Indemnity receipt

POLICY

A member who disposes of property by returning or giving it to its owner or person who had lawful possession of it before it came into the possession of the Service and who may lawfully possess same, is to obtain an indemnity receipt from the person receiving the property. The member is to ensure that the items of property being disposed of are accurately described in the indemnity receipt prior to the person receiving the property signing the indemnity receipt. Upon returning the property, the member is to ensure that the items described in the indemnity receipt are the items actually being returned.

Indemnity receipts are to be retained:

- (i) in the case of an item of property which has been recorded in a property point, by scanning the indemnity receipt as an attachment to the relevant QPRIME occurrence; and
- (ii) in all other cases, and after scanning the indemnity receipt, by filing in the book or register kept for that purpose at the station or establishment.

The officer in charge of every station or establishment which handles property is to maintain a book or register for the purpose of recording indemnity receipts obtained by members at that station or establishment, other than those recorded in the relevant QPRIME occurrence.

An officer who does not have a pro-forma indemnity receipt at the time of disposing of property to another person is to obtain an acknowledgement of receipt of the property in their official police notebook.

A copy of the notebook entry is to be placed in the appropriate station register in lieu of a pro-forma indemnity receipt.

Due to the possibility of the property in question having been used in such a way that hazardous items/material (such as biohazards – including syringes) may have come in contact or been left within the property, and/or the property may be unsafe for use (for example through damage or alteration to electrical appliances). Whether or not the member has any actual knowledge of any hazard in the prevailing circumstance, at the time the person receives the property and acknowledges receipt the person is to be advised as follows:

It is not known who may have used this property or to what use it may have been put. It is possible that hazardous items or material, such as biohazards – including syringes may have been left within the property. It is also possible that the property may be unsafe for use. Be careful when handling or using it.

In cases where the member has actual knowledge of hazards existing, the person receiving the property should be advised accordingly.

In the case of electronic devices and storage media (high risk data) see s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter.

4.8.2 Disputed ownership (disposal)

When considering to whom property is to be disposed, difficulties often arise in identifying the rightful claimant. It is in fact possible that more than one person may have a rightful claim to the property, or may have a lawful lien on the property. This situation often arises in the case of property which is stolen, then later sold, or where ownership changes in the case of some fraud matters.

PROCEDURE

Reporting officers should seek advice as to the identity of a lawful claimant from local prosecutors in the first instance, or from Operational Legal Advice, Legal Division (see s. 1.13: 'Operational Legal Advice' of this Manual) where a matter remains unsettled.

ORDER

When disposing of property, members are to satisfy themselves that any person the property is disposed of to, is the person with a lawful claim to that property.

A reporting officer who becomes aware of a dispute about the ownership of property is to make an application before a Magistrates Court for an order under s. 694: 'Application by police officer for order if ownership dispute' of the *Police Powers and Responsibilities Act*. This application must be made under the Uniform Civil Procedure Rules as required by the court in *Horne v. Frank* [2001] QDC 029.

Suggested procedure for application under s. 694 of the Police Powers and Responsibilities Act

PROCEDURE

When making application for an order in cases of ownership disputes about a thing that is lawfully in the possession of the Service (relevant thing) (see s. 686 of the *Police Powers and Responsibilities Act*), officers are to:

- (i) commence the civil proceeding by using a Form 005: 'Originating Application'
- (ii) follow the procedures referred to in s. 13.30: 'Starting a civil proceeding' of this Manual; and

(iii) where a claimant to the property, listed as a respondent in the Form 005, is interstate refer to s. 14.29.6: 'Interstate service of an originating process' of this Manual.

POLICY

Property officers who become aware of a dispute about the ownership of any property held at a property point under their control are to advise, by way of a task within the relevant QPRIME occurrence, the reporting officer for that property of the nature of such dispute as soon as possible.

4.8.3 Disposal of property of incapacitated persons

Officers in possession of property belonging to a person who is an incapacitated person, as defined by s. 64 of the *Public Trustee Act*, are to contact the Public Trustee and advise them of the existence of the property and forward the property to the appropriate Public Trustee Office.

4.8.4 Disposal of things forfeited to the State

Chapter 21, Part 3, Division 7, ss. 720 to 721: 'Dealing with forfeited things' of the *Police Powers and Responsibilities Act* applies to a thing in the possession of the Service that is forfeited, or ordered to be forfeited, to the State under the *Police Powers and Responsibilities Act* or any other Act (see s. 4.7.9: 'Forfeiture orders' of this chapter).

The provisions of that Division 7 only apply:

- (i) after all proceedings relating to the offence or suspected offence, where applicable, for which the thing was forfeited are finally decided, including the expiration of any appeal period; or
- (ii) where property has been forfeited to the State and no proceedings relating to it are to be commenced, at the time the property is forfeited.

POLICY

The reporting officer for a thing forfeited to the State, other than potentially harmful things of no real value, should, as soon as practicable after:

- (i) the thing has been forfeited, either by way of a forfeiture order or under a legislative provision; and
- (ii) where applicable, completion of any proceedings, including any appeal period, relating to the thing;

make an application by completing and sending a QPRIME task to the applicable property office for the advice of the officer in charge for a direction on how the thing is to be dealt with unless a direction as to how the property subject of the forfeiture order is to be dealt with was included with the forfeiture order (see s. 4.7.9: 'Forfeiture orders' of this chapter), in which case that direction should be complied with and the property disposed of accordingly. See also s. 4.14.3: 'Potentially harmful things' of this chapter.

Appendix 4.1: 'Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*' of this chapter lists the classes of member who may determine how a forfeited thing is to be dealt with pursuant to s. 721 of the *Police Powers and Responsibilities Act*, and the corresponding maximum value of that property.

Officers in charge who receive an application under this policy relating to property of a value for which they are unable to make a direction are to refer the application to a suitable member for consideration. In the case of weapons, a direction for disposal is to be sought from a commissioned officer.

Members who receive an application under this policy relating to property of a value for which they are able to make a direction are to ensure that any direction they make is consistent with the relevant provisions of s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter.

Action on making of a direction under this policy

Reporting officers or property officers who receive a direction made under this policy are to ensure that the property is dealt with in compliance with the direction as soon as practicable after receiving the direction.

Officers in charge who make, or are advised that a direction under the provisions of this policy has been made with respect to property for which an officer under their control is responsible are to ensure that the property is dealt with in accordance with the direction and, where applicable, the relevant provisions of this chapter.

Sale of forfeited property

Members are to ensure that the disposal by sale of any property, other than weapons, forfeited to the State complies with the provisions of s. 721(3) of the *Police Powers and Responsibilities Act* and s. 4.17: 'Recommended disposal or destruction methods of things'.

4.9 Action in special cases – transmission and return of seized things between States and Territories

4.9.1 Ministerial arrangements

Section 722: 'Ministerial arrangements for transmission and return of seized things' of the *Police Powers and Responsibilities Act* provides for the making of arrangements between Queensland and other States and Territories ('ministerial arrangements') to allow transfer of seized things which may be relevant to the investigation of an offence or to a proceeding:

- (i) for an offence against the law of Queensland (with respect to thing seized under relevant legislation of another State or Territory); or
- (ii) for an offence against the law of another State or Territory (with respect to things seized under the *Police Powers and Responsibilities Act*).

This section is supplemented by corresponding laws in all jurisdictions (see Schedule 4: 'Corresponding laws', of the Police Powers and Responsibilities Regulation) and by a series of ministerial arrangements. An 'appropriate authority' for the purposes of these arrangements includes the Commissioner and assistant commissioners (see Delegation No. D 24.30 of the Handbook of Delegations and Authorities).

These mechanisms allow a member of any police agency in Australia to have property in another jurisdiction seized and transmitted to the jurisdiction in which the investigation is taking place.

For the purposes of this section, the term 'seizing State' means the State or Territory in which the property is seized, and the term 'receiving State' means the State or Territory to which the property is to be, or has been transmitted.

4.9.2 Register of property seized

It is the responsibility of the Officer in Charge, Evidence Management, Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA, to maintain a register of property seized in this State for the purposes of s. 722 of the *Police Powers and Responsibilities Act*, or seized at the request of the Service under corresponding legislation in another jurisdiction.

It is the responsibility of the Officer in Charge, Evidence Management, to forward all status reports required by the ministerial arrangements.

4.9.3 When Queensland is the receiving State

Seeking the issue of a warrant

POLICY

The Service will support an application for the issue of a warrant under corresponding legislation when the circumstances of the matter meet the following criteria:

- (i) the matter under investigation is an indictable offence;
- (ii) the seriousness of the offence is such that a prison term or a substantial monetary penalty is likely to result from a conviction arising from the investigation; and
- (iii) the circumstances surrounding the matter indicate that the public interest would be served by seeking a warrant under corresponding legislation in another jurisdiction.

Applying for the issue of a warrant

POLICY

An officer who becomes aware that property which is required in the course of an investigation is located in another jurisdiction, and is satisfied that the conditions outlined in the preceding section are met, may make application for the issue of a warrant under the relevant corresponding legislation.

An officer who makes application for the issue of a warrant under corresponding legislation should:

- (i) make contact with the officer in charge of the police station or establishment from which the warrant will be sought and request that officer to nominate an appropriate officer with whom to liaise (the 'liaison officer');
- (ii) contact the nominated liaison officer and advise that person of the intention to seek the issue of a warrant under the corresponding legislation. It should be noted that the liaison officer cannot seek the issue of the warrant at this time, but must wait until a formal request has been made by the appropriate authority;
- (iii) prepare and have sworn a QP 0731: 'Request for a Search Warrant in a Reciprocating State (Affidavit)' and scan the QP 0731: 'Request for a Search Warrant in a Reciprocating State (Affidavit)' as an attachment to the relevant QPRIME occurrence;

(iv) prepare an 'Authority to request issue of a search warrant in another jurisdiction' and scan the QP 0733: 'Authority to Request Issue of a Search Warrant in another Jurisdiction' as an attachment to the relevant QPRIME occurrence;

(v) complete a general report from within the QPRIME occurrence, outlining details of the matter, and include the name, rank and station of the liaison officer; and

(vi) forward the general report as a general task within the QPRIME occurrence along with the QP0731 and QP 0733 forms through the chain of command to the assistant commissioner in charge of their region or command.

Action by Assistant Commissioner on receipt of request

POLICY

An assistant commissioner, on receipt of a 'Request for a search warrant in a reciprocating State – Affidavit' should examine the matter and decide whether the offence under investigation falls within the criteria outlined. If so, the assistant commissioner should then determine, on the basis of all the circumstances of the matter, whether the issue of a warrant is to be pursued in the other State or Territory.

When an assistant commissioner is of the opinion that the request for a warrant should be pursued, the assistant commissioner should sign the 'Authority to request issue of a search warrant in another jurisdiction' as provided by the requesting officer. The assistant commissioner should then ensure that the 'Request for a search warrant in a reciprocating State Affidavit', 'Authority to request issue of a search warrant in another jurisdiction' and general report provided by the requesting officer are forwarded to the appropriate authority in the reciprocating jurisdiction.

Taking possession of the property

PROCEDURE

On arrival in the reciprocating jurisdiction, the documentation should normally be forwarded to the liaison officer, who will become responsible for applying for and executing the search warrant.

At this time, the liaison officer should seek the issue of a warrant, using the information provided by the requesting officer. The liaison officer should then advise the requesting officer that the warrant has been issued.

In most instances, it is desirable for the requesting officer to travel to the other jurisdiction to accompany the liaison officer when the warrant is executed. This is particularly desirable when the property sought, such as documents, is not well identified. The need to be present at execution of the warrant is lessened when the property is well defined and easily identifiable.

In either case, the property may not be handed to the requesting officer until it has been recorded in a property register in the other jurisdiction, and an authority to take possession of the property has been received from the appropriate authority in Queensland.

POLICY

After receiving advice that a warrant has been issued in another jurisdiction, the requesting officer should:

- (i) discuss the necessity and timing of travel with the liaison officer from the other jurisdiction, and, subject to the approval of the relevant assistant commissioner, make suitable travel arrangements;
- (ii) on arrival in the other jurisdiction, take up with the liaison officer and proceed to the facility at which the property is stored;
- (iii) compile a list of all property seized and forward the list via email, facsimile or other appropriate method to the relevant assistant commissioner; and
- (iv) on receipt of an authorisation to receive the property signed by the relevant assistant commissioner, provide this authority to the liaison officer, who should then hand the property, together with a copy of the property register entry in which the property is recorded, to the requesting officer.

Action on return to Queensland

ORDER

On returning to Queensland, the requesting officer is to immediately lodge the property at a property point. The requesting officer is to ensure the QPRIME occurrence entry is updated and each item of property in the QPRIME occurrence is tagged indicating the current location of the property see 'Property Management: Lodge Property' of the QPRIME User Guide.

The requesting officer is to then complete a general report within the QPRIME occurrence and then forward the report as a general task through the officer in charge of the region or command to the Officer in Charge, Evidence Management, Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA. That report is to outline details of the property seized and is to be accompanied by a scanned copy of the authority to take possession of the property as signed by the relevant assistant commissioner and a scanned copy of any relevant register entry received from the other jurisdiction.

After an officer has conveyed property into Queensland as a result of the execution of a warrant under corresponding legislation in another jurisdiction, that officer remains responsible for the property while it remains in Queensland.

Status reports

POLICY

An officer who has responsibility for property which has been seized in another jurisdiction and conveyed into Queensland, should complete supplementary reports at regular intervals showing the current status of the property in terms of why the property is still required in Queensland. These reports should be tasked in QPRIME so that they reach the Officer in Charge, Evidence Management at intervals of not more than sixty days, commencing from the date on which the property was first brought into Queensland. This supplementary report should include some indication of when the property is likely to be released.

Responsibilities of property officer

POLICY

When property which has been seized under this or any corresponding Act is lodged at a property point, it is the responsibility of the relevant property officer to advise the Officer in Charge, Evidence Management, of any action taken in relation to that property. For this purpose, the property officer should task a general report to the Officer in Charge, Evidence Management advising of any occasion on which:

- (i) any person is given access to the property for any reason;
- (ii) any test or analysis is carried out on the property; or
- (iii) the property is removed from the property point for any reason.

Responsibilities of Assistant Commissioner

POLICY

On receipt of advice that property has been seized by virtue of a corresponding Act in another jurisdiction, the relevant assistant commissioner will cause to be prepared an 'Authority to receive property seized in a reciprocating State', and should transmit or cause the transmission of that authorisation to the requesting officer by email, facsimile or other appropriate method after the authorisation has been signed.

4.9.4 When Queensland is the seizing State

PROCEDURE

The procedures to be followed when a request is received to seize property in Queensland on behalf of another jurisdiction are essentially the reverse of the procedures when a Queensland officer makes a request. Normally an officer from the other jurisdiction will make informal contact with an officer in this State and will nominate that officer when transmitting the formal request (the 'liaison officer'). The grounds relied upon in any formal request received are to be in the form of a sworn affidavit.

Before a warrant may be sought, it is necessary that the request is received by an assistant commissioner who is an appropriate authority in terms of the Act. The Assistant Commissioner will forward requests to the nominated liaison officer, if deemed suitable.

POLICY

On receipt of a formal request for the issue of a search warrant under the Act, the liaison officer should:

- (i) prepare an 'Application for Search Warrant' (Form 9);
- (ii) prepare a 'Search Warrant' (QP 0712);
- (iii) prepare a 'Statement to Occupier – Search Warrant' (Form 11);
- (iv) make application before a magistrate for the issue of the warrant (see s. 2.8.3: 'Obtaining a search warrant' of this Manual);
- (v) execute the warrant and seize the property (see s. 2.8.4: 'Execution of search warrants' of this Manual); and
- (vi) enter an interstate assistance occurrence [1800] in QPRIME in relation to the execution of the warrant;
- (vii) tag each item of property in the occurrence indicating the current location of the property see QPRIME User Guide; and
- (viii) take the property immediately to a property point and lodge it.

All forms are available on QPS Forms Select.

Attendance of requesting officer

PROCEDURE

There is no necessity to have the requesting officer from the other jurisdiction present when the warrant is executed. However, this is often desirable for the purposes of identifying all property required. After obtaining the warrant, the officer responsible should contact the requesting officer to ascertain the requesting officer's wishes in this regard.

Where the requesting officer desires to be present when the warrant is executed, that officer should be afforded such opportunity. If not, the requesting officer should be advised when the warrant is executed, so that arrangements can be made to attend at the property point where the property has been stored.

The seized property may not be handed to the requesting officer until an authority to take possession of the property has been received from the 'appropriate authority' for the requesting jurisdiction. Where the requesting officer is present when the warrant is executed, the requesting officer will transmit a message by email, facsimile or other appropriate method to the appropriate authority (in the other jurisdiction) after the warrant has been executed. That appropriate authority then, by email, facsimile or other appropriate method, provides the relevant authority for the requesting officer to take possession of the property.

Where the requesting officer is not present in Queensland when the warrant is executed, that officer should obtain the authority to take possession of the property before leaving the other jurisdiction.

POLICY

When the requesting officer produces an authority to take possession of property from the appropriate authority of the requesting jurisdiction, that authority should be scanned as an attachment to the QPRIME occurrence and the seized property may then be handed to that officer.

Once property has been handed to the requesting officer, an indemnity receipt should be obtained and scanned as an attachment to the relevant QPRIME occurrence entry.

ORDER

A property officer who hands seized property to the requesting officer is to:

- (i) scan the appropriate authority of the requesting jurisdiction as an attachment to the QPRIME occurrence;
- (ii) provide a copy of the QP 0760: 'Property Receipt' which relates to that property to the requesting officer; and
- (iii) obtain an indemnity receipt from the requesting officer and scan the receipt as an attachment to the relevant QPRIME occurrence entry.

After handing seized property and a copy of the relevant QP 0760: 'Property Receipt' to the requesting officer, the property officer is to task the Officer in Charge, Evidence Management, Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA, with a scanned copy of the authority to take possession of the property and provide advice as to the status of the exhibit.

4.10 Drug matter

Drug matter

POLICY

Drug matter coming into possession of a member should only be held at either a property point or Queensland Health Forensic and Scientific Services (Forensic Chemistry).

Duties of property officer

Where drug matter which is suspected of being a controlled drug under the *Health Act*, a controlled substance under the *Drugs Misuse Act* or a dangerous drug is lodged at a property point, the property officer is to record the type of controlled drug, controlled substance or dangerous drug and, as far as reasonably practicable:

- (i) the weight or volume of the drug matter; or
- (ii) for plants – the number and height of the plants.

A property officer who reasonably believes that keeping drug matter about to be lodged at a property point would be dangerous should immediately advise the reporting officer of this fact and advise and assist them to deal with the drug matter in accordance with the provisions of s. 705: 'Destruction of drug matter soon after it is seized etc.' of the *Police Powers and Responsibilities Act*.

Due to the potential impacts of chemicals, police stations and property points generally are not equipped to store clandestine drug laboratory exhibits. The Kessels Road Police Annex at Coopers Plains has been designated to safely store clandestine drug laboratory exhibits. Additionally, purpose built secondary facilities are established at Rockhampton, Mackay, Townsville and Cairns.

Where any drug matter which has been lodged at a property point is no longer required for analysis, evidence in a proceeding or for some other reason, the property officer is to, as soon as reasonably practicable, destroy or dispose of, or arrange the destruction or disposal of the drug matter in accordance with the provisions of the *Police Powers and Responsibilities Act* and s. 4.10.5: 'Action to dispose of or destroy drug matter' of this chapter.

ORDER

Property officers are not to dispose of or destroy any drug matter unless they are satisfied that the drug matter is no longer required for analysis or evidence in a proceeding or for some other reason.

Forensic Chemistry

POLICY

Forensic Chemistry will generally accept drug matter where:

- (i) examination of the drug matter by an analyst from Forensic Chemistry is sought; or
- (ii) destruction of the drug matter is sought.

Where drug matter is submitted to Forensic Chemistry for examination, the drugs and/or utensils are to be packaged separately in appropriate packaging (see s. 4.5.9: 'Minimum storage requirements' of this chapter). Additionally, only the drug or utensil in its primary container, e.g. white powder in a plastic bag, or a liquid contained in a syringe, is to be forwarded. Excess packaging, i.e. any bag or container that does not directly hold the drug, is not to be forwarded to Forensic Chemistry. The outer heat sealed package which contains the entire exhibit or a plastic bag which encloses another container which is leaking or damaged is not considered to be excess packaging. This practice, as well as the removal of soil from plant exhibits, greatly assists the staff of Forensic Chemistry, in the analysis of drugs.

There is no necessity to obtain a certificate of analysis or identification for all drug exhibits. A certificate is to be requested if:

- (i) an application for a forfeiture order is to be made (see s. 4.10.7: 'Applications for forfeiture orders (drug matter)' of this chapter);
- (ii) the defendant has pleaded not guilty;
- (iii) the defence has otherwise indicated a desire to view a certificate; or
- (iv) charges that relate to the drug exhibit can only be dealt with by way of indictment (see ss. 13: 'Certain offences may be dealt with summarily' and 118: 'Proceedings for offences' of the *Drugs Misuse Act*).

Standardised drug descriptors

On occasion, the descriptions of drug exhibits and packaging provided by officers on QPS forms (including QPB32A: 'Field Property Receipt'; QPRIME property entries and QP 0127: 'Submission of Articles for Forensic Examination') have differed from the descriptions recorded by Forensic Chemistry. This disparity increases the risk of allegations regarding the integrity of an exhibit.

To ensure uniformity in the description of such items, the following standard for describing drug exhibits and packaging has been developed in consultation with Forensic Chemistry.

PROCEDURE

When describing drug exhibits and packaging on QPB32A: 'Field Property Receipts' and QPRIME property entries, the following points should be considered:

- (i) the description of the primary container or packaging should precede the contents. Common types of primary packaging include:
 - (a) clip sealed bags;
 - (b) sealed envelopes;
 - (c) plastic bags; and
 - (d) plastic/glass vials;
- (ii) a description of the contents should follow. This will include reference to:
 - (a) the quantity (weight in grams), or numbers of the item. The estimated or approximate weight of an item should include its immediate packaging;
 - (b) the colour of the item; and
 - (c) the form of drug or type of utensil. The following is a standardised list of drug exhibit descriptions. Where appropriate, the following descriptions should be used:
 - powder;
 - compressed/or partially compressed powder;

- crystalline substance;
- granular paste;
- rock-like substance;
- tablets;
- capsules;
- (dried/fresh/fermenting) plant material;
- seeds;
- liquid;
- oil; resin (block/or paste);
- card paper divided into (number) squares of ...mm x ...mm;
- (glass/plastic/ceramic) bottle fashioned into a smoking utensil;
- metal (pipe/cone), a deposit present; and
- plastic container containing a (....ml) syringe.

Examples

- one clip sealed bag containing a quantity (approx. 5 grams) of white powder
- one glass vial containing a quantity (approx. 2 ml) of clear liquid
- one clip sealed plastic bag containing ten seeds
- one clear plastic bottle fashioned into a smoking utensil
- one silver coloured metal pipe, a deposit present
- one piece of white card paper divided into 100 squares of 5mm x 5mm

In addition to providing a description of the drug exhibit and its primary packaging, officers completing a QP 0127A should describe the outer packaging before listing its contents.

Example

- One heat sealed plastic bag containing:
- a copy of QPS Property Tag No. '.....'; and
- one clip sealed bag containing a quantity (approx. 5 grams) of white powder.

POLICY

Officers should also consider the provisions of:

- s. 1.11.2: 'Recording an offence in QPRIME';
- s. 4.5.9: 'Minimum storage requirements';
- s. 4.10.2: 'Analysis/examinations (Cannabis)'; and
- s. 4.10.3: 'Analysis/examinations (other than Cannabis)';

of this Manual.

4.10.1 Photographs and fingerprint examinations

POLICY

Drug matter may be photographed and/or fingerprinted:

- (i) at a property point;
- (ii) at a location agreeable to the police photographer and/or fingerprint technician; or
- (iii) in situ, where the attendance of the police photographer and/or fingerprint technician is desirable or convenient.

Drug matter that is not required as primary evidence is to be photographed prior to any trial or hearing and those photographs are to be made available for production as exhibits.

Drug matter is to be photographed at a property point in instances where the property bag does not need to be opened. The reporting officer is to arrange for the attendance of a police photographer at the property point and advise the

property officer of the time arranged for the examination. The property officer, on arrival of the police photographer, is to remove the drug matter from the storage area to an area within the property point suitable for taking photographs.

Where it is necessary to open a property bag to allow its contents to be photographed, the reporting officer is to contact the police photographer in advance and ascertain if the property point is a suitable location for the photographing of the contents. If the police photographer agrees that the property point is suitable, the reporting officer is to arrange a time for the attendance of the police photographer at the property point and advise the property officer of this arrangement.

A police photographer who decides that a property point is not a suitable location for photographing drug matter is to advise the reporting officer of a suitable location and time for photographing it.

Where the services of a fingerprint technician are required for a drug transfer, the reporting officer is to contact the fingerprint technician (if not the same person as the photographer) in advance and arrange a suitable time and location for the examination of the drug matter.

Where drug matter is required to be removed from a property point for the purpose of taking photographs or conducting a fingerprint examination, the member removing the drug matter is to comply with s. 4.6.12: 'Temporary removal of property from property points' of this chapter in relation to the temporary removal of drug matter from the property point.

If it is necessary to open a property bag in which drug matter is stored, the reporting officer is responsible for the:

- (i) removal of the property bag from the property point, if necessary;
- (ii) opening of the property bag;
- (iii) removal and handling of the drug matter;
- (iv) return of the drug matter to the property bag;
- (v) the resealing of the original property bag;
- (vi) noting on the property bag in which the drug matter is kept, of the time and date the property bag was opened, and the reason for doing so;
- (vii) return of the property bag to the property point, if it had been removed; and
- (viii) ensuring that the QPRIME property entry is noted indicating the time and date the property bag was opened or removed and the reason for doing so.

The officer in charge of a region or command may develop Regional Instructions for instances where it would be impractical for a reporting officer to fulfil the responsibilities contained in this section.

4.10.2 Analysis/examinations (Cannabis)

By virtue of s. 4C of the *Drugs Misuse Act* specific members of the Service may be appointed as analysts. The function of members appointed as analysts is restricted to the analysis or examination of Cannabis only. Where it is necessary to obtain a certificate of analysis in respect of Cannabis, members should have such examinations conducted by these analysts.

If the Cannabis specimen sought to be examined consists only of the residue obtained from a thing used to administer a drug, or consists only of extremely fine particles, the analysis or examination should be conducted by an analyst from the Forensic Chemistry Section, see s. 4.10.3: 'Analysis/Examinations (other than Cannabis)'.

The reporting officer should be the officer who conveys the drug to and from the analyst. Where this is impractical, another member should undertake the task, but should be in a position to give evidence of the continuity of possession of the material.

As analysts operate at a limited number of centres throughout the State it is imperative that, prior to any analysis or examination, the reporting officer contacts the nearest analyst and arranges a time and date to attend at the centre from which the analyst operates for the analysis.

ORDER

When an analysis or examination of Cannabis is required, members are to:

- (i) have the relevant QPRIME property entry modified and remove the property from the property point (see QPRIME User Guide); and
- (ii) convey that property by the most direct means to an analyst and hand the property to that person.

The analyst is to remove the drug from its property bag in the presence of the member conveying the drug to the analyst and:

- (i) conduct a microscopic examination of the material;
- (ii) return the material to the property bag from which it was taken;
- (iii) reseal the property bag or place the property bag and its contents into another property bag; and
- (iv) hand the sealed property bag to the member.

The analyst is to issue a certificate as to the results of the analysis or examination and provide that certificate to the member requiring the examination.

The member who received the certificate from the analyst is to:

- (i) take the property directly to a property point suitable for the storage of drugs and lodge the property at that property point;
- (ii) modify the QPRIME property entry relating to those drugs by inserting the information taken from the certificate of analysis relating to drug type and weight or quality of the drugs;
- (iii) scan the certificate as an attachment to the relevant QPRIME occurrence; and
- (iv) comply with s. 590AH(2)(d): 'Disclosure that must always be made' and s. 590AI(2)(a): 'When mandatory disclosure must be made' of the Criminal Code (see s. 3.14: 'Disclosure of information to defence' (relevant proceeding)) of this Manual.

4.10.3 Analysis/examinations (other than Cannabis)

Certificate of analysis

ORDER

When the investigating officer becomes aware a certificate of analysis is required for a court proceeding in relation to a drug matter, other than Cannabis, stored at a property point, the investigating officer is to:

- (i) remove, or arrange for the removal of the drug matter from the property point after any photographic, fingerprint or other necessary examination;
- (ii) ensure that:
 - (a) a QP 0127: 'Submission of Articles for Forensic Examination' is completed and accompanies the drugs to Forensic Chemistry, Queensland Health Forensic and Scientific Services;
 - (b) only items which require analysis are delivered to Forensic Chemistry;
 - (c) the drug matter sent to Forensic Chemistry is packaged as outlined in s. 4.10: 'Acton in Special cases (drugs) of this chapter. Any queries concerning the correct packaging of items for analysis should be directed to Forensic Chemistry during working hours (see Service Manuals Contact Directory); and
 - (d) exhibit items are fully listed on property tags. Officers are not to refer to an attached list or other receipt tag;
- (iii) convey or arrange for the conveyance of the drug matter to Forensic Chemistry in line with local arrangements. The analyst or property officer to whom the drug matter is handed at Forensic Chemistry will issue a receipt for the drug matter. The investigating officer is to scan the certificate as an attachment to the relevant QPRIME occurrence;
- (iv) provide details to the Scientific Services Liaison Unit, Queensland Health Forensic and Scientific Services (see Service Manuals Contact Directory) of the court hearing date(s) and details of any subsequent adjournment(s) as soon as practicable; and
- (v) immediately advise the Scientific Services Liaison Unit, Queensland Health Forensic and Scientific Services (see Service Manuals Contact Directory) in cases where analysis is no longer required, e.g. plea of guilty, charges withdrawn.

Investigating officers are to contact Forensic Chemistry and obtain a certificate of analysis as soon as practicable after submitting the drug matter for examination. On receipt of a certificate of analysis, officers are to:

- (i) take possession of the relevant exhibits and return them to a property point unless there is an authorisation for destruction in which case the property can be destroyed by Forensic Chemistry (see also s. 4.10: 'Acton in Special cases (drugs) of this chapter);
- (ii) provide a copy of the certificate of analysis to the relevant prosecuting authority as soon as practicable; and
- (iii) comply with ss. 590AH(2)(d): 'Disclosure that must always be made' and 590AI(2)(a): 'When mandatory disclosure must be made' of the Criminal Code. (see s. 3.14: 'Disclosure of information to defence (relevant proceeding)' of this Manual).

Hypodermic syringes and needles

POLICY

Hypodermic syringes and needles should not be sent to the Forensic Chemistry Section for analysis unless sufficient justification exists (e.g. offences of unlawful killing, serious assault or trafficking). Offences or suspected offences of possession of minute quantities of a dangerous drug in a hypodermic syringe or needle do not constitute sufficient justification. Generally, if a quantity of the suspected substance is not visible, analysis is not justified.

Officers are to forward (through their respective officer in charge) a report to the Forensic Chemistry Section with any hypodermic syringe or needle to be analysed outlining the justification for such analysis. Where there is any doubt as to whether sufficient justification exists, staff at the Forensic Chemistry Section should be consulted prior to forwarding the hypodermic syringe or needle for analysis. Where the case has been discussed with scientific staff from the Forensic Chemistry Section, the name of the person contacted is to be included in the report.

When forwarding any hypodermic syringe or needle to the Forensic Chemistry Section for analysis or destruction, police officers and property officers are to ensure that the items are packaged inside a puncture resistant container (preferably a screw capped container of hard plastic or metal). Where available an appropriate 'sharps' container should be used.

Presumptive screening tests

The Forensic Chemistry Section can, in addition to performing full analyses of drugs, conduct presumptive screening tests of substances to determine whether the substance is a dangerous drug. A presumptive screening test is generally to be requested prior to the charging of a suspect.

At the conclusion of a presumptive screening test, which takes approximately five minutes, a verbal result will be given by the testing officer.

PROCEDURE

Officers should only request a presumptive screening test where absolutely necessary. Items to be tested may be delivered by the investigating officer, or by another officer or property officer (see s. 4.6.7: 'Responsibilities of property officers' of this chapter) acting under that officer's instructions.

4.10.4 Action to dispose of or destroy drug matter

The Service recognises that the retention of drug matter can pose substantial risk to the Service in terms of:

- (i) health and safety of various members handling or keeping the drug matter;
- (ii) ease at which drug matter can be converted into cash or otherwise used to obtain benefits;
- (iii) increased handling and longer periods of retention increases the risk of loss or theft of drug matter;
- (iv) loss or mishandling of drug matter exposes the Service to adverse criticism; and
- (v) resource implications of retaining drug matter for indefinite periods.

POLICY

In all cases the decision to retain or dispose of drug matter including representative samples where such discretion is allowed, must be weighed against the risk of failed prosecution and judicial criticism. Despite the fact that there will be some instances where the disposal of drug matter (e.g. where an offender cannot be located) may jeopardise the prosecution case, because of the risks outlined above, the Service position is that drug matter is to be lawfully disposed of in accordance with the provisions of the *Police Powers and Responsibilities Act*, *Drugs Misuse Act* and this chapter as soon as possible.

As a general rule, drug matter is to be retained for as minimum period of time as possible before being lawfully disposed of. The time of retention may vary according to the circumstances of the particular case to which the drug matter relates and the requirements of legislation (e.g. s. 713: 'When drug matter may be destroyed' of the *Police Powers and Responsibilities Act* requires the retention of drug matter if a person disputes a drug analysis under those provisions). The decision to dispose of or retain drug matter is to be made on a case-by-case basis.

ORDER

Officers in charge of stations or establishments are to ensure that any drug matter held at property points under their control is disposed of as soon as statutory provisions allow. Subject to local arrangements, officers in charge of stations or establishments have the delegated authority to direct the forfeiture and disposal of drug matter under their control. However, where the officer in charge is the reporting officer in relation to drug matter, or for large quantities of drug matter, that officer in charge is to refer the decision for forfeiture and/or disposal to their supervising commissioned officer. (see Appendix 4.1: 'Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*' of this chapter, which excludes value limits for drug matter).

Disposal provisions

There are a number of provisions relating to the disposal or destruction of drug matter.

ORDER

Reporting officers or property officers are to ensure that the disposal or destruction of drug matter complies with:

- (i) the following provisions of the *Police Powers and Responsibilities Act*:
 - (a) ss. 705: 'Destruction of drug matter soon after it is seized etc.' and 706: 'Steps police officer must take before destroying drug matter under s. 705' (see s. 4.10.7: 'Destruction of drugs where found or other place where it can safely be destroyed' of this chapter);

(b) s. 705A: 'Disposal of things used for administering etc. dangerous drugs'. The Commissioner's power to destroy drug matter under s. 705A has been delegated to officers in charge and property officers (see Delegation No. D 24.50 of the Handbook of Delegations and Authorities);

(c) s. 707: 'Alternative to destruction if drug matter is thing used in the commission of a drug offence'. This provision only applies to a thing used or intended for use in the commission of a drug offence (see 'Alternative disposal of a thing intended for use, or that was used, in the commission of a drug offence' in s. 4.10.9 of this chapter). The Commissioner's power to destroy drug matter under s. 707 has been delegated to commissioned officers and officers in charge of stations or establishments (see Delegation No. D 24.17 of the Handbook of Delegations and Authorities); or

(d) Chapter 21, Part 3, Division 3, Subdivision 3, ss. 708 to 713: 'Destruction of drug matter if notice required'. These provisions do not apply to things intended for use or that were used in the commission of a drug offence (see s. 4.10.11: 'Destruction of drug matter under Chapter 21, Part, 3, Division 3, Subdivision 3, ss. 708 to 713 of the *Police Powers and Responsibilities Act*' of this chapter);

(ii) where a court has made an order with respect to the forfeiture, destruction or disposal of that matter under s. 701: 'Disposal of things at end of proceeding' of the *Police Powers and Responsibilities Act* or other provision, in accordance with the requirements of that order and the relevant provisions of this section and s. 4.8: 'Disposal of property' of this chapter;

(iii) where applicable, in accordance with the provisions of s. 4.10.5: 'Applications for forfeiture orders (drug matter)' of this chapter;

(iv) for dangerous drug or related property automatically forfeited to the State pursuant to s. 32(8) of the *Drugs Misuse Act*, s. 379(10) of the *Police Powers and Responsibilities Act*, or for small quantities of drug matter forfeited under s. 690 of the *Police Powers and Responsibilities Act*; or

(v) where the officer in charge, or where applicable, a commissioned officer has made a lawful direction for the disposal or destruction of the drug matter, in accordance with the requirements of the direction and/or the relevant provisions of this section.

Who may destroy, or supervise destruction of drug matter

POLICY

With the exception of drug matter destroyed pursuant to s. 705 of the *Police Powers and Responsibilities Act*, forfeited drug matter, or drug matter directed to be destroyed, is to be destroyed:

(i) by the property officer, under the supervision of:

(a) a commissioned officer; or

(b) another person authorised by the district officer; or

(ii) by the property officer, in the presence of:

(a) a property officer or analyst at the Forensic Chemistry Section;

(b) an officer or employee of the department within which the *Health Act* is administered (i.e. Queensland Health); or

(c) a local government employee appointed by the chief executive officer of the local government to enforce relevant health and environment legislation and local laws ; or

(iii) at the Forensic Chemistry Section by:

(a) a property officer; or

(b) an officer or employee of the department within which the *Health Act* is administered who is authorised under the *Health Act* or another Act or Regulation to carry out the destruction of dangerous drugs.

When personally destroying drug matter, the property officer is to maintain control of that drug matter at all times. However, for practical reasons, another person present at the destruction may be required to handle the drug matter for brief periods of time e.g. placing the drug matter into an incinerator.

Wherever practicable, the above provisions also apply to drug matter to be destroyed pursuant to s. 705 of the *Police Powers and Responsibilities Act*.

Methods of destruction

PROCEDURE

Where drug matter is to be disposed of by destruction, the following methods of destruction/disposal are to be used. If the drug matter is:

(i) a dangerous drug:

(a) for plant material, by high-temperature or low-temperature incineration;

(b) for a dangerous drug in the form of a powder:

- by high temperature incineration; or
- by dilution;

(c) for a dangerous drug in the form of a tablet:

- by high temperature incineration; or
- by crushing into a powder and diluting it;

(ii) is a controlled substance:

(a) in a way decided by an analyst or other suitably qualified person; or

(b) by a person suitably licensed under the *Environmental Protection Act* to dispose of or destroy regulated waste (see Chapter 1, Part 3, Subdivision 4: 'Environmentally relevant activities' of the *Environmental Protection Act* and Part 2: 'Environmentally Relevant Activities' of the Environmental Protection Regulation);

(iii) is something that has been used in the administration, consumption or smoking of a dangerous drug, the matter is to be destroyed in a way that prevents it being used in the commission of an offence. For such matter incineration may be suitable, however may not be environmentally sound for some types of things – for example, it may be preferable to cut plastic products into pieces;

(iv) is something used in or for manufacturing of a dangerous drug, and is not a controlled substance (e.g. a hydroponics system, or the components of an illicit drug laboratory), the matter is to be destroyed in a way that prevents it being used in or for manufacturing of a dangerous drug; and

(v) is a hypodermic syringe or needle, it is to be disposed of in a way prescribed under s. 3: 'Prescribed procedures for the disposal of hypodermic syringes and needles' of the Drugs Misuse Regulation and in accordance with the provisions of s. 49: 'Disposal of sharps' of the Environmental Protection (Waste Management) Regulation. See also First Aid and Infection Control within Safety and Wellbeing of the Human Resources Policies.

Safety and additional considerations

POLICY

An officer who destroys drug matter is to, before destroying the matter, consider:

- (i) the *Work Health and Safety Act*;
- (ii) waste management legislation, i.e. the Environmental Protection (Waste Management) Regulation;
- (iii) the safety of the community generally;
- (iv) how effective the way of destroying the drug matter will be in preventing it from being used in or for the commission of an offence; and
- (v) the impact destroying the drug matter may have on the environment.

Additionally, where considered necessary, such officers are to obtain advice concerning any personal and environmental health and safety issues which may arise from the destruction of the drug matter from:

- (i) a State Environmental Health Officer;
- (ii) a local authority Health Inspector;
- (iii) the Medical Superintendent of a public hospital;
- (iv) a Government Medical Officer; or
- (v) the Environment division, Department of Environment and Heritage Protection (see Service Manuals Contact Directory).

An officer or property officer who destroys drug matter is to, as soon as practicable after the destruction:

- (i) obtain a suitable receipt from the person supervising the destruction (see s. 4.6.13: 'Finalising a property entry in QPRIME' of this chapter); and
- (ii) ensure the receipt is scanned as an attachment to the relevant QPRIME occurrence relating to the relating to the destroyed drugs.

Regional and local considerations

POLICY

Destruction of drug matter should be specified in the regional property plan, and include, where applicable, identification of persons authorised by the officer in charge of the region or command who may supervise the destruction of drug matter.

Arrangements for the destruction of drug matter are to be developed locally by officers in charge, and include:

- (i) locations of suitable high-temperature and low-temperature incineration facilities within their district or division;
- (ii) contact details of suitable persons licensed under the *Environmental Protection Act* to dispose of or destroy regulated waste within their district or division;
- (iii) contact details of suitable officers or employees of the department within which the *Health Act* is administered within their district or division who may destroy drug matter; and
- (iv) contact details of suitable persons within their district or division from whom advice with respect to environmental health and safety issues which may arise from the destruction of the drug matter may be sought.

Drug matter may be destroyed at any waste disposal facility which has the capability to comply with the provisions of this section.

In the case of stations or establishments which are reasonably accessible to the Forensic Chemistry Section, local arrangements for the destruction of drug matter may include destruction at that Section.

Drug matter held at the Forensic Chemistry Section

ORDER

A reporting officer is to, with respect to any drug matter held at the Forensic Chemistry Section which is subject to destruction under the provisions of the *Police Powers and Responsibilities Act*:

- (i) draft a letter to the Forensic Chemistry Section requesting that drug matter be destroyed; and
- (ii) submit that letter and the 'Reporting officer' copy of the Property Register entry to their officer in charge;

as soon as practicable after the relevant order or decision to destroy the drug matter is made.

An officer in charge who receives a letter outlined in paragraph (ii) above is to check it for accuracy and forward it to the Forensic Chemistry Section if deemed suitable.

Upon receipt of a certificate of destruction from the Forensic Chemistry Section, the reporting officer is to transmit that certificate to the officer in charge of the property point where the drug or thing was being held prior to conveyance to the Forensic Chemistry Section. The property officer is to ensure the certificate of destruction is placed in the Property Register entry relevant to that drug or thing.

Taking representative samples of drugs

Sections 705: 'Destruction of drug matter soon after it is seized' and 710: 'Destruction notice may be given to person' of the *Police Powers and Responsibilities Act* and scheduling 'drug matter' in s. 4.10: 'Action in special cases (drugs)' of this chapter require, subject to certain conditions, a police officer or a property officer to retain or make available a representative sample of a dangerous drug or a controlled substance.

POLICY

A reporting officer or a property officer who is required to retain or make available a representative sample of a dangerous drug or a controlled substance in accordance with the *Police Powers and Responsibilities Act* or this Manual is to first contact a scientific officer for advice on the taking of the sample.

Disposal of drug or drug related thing at conclusion of proceedings

POLICY

At the conclusion of any court proceedings in relation to drug matter held by the Service, the reporting officer is to advise the property officer of the property point where that drug or thing is being held of the result of the proceedings and, in particular, any orders made by the court with respect to the drug or thing. If applicable, the property officer is to ensure that the drug or thing is destroyed in accordance with this section, local arrangements and any order made by a court as soon as reasonably practicable after the expiry of the appropriate appeal period.

4.10.5 Applications for forfeiture orders (drug matter)

Small quantities of drug matter where there is no or minimal likelihood of detecting an offender are automatically forfeited upon determination of the Officer in Charge under s. 690 of the *Police Powers and Responsibilities Act* (see s. 4.7.14: 'Forfeiture of property considered to have no value' of this chapter).

Large quantities of drug matter which have not been destroyed pursuant to ss. 705, 705A, 707 or 710 of the *Police Powers and Responsibilities Act* and for which there is no or minimal likelihood of detecting an offender, are to be forfeited under s. 719 of the *Police Powers and Responsibilities Act* upon application to a commissioned officer (see s. 4.10.4: 'Action to dispose of or destroy drug matter' of this chapter).

Drugs Misuse Act

Forfeiture orders for dangerous drugs or drug related property may be made by a court, or applied for pursuant to the provisions of ss. 32: 'Forfeiture of dangerous drugs' and 34: 'Forfeiture orders' of the *Drugs Misuse Act*.

With respect to dangerous drugs, s. 32 of the *Drugs Misuse Act* provides for:

- (i) applications to be made to a court for a forfeiture order;
- (ii) forfeitures by virtue of a conviction of a person in respect of an offence defined in Part 2 (ss. 5-13) of the *Drugs Misuse Act*; and
- (iii) forfeiture orders which a court may make when a person is not convicted in respect of an offence defined in Part 2 of the *Drugs Misuse Act*.

With respect to property (other than dangerous drugs), s. 33 of the *Drugs Misuse Act* lists the type of property which is liable to forfeiture under s. 34, and s. 34 provides that a court may order the property be forfeited to the Crown where the court is satisfied upon application that:

- (i) property is liable to forfeiture in consequence of the commission of an offence defined in Part 2; and
- (ii) a person:
 - (a) has been convicted of such an offence; or
 - (b) is dead, cannot be found or is for any other reason not amenable to justice.

POLICY

Where applications for the forfeiture of drug matter may be made pursuant to the provisions of the *Drugs Misuse Act* and the *Police Powers and Responsibilities Act*, the provisions of the *Police Powers and Responsibilities Act* are to be used.

Suggested procedure for application under ss. 32 or s. 34 of the Drugs Misuse Act

PROCEDURE

Where circumstances require that an application for the forfeiture of dangerous drugs or drug related property be made pursuant to the *Drugs Misuse Act*, officers are to:

- (i) commence a civil proceeding by using a Form 5: 'Originating Application' (available on QPS Forms Select);
- (ii) follow the procedures referred to in s. 13.30: 'Starting a civil proceeding' of this Manual;
- (iii) ensure any certificate of analysis and dangerous drugs with respect to s. 32 applications or, where practicable, drug related property with respect to s. 34 applications, is available for production in court;
- (iv) when the order is issued and, following appeal period, initiate action to destroy dangerous drugs or otherwise dispose of the drug related property in accordance with the order and the provisions of the *Drugs Misuse Act*;
- (v) notify the officer in charge of the relevant property point of the order and any other action taken; and
- (vi) where the offender, listed as a respondent in the Form 5, is interstate refer to s. 14.29.6: 'Interstate service of an originating process' of this Manual.

Where the application is made by a member, other than the reporting officer, two affidavits are required. One by the reporting officer as to how the reporting officer came to be in possession of the dangerous drug or drug related property and subsequent dealings by that officer and one by the applicant as to the applicant's part in the proceedings.

Forfeited drug matter

Drug matter forfeited to the State, whether under the provisions of the *Drug Misuse Act* or the *Police Powers and Responsibilities Act*, is to be destroyed in accordance with the provisions of s. 4.10.4: 'Action to dispose of or destroy drug matter' of this chapter unless it is to be otherwise disposed of in accordance with another provision of this Manual (see ss. 4.17: 'Recommended disposal or destruction method of things' or 4.10.8: 'Retention and use of dangerous drugs for training' of this chapter).

4.10.6 Removing drugs from Forensic Chemistry Section

Where drug matter is to be removed from the Forensic Chemistry Section, the reporting officer is to:

- (i) attend at the Forensic Chemistry Section and collect the drug matter (in most cases, the drug matter will be in a heat-sealed polytube bag when handed to the reporting officer);
- (ii) sign a receipt for the drug matter (a QPB32A is not required to be completed in this instance);
- (iii) take the drug matter to a property point suitable for the storage of drug matter and lodge the drug matter at that point (unless the provisions of s. 4.6.12: 'Temporary removal of property from property points' of this chapter apply, modify the QPRIME occurrence accordingly see QPRIME User Guide);
- (iv) ensure the drug matter is not removed from the heat-sealed bag in which they are supplied; and
- (v) where drug matter is required at court for more than one day, return the drug matter to a property point at the end of court each day.

4.10.7 Destruction of drugs where found or other place where it can be safely destroyed

Officers who locate drug matter in circumstances where the provisions of s. 705: 'Destruction of drug matter soon after it is seized etc.' of the *Police Powers and Responsibilities Act* apply, are to, before destroying the drug matter:

- (i) have the drug matter photographed by a police officer;
- (ii) for drug matter other than a thing intended for use, or that was used, in the commission of a drug offence, if practicable:
 - (a) weigh the drug matter, or for plants, count the number of plants; and
 - (b) retain a representative sample of the drug matter;
- (iii) with respect to drug matter that is dangerous drugs, request the analyst or botanist to:
 - (a) examine the drugs. In the case of plantations, this is to entail an examination of each plant, where practicable. Where the size of the plantation makes this not practicable, the analyst is to examine a selection of plants which constitutes a representative sample of the plantation;
 - (b) take a representative sample of the dangerous drug; and
 - (c) issue a certificate which identifies the type of dangerous drug and either its weight or volume, or in the case of plants, the height and number of plants;
- (iv) if applicable, arrange for the attendance at the scene of an analyst or botanist authorised under the provisions of the *Drugs Misuse Act* to issue a certificate;
- (v) if practicable and if not already undertaken, consult with the property officer of the property point or the officer in charge of the station or establishment where the drug matter would ordinarily be taken/stored, as to the suitability and safety of keeping the drug matter at the property point or station or establishment;
- (vi) destroy the drug matter in accordance with the provisions of s. 4.10.4: 'Action to dispose of or destroy drug matter' of this chapter.

Where a decision is made to destroy drug matter pursuant to the provisions of s. 705 of the *Police Powers and Responsibilities Act*, the senior officer present is responsible for the destruction of the drugs in a manner which is safe to persons and property. Additionally, where a decision is made to move such drug matter to another place where it can be safely destroyed, the senior officer present is to ensure the packaging and transport of the drug matter is done in a manner which is safe to persons and property (also see s. 4.10.4: 'Action to dispose of or destroy drug matter' of this chapter).

Alternative disposal of a thing intended for use, or that was used, in the commission of a drug offence

Section 707: 'Alternative to destruction if drug matter is thing used in the commission of a drug offence' of the *Police Powers and Responsibilities Act* provides that if the Commissioner is reasonably satisfied drug matter in possession of the Service is a thing used or intended for use in the commission of a drug offence that may be destroyed under s. 705 of the *Police Powers and Responsibilities Act*, the Commissioner may direct that the thing first be photographed and then disposed of in the way the Commissioner thinks appropriate instead of destroying it under s. 705.

A thing used or intended for use in the commission of a drug offence may include:

- (i) smoking utensils such as pipes or bongs in relation to the smoking of a dangerous drug;
- (ii) hypodermic syringes and needles, spoons and other similar items in relation to the consumption or administering of dangerous drugs;
- (iii) lighting, pots, fertiliser, irrigation systems, thermometers, test kits, power leads, generators etc. used in hydroponics systems or plantations; and
- (iv) glassware, bottles, chemicals, apparatus and other items used in clandestine laboratories.

The Commissioner has delegated the Commissioner's functions and powers under s. s. 707 of the *Police Powers and Responsibilities Act* to commissioned officers and officers in charge (See Delegation No. D 24.17 of the Handbook of Delegations and Authorities).

POLICY

Officers locating a thing that was used or intended for use in the commission of a drug offence in circumstances where the provisions of s. 705 of the *Police Powers and Responsibilities Act* apply, may seek a direction for disposal of the thing under the provisions of s. 707 of the *Police Powers and Responsibilities Act*, from their officer in charge or a commissioned officer if the thing was located within their area of responsibility.

Upon application by officers locating a thing used or intended for use in the commission of a drug offence, or otherwise, officers in charge or commissioned officers when satisfied the conditions of s. 705 have been met, may direct that the thing be photographed and disposed of in a way the officer in charge or commissioned officer thinks appropriate.

In determining the appropriate way of disposal, the officer in charge or commissioned officer is to consider whether disposal of the thing under s. 707 of the *Police Powers and Responsibilities Act*:

- (i) is lawful;
- (ii) is fair and equitable;
- (iii) does not attract undue criticism of the Service; and
- (iv) minimises or eliminates any risk of injury or illness to any person, or damage to any property not subject of the disposal.

An example of disposal given under s. 707 of the *Police Powers and Responsibilities Act* is a hydroponics system previously used for growing dangerous drugs to a school for use for an agricultural purpose.

4.10.8 Retention and use of dangerous drugs for training

Chapter 21, Part 4, ss. 733 to 739: 'Use of dangerous drugs for training' of the *Police Powers and Responsibilities Act* allows police to have possession of dangerous drugs for training purposes.

Section 733: 'Keeping dangerous drugs for use in police service training' provides that 'a batch of a dangerous drug may lawfully be kept in the possession of the police service and used for training in the police service if:

- (i) the keeping of the batch, and its use for training in the police service, is authorised under a commissioner direction; and
- (ii) the batch is kept, and used for training, in accordance with the conditions included in the commissioner direction.'

Definitions

For the purposes of this policy see the definitions in s. 726: 'Definitions for pt 4' of the *Police Powers and Responsibilities Act*.

Also see Service Manuals Definitions.

Delegation

All powers and functions under Chapter 21, Part 4: 'Use of dangerous drugs for training', of the *Police Powers and Responsibilities Act* have been delegated by the Commissioner to the Assistant Commissioner, Operations Support Command, with the exception of s. 734: 'Making commissioner direction'. See Delegation No. D 24.38 of the Handbook of Delegations and Authorities.

Record retention

POLICY

The Assistant Commissioner, Operations Support Command is to maintain copies of Instruments of Appointment for Drug Control Officers, Agency Arrangements, Applications for Commissioner Direction for a specific batch of a dangerous drug for training purposes, Specific Agency Arrangements, Commissioner Directions issued and copies of all documents relating to batches of dangerous drugs to be used or used for training purposes.

Application for Commissioner direction for a specific batch of a dangerous drug for training purposes

POLICY

In cases where a need exists for a batch of a dangerous drug to be used for training and a suitable batch of a dangerous drug is in the possession of:

- (i) the Service:
 - (a) having been forfeited, or ordered to be forfeited, to the State under the *Police Powers and Responsibilities Act* or another Act; or
 - (b) having been ordered under the *Police Powers and Responsibilities Act* to be disposed of or destroyed; or
- (ii) a department or other agency of the State or Commonwealth with whom an agency arrangement exists;

the officer in charge of the station or establishment where the dangerous drugs are required for training purposes or where the drugs are required for training at Specialist Services, the Inspector, Specialist Services Coordinator is to liaise with the Superintendent, Specialist Services, Operations Support Command to establish availability of the required dangerous drugs. That officer in charge or the Inspector, Specialist Services Coordinator, is to ensure an QP 0621: 'Application for Commissioner Direction for a specific batch of a dangerous drug for training purposes' form is fully and accurately completed and submitted to the officer in charge of their region or command.

Where the drugs are to be obtained through an agency arrangement, the officer in charge of the station or establishment where the dangerous drugs are required for training purposes, or the Inspector, Specialist Services Coordinator in

addition to an application, is ensure that a QP 0620: 'Specific Agency Arrangement' form, sections 1, 2, 4 and 5, is completed.

The relevant officer in charge of the region or command is to consider the application. If the application is supported it is to be forwarded to the Assistant Commissioner, Operations Support Command with appropriate recommendations and, if required, conditions which should be included in a Commissioner Direction.

The Assistant Commissioner, Operations Support Command may:

(i) in cases where the identified batch of the dangerous drug is to come into the possession of the police service under an agency arrangement, issue a fully completed Specific Agency Arrangement form relating to the identified batch of the dangerous drug; and

(ii) in cases where the batch of the dangerous drug to be used for training is in the possession of:

(a) the Service; or

(b) a department or other agency of the State or Commonwealth with whom an agency arrangement exists, and the batch comes into the possession of the police service under an agency arrangement;

ensure that a QP 0623: 'Commissioner Direction', relating to the specific batch of the dangerous drug is completed and submitted to the Commissioner for consideration and signature.

A Commissioner Direction may be amended or repealed and a new one issued by the Commissioner.

Drug vaults

POLICY

Officers in charge of regions or commands may establish and designate a drug vault for the keeping of dangerous drugs for training purposes within their area of responsibility. Prior to establishing a drug vault however, the officer in charge of the region or command is to consult with the Assistant Commissioner, Operations Support Command for requirements associated with the design and construction of the proposed vault.

Audit of drug vaults

ORDER

The commissioned officer who has responsibility for the supervision of a drug vault is to ensure that an audit of the drug vault is conducted at least once every three months, and at the time of relinquishment of the role and functions of a drug control officer. The audit is to be conducted by a police officer not otherwise directly associated with the keeping or use of dangerous drugs for training purposes.

Audits are to be conducted in accordance with the requirements of s. 736: 'Requirements for keeping of dangerous drugs for training purposes' of the *Police Powers and Responsibilities Act* and are to include examinations of all documentation and records relating to a particular batch of a dangerous drug.

The accuracy of scales used in measuring the batches of dangerous drugs or part thereof stored in a drug vault are to be certified in accordance with the requirements of Technical Note 13: 'User checks of balance calibration' published by the National Association of Testing Authorities (NATA) (available from the Officer in Charge, Forensic Services Group, Operations Support Command).

POLICY

A copy of the three monthly audit report is to be forwarded to the Assistant Commissioner, Operations Support Command, and the Assistant Commissioner, Ethical Standards Command.

Recording movement of batch of a dangerous drug or part thereof

POLICY

A drug control officer, in addition to the requirements of the commissioner direction pertaining to the recording of movements of a batch of a dangerous drug or part thereof, is to ensure that a signed acknowledgement is obtained from a drug control officer or authorised officer taking possession of the batch of the dangerous drug or part thereof. The form QP 0622: 'Record of movement of dangerous drugs' is to be used and appropriately completed for this purpose.

Members taking possession of dangerous drugs from a drug vault and returning dangerous drugs to the drug vault are to ensure that the relevant 'Record of movement of dangerous drugs' form is appropriately completed and signed as required.

Authorised officers, subject to the conditions of the relevant commissioner direction, are to ensure that while the batch of a dangerous drug is in their effective control that appropriate security is maintained.

Drug control officers

POLICY

Drug control officers are to be appointed in relation to established drug vaults in accordance with the provisions of the *Police Powers and Responsibilities Act* and this policy.

Where considered necessary, officers in charge of regions or commands are to nominate an appropriate member of the Service for appointment as a drug control officer for each designated drug vault within their area of responsibility. Nominations addressing the requirements contained in s. 727: 'Appointment and qualifications' of the *Police Powers and Responsibilities Act* are to be forwarded to the Assistant Commissioner, Operations Support Command for consideration.

The Assistant Commissioner, Operations Support Command, if satisfied the nominated person is qualified for appointment as a drug control officer because the person has the necessary expertise or experience, or the person has satisfactorily finished training approved by the Commissioner, may appoint the nominated person as a drug control officer. An 'Instrument of Appointment' form under s. 727 of the *Police Powers and Responsibilities Act* is to be issued.

The Assistant Commissioner, Operations Support Command, when appointing a drug control officer is to:

- (i) issue an instrument of appointment in accordance with s. 728: 'Appointment conditions' of the *Police Powers and Responsibilities Act*;
- (ii) issue an identity card in accordance with s. 729: 'Issue of identity card' of the *Police Powers and Responsibilities Act*; and
- (iii) ensure that the identity card issued to a drug control officer is returned in compliance with s. 731: 'Return of identity card' of the *Police Powers and Responsibilities Act*.

For the purposes of issuing an identity card, the Assistant Commissioner, Operations Support Command is to ensure that a copy of the instrument of appointment relating to the appointment of a drug control officer is forwarded to the Manager, Facility Services, Built Assets, Business Services Division, PSBA for the necessary arrangements to be made for the development of the card. The completed identity card is to be forwarded to the Assistant Commissioner, Operations Support Command for issue to the appointed drug control officer unless otherwise arranged with the Assistant Commissioner, Operations Support Command.

In relation to the renewal of an identity card, a drug control officer is to ensure that prior to the expiry date of the relevant identity card, necessary arrangements are made with the Assistant Commissioner, Operations Support Command.

Although legislation does not restrict the number of officers that may be appointed as a drug control officer, consideration should be given to the risks and security issues that may arise from having multiple drug control officers for specific drug vaults.

Responsibilities of drug control officers

POLICY

A drug control officer is to comply with the conditions of appointment and the provisions of Chapter 21, Part 4: 'Use of dangerous drugs for training' of the *Police Powers and Responsibilities Act*.

A drug control officer is responsible for the transport, security, storage, control and destruction of a batch of a dangerous drug.

A drug control officer taking possession of a batch of a dangerous drug is to comply with the provisions of the applicable Specific Agency Arrangement where one is issued, and the relevant commissioner direction.

In cases where a batch of a dangerous drug is obtained from the Australian Federal Police, through a Specific Agency Arrangement, the drug control officer is to:

- (i) ensure that a copy of the relevant Specific Agency Arrangement is handed to the Drug Registrar, Brisbane Office, Australian Federal Police prior to the actual release of the dangerous drugs;
- (ii) ensure that a copy of the commissioner direction for the batch of the dangerous drug that comes into possession of the Service under a Specific Agency Arrangement is supplied to the Team Leader, Drug and Property Registry, Brisbane Office, Australian Federal Police within fourteen days of those dangerous drugs coming into the possession of the Service; and
- (iii) as soon as practicable following the receipt of the stated batch of the dangerous drug, ensure a copy of the Australian Federal Police Drug transfer form is given to the Assistant Commissioner, Operations Support Command.

ORDER

Should an appointed drug control officer require the use of a batch of a dangerous drug or part thereof for training in which that drug control officer is directly involved, that officer is not to act as the drug control officer for that particular batch of a dangerous drug.

In such cases an authorised officer, who is not involved in the use of that particular batch of a dangerous drug for training, is to discharge the duties of the drug control officer when the dangerous drug is removed from and is returned to the drug vault for the purpose of training.

Destruction of dangerous drugs

POLICY

The drug control officer is responsible for ensuring that all dangerous drugs retained at a drug vault under a commissioner direction are destroyed by, or in the presence of, an officer or employee of the department within which the *Health Act* is administered and who is authorised under the *Health Act* or another Act or Regulation to carry out the destruction of dangerous drugs.

PROCEDURE

Upon destruction of a batch of dangerous drugs, the drug control officer is to obtain a receipt for such destruction from the officer or employee conducting, or present at, the destruction. The receipt is to include the applicable reference numbers (i.e. AFP seizure number(s), property item number, sub-item number, QPRIME Occurrence number) of the dangerous drugs being destroyed.

In cases where a batch of the dangerous drug has been obtained from the Australian Federal Police, through a Specific Agency Arrangement, the drug control officer is to ensure that a copy of the destruction receipt is forwarded to the Team Leader, Drug and Property Registry, Brisbane Office, Australian Federal Police within 28 days of the destruction.

Forms

The forms mentioned herein are available on QPS Forms Select:

- (i) QP 0620: 'Specific Agency Arrangement';
- (ii) QP 0621: 'Application for Commissioner Direction for a Specific Batch of Dangerous Drug for training purposes';
- (iii) QP 0622: 'Record of Movement of Dangerous Drugs'; and
- (iv) QP 0623: 'Commissioner Direction'.

Retention of drug matter other than dangerous drugs

For the retention of drug matter, other than dangerous drugs see s. 4.17: 'Recommended disposal or destruction methods of things' under the heading 'Things of use to a government department' of this chapter.

4.10.9 Applications for Restraining Orders under the Drugs Misuse Act

Section 41(1) of the *Drugs Misuse Act* provides that:

Where a court is satisfied, upon application made to it –

- (i) that property may be liable to forfeiture in consequence of the commission of an offence defined in Part 2; and
- (ii) that proceedings have been, or are about to be, commenced against a person in respect of such an offence,

it may make a restraining order in respect of that property, and such other ancillary order as it thinks fit.

Section 33 of the *Drugs Misuse Act* lists the type of property which may be liable to forfeiture.

PROCEDURE

Reporting officers taking possession of property which is liable to forfeiture and which is not seized as evidence should, in appropriate circumstances, make application to a court for a restraining order in respect of that property within fourteen days of the time of seizure.

The reporting officer should make every possible inquiry to establish:

- (i) the ownership and value of the property; and
- (ii) whether any individual or organisation has any control or a vested interest in the property.

Depending on the value of the property, the application may be made to a Magistrates Court or the Supreme Court.

The suggested procedure for making an application under s. 41 of the *Drugs Misuse Act* is:

- (i) liaise with the local prosecutor and Clerk of the Court to establish a suitable date for hearing;
- (ii) complete and lodge the QP 0246: 'Application for Restraining Order' and QP 0247: 'Notice of Application for Restraining Order' forms (both are available on Forms Select), including the 'schedule of property' and any other appropriate attachments to the Clerk of the Court; and
 - (a) ensure that the QP 0247: 'Notice of Application for Restraining Order' is signed by the Clerk of the Court or a Magistrate;
- (iii) serve all parties who have an interest in the property with a copy of the QP 0247: 'Notice of Application for Restraining Order' form, including the schedule of property. Wherever possible personal service is preferable;

- (iv) complete the oath of service, where service is affected;
- (v) provide a copy of all documentation, including a completed QP 0248: 'Restraining Order' form to the prosecutor;
- (vi) attend at Magistrates Court on the hearing date and give evidence as required;
- (vii) the prosecutor is to produce to the court all relevant documentation.

Considerations in making application for restraining orders include the need to retain the property in police custody, especially motor vehicles. When no objections exist, consideration should include whether the application should be for a restraining order which vests control of the property to the Commissioner of Police but permits the owner to retain custody.

4.10.10 Application of Sections 130, 131 and 131A of the Drugs Misuse Act

Sections 130: 'Evidence of controlled substance by label', 131: 'Evidence of equipment being used to produce particular dangerous drugs' and 131A: 'Evidence of medicine or poison or veterinary chemical product by container' of the *Drugs Misuse Act* are evidentiary identifying the conditions that must be met to allow a court to accept proof of an allegation which forms part of an offence against the Act without the need for analysis or examination.

An investigating officer can use these provisions if they apply or they can have the substance or equipment analysed or examined.

ORDER

An investigating officer is to use these provisions to prove an allegation that

- (i) a substance is a controlled substance;
- (ii) particular equipment was used in the production of a relevant dangerous drug; or
- (iii) a substance is a medicine or poison or veterinary chemical product,

for the purpose of proving an offence against the *Drugs Misuse Act*.

Advice on applying these provisions should be sought from a member of the State Drug Squad, Drug and Serious Crime, State Crime Command or another suitably experienced officer.

ORDER

An officer who intends to rely upon these provisions to prove such an allegation is to serve a QP 0669: 'Prosecution Information Notice (available on QPRIME or on QPS Forms Select) on the offender.

The QP 0669 should be served as soon as practicable and within 28 days after commencing the prosecution.

PROCEDURE

An officer who needs to serve a QP 0669 should:

- (i) serve a copy of the QP 0669 on the offender and prove service in the same way as a summons under s. 56: 'Service of summonses' of the *Justices Act*; and
- (ii) deliver a copy (endorsed as to service) of the QP 0669 to the relevant:
 - (a) prosecuting authority (i.e. police prosecution corps or Director of Public Prosecutions) responsible for prosecuting the matter; and
 - (b) property officer at the property point where the exhibit is stored).

Action – offender challenges the 'Prosecution Information Notice'

An offender can challenge the QP 0669 by serving on the Commissioner a 'challenge notice' under the provisions of s131B(4) of the *Drugs Misuse Act* within 28 days of service or within any period of extension ordered pursuant to s. 131B(5) of the *Drugs Misuse Act*.

ORDER

A member of the Service receiving a 'challenge notice' on behalf of the Commissioner is to ensure the notice is delivered as soon as possible to the investigating officer named on the form.

On receipt of a 'challenge notice' the investigating officer is to ensure that the property subject of the notice is analysed or examined as soon as possible.

PROCEDURE

The investigating officer upon receipt of the 'challenge notice' should:

- (i) deliver a copy of the 'challenge notice' to the:
 - (a) relevant prosecuting authority; and
 - (b) relevant property officer; and

(ii) arrange for the property subject of the QP 0669 to be analysed or examined as required (see s. 4.10.3 of this chapter).

Action – offender does not challenge the Prosecution Information Notice

Where a challenge notice is not received within the required/ordered period, the:

- (i) investigating officer is to ensure a statement(s) addressing the requirements of the provisions as applicable, is prepared, signed and delivered to the relevant prosecuting authority; and
- (ii) relevant prosecuting authority upon receipt of such a statement, is to rely upon the statement to prove the relevant substance or equipment related allegations.

POLICY

A statement prepared for this purpose, can be made by the investigating officer or a member of the State Drug Squad, Drug and Serious Crime, State Crime Command or other suitably experienced person (e.g. an Environmental Health Officer).

The investigating officer is to prepare or cause the statement(s) to be prepared as soon as practicable after the expiration of the required/ordered period.

PROCEDURES

A statement prepared for this purpose should refer to the:

- (i) maker's reasonable belief the:
 - (a) container contained a controlled substance;
 - (b) equipment was used in the production of the relevant dangerous drug; or
 - (c) sealed medicine or poison container contained a medicine or poison or veterinary chemical product; and
- (ii) evidence which supports that belief;
- (iii) offender having been served with the QP 0669: 'Prosecution information Notice'; and
- (iv) non-receipt of a challenge notice from the offender.

Action – where a court rules on the evidentiary provisions

Even when the prosecution relies upon these provisions to prove an allegation against an offender, the court will ultimately decide whether or not it accepts the allegation without the need for the substance or equipment to be analysed or examined.

ORDER

Irrespective of whether the court accepts these evidentiary provisions as being proof of the allegation(s) or not, the prosecuting authority is to notify the investigating officer of the outcome as soon as practicable.

Where the court rules that the provisions are not sufficient to prove the allegation, the:

- (i) prosecuting authority is to seek an adjournment of sufficient length to allow the substance or equipment to be analysed or examined; and
- (ii) investigating officer is to (as soon as practicable) ensure that the property subject of the QP 0669 is analysed or examined as required (see s. 4.10.3: 'Analysis/examinations (other than cannabis)' of this chapter).

POLICY

Where the court rules that the provisions are sufficient, the investigating officer is to give proper consideration as to whether these items should be retained as evidence until conclusion of proceedings or whether secondary evidence (i.e. photographs) alone is sufficient.

Officers are to comply with the relevant provisions of the *Police Powers and Responsibilities Act* and s. 4.8: 'Disposal of property' of this chapter when disposing of property.

4.10.11 Destruction of drug matter under Chapter 21, Part 3, Division 3, Subdivision 3, ss. 708 to 713 of the Police Powers and Responsibilities Act

The provisions of Chapter 21, Part 3, Division 3, Subdivision 3, ss. 708 to 713: 'Destruction of drug matter if notice required' of the *Police Powers and Responsibilities Act* applies to drug matter:

- (i) that is not destroyed under Chapter 21, Part 3, Division 3, Subdivision 2: 'General provisions about destruction of drug matters' of the *Police Powers and Responsibilities Act*; and
- (ii) that is not a thing intended for use, or that was used, in the commission of a drug offence.

Additionally, it should be noted that the provisions only apply to drug matter for which an analyst's certificate stating what the drug matter is has been obtained and is in possession of the Commissioner.

The Commissioner has delegated the Commissioner's functions and powers under Chapter 21, Part 3, Division 3, Subdivision 3 of the *Police Powers and Responsibilities Act* to officers in charge of stations or establishments and commissioned officers. See Delegation D 24.17 of the Handbook of Delegations and Authorities.

POLICY

Drug matter should be destroyed under the provisions of ss. 708 to 713 of the *Police Powers and Responsibilities Act* where no other disposal provisions apply and the drug matter is subject to or likely to be subject to a proceeding for an offence.

Giving of a destruction notice

Section 710(1): 'Destruction notice may be given to person' provides that a police officer may give a person the police officer reasonably suspects has committed an offence in which drug matter is involved a written notice (destruction notice) under s. 710. A destruction notice given to a person whose name and location are known must be in the approved form. The approved form is the Form 49: 'Destruction Notice (Drugs)' (available in QPRIME).

PROCEDURE

An officer who gives a destruction notice to a person the officer reasonably suspects has committed an offence in which drug matter is involved, is to give the document:

- (i) by delivering it to the person personally; or
- (ii) by leaving it at, or by sending it by post, or facsimile or similar facility to, the address of the place of residence or business of the person last known to the person serving the document (see s. 39: 'Service of documents' and s. 39A: 'Meaning of service by post etc.' of the *Acts Interpretation Act*); or
- (iii) if the person's name and location are not known or the person cannot be located, by making the information required to be stated in the approved form available on the Service website to the extent the information is known (see s. 4.7.12: 'The giving of a notice under ss. 139, 710, 718 or 719 of the *Police Powers and Responsibilities Act* of this chapter for details as to how to give notice on the Service website).

Officers are to ensure that any forms given are endorsed with a declaration of service or in the case of making the information available on the Service website, ensure appropriate records are made of the details of the notice so given.

ORDER

A destruction notice given to a child on the Service website is not to identify the child but is to be given in a way that is enough for the child or the child's lawyer to identify the notice as relating to the child and the offence of which the drug matter is evidence.

Making a sample of drug matter available

Section 711: 'What destruction notice must state' states a destruction notice must advise, among other things, that within 30 days after the notice is given, the person may, by written notice (Analysis Request) require the commissioner to make a representative sample of the drug matter available to an appropriately qualified person (independent analyst) for analysis (see s. 6.1: 'Introduction' of the Management Support Manual regarding who can accept a document on behalf of the Commissioner).

Section 712: 'Making sample of drug matter available' contains certain conditions that must be met prior to the Commissioner making a representative sample available to an independent analyst named by the person making the analysis request, for analysis.

POLICY

If an Analysis Request is received by a member, the member is to ensure the request is delivered to the officer in charge of the station or establishment of the officer who served the Form 49 on the person in the particular case.

On receipt of the Analysis Request, the officer in charge is authorised to exercise the functions and powers of the Commissioner under the provisions of Chapter 21, Part 3, Division 3, Subdivision 3 of the *Police Powers and Responsibilities Act*. See Delegation D 24.17 of the Handbook of Delegations and Authorities.

For the purposes of s. 712 of the *Police Powers and Responsibilities Act*, an appropriately qualified person (independent analyst) is a person appointed or declared as an analyst under s. 4C: 'Analysts' of the *Drugs Misuse Act*.

A representative sample is only to be made available to an independent analyst at the Forensic Chemistry Section, Queensland Health Scientific Services or the Queensland Herbarium.

PROCEDURE

Where a sample of drug matter located at a property point, is to be made available to a person from whom a dangerous drug is seized, the reporting officer, or other member required by the officer in charge, should:

- (i) take a representative sample of the drug (see paragraph titled 'Taking representative sample of drugs' in s. 4.10.4: 'Action to dispose of or destroy drug matter'). The reporting officer should conduct a drug transfer and ensure appropriate corroborative practices are used (s. 4.6.15: 'Corroboration required for the seizure and handling of property', and Service Manuals Definitions);

- (ii) appropriately package and describe the representative sample in accordance with ss. 4.5.9: 'Minimum storage requirements' and 4.10: 'Action in special cases (drugs)' of this chapter. Any queries concerning the correct packaging of items for analysis should be directed to the Forensic Chemistry Section or the relevant Independent Analyst;
- (iii) ensure the representative sample is clearly identifiable with the relevant QPRIME occurrence number and attach a copy of the 'Property Evidence Report' for the relevant QPRIME property entry;
- (iv) complete the relevant property movement in the QPRIME occurrence see 'Property Management: Relocate Property' of the QPRIME User Guide;
- (v) convey or arrange for the conveyance of the drug to the Independent Analyst in line with local arrangements ensuring continuity of identification is maintained. The drug is not to be handed to the Independent Analyst unless a receipt for the drug is issued;
- (vi) ensure only items which require analysis are delivered to the Independent Analyst;
- (vii) deliver or arrange for the delivery of the receipt for the representative sample to the property officer of the property point from which the drugs were taken. The receipt together with the written requirement is to be scanned as an attachment to the relevant QPRIME occurrence; and
- (viii) ensure details of the requirement are entered in the appropriate field of the relevant QPRIME occurrence report.

When drug matter may be destroyed

Section 713: 'When drug matter may be destroyed' of the *Police Powers and Responsibilities Act* provides certain circumstances where the Commissioner may or may not destroy drug matter subject of a destruction notice or from which a representative sample has been made. If the person to whom a destruction notice was given disputes the analyst's certificate the drug matter must not be destroyed until the conclusion of any proceeding for the offence to which the analyst's certificate relates.

POLICY

Subject to the conditions of s. 713 of the *Police Powers and Responsibilities Act* being met, the officer in charge should direct the destruction of drug matter to which the destruction notice relates as soon as reasonably practicable.

ORDER

Members are not to destroy drug matter subject of an analysis dispute under s. 713(3) of the *Police Powers and Responsibilities Act* until the conclusion of proceedings.

4.11 Action in special cases (money)

POLICY

Money is regarded as 'high risk property' and officers are to ensure appropriate corroborative practices are used when seizing and handling money (see s. 4.6.15: 'Corroboration required for the seizure and handling of property' of this chapter).

Also see ss. 11.9: 'Crimes (Currency) Act' and 4.5.9: 'Minimum storage requirements' of this Manual.

Receiving, taking possession of or seizing money

POLICY

Officers in charge are to develop local station instructions to effectively deal with the receiving and taking possession of money resulting from daily cash transactions, warrants and cash bail. These instructions should ensure security of any money received until banked or otherwise placed in a suitable property point (see s. 1.5.3: 'Regional, District and Station instructions' of this Manual).

Upon receiving, taking possession or seizing money the appropriate receipt is to be issued QP 0220A: 'Official Receipt', General Purpose Receipt or QP B32A: 'Field Property Receipt'.

Station Instructions, where appropriate, should indicate that upon receiving, taking possession or seizing money:

- (i) it is to be placed in a suitable container, e.g. envelope, and appropriately sealed;
- (ii) a minimum of two persons, the reporting officer and the person from whom the money has been received, taken possession of or seized and/or another member should sign across the seal of the container and, where available, clear tape should be placed over the seal and signature(s);
- (iii) the container with the money should be placed in a suitable secure storage facility, e.g. dropsafe, until the money is banked in accordance with the provisions of the Financial Management Practice Manual, or otherwise lodged at a property point; and

(iv) whenever the container with the money is to be opened, a minimum of two members should be present to witness the breaking of the seal and counting of the money and where the money is required to be resealed a new container should be used to enclose the previous container with the money.

4.11.1 Australian currency

POLICY

Money coming into the possession of the Service which cannot lawfully be disposed of to a rightful claimant is to be deposited into the Queensland Police Service collections account (except found money of \$50 or less) unless its retention in its original form is either required by law or considered necessary by the reporting officer. The procedures for payments and refunds paid into the collections account are outlined in s. 14.2 'Banking' of the Financial Management Practice Manual.

After money is lodged at a property point, the property officer is responsible for depositing that money in the Queensland Police Service collections account as soon as practicable.

Cash amounts of \$50 or less, received by an officer as found property, are to be retained at a property point and not banked as outlined in s. 7.6: 'Found moneys receipts' in division 14.1.1 of the Financial Management Practice Manual.

At the expiry of sixty days from the date the money came into the possession of the Service, the money is to be disposed of, see s. 4.8: 'Disposal of property' of this chapter. Finders of monies are to be advised, at the time of lodgement, if they wish to claim the found money they will have to collect the money in person or provide written authority to another to collect the money on their behalf. If a finder does not wish to claim the money this should be noted on the indemnity receipt at time of lodgement.

Found monies are to be returned to the finder as currency and cheques are not to be drawn unless approved by the officer in charge. Upon advice to the finder that the monies can be claimed, and after 7 days the money has not been collected, the money is to be treated as unclaimed property and forfeited.

Where the reporting officer considers that money (not found money of \$50 or less) be retained at a property point and not banked, the reporting officer should obtain the approval of a commissioned officer and modify the QPRIME occurrence entry to that effect, including the name of the commissioned officer who granted approval.

Appropriate methods of copying money are included in s. 11.9.4: 'Photographing or photocopying bank notes' of this Manual.

ORDER

Officers are to ensure that money is not copied in any way that it may be taken to be genuine or able to be dealt with in such a way as to make it appear to be genuine.

Money seized for offences under the Criminal Proceeds Confiscation Act

ORDER

Money suspected of being evidence with respect to offences pursuant to the *Criminal Proceeds Confiscation Act* is to be seized and dealt with pursuant to the relevant provisions of the *Police Powers and Responsibilities Act* and this Manual.

Money seized as an exhibit

ORDER

Officers who seize money as an exhibit because of its peculiar evidentiary value are to ensure that the money is retained in its original form and that the QPRIME occurrence entry is endorsed accordingly.

4.11.2 Foreign currency

POLICY

Foreign currency taken possession by a member should initially be retained in its original form and not banked. If a lawful claimant to the currency is not located, the property officer should, if the currency does not need to be retained for exhibit purposes or an application for forfeiture:

- (i) where the amount is significant, bank the foreign currency in the police collections account, then forward the amount raised in the transaction to the consolidated fund; or
- (ii) where the currency has no significant value, exercise discretion and dispose of the currency by means appropriate to the circumstances. This may include disposal by auction, sale directly to a coin dealer, or by destruction.

4.11.3 Counterfeit currency

POLICY

A member who takes possession of counterfeit currency should, at the expiration of any appeal period, or when the counterfeit currency is no longer required, forward the currency to the Australian Federal Police Currency Team (see Service Manuals Contact Directory).

PROCEDURE

Upon conviction, an order is to be sought under s.29: 'Forfeiture and seizure' of the *Crimes (Currency) Act* (Cwlth) for disposal of counterfeit currency.

At the expiration of any appeal period or for counterfeit currency not subject of criminal proceedings, the counterfeit currency is to be forwarded to the Australian Federal Police Currency Team by registered mail:

- (i) with a completed '**Suspect Counterfeit Banknote Form**', available from the Australian Federal Police counterfeit currency webpage; and
- (ii) contained in a heat sealed plastic bag signed across the seals with a copy of the property receipt attached.

An Australian Federal Police property receipt will be returned once the counterfeit currency is received.

See s. 11.9.1: 'Investigations regarding counterfeit money' of this Manual.

4.11.4 Collectable currency

POLICY

Currency which, by its nature, is of interest to a collector or dealer should not be banked, but retained and disposed of in its original form.

4.12 Action in special cases (property of deceased/mentally ill persons)

POLICY

Property of deceased/mentally ill persons should not, under normal circumstances, be taken possession of by officers unless absolutely necessary or where relevant statutory provisions allow. The circumstances under which such property may be taken might include:

- (i) safeguarding the property;
- (ii) supplying evidence for the investigation into the death;
- (iii) securing the scene; or
- (iv) safety of the mentally ill person or other persons.

PROCEDURE

When property of a deceased/mentally ill person is taken possession of, the officer seizing the property should complete a Field Property Receipt (QPB32A) or an entry in an official police notebook in accordance with the relevant provisions of s. 4.6.1: 'Initial responsibilities of reporting officer when taking possession of property' of this chapter. If the next of kin or other relative of the deceased/mentally ill person is present, that person should be invited to countersign the QPB32A or notebook, and a receipt for the property given to that person as soon as practicable.

If no relative is present, an independent person such as a friend of the deceased/mentally ill person, ambulance officer or medical practitioner should be asked to sign the QPB32A or notebook entry to certify the description of the property. In such a case, the receipt for the property should be retained until it can be given to the next of kin or other relative of the deceased/mentally ill person.

Any property, except for items lawfully seized (e.g. weapons), taken from a mentally ill person prior to or during the transport of the mentally ill person to a hospital or mental health facility for treatment, either voluntarily or by detention, is to be returned to the mentally ill person at the conclusion of the transport. Where return of the property to the mentally ill person is not appropriate, the property should be handed to the hospital or facility staff member responsible for receiving the property. The officer returning the property is to obtain an indemnity receipt or acknowledgement of receipt in an official police notebook from the mentally ill person in the presence of the staff member or from the staff member as applicable. The receipt should be dealt with as per s. 4.8.1: 'Indemnity Receipt' of this chapter.

4.12.1 Destruction/disposal of property of deceased person

When a person dies, any property owned by that person is held in trust pending administration of the estate in accordance with that person's will, or, where the deceased leaves no will, in accordance with the law relating to intestacy.

ORDER

An officer who attends the death of any person and subsequently arranges for the conveyance of the body to a morgue is to compile a list of property found on the deceased, including all jewellery and personal items, prior to allowing the removal of the body. The officer is to include a list of these items in the QPB 32A or notebook entry along with any other items of the deceased's property taken possession of (see s. 8.4.9: 'Placing body in mortuary' of this Manual).

Disposal of property seized in connection with a coronial investigation

ORDER

Where an officer takes possession of property subject to a coronial investigation and such property is no longer required to be retained for evidentiary purposes the officer is to dispose of the property by way of an order from the Coroner (see ss. 60: 'Returning physical evidence' and 61: 'Forfeiting physical evidence' of the *Coroners Act*).

POLICY

Generally, subject to the approval of the Coroner, property may be disposed of where the provisions of s. 4.7: 'Storage and handling of property' of this chapter are satisfied. Where exhibits have been seized as part of a coronial investigation and the Coroner has made findings and a determination not to hold an inquest in relation to the matter, the exhibits are to be retained for a period of sixty days after such findings and determination, prior to disposal (see also s. 8.4.24: 'Coroner's court' of this Manual).

PROCEDURE

Members seeking to dispose of property subject to a coronial investigation should seek an order from the Coroner by:

- (i) completing a QP 0528: 'Supplementary Form 1 (Police Report of Death to a Coroner)' within the relevant QPRIME occurrence seeking an order specifying the property and the reason for returning the property to its nominated owner; or
- (ii) where it is not lawful for the owner to possess the physical evidence or given the nature, condition and value of the physical evidence, it is not desirable that the physical evidence be returned to its owner, seek an order on a QP 0528: 'Supplementary Form 1 (Police Report of Death to a Coroner)' within the relevant QPRIME occurrence that the physical evidence be forfeited to the State in accordance with s. 61: 'Forfeiting physical evidence' of the *Coroners Act* specifying the property and the reason for the forfeiture; and
- (iii) forwarding a signed QP 0528: 'Supplementary Form 1 (Police Report of Death to a Coroner)' through their chain of command to the relevant Coroner.

When an appropriate order has been obtained from the Coroner, the property should be returned to the owner in accordance with the order:

- (i) where the owner is a deceased who left a will, by returning the property to the administrator or executor of the estate; or
- (ii) a deceased who died intestate, by handing the property to the Public Trustee of Queensland or as directed by the Public Trustee.

Members seeking advice concerning the disposal of property seized whilst investigating a reportable death should contact the Coronial Support Unit (Office of the State Coroner), Forensic Services, Operations Support Command.

Disposal of property which is not subject of a coronial investigation

When a member has taken possession of the property of a deceased person which is not required to be retained for evidentiary purposes and has not otherwise been destroyed pursuant to this section, the property should be disposed of:

- (i) in the case of a deceased who leaves a will, by returning the property to the administrator or executor of the estate; or
- (ii) in the case of a deceased who dies intestate, by handing the property to the Public Trustee of Queensland or as directed by the Public Trustee.

Where exhibits have been seized as part of a coronial investigation and the Coroner has made findings and a determination not to hold an inquest in relation to the matter, the exhibits are to be retained for a period of sixty days after such findings and determination, prior to disposal (see also s. 8.4.24: 'Coroner's court' of this Manual).

Destruction of property which is not subject of a coronial investigation

Section 795: 'Disposal of clothing of deceased person' of the *Police Powers and Responsibilities Act* provides that a police officer present when clothing is removed from a deceased person's body who considers it inappropriate to give the clothing to a relative of the deceased person (e.g. because it is damaged, soiled or stained), may dispose of the clothing, including by destroying it. The section further provides that clothing disposed of under the section is taken to have been forfeited to the State immediately before its disposal.

POLICY

Property may be destroyed by an officer at its time of removal from the body of the deceased where that property is contaminated or damaged to an extent that it would be deemed inappropriate to return it to a relative or lawful claimant (e.g. blood or excreta stained, etc.).

Prior to the destruction of any such property the officer should, where practicable and considered necessary:

- (i) obtain verbal approval from a suitable next of kin or relative of the deceased to destroy the property; and
- (ii) ensure that the property is photographed.

Where property is to be destroyed the officer should locate the property for disposal in QPRIME and ensure a Property Disposal Task is forwarded to the relevant property section. Officers should include the reason for the destruction of the property and why it was considered inappropriate to dispose of the property as otherwise provided for in this section (see QPRIME User Guide). Property, the subject of this policy, should be destroyed by placing it in the receptacle designed for contaminated waste or by burning it.

4.12.2 Disposal of property of mentally ill persons

POLICY

Where persons have been certified as mentally ill and incapable of managing their estates, members of the Service should hand over any property held by them which belongs to the person to the nearest agent of the Public Trustee.

Property of mentally ill persons is managed by the Public Trustee in terms of Part 6, ss. 64 to 89: 'Management of estates of incapacitated persons' of the *Public Trustee Act*.

4.13 Action in special cases (perishable things)

Section 716: 'Perishable things' of the *Police Powers and Responsibilities Act* enables property that has come into the possession of the Service and which is deemed to be perishable to be disposed of in a timely manner.

POLICY

Reporting officers or property officers are to ensure that any perishable property:

- (i) that cannot be returned to its owner or the person who had lawful possession of it before coming into possession of the Service; or
- (ii) whose owner or the person who had lawful possession of it before coming into possession of the Service cannot be contacted to obtain directions about how to deal with it;

is disposed of:

- (i) prior to spoilage if possible;
- (ii) in a way which does not cause an actual or apparent conflict of interest (e.g. a conflict of interest may be apparent if a friend, relative or business associate of a person in a position to influence how a perishable thing may be disposed of may benefit from its disposal); and
- (iii) in a way that benefits the community, unless it is reasonably suspected that the thing is unfit for human consumption. In such a case, the thing is to be disposed of in a way that does not cause a danger to anyone in the community generally.

A suitable method of disposal of perishable foods that benefits the community includes giving it to a charitable organisation which provides meals for homeless, infirm or elderly persons.

Suitable methods of disposal of perishable foods which are deemed unfit for human consumption include incineration or depositing at an appropriate waste disposal facility.

It is the responsibility of officers in charge of stations and establishments to which a property point is attached to ensure that perishable things are disposed of as soon as possible.

4.14 Action in special cases (weapons, weapon related things, ammunition, dangerous/noxious and potentially harmful things)

4.14.1 Weapons, weapon related things and ammunition

Storage and handling of weapons at property points

POLICY

Members intending to lodge or store weapons at a property point or otherwise handle weapons are to:

- (i) comply with:
 - (a) the relevant provisions of s. 14.6.4: 'Safety of firearms' of this Manual;
 - (b) s. 59: 'Firearms to be kept unloaded other than when being used to shoot' of the Weapons Regulation; and
 - (c) the information contained in the Business Services Division, PSBA intranet webpages; and
- (ii) ensure each weapon:
 - (a) has the bolt removed or the action broken; or
 - (b) is zip tied or otherwise secured in such a manner that the breach of each weapon is securely held open.

Weapons (retention and disposal generally)

POLICY

When a weapon:

- (i) has been seized by an officer (including where it has been relinquished to the Service by its owner or lawful claimant);
- (ii) is found by a person other than an officer and given to an officer as apparent lost property; or
- (iii) otherwise comes into the possession of an officer in the course of performing the officer's functions;

officers are to deal with the weapon in accordance with the provisions of s. 714: 'Disposal of weapons' of the *Police Powers and Responsibilities Act*.

PROCEDURE

As soon as practicable after the 'appointed day' under s. 715: 'What is the appointed day for disposal of weapons under s. 714' of the *Police Powers and Responsibilities Act*, the reporting officer is to deliver, or cause to be delivered the weapon to:

- (i) the owner or a person lawfully entitled to possess it;
- (ii) a person nominated by the owner or a person lawfully entitled to possess it; or
- (iii) a person for whom an order is made for the delivery of the weapon to the person under s. 696: 'Orders issuer may make in relation to seized thing' or s. 701: 'Disposal of seized things at end of proceeding' of the *Police Powers and Responsibilities Act*.

However, a weapon is not to be delivered to a person described above if:

- (i) its further retention is required for a reasonable time to prevent:
 - (a) a person using the weapon to cause harm to themselves or some other person;
 - (b) an offence (including that the owner has unlawful possession of the weapon or the weapon is unregistered) or a breach of the peace happening; or
 - (c) the weapon is being used for domestic violence or associated domestic violence;
- (ii) a court or justice otherwise orders including an order providing for the destruction, forfeiture or disposal by other than returning it to the owner or person lawfully entitled to possess it;
- (iii) a domestic violence order is made or exists naming the owner of the weapon as the respondent (see s. 29B 'Arrangements for surrender of suspended or revoked licences and weapons' of the *Weapons Act*); or
- (iv) the weapon is subject of a coronial investigation under the *Coroners Act*. See also s. 4.12.1: 'Destruction/disposal of property of deceased persons' of this chapter.

Where a weapon is in the possession of an officer as a result of a domestic violence incident, refer to s. 9.10.2: 'Disposal of weapons' of this Manual.

If the weapon cannot be delivered to a person under s. 714(1) of the *Police Powers and Responsibilities Act*, within 3 months after the 'appointed day' or if s. 29B of the *Weapons Act* applies and the owner of the weapon has not made arrangements with an officer for a licensed dealer or licensed armourer in company with the owner, to collect the weapon

within 3 months of the weapon being given to the officer, the weapon is forfeited to the State (see s. 714(3) of the *Police Powers and Responsibilities Act* and *Service Manuals Definitions*).

Officers considering delivering a weapon to a person should ensure that Part 3: 'Acquisition, sale and disposal of weapons' of the *Weapons Act* is complied with.

ORDER

Prior to delivery of the weapon to a person mentioned in s. 714(1) of the *Police Powers and Responsibilities Act*, officers are to ensure that the person may lawfully possess the weapon.

Weapons forfeited to the State

POLICY

The reporting officer for a weapon forfeited to the State is to, as soon as practicable after the forfeiture, seek a direction for the disposal of the weapon from a commissioned officer.

Officers who make a direction for the disposal of a forfeited weapon are to direct that the weapon be destroyed unless it may be of use to the Service or another government department or agency, such as the Queensland Museum. See s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter.

Where a weapon is subject of an order of a court, it is to be dealt with in accordance with the requirements of such order and any relevant provisions of this Manual.

PROCEDURE

When a weapon is forfeited to the State, the reporting officer is to commence a property disposal workflow task in the relevant QPRIME occurrence for the disposal of the weapon to be approved by a commissioned officer (see QPRIME User Guide).

The task should outline the brief circumstances surrounding the weapon including how the weapon came to be in police possession, relevant legislative provisions under which the weapon was seized and may be disposed of, and refer to all relevant correspondence including any forfeiture orders, court orders, relinquishing orders and certificate of convictions.

In the case of a direction for disposal of a weapon which has not been approved, the QPRIME task is to be returned to the reporting officer for necessary attention.

Weapons relinquished to the Service

PROCEDURE

Where a person relinquishes a weapon to a member of the Service, the member is to:

- (i) conduct the necessary inquiries to ensure that the person is legally entitled to relinquish the weapon including:
 - (a) checking the serial number of the weapon with the weapons register to ensure it is not a weapon of interest; and
 - (b) verify the identity of the person relinquishing the weapon;
- (ii) inform the person relinquishing the weapon that:
 - (a) as a result of relinquishing the weapon they are relinquishing ownership of the weapon(s) absolutely and totally to the Queensland Police Service;
 - (b) the relinquished weapon will become the property of the State and is subject to any direction given by the Commissioner; and
 - (c) the weapon will be destroyed after a period 10 days upon receipt of the weapon; and
- (iii) complete a QP 0368A: 'Relinquishing Order (Weapons)' (available on QPRIME and on QPS Forms Select), and have the person relinquishing the weapon sign the form. Where there is no existing occurrence, officers are to enter a relinquishing occurrence in QPRIME (see QPRIME User Guide).

Where a person, who has previously relinquished a weapon to the Service makes inquiries with a member in relation to the return of the previously relinquished weapon, the member is to make every reasonable attempt to return the weapon to the person providing:

- (i) the weapon has not been destroyed;
- (ii) the person is legally entitled to possess the weapon; and
- (iii) the person provides any necessary accompanying documentation required to possess the weapon, e.g. Form 27: 'Permit to Acquire'. See Weapons Licensing webpage on the QPS Corporate Intranet (Bulletin Board).

When a member is satisfied the weapon is able to be returned to the person, the member is to obtain approval from a commissioned officer prior to returning the weapon.

ORDER

Weapons are not to be disposed by way of auction to the public.

Weapons (destruction)

POLICY

Officers in charge of regions and commands are responsible for ensuring the destruction of weapons and ammunition within their region or command is in accordance with Service policy. This includes ensuring the coordination and supply of sufficient resources and equipment to facilitate destruction, appropriate training of members to use any equipment and identifying suitable destruction facilities within their geographical area.

The destruction of weapons should be specified in the regional property plan, and include, where applicable, identification of persons authorised to supervise the destruction of the weapons.

PROCEDURE

Upon approval by a commissioned officer for disposal of a weapon by way of destruction, the property officer at the property point where the weapon is stored is to:

- (i) modify the property entry in the relevant QPRIME occurrence to the effect that the weapon is held pending destruction;
- (ii) ensure the destruction of the weapon occurs at a suitable destruction facility (see 'Method of Destruction' below) and is witnessed by an authorised member or if the property point is in a designated remote and rural location, an independent person (see definitions of 'authorised member', 'independent person' and 'designated remote and rural locations' of this Manual);
- (iii) where the weapon is a firearm:
 - (a) enter details of the firearm, including a unique weapon number obtained from QPRIME onto a QP 0554: 'Weapon/Firearm Destruction Schedule' (available on QPRIME and on QPS Forms Select);
 - (b) at least 10 days prior to destruction, email a copy of the QP 0554 to Weapons Licensing Enquiries advising of the impending destruction;
 - (c) ensure any firearm(s) identified by the Weapons Licensing, Operations Support Command as unsuitable for destruction is retained and removed from the QP 0554;
 - (d) prior to destruction, ensure the authorised member or independent person inspects the firearm(s) to be destroyed against the details recorded in the QP 0554;
 - (e) after destruction, ensure the authorised member or independent person signs and dates the QP 0554 certifying that they observed the destruction of the firearm(s);
 - (f) email a copy of the signed and completed QP 0554 to Weapons Licensing Enquiries and retain the original copy at the property point; and
- (iv) finalise the property entry in the relevant QPRIME occurrence in accordance with s. 4.6.13: 'Finalising a property entry in QPRIME' of this chapter.

Destroying, supervising and witnessing the destruction of weapons

ORDER

Weapons directed to be destroyed are to:

- (i) be destroyed by:
 - (a) a property officer;
 - (b) a member of Evidence Management, Operational Equipment and Warehousing, Procurement Services Group, Business Services Division, PSBA; or
 - (c) another person nominated by the assistant commissioner; and
- (ii) under the supervision of:
 - (a) a commissioned officer; or
 - (b) the Officer in Charge, Evidence Management, excluding weapons held at Evidence Management; or
 - (c) another member authorised by an assistant commissioner or executive director, or in designated remote and rural locations, an independent person authorised by the relevant assistant commissioner.

Method of destruction

PROCEDURE

A suitable disposal facility described above includes a metal recycling facility which has a metal shredder or industrial furnace or other facility approved for the destruction of weapons by the relevant assistant commissioner or executive director.

Weapons are to be destroyed by:

(i) crushing or cutting the centre point of the action/breech and in close proximity to the firing mechanism as to render them inoperable; and

(ii) placing them in a metal shredder or industrial furnace or where these facilities are not available, compacting and/or burying them in a Service approved waste facility.

ORDER

Only members who have received the appropriate training are to use any equipment in the destruction of weapons under this policy. Equipment is to be operated at all times in accordance with the manufacturer's instructions.

Weapon related things

Generally, weapon related things coming into the possession of an officer in the course of the officer performing his or her duty should be dealt with in accordance with the general provisions of the *Police Powers and Responsibilities Act* relating to property and this chapter.

Ammunition (retention and disposal)

Ammunition is an explosive under the *Explosives Act* which is administered by the Department of Natural Resources and Mines. The Chief Inspector, Explosives Inspectorate is the Officer in Charge of the government magazines which provide centralised secure storage facilities for explosives within Queensland.

POLICY

Small arms ammunition may be temporarily stored at a police property point in accordance with Part 8, Division 2: 'Requirements for storing sch 4 explosives' of the Explosives Regulation (see s. 82: 'Explosives and government entities exempt from s. 44 of Act' of the Explosives Regulation).

Ammunition which cannot be stored at a property point in accordance with the provisions of the *Explosives Act* or Part 8, Division 2: 'Requirements for storing sch 4 explosives' of the Explosives Regulation should be delivered to an Inspector under the *Explosives Act* for storage at a government magazine and subsequent disposal. This includes ammunition that is required for evidentiary purposes or examination.

Ammunition lawfully seized may be stored at a government magazine pending:

- (i) the outcome of court proceedings; or
- (ii) results of investigations, inquiries or examinations.

Ammunition which has been directed to be destroyed is to be given to an inspector under the *Explosives Act* for destruction.

Ammunition which may be dangerous due to its condition or specific characteristics (e.g. military ammunition containing an explosive charge) should be dealt with in accordance with s. 4.14.2: 'Dangerous/noxious things' of this chapter.

PROCEDURE

Where ammunition is to be transferred to the Explosives Inspectorate for storage and/or disposal, members are to:

- (i) prior to the transfer of the ammunition, request a verbal direction from a commissioned officer to transfer possession of the ammunition to the Explosives Inspector (see Delegation No. D 24.25 of the Handbook of Delegations and Authorities); and
- (ii) where such a direction is made:
 - (a) transfer possession of the thing in accordance with the direction, ensuring an indemnity receipt or other appropriate receipt for the thing is obtained from the Explosives Inspector to whom possession was transferred;
 - (b) advise the commissioned officer who gave the direction for the transfer of possession of the thing that possession of the thing has been transferred; and
 - (c) ensure that the indemnity receipt or other appropriate receipt is scanned as an attachment to the relevant QPRIME occurrence.

Where a direction is not made in accordance with this policy, the thing should be dealt with in accordance with the appropriate provisions of this chapter.

POLICY

Commissioned officers who are requested to make a verbal direction under this policy are to, if satisfied that the ammunition subject of the requested direction cannot be stored safely at a property point or lawfully returned to its owner or the person who had lawful possession of it before it was seized or otherwise came into possession of the Service, are to make a direction that the possession of the ammunition be transferred to the Explosives Inspectorate.

Responsibility of a prosecutor in a proceeding involving a weapon, weapon related thing or ammunition

POLICY

The prosecutor in any prosecution involving a weapon, weapon related thing or ammunition which is still in possession of the Service is to, at the conclusion of that matter, seek an order from the court as to the disposal of that weapon, weapon related thing or ammunition. In most instances, the order sought should be that the thing be destroyed. Where a thing may be of use to the Service or another government department, an appropriate order should be sought. At the conclusion of the proceedings, prosecutors should 'expire the exhibit' in the relevant QPRIME occurrence.

Responsibility of a property officer when weapons lodged at or disposed from a property point

POLICY

Weapons Licensing require notification of all firearms, major firearm components, ballistic vests, crossbows and Category M bladed weapons lodged or disposed of at police establishments (see ss. 2 to 8 of the Weapons Categories Regulation).

Weapons Licensing generate a daily QPRIME report which records the movement of all weapon transactions e.g. lodged and disposed weapons from police establishments. This information is captured from the Property Tags in QPRIME.

PROCEDURE

An occurrence and property tag number for each lodged weapon must be generated in QPRIME. Before a weapon can be entered on the occurrence, it must be ascertained if the weapon is registered or unregistered. A search should be completed for the serial number against the owner and the address where the firearm was located. If the firearm is registered on QPRIME, the weapon and the owner must be linked to the occurrence.

When a weapon is entered onto QPRIME and it is discovered the weapon had previously been recorded, i.e. two entries for the same weapon, Weapons Licensing are to be advised immediately.

Where the weapon is unregistered, all relevant details of the firearm or weapon must be entered onto QPRIME. The entered details may include:

- (i) the description;
- (ii) make;
- (iii) model;
- (iv) serial number;
- (v) calibre;
- (vi) magazine capacity;
- (vii) action; and
- (viii) barrel length and auxiliary serial number if applicable.

Any details unknown at the time of being entered onto QPRIME should be entered as unknown.

The QPRIME property remarks are to be used to enter further information about the weapon, e.g. firearm has been shortened, or bolt/magazine missing.

All weapon details should be verified against QPRIME to ensure the Commissioner's Weapons Register is maintained. Serial numbers should be physically verified with the actual weapon against QPRIME so the all details are accurate. If any modifications are required to the weapon details, members should forward an email to weaponslicensing@police.qld.gov.au. Only members of Weapons Licensing are authorised to make changes.

In the event that QPRIME is not updated on receipt of the weapon being lodged or disposed, Weapons Licensing should be notified within 48 hours.

Notification to Weapons Licensing can be made by entering the information onto QPRIME and is to include the following information:

- (i) details of the property point:
 - (a) at which the weapon was lodged; or
 - (b) if disposed of to another property point, the location of that property point;
- (ii) date of lodgement or disposal;
- (iii) QPRIME occurrence number and, if relevant, Field Property Receipt number;
- (iv) the reason the weapon:
 - (a) came into the possession of the Service (e.g. surrendered, seized, relinquished or found); or
 - (b) was disposed of;

- (v) the name and address, date of birth and, if applicable, the *Weapons Act* licence number of the person:
 - (a) who surrendered or relinquished the weapon;
 - (b) from whom the weapon was seized; or
 - (c) if the weapon was not disposed of to another property point, to whom the weapon was disposed;
- (vi) the name and registered number of the responsible officer and, if a different officer, the investigating officer.

4.14.2 Dangerous/noxious things

Dangerous and noxious things include articles such as commercial explosives, military ordnance, old and unstable ammunition or pyrotechnics, poisons, chemicals and any other thing which cannot be safely stored at a property point, but does not include drug matter (see s. 4.10: 'Action in special cases (drugs)' of this chapter).

POLICY

When a dangerous or noxious thing:

- (i) has been seized by an officer; or
- (ii) otherwise comes into the possession of an officer in the course of performing the officer's functions;

the thing should be dealt with in accordance with the provisions of s. 723: 'Commissioner may make arrangements' of the *Police Powers and Responsibilities Act*.

Members who are required to deal with dangerous/noxious things are to take all necessary precautions, including seeking appropriate expert advice and/or assistance, to prevent, as far as is practicable, exposure of any person to risk of illness or injury which may be caused by the thing e.g. not storing dangerous/noxious or hazardous chemicals in close proximity to one another if this creates a potential risk of explosion or fire.

Members should handle and store dangerous/noxious things in accordance with expert advice received.

PROCEDURE

Reporting officers or other suitable members who seize or otherwise come into possession of a dangerous or noxious thing that cannot be safely and lawfully returned to its owner or the person who had lawful possession of it before it was seized or came into their possession should, as soon as practicable:

- (i) identify an appropriate government department or agency which can lawfully store and/or dispose of the thing, and an appropriate officer within that department or agency who may take possession of the thing;
- (ii) request a verbal direction from a commissioned officer to transfer possession of the thing to the appropriate officer of that department or agency (see Delegation No. D 24.25 of the Handbook of Delegations and Authorities); and
- (iii) where such a direction is made:
 - (a) transfer possession of the thing in accordance with the direction, ensuring an indemnity receipt for the thing is obtained from the person to whom possession was transferred;
 - (b) advise the commissioned officer who gave the direction for the transfer of possession of the thing that possession of the thing has been transferred; and
 - (c) ensure that the indemnity receipt is scanned as an attachment to the relevant QPRIME occurrence.

Where a direction is not made in accordance with this policy, the thing should be dealt with in accordance with the appropriate provisions of this chapter.

POLICY

Commissioned officers who are requested to make a verbal direction under this policy are to, if satisfied that the thing subject of the requested direction is a dangerous or noxious thing:

- (i) that cannot be stored safely and lawfully returned to its owner or the person who had lawful possession of it before it was seized or otherwise came into possession of the Service; and
- (ii) is not drug matter;

make a direction that the possession of the thing be transferred to a nominated government department or agency which can lawfully store and/or dispose of the thing.

Prior to making such a direction, the commissioned officer must be satisfied that the nominated government department or agency, and the nominated appropriate officer from such department or agency, are:

- (i) able to safely receive and deal with the dangerous/noxious thing; and
- (ii) are willing to take possession of and deal with the dangerous/noxious thing.

4.14.3 Potentially harmful things

Potentially harmful things which have been seized pursuant to s. 603: 'Power to seize potentially harmful things' of the *Police Powers and Responsibilities Act* are automatically forfeited to the State at the time of seizure.

Potentially harmful things may include volatile substances such as aerosols and volatile solvents. Volatile substances of no real value may include aerosol paint cans and bottles of glue that have been seized by officers from persons pursuant to s. 603 of the *Police Powers and Responsibilities Act* (see s. 6.5.5: 'Potentially harmful things (volatile substance misuse)' of this Manual). A volatile substance may be considered of no real value when the cost of seizing and disposing of the item exceeds any perceived value of the item.

POLICY

Officers who seize potentially harmful things pursuant to s. 603 of the *Police Powers and Responsibilities Act* that are of no real value may dispose of such items by placing them in a refuse bin. Officers should be mindful when disposing of such potentially harmful things that people may seek to retake possession of such items in order to reuse them.

Where practicable, officers should render potentially harmful things unusable, e.g. removing the nozzle from an aerosol can prior to disposal.

4.15 Action in special cases (vehicles or loads or other things)

4.15.1 Dealing with vehicles (generally)

POLICY

Vehicles:

- (i) seized pursuant to s. 196: 'Power to seize evidence generally' of the *Police Powers and Responsibilities Act*, or
- (ii) which otherwise came into the possession of an officer in the course of performing that officer's functions (other than a vehicle impounded under Chapter 4 or 22 or seized under s. 124: 'Removal of vehicle or load or other thing' of the *Police Powers and Responsibilities Act*, a vehicle seized under a property seizure order under the *Criminal Proceeds Confiscation Act*, or a vehicle seized under the *Public Safety Preservation Act* which has not been forfeited under s. 42: 'Return etc. of seized property' of that Act);

are to be dealt with pursuant to the relevant provisions of Chapter 21, Part 3: 'Dealing with things in the possession of police service' of the *Police Powers and Responsibilities Act*, and this chapter.

Vehicles, loads or other things seized and/or moved pursuant to s. 124 of the *Police Powers and Responsibilities Act* are to be dealt with in accordance with the relevant provisions of Chapter 5, ss. 124 to 129: 'Removal powers generally for vehicles or loads or things on roads' of that Act.

Also see s. 4.7.12: 'The giving of a notice under ss. 126, 139, 710, 718 or 719 of the *Police Powers and Responsibilities Act*' of this chapter.

ORDER

Officers in charge are to ensure vehicles, loads or other things seized or detained by, or otherwise coming into the possession of members under their control in the course of those members performing their functions, are returned or disposed of in accordance with the provisions of the *Police Powers and Responsibilities Act* and this chapter as soon as those provisions allow.

4.15.2 Moving vehicles, loads or other things

Sections 124(1), (2) and (2A) of the *Police Powers and Responsibilities Act* provide that an officer may seize or move a vehicle, load or other thing in prescribed circumstances.

Notice

ORDER

Subject to the exceptions provided in s. 126(3A) and subsection 3(B) of the *Police Powers and Responsibilities Act*, where a vehicle, load or other thing has been moved under the provisions of Chapter 5 of the *Police Powers and Responsibilities Act*, the officer who moved it is to, as soon as reasonably practicable, but within 14 days following the movement give, or arrange for another officer to give, to the owner, if known, a correctly completed QP 703: 'Notice to owner re seizure/moving of vehicle, load or other thing' in accordance with s. 126: Steps after seizing vehicle, load or other thing' of the *Police Powers and Responsibilities Act*.

See also s. 4.7.12: 'The giving of a notice under ss. 126, 139, 710, 718 or 719 of the *Police Powers and Responsibilities Act*' of this chapter.

Immediate disposal of something other than a vehicle

Section 128A: 'Immediate disposal in particular circumstances' of the *Police Powers and Responsibilities Act* provides for the immediate disposal of something other than a vehicle in particular circumstances. For example, an officer may immediately dispose of gravel spilled on a road from a passing truck by having it bulldozed off the side of the road.

4.15.3 Disposal of vehicles, loads or other things under s. 127 of the Police Powers and Responsibilities Act

POLICY

Where a vehicle, load or other thing has been seized, pursuant to s. 124: 'Removal of vehicle or load or other thing' of the *Police Powers and Responsibilities Act* and is liable for disposal pursuant to the provisions of s. 127: 'Disposal of seized or moved vehicle, load or other thing' of that Act, reporting officers or, where appropriate, property officers should make an application by completing and sending a QPRIME task to their officer in charge for a direction as to how that vehicle, load or other thing is to be disposed of (see QPRIME User Guide).

An officer in charge who receives an application for a direction under this policy should refer the application to a suitable member for consideration.

Appendix 4.1: 'Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*' of this chapter lists the classes of member who may determine how a vehicle, load or other thing may be disposed of pursuant to s. 127 of the *Police Powers and Responsibilities Act*, and the corresponding maximum value of that item.

Upon receipt of an application under this policy, members who may make a direction with respect to the disposal of a vehicle are to satisfy themselves that:

- (i) all conditions relating to the making of the direction, as required under the relevant provisions ss. 126 and 127 of the *Police Powers and Responsibilities Act*, have been complied with or fulfilled; and
- (ii) the stated approximate value of the vehicle, load or other thing is reasonable, and if deemed appropriate, supported by documentation (e.g. for a motor vehicle, an extract of the market value of the vehicle from Glass's Guide or the Red Book may be appropriate);

before making the direction.

Generally, vehicles and other property seized are to be disposed of by sale by auction (also see s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter).

Action on receiving a direction under this policy

Reporting officers or property officers who receive a direction made under this policy are to ensure that:

- (i) the property is dealt with in compliance with the direction as soon as practicable after receiving the direction; and
- (ii) if the vehicle, load or other thing is to be sold, notice of the proposed sale is given by advertisement in a newspaper circulating in the locality where the vehicle was found.

Officers in charge should ensure, where a direction under the provisions of this policy has been made with respect to property for which an officer under their control is responsible, that the property is dealt with in accordance with the direction and, where applicable, the relevant provisions of this chapter.

4.15.4 Seizing and towing vehicles

For the purposes of this section, a reference to a vehicle also includes a reference to the vehicle's load where applicable.

POLICY

An officer should not seize and tow away a vehicle unless:

- (i) the vehicle is required for scientific, fingerprint, mechanical, photographic or other examination, and the examination cannot reasonably be undertaken without taking the vehicle into police possession;
- (ii) the vehicle has been left on a road in a position which creates an actual and immediate danger and the vehicle cannot be moved in accordance with s. 124: 'Removal of vehicle or load or other thing' of the *Police Powers and Responsibilities Act* except by towing the vehicle;
- (iii) the vehicle is a located stolen or unlawfully used vehicle and it is not, at that stage, possible to arrange for the owner or a representative of the owner to collect the vehicle and it is not reasonable to leave the vehicle where it was located;
- (iv) the vehicle has been left on a road in a position which constitutes an offence against the *Transport Operations (Road Use Management) Act* by significantly hampering the safe and effective flow of traffic, where its driver cannot be readily located or its driver fails to remove same when required to do so, and the vehicle cannot be moved in accordance with s. 124 of the *Police Powers and Responsibilities Act* except by towing the vehicle; or

(v) the seizing of the vehicle is authorised by law.

An officer intending to seize and tow away a vehicle may do so only after the required permission has been obtained by that officer and, in cases of located stolen or unlawfully used vehicles where the owner's authority to tow exists, wherever practicable, in compliance with any relevant conditions.

Permission to seize and tow away vehicles

POLICY

Subject to any regional or command requirements, permission to seize and tow away vehicles need not be obtained for vehicles which are impounded in accordance with s. 74: 'Impounding motor vehicles' of the *Police Powers and Responsibilities Act* (see Chapter 16: 'Impounding motor vehicles' of the Traffic Manual).

ORDER

Officers who intend to seize and tow away a vehicle are to:

- (i) ensure that sufficient grounds exist for such seizure and towing away; and
- (ii) prior to any seizure and towing away obtain the permission of the patrol group inspector:
 - (a) in areas within the Brisbane Region of the relevant regional duty officer, or if that officer is not available the Duty Officer, Police Communications Centre; or
 - (b) in other areas a commissioned officer; or where a commissioned officer is not available, obtain the permission of:
 - the duty officer of the relevant police communications centre; or
 - in areas not under the control of a police communications centre, the shift supervisor of the police division from where the vehicle is to be seized and/or towed away.

The authority to grant permission to seize and tow away a vehicle may be delegated to another person at the discretion of the officer in charge of the region or command.

Officers requested to authorise the seizing and towing away of a vehicle are to consider the necessity for the seizure and towing away. Considerations should include:

- (i) the possibility of pushing or driving the vehicle in preference to towing it away;
- (ii) in cases of located stolen or unlawfully used vehicles, whether an authority by or on behalf of the owner of the vehicle exists for the police to tow away the vehicle, and what attempts have been made to contact the owner;
- (iii) the location of the vehicle; and
- (iv) alternative means of dealing with the vehicle in preference to the seizing and towing away of the vehicle.

Notification by authorising officer

ORDER

Officers who authorise the seizing and towing away of a vehicle are to notify the officer in charge of the officer seizing and towing away the vehicle (the reporting officer).

Such notifications should include the identification of the vehicle, the location where the vehicle is being held and the identity of the reporting officer.

Storage of seized and/or towed away vehicles

POLICY

The only vehicles which may be lodged at a suitable property point are vehicles seized:

- (i) for examination or testing;
- (ii) for photographing; or
- (iii) which are located subsequently to being stolen or unlawfully used where the owner cannot be located.

In other cases, the vehicle should be taken to the premises of the towing company engaged to tow the vehicle. The vehicle may be taken to a suitable property point if the premises of the towing company are not within a reasonable distance.

When a vehicle is seized and towed away and is not held at a property point, irrespective of the place where the vehicle is towed to, it is deemed to be held at a property point and the applicable provisions of this chapter apply.

Vehicles should not be retained as exhibits. Where a vehicle is seized for evidentiary purposes, secondary evidence can be offered in any subsequent court hearing and the vehicle itself should be disposed of as soon as practicable.

Officers seizing vehicles pursuant to the provisions of specific legislative enactments (see s. 4.7.11: 'Dealing with property taken possession of by virtue of specific Acts (approval of officers as public officials)' of this chapter) are to comply with any requirements contained in the particular Act which authorises the seizure and subsequent disposal.

Driving of seized vehicles

POLICY

Officers should refrain from driving seized vehicles unless exceptional circumstances exist.

Responsibilities of reporting officer/seizing officer

ORDER

When a vehicle is seized or seized and towed away the officer seizing and removing the vehicle, or causing the vehicle to be seized and removed becomes the reporting officer. In addition to the requirements contained in this chapter, reporting officers are to:

- (i) notify their officer in charge of the seizure, towing away and location of the vehicle as soon as practicable;
 - (ii) ensure details of the seizure, tow and location are entered as a flag to the vehicle on QPRIME as soon as practicable;
 - (iii) where the vehicle has been towed without the owner's consent, complete a Vehicle Tow Report in QPRIME;
 - (iv) when a vehicle is lodged or is deemed to be lodged at a property point (see 'Storage of seized and/or towed away vehicles' above):
 - (a) notify the property officer for the property point where the vehicle is lodged, and in cases where the vehicle is taken to a towing company premises or any other premises, the property officer for the area where the reporting officer is attached (see s. 4.6.8: 'Action by property officer on receipt of property' of this Chapter);
 - (b) indicate in the relevant QPRIME property entry:
 - the tests or examinations, if any, for which the vehicle is held; and
 - where a QPB32A: 'Field Property Receipt' has not been issued for the vehicle – any interior or exterior damage to the vehicle at the time of lodgement;
 - (c) as soon as possible thereafter, if applicable, arrange through normal local procedures for the vehicle to be photographed and for all other necessary tests and examinations to be conducted;
 - (d) make any enquiries necessary to identify the owner or other person with a lawful claim to the vehicle; and
 - (e) ensure that the vehicle is returned to its owner as soon as practicable unless it is necessary to retain the vehicle as evidence;
 - (iv) as soon as practicable after the vehicle has been lodged at a property point:
 - (a) where the seizure and towing away of a vehicle occurs in an area controlled by a police communications centre, notify the officer in charge of the appropriate police communications centre; or
 - (b) in areas not under the control of a police communications centre, notify the officer in charge of the police station in the police division from where the vehicle was seized and removed;
- of the particulars of the vehicle seized, reason for seizure, location and any applicable release fees;
- (v) if the vehicle was seized under the provisions of the *Police Powers and Responsibilities Act*, other than s. 124, seek an appropriate order with respect to the vehicle (see s. 4.7: 'Storage and handling of property' of this chapter; and
 - (vi) if the vehicle was seized under s. 124 of the *Police Powers and Responsibilities Act*:
 - (a) as soon as reasonably practicable, but within 14 days following the seizure, notify the owner of the seized vehicle of the seizure, the place where the vehicle is held and any other relevant matters using a QP0703: 'Notice to owner re seizure/moving of vehicle, load or other thing' available in QPRIME (see s. 126: 'Steps after seizing a vehicle, load or other thing' of the *Police Powers and Responsibilities Act*); and
 - (b) where it has not been collected by the owner within the prescribed period under s. 127: 'Disposal of seized or moved vehicle, load or other thing' of the *Police Powers and Responsibilities Act*, make arrangements to dispose of the vehicle in terms of that latter section (see s. 4.15.3: 'Disposal of vehicles, loads or other things under s. 127 of the *Police Powers and Responsibilities Act*' of this chapter).

Also see s. 4.15.5: 'Vehicles uncollected or unclaimed' and 4.15.10: 'Payment for towing fees resulting from police involvement' of this chapter.

Responsibilities of property officers

ORDER

Property officers who have control of a vehicle property point are to ensure that a vehicle is not accepted at that property point unless the vehicle:

- (i) is required for tests, examinations, or is to be photographed and the required tests and examinations are noted in the relevant QPRIME property entry;
- (ii) is located subsequently to being stolen; or unlawfully used where the owner cannot be located; or
- (iii) is seized as evidence of the commission of an offence or for use as evidence in a forfeiture proceeding, and its retention is required.

On the completion of all tests, examinations and photographing as indicated by the reporting officer, the property officer is to send a task in QPRIME to, or otherwise notify, the reporting officer advising that all tests, examinations and any photographing have been completed.

4.15.5 Vehicles uncollected or unclaimed

ORDER

Vehicles which may be lawfully returned to their owner and remain unclaimed or uncollected from property points are to be dealt with:

- (i) if the vehicle was seized pursuant to s. 124 of the *Police Powers and Responsibilities Act*, in accordance with the provisions of s. 4.15.3: 'Disposal of vehicles, loads or other things under s. 127 of the *Police Powers and Responsibilities Act*' of this chapter; or
- (ii) otherwise in accordance with the provisions of ss. 4.7.9: 'Forfeiture orders' and 4.8.4: 'Disposal of things forfeited to the State' of this chapter.

4.15.6 Repossessed vehicles or vehicles towed away from private premises

The towing company or repossession agents normally advise the police when a vehicle is being towed away from private premises or repossessed.

PROCEDURE

Officers receiving information from towing companies or repossession agents as to the repossession or towing away from private premises of a vehicle should:

- (i) take all relevant details of the motor vehicle, towing company or repossession agent, and contact telephone numbers;
- (ii) check QPRIME to determine if the vehicle has been flagged and, if so recorded, take all necessary action including advising the owner of a vehicle in cases where that vehicle had previously been reported stolen and updating QPRIME; and
- (iii) if the vehicle is not flagged on QPRIME, enter a flag against the vehicle including all relevant details.

4.15.7 Tow Truck Act

If an officer seizes a vehicle, under an Act or the owner of a damaged vehicle, or the owner's agent is away from the vehicle, or is incapacitated, an officer may sign a towing authority under the *Tow Truck Act* pursuant to s. 129: 'Police officers may authorise tow after seizure under any Act' of the *Police Powers and Responsibilities Act*.

(Example – s. 124: 'Removal of vehicle or load or other thing' of the *Police Powers and Responsibilities Act* provides that a police officer may, in prescribed circumstances, seize and move a vehicle, load or other thing, or arrange for it to be moved, to another place for safe keeping.) (See also s. 125: 'Prescribed circumstances for s 124' of the *Police Powers and Responsibilities Act*.)

Sections 77: 'Police officer may authorise tow' and 777: 'Police officer may authorise tow' of the *Police Powers and Responsibilities Act* also provide for the power to sign a towing authority to have an impounded motor vehicle taken to a holding yard.

PROCEDURE

Officers should inspect vehicles requiring to be towed away because of the absence or incapacity either of the persons in charge of the vehicles, or the owners of the vehicles or their agents (including the drivers of or passengers in such vehicles) to see if the vehicle displays a sticker on the vehicle requesting that a particular towing company be called should the vehicle require towing and where one is displayed they should, whenever practicable, request the services of that applicable towing company.

Before an officer signs a towing authority pursuant to the *Tow Truck Act* that officer should:

- (i) ensure that the authority is fully and accurately completed;

(ii) sight the relevant driver's certificate or permit and/or the assistant's certificate or permit issued pursuant to the *Tow Truck Act* and record the licence number of the tow truck which is used to remove the vehicle;

(iii) inform the tow truck driver that any towing and storage costs are chargeable to the owner, unless the motor vehicle is impounded. See:

(a) s. 16.14: 'Costs of storage of impounded vehicles' of the Traffic Manual if the vehicle is impounded under Chapter 4 of the *Police Powers and Responsibilities Act*; or

(b) s. 10.16.7: 'Liability for costs of impounding' of the Traffic Manual if the motor vehicle is impounded under Chapter 22 of the *Police Powers and Responsibilities Act*; and

(iv) advise the owner as soon as practicable of the location where the damaged vehicle is being stored.

4.15.8 Abandoned vehicles (as distinct from being stolen and abandoned)

PROCEDURE

When a vehicle is found on a road under such circumstances that there are reasonable grounds for suspecting that it has been abandoned by the person who last drove or used same (as distinct from being stolen or unlawfully used and abandoned), the officer locating or is advised of the location of the abandoned vehicle should notify the clerk or other appropriate officer of the local government for the area in question, who may then take action for its disposal.

The officer who locates or who is advised of the location of an abandoned vehicle should:

(i) in cases where a registration number plate is attached to a vehicle, query QPRIME as to whether the vehicle has been flagged; and

(ii) notify the officer in charge of the division where the vehicle is located.

Where it is apparent that any such vehicle may have been stolen or unlawfully used by the person who abandoned it in the place where it was found, officers should treat the vehicle as a located stolen vehicle and take all necessary action.

See also s. 4.15.2: 'Moving vehicles, loads or other things' of this chapter.

4.15.9 Towing companies contracts

POLICY

Wherever practicable officers in charge of regions and commands should, within their area of responsibility, endeavour to employ the services of appropriate numbers of suitable towing companies for the performance of police authorised towing.

In this regard officers in charge of regions and commands should call tenders for the engagement of such towing services in accordance with the Queensland Government's Purchasing Policy.

Consideration should be given in having a clause included in any contract entered into, requiring that the towing company provide a list of all vehicles held by that towing company to the region or command on a monthly basis, or more frequently if required.

4.15.10 Payment for towing fees resulting from police involvement

POLICY

Following the authorised towing of vehicles, appropriate towing fees and charges should generally be satisfied prior to the release of the vehicle. Owners or persons who wish to pay for towing fees should wherever practicable be advised that payment is to be made direct to the towing company concerned.

However, where this is not practicable and the vehicle is stored on police premises, it is permissible for members to receive money which is to be paid as towing and/or storage fees to a towing company.

ORDER

Members receiving money which is to be paid as towing and/or storage fees to a towing company, are to:

(i) cause a General Purpose receipt to be issued for the amount concerned with an endorsement thereon to the effect that the money is a towing and/or storage fee payable to a particular towing service, naming the company;

(ii) hand the receipt to the person making the payment;

(iii) bank the money so received promptly; and

(iv) make payment to the relevant towing company by cheque drawn on the Collections Account concerned.

4.15.11 Payment for towing fees by insurance companies

Officers often seize and tow away vehicles, which are stolen or suspected stolen vehicles and re-identified, for the purpose of scientific examination, or some other reason. In some instances, insurance companies may have already paid out to the owner for the vehicle.

Insurance companies generally pay towing costs associated with stolen and recovered vehicles.

POLICY

In cases where insurance companies have paid out to the owner of a stolen vehicle, reporting officers should initiate action to recover towing and/or storage fees associated with the particular stolen and recovered vehicle and incurred by the Service. In this respect the reporting officer should submit a memorandum to the regional or command finance officer advising that officer of the applicable costs.

The regional or command finance officer upon receipt of the memorandum mentioned in the previous paragraph should then issue an invoice against the nominated insurance company.

4.16 Action in special cases (animals)

4.16.1 Dealing with animals (generally)

POLICY

Animals:

- (i) seized or detained pursuant to ss. 146: 'Power in relation to offences involving animals' or 196: 'Power to seize evidence generally' of the *Police Powers and Responsibilities Act*, or
- (ii) which otherwise came into the possession of an officer in the course of performing that officer's functions (other than pursuant to s. 137: 'Removal of animals from roads and other places' of the *Police Powers and Responsibilities Act*);

are to be dealt with pursuant to the relevant provisions of Chapter 21, Part 3: 'Dealing with things in the possession of Police Service' of the *Police Powers and Responsibilities Act*, and this chapter.

Animals seized and moved pursuant to s. 137 of the *Police Powers and Responsibilities Act* are to be dealt with in accordance with the relevant provisions of Chapter 6, Part 4: 'Removal powers for animals' (ss. 137-141) of the *Police Powers and Responsibilities Act*.

Also see s. 4.7.12: 'The giving of a notice under ss. 126, 139, 710, 718 or 719 of the *Police Powers and Responsibilities Act*' of this chapter.

Officers in charge are to ensure animals seized or detained by, or otherwise coming into the possession of members under their control in the course of those members performing their functions, are returned or disposed of in accordance with the provisions of the *Police Powers and Responsibilities Act* and this chapter as soon as those provisions allow.

Also see s. 450EB: 'Application for stock disposal order' of the Criminal Code.

4.16.2 Disposal of animals under s. 140 of the Police Powers and Responsibilities Act

POLICY

Where an animal has been seized pursuant to s. 137 of the *Police Powers and Responsibilities Act* and is not returned under s. 140: 'Recovery of seized animal' of that Act, reporting officers should make an application in writing to their officer in charge for a direction as to how that animal is to be disposed of.

An officer in charge who receives an application for a direction under this policy should refer the application to a suitable member for consideration.

Appendix 4.1: 'Values of property which may be forfeited or dealt with by members pursuant to the *Police Powers and Responsibilities Act*' of this chapter lists the classes of member who may determine how an animal may be disposed of pursuant to s. 140 of the *Police Powers and Responsibilities Act*, and the corresponding maximum value of that animal.

Upon receipt of an application under this policy, members who may make a direction with respect to the disposal of an animal are to satisfy themselves that:

- (i) all conditions relating to the making of the direction, as required under the relevant provisions ss. 139 and 140 of the *Police Powers and Responsibilities Act*, have been complied with or fulfilled; and
- (ii) the stated approximate value of the animal is reasonable, and if deemed appropriate, supported by documentation;

before making the direction.

Generally, animals are to be disposed of by sale by auction (also see s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter).

A direction made under this policy is to be made in writing.

Action on receiving a direction under this policy

Reporting officers or property officers who receive a direction made under this policy are to ensure that:

- (i) a copy of the direction is:
 - (a) given to their officer in charge; and
 - (b) scanned as an attachment to the relevant QPRIME occurrence; and
- (ii) the property is dealt with in compliance with the direction as soon as practicable after receiving the direction; and
- (iii) if the animal is to be sold, notice of the proposed sale is given by advertisement in a newspaper circulating in the locality where the animal was found.

Officers in charge should ensure, where a direction under the provisions of this policy has been made with respect to property for which an officer under their control is responsible, that the property is dealt with in accordance with the direction and, where applicable, the relevant provisions of this chapter.

4.16.3 Disposal of animals under the Animal Care and Protection Act

PROCEDURE

Section 154: 'Power to forfeit' of the *Animal Care and Protection Act* provides that the Chief Executive of the Department of Environment and Heritage Protection may decide to forfeit an animal seized under s. 146(2)(d) of the *Police Powers and Responsibilities Act* in certain circumstances.

When a direction of the Chief Executive, Department of Environment and Heritage Protection is required, the officer who seized the animal should forward a report to the officer in charge of their region or command. This report is to be accompanied by copies of the field property receipt, the property receipt and, if an animal welfare direction was relevant to the seizure, the animal welfare direction. The report should include:

- (i) the circumstances surrounding the seizure of the animal, including its description;
- (ii) the grounds on which the forfeiture is sought (i.e. after making reasonable efforts or inquiries, in accordance with s. 154(2), (3) and (4) of the *Animal Care and Protection Act*, you cannot return the animal to its owner, find its owner or any other person in charge of it or you reasonably believe it is necessary to keep the animal to prevent it from being used in committing, or becoming the subject of, an animal welfare offence); and
- (iii) if known, the name and address of the person who owned the animal when it was seized.

An officer in charge of a region or command who receives such a report should seek a direction, in writing, from the Chief Executive, Department of Environment and Heritage Protection (see Service Manuals Contact Directory).

4.16.4 Caring for animals in police possession

Section 689: 'Particular provision about handling animals in the possession of the police service' of the *Police Powers and Responsibilities Act* imposes certain obligations on the Service for the handling of animals (except for animals seized under s. 137: 'Removal of animals from roads and other places' of the *Police Powers and Responsibilities Act*) in the possession of the Service.

Also see s. 4.5.9: 'Minimum storage requirements' of this chapter.

POLICY

Reporting officers who take possession of an animal(s) in the exercise of their duties are to ensure all reasonable steps are taken to ensure the animal(s) is correctly cared for until it has been lawfully disposed of and where applicable, the provisions of s. 689 of the *Police Powers and Responsibilities Act* are complied with.

Where necessary, officers are to seek advice and assistance from appropriate persons or organisations to ensure the correct level of care is given to such animals.

If an officer seizes an animal(s), the Service will be obliged to meet the costs of its transportation, housing, feeding and veterinary care. Although, in some cases, the Queensland Primary Industries and Fisheries (QPI&F) and the Royal Society for the Prevention of Cruelty to Animals Inc. (RSPCA) may be able to assist in providing housing and veterinary care for seized animals. However, officers are to note, if the QPI&F or RSPCA take possession of an animal on behalf of the Service, the animal is still in the possession of the Service and the reporting officer is responsible for arranging the lawful disposal of the animal (see Chapter 21, Part 3: 'Dealing with things in the possession of police service' of the *Police Powers and Responsibilities Act*).

PROCEDURE

Suitable advice or assistance with respect to the care of animals may be obtained from a number of sources including:

- (i) members of the Stock and Rural Investigation Squad;
- (ii) the QPI&F;

- (iii) the RSPCA;
- (iv) local vets;
- (v) Wildlife and Ecosystems division, Department of Environment and Heritage Protection; and
- (vi) local animal shelters, agistment services and kennels.

Where the caring of a seized animal incurs substantial costs (to either the Service, or another agency such as the RSPCA/QPI&F) the reporting officer should consider whether the provisions of s. 697: 'Cost recovery for animal held in possession of police service' apply (i.e. because of order made under s. 696(2): 'Orders issuer may make in relation to seized thing' of the *Police Powers and Responsibilities Act*, an animal in possession of the Service is held by the Commissioner until the end of a proceeding for a charge of an offence in which the animal is evidence). If so, the reporting officer is to submit a report through to the region/command finance manager/officer for consideration. Upon receipt of such report, finance managers/officers are to, if it is appropriate in the circumstances, attempt to recover costs in accordance with s. 697 of the *Police Powers and Responsibilities Act* and s. 13.30: 'Starting a civil proceeding' of this Manual.

4.17 Recommended disposal or destruction methods of things

See also ss. 4.4.6: 'Exercise of discretion' and 4.8: 'Disposal of property' of this chapter.

POLICY

An officer authorised to direct how property may be disposed of is to direct the manner of the disposal, after the expiration of the prescribed retention period, in accordance with the procedures for that particular class of property outlined in this section.

Where a court orders the disposal or destruction of property under ss. 694, 696 or 701 of the *Police Powers and Responsibilities Act*, subject to any direction in the specific order, the property should be disposed of or destroyed in accordance with this section (see s. 702: 'Commissioner to decide way of destruction or disposal' of the *Police Powers and Responsibilities Act*).

Where property to be disposed of or destroyed is of a class for which a method of disposal is not listed below, the authorised officer is to select a method of disposal or destruction that:

- (i) is lawful;
- (ii) is fair and equitable;
- (iii) does not attract undue criticism of the Service; and
- (iv) minimises or eliminates any risk of injury or illness to any person, or damage to any property not subject of the disposal.

Generally, such things should be disposed of by sale at auction. Any costs incurred by the Service in preparing an item for sale, its seizure and storage, may be re-couped from the proceeds of the sale (see s. 721 of the *Police Powers and Responsibilities Act*).

Branding instruments

POLICY

Branding instruments are to be disposed of by destruction.

Bicycles (general)

POLICY

Generally, bicycles are to be disposed of by sale at auction unless they:

- (i) fall into the category of a thing which is not suitable for sale to the public (e.g. because of design or defects there are significant safety concerns); or
- (ii) are considered appropriate to give to a charitable, welfare or similar organisation.

Before a bicycle is given to a charitable, welfare or similar organisation, the representative of the charitable, welfare or similar organisation receiving the bicycle, are to read and sign QP 0034: 'Indemnity receipt', specifically acknowledging point 3 of this receipt. Once this Indemnity receipt has been signed by the representative, the receipt is to be scanned as an attachment to the relevant QPRIME occurrence.

Clothing

POLICY

Where clothing is soiled or in poor condition such that it is rendered unusable, it should be disposed of at a local waste disposal facility. Where the clothing is in good condition, it should be donated to a charitable organisation. If the officer

responsible for authorising the disposal of the property is in any doubt as to the suitability of the clothing for distribution by a charitable organisation, the officer should arrange for the viewing of the clothing by a representative of the charitable organisation for advice.

Documents

POLICY

Generally, all data stored on computers and other electronic storage media such as hard disks, floppy disks, flash cards, and memory sticks are to be permanently removed or overwritten, or rendered permanently inaccessible prior to disposal. The process of permanently erasing or overwriting data including software, stored on electronic storage media without destroying the media is referred to as sanitisation.

Where electronic storage media cannot be sanitised, or it is not appropriate to do so, it is to be destroyed by physically rendering it unusable (e.g. in cases where the media is CDs and DVDs, or where defective or missing hardware or access codes prevent access to data on the media, or the value of the media is negligible).

Computer sanitisation software for certain models of Apple Macintosh computers is available from the Fraud and Cyber Crime Unit, State Crime Command.

Electronic devices and storage media (High risk data)

For the purpose of this section:

electronic device means any device capable of storing data including mobile phones, cameras and tablets etc.

storage media means any item capable of storing data electronically or by other means.

High risk data (sensitive, illegal, personal or intellectual) contained in electronic devices and storage media poses a significant risk to the Service as many complex methods exist where data can be stored, manipulated, encrypted and hidden.

All data stored on computers and other electronic storage media is to be permanently erased prior to disposal of the electronic device. The process of permanently erasing or overwriting data including software, stored on electronic storage media without destroying the media is referred to as sanitisation.

Removable electronic storage media such as floppy disks, flash cards, SIM cards and memory sticks are to be removed and destroyed prior to disposal of the electronic device.

Where high risk data may remain on an electronic device coming into possession of the Service following the removal of any removable electronic storage media, the electronic device is to be physically destroyed through crushing or shredding when disposed of. Physical destruction includes disposing of the electronic device to an appropriate e-waste recycling facility where the high risk data is destroyed as the electronic device is dismantled.

In some instances sanitisation of a device or media may be warranted if a decision to dispose by return to finder, auction, donation or appropriation is made under this section. Any decision must be made on a cost versus benefit basis and officers are to seek the specialist technical advice of the Electronic Evidence Examination Unit or their District Electronic Evidence Technician when making any determination.

Electronic devices and storage media containing, or believed to contain illegal data, are not to be returned to an owner unless the provisions of s.719 (4) and (6): 'Order for forfeiture of relevant things connected with offences' of the *Police Powers and Responsibilities Act* are met and an order has been issued pursuant to s. 693: 'Application by owner etc. for court order for return of relevant things' of the Act.

To allow prosecutors to make submissions to the court, when a defendant makes application under s. 701: 'Disposal of seized things at the end of proceeding' of the *Police Powers and Responsibilities Act*, officers are to ensure that they include on the Court Brief (QP9) an instruction to prosecutor as to the nature of illegal data contained within the electronic device or storage media and the intended disposal method.

Prosecutors who receive no instructions or an application is made under s. 701: 'Disposal of seized things' of the *Police Powers and Responsibilities Act* are to seek an adjournment to seek the specialist technical assistance of the Electronic Evidence Examination Unit.

ORDER

Members are not to dispose of any electronic devices or storage media unless it has been destroyed or sanitised in accordance with

Incapacitated persons (property of)

POLICY

Property belonging to a person who is an incapacitated person as defined by the *Public Trustee Act*, should be forwarded to the Public Trustee.

Keys

POLICY

Keys should be rendered useless, and then discarded as rubbish. Under no circumstances are keys to be disposed of without first being rendered unusable in some way.

Liquor

POLICY

Saleable liquor is to be sold at auction. Liquor which cannot be auctioned and unsaleable liquor, is to be disposed of by destruction.

For the disposal of liquor seized under s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the *Police Powers and Responsibilities Act*, see s. 13.4.4: 'Liquor and minors' of this Manual.

See also s. 53: 'Prevention of particular offences relating to liquor' of the *Police Powers and Responsibilities Act*.

Personal items

POLICY

Personal items which are not subject to disposal pursuant to 'Things which are not suitable for sale to the public' of this section – that is, things that are of some obvious value such as a gold key chain – should be sold by auction.

Things of use to a government department

POLICY

Where property to be disposed of either under ss. 702: 'Commissioner to decide way of destruction or disposal' or 721: 'Dealing with forfeited things' of the *Police Powers and Responsibilities Act*, may be of use to the Service or another government department and is fit and safe for use, the reporting officer or property officer is to submit a report, through their officer in charge, to their district officer or supervising commissioned officer outlining:

- (i) the proposed intended use for the thing (e.g. a facsimile machine to be used for general office purposes, or drug matter (a thing intended for use, or that was used, in the commission of an offence against the *Drugs Misuse Act*, Part 2) other than a dangerous drug, to be used for training purposes or display);
- (ii) the reason(s) why the thing is considered to be fit and safe for the use intended. This may involve attaching details of any mechanical, electrical or other appropriate examinations. Where the thing is a weapon or antique firearm, as defined in Part 2: 'Definitions' of the *Weapons Act*, or a restricted item as defined in s. 9: 'Restricted items (Act, s. 67)' of the *Weapons Categories Regulation*, the weapon or restricted item is to be examined and assessed by the Service armourer regarding its suitability and serviceability. A report by the Service armourer regarding the examination/assessment is to be where available, attached to the report to the officer in charge, district officer or commissioned officer; and
- (iii) a suitable organisational unit within the Service, or sections of other government departments who may benefit from having the thing. Where the thing is a weapon, identify if the department has the appropriate legislative authority to possess the weapon.

On receipt of such a report, the district officer or supervising commissioned officer is to satisfy themselves that the thing is safe and fit for its intended purpose, and forward the original report, identifying which organisational unit or government department it should be disposed of, to the officer in charge of their region or command.

Where the property value is less than \$10,000 a chief superintendent, superintendent or manager may make the determination (see Delegation D 24.24, of the Handbook of Delegations and Authorities).

On receipt of a report which indicates that property is suitable and safe for the use of the Service or another government department, the determination officer is to:

- (i) decide if the property is to be appropriated; and
- (ii) direct the manner in which the property is to be dealt with. This may include a direction that the property be appropriated to the use of either the Service or another government department, or be disposed of in any other way consistent with the provisions of this chapter.

POLICY

Officers making a determination regarding the appropriation of any property, should take into account Service policy outlined in this chapter and should

not authorise the appropriation of property when:

- (i) retention of the property by the Service may be seen as unfair to any person;
- (ii) the decision may otherwise attract criticism of the Service;
- (iii) facilities do not exist to maintain the condition of the thing; or
- (iv) the property is regarded as unsafe.

ORDER

Officers in charge of a region or command are to maintain a register of all property appropriated for the use of the Service or another department. Such a register is to include, in respect to each item of property:

- (i) a full description;
- (ii) an estimated value;
- (iii) a description of the circumstances under which the property came into possession of the Service;
- (iv) the name of the member who took possession of the property;
- (v) all correspondence numbers associated with the property, including the QPRIME occurrence number;
- (vi) the station or establishment at which the property has been put to use, or the government department to which it has been forwarded; and
- (vii) the date on which the decision to retain the property was made.

All appropriated property of a value of \$1000 or more is to be entered into the register of assets of the region or command the property is appropriated to.

Where a weapon or restricted item is appropriated for use by the Service or another government department, a copy of the relevant correspondence is to be forwarded to the Officer in Charge, Weapons Licensing for updating of the relevant registers.

Things which are not suitable for sale to the public

POLICY

This section relates to property which may be disposed of and which should not, for a variety of reasons, be offered for sale to the public. This type of property includes anything which:

- (i) is unfit for the use for which it was intended;
- (ii) may be otherwise unsafe to use;
- (iii) is, or may be, considered objectionable in nature;
- (iv) may be used in the commission of an offence;
- (v) is of such a nature its sale may attract adverse criticism of the Service;
- (vi) is of little or no value;
- (vii) is an article of a personal nature, of little value, and normally carried on or about the person. This includes:
 - (a) wallets and purses;
 - (b) key rings, key cases and key tabs;
 - (c) spectacles and sun glasses; or
 - (d) handbags, small personal carry bags and articles of a like nature; or
- (viii) is a 'potentially harmful thing' (see s. 4.14.3: 'Potentially harmful things' of this chapter) or a weapon.

In exercising discretion in the disposal of this class of property, consideration should be given to the use to which the thing may be put by a charitable institution. Where it is considered unsuitable or inappropriate to donate the item to a charity, the thing should be destroyed.

4.18 Property identification

4.18.1 Change of ownership

POLICY

When an insurance company compensates a property owner after the theft of property, ownership of that property is then vested in the insurance company. Insurance companies may apply for and be granted access to the QPRIME Public Access System through CITEC Confirm. Insurance companies with on-line access to QPRIME can enter subrogation particulars onto QPRIME.

Insurance companies and loss adjusters not having on-line access to QPRIME Public Access generally provide subrogation details to Policelink (see Appendix 3.1: 'Factors for consideration in restitution/compensation' of this Manual).

ORDER

An officer in charge of a station or establishment who receives a letter of subrogation from an insurance company or loss adjuster is to forward the letter to the Policelink.

4.18.2 Recording personal identification numbers

POLICY

Officers in charge of stations should maintain at their station a portable engraving machine. The engraving machine should be available for loan to any member of the public on request, for such time as the officer in charge deems appropriate. When members of the public borrow an engraving machine, they should also be supplied with a crime prevention property brochure, form or card on which that person may record details of their name, address, telephone numbers and the unique identification mark used by them to engrave their property.

Members of the public who make use of Service engraving machines should be encouraged to engrave property with an identification number which is consistent with Australia-wide standards agreed to by police commissioners. The number should be constructed of nine characters in the following manner:

- (i) the first two characters consist of the initials of the property owner;
- (ii) the third to eighth characters consist of the date of birth of the property owner; and
- (iii) the letter Q as the final character. This serves to identify that property is of Queensland origin.

An example is the case of John SMITH, born on 23 July 1959, who should use the identification number 'JS230759Q'.

ORDER

An officer in charge of a station or establishment who is supplied with the personal details and identification number or mark of a person is to, as soon as possible after receipt, enter or cause to be entered the number or mark as a 'Inscription' in the Misc ID field of the person's QPRIME record (see QPRIME User Guide).

4.18.3 Engraving machines (register of loans)

ORDER

An officer in charge of a station or establishment at which an engraving machine is held is to maintain a register to record the details of persons to whom the engraver is loaned. That register is to incorporate the following information in respect of each loan:

- (i) date loaned;
- (ii) name, address and telephone number of the person who borrows the engraver;
- (iii) the agreed return date; and
- (iv) an indication that the borrower's particulars have been entered in QPRIME on the return of the engraver.

4.19 Public auction

POLICY

Property may be disposed of by way of sale by public auction pursuant to ss. 140(1): 'Recovery of seized animal', 702: 'Commissioner to decide way of destruction or disposal' and 721(3): 'Dealing with forfeited things' of the *Police Powers and Responsibilities Act*, and s. 4.17: 'Recommended disposal or destruction methods of things' of this chapter.

POLICY

Depending on regional demands, it may be necessary to have in place instructions to conduct auctions at a central facility for stations, districts or groups of these. In some areas, such as the Brisbane District, it is acceptable to establish a central auction facility. The central facility for disposal by auction should be an approved property point.

4.19.1 Responsibilities of officers in charge of regions or commands

POLICY

The officer in charge of each region or command should put in place instructions for the disposal of property by auction. Such a system should nominate a location or locations which should be the central auction facility and should nominate a licensed auctioneer who should be utilised to conduct auctions on behalf of the Service. The approved means of advertising auctions should also be included.

4.19.2 Auction procedures

POLICY

The approved means of advertising an auction should be aimed at attracting the maximum number of potential buyers to the auction. As a minimum standard, advertising should include a paid advertisement in the public notices section of a newspaper circulating in the area. The advertisement should appear no sooner than fourteen days and no later than five days prior to the date of the auction.

In outlining procedures to be followed, officers in charge of regions or commands should be mindful of possible returns to the Crown and should put in place arrangements which will maximise these returns. It should be noted that offering a large number of items for sale is likely to attract greater interest. Frequent auctions are only recommended when appropriate amounts of property are to be disposed of.

ORDER

An officer who authorises the disposal of property by auction is to do so by scanning a copy of the report as an attachment to the relevant QPRIME occurrence. The officer is to then send a task within QPRIME to the relevant property officer and keep a copy of the report with the station files.

On receipt of the task directing disposal of property by auction, the property officer is to modify the QPRIME occurrence accordingly (see QPRIME User Guide) and forward the property to the central facility for auctions.

4.19.3 Responsibilities of property officer

ORDER

The property officer at the property point designated as a central facility is responsible for arranging auctions. In doing so, the property officer is to:

- (i) use 'Inventory of property for disposal by auction' form (QP352) available within QPRIME to itemise property;
- (ii) engage the services of the licensed auctioneer in accordance with regional arrangements;
- (iii) arrange with the auctioneer for a suitable date and time for the holding of the auction;
- (iv) make arrangements for the auction to be advertised as per local instructions; and
- (v) arrange for the delivery of the property to the auctioneer's premises, or to the premises where the property will be sold.

PROCEDURE

At the conclusion of the auction, the agent should deduct fees from the proceeds of the auction and forward the balance to the property officer, or the officer in charge.

ORDER

Officers in charge are to ensure that the remaining proceeds are paid:

- (i) firstly, in meeting expenses of the sale, if any, additional to the auctioneers fees;
- (ii) secondly, in meeting the expenses of the seizure and storage of the thing sold; and
- (iii) lastly, into the police collections account for disbursement to the consolidated fund or unclaimed moneys fund (see s. 721(3)(c) of the *Police Powers and Responsibilities Act*).

Also see the relevant sections of the Financial Management Practice Manual.

4.20 Sale by tender

4.20.1 Disposal by tender

POLICY

Property is to only be disposed of by way of sale by tender at the specific order of a court. In all other cases, disposal by sale of property is to be done by way of public auction.

On receipt of advice that a court has ordered the disposal of property by sale by tender, the property officer should modify the QPRIME occurrence accordingly and take the following action:

- (i) arrange for advertisements to notify potentially interested persons. This may include advertising in local newspapers or in special interest magazines or journals;
- (ii) ensure the advertisement will invite interested persons to submit an offer to purchase the property, a date and time at which tenders will close, and the point at which tenders are to be lodged. A period of at least one month should be allowed between the time at which the advertising appears and the date for closure of tenders;

- (iii) at the date and time for closure of tenders, collect all tenders received. Late tenders should not be considered;
- (iv) examine all tenders and select the successful tender. Unless extraordinary circumstances exist, the highest tender should be accepted;
- (v) advise the successful tenderer initially by telephone, then in writing;
- (vi) arrange a time and date on which the tenderer may take delivery of the property and advise the tenderer that payment will be required by way of cash, bank cheque or postal note;
- (vii) at the arranged delivery time, obtain payment by cash, bank cheque or postal note. Issue a receipt for the amount paid, obtain an indemnity receipt from the tenderer, and hand property to the tenderer;
- (viii) modify the QPRIME occurrence accordingly (see QPRIME User Guide) and treat the sale proceeds as if they were proceeds obtained through auction (see s. 4.19.3: 'Responsibilities of property officer' of this chapter); and
- (ix) as soon as possible, advise each unsuccessful tenderer by letter that the property has been sold. The letter should not contain any information which may identify the successful tenderer, price paid, or other identifying information.

ORDER

A member with responsibility for disposing of property by tender, prior to the disposal of the property, is not to disclose to any other member, regardless of the rank or position of that other member, or to any other person, any information contained in a tender which has been received.

A member who is aware that a member has the responsibility for disposal of property by tender is not to seek details of any tender from that member, prior to the disposal of the property.

4.20.2 Members of the Service tendering for property

POLICY

A member may submit a tender for property offered by the Service in the same manner as any other member of the community. However, when this occurs the decision to accept any tender must be made by a member who is senior in rank or position to the tendering member.

ORDER

When a member responsible for disposing of property receives a tender from another member who is senior by rank or position, the responsible member is to forward all tenders received and a covering report outlining the circumstances of the matter to the officer next in line control who is senior to the tendering member.

4.21 Handling summary

This section is intended to provide a ready reference section for some of the more common aspects of the provisions of this chapter.

Each of the topics is presented in a manner which is easy to read and is intended to provide a quick guide only. The guides contained in this section are not intended, nor should they be taken, to replace orders, policy or procedures outlined earlier in this chapter. For a full understanding of the chapter, it is necessary to read the relevant section(s).

4.21.1 Responsibilities of reporting officer

Reporting officers have responsibility for the following:

- (i) taking possession of the property. If the seizure is pursuant to any legislation, the requirements of that legislation are to be considered;
- (ii) completing a Field Property Receipt (QPB32A) where appropriate, or if a QPB32A is not available, an entry in an official police notebook, and inviting the person from whom the property was taken to sign the QPB32A or notebook entry or having the entry signed by another appropriate person;
- (iii) giving the person from whom the property was taken the pink copy of the QPB32A, if completed. If the QPB32A was not completed at the time of taking possession of the property and is required, it should be completed as soon as practicable and the pink copy given to the relevant person as soon as practicable afterward;
- (iv) ensuring an appropriate QPRIME occurrence entry is made and each item of property in the QPRIME occurrence is tagged indicating the current location of the property see QPRIME User Guide;
- (v) generating a QP 0760: 'Property Receipt' from the QPRIME entry;
- (vi) handing the property to the property officer or the person for the time being acting in that capacity or where there is no property officer, ensuring the property is lodged at a property point in accordance with local procedures;

(vii) undertaking all enquiries necessary so that the property may be disposed of. In some cases, this may include actually disposing of the property;

(viii) updating the QPRIME occurrence entry via a supplementary report showing all enquiries made and the results of those enquiries. Negative enquiries should also be included;

(ix) submitting a supplementary report within QPRIME to the officer in charge advising of the status of the property; and

(x) disposing of the property. In practical terms, the property will normally be disposed of by the property officer as designated by local arrangements. However, the responsibility for disposal rests with the reporting officer.

4.21.2 Responsibilities of property officer

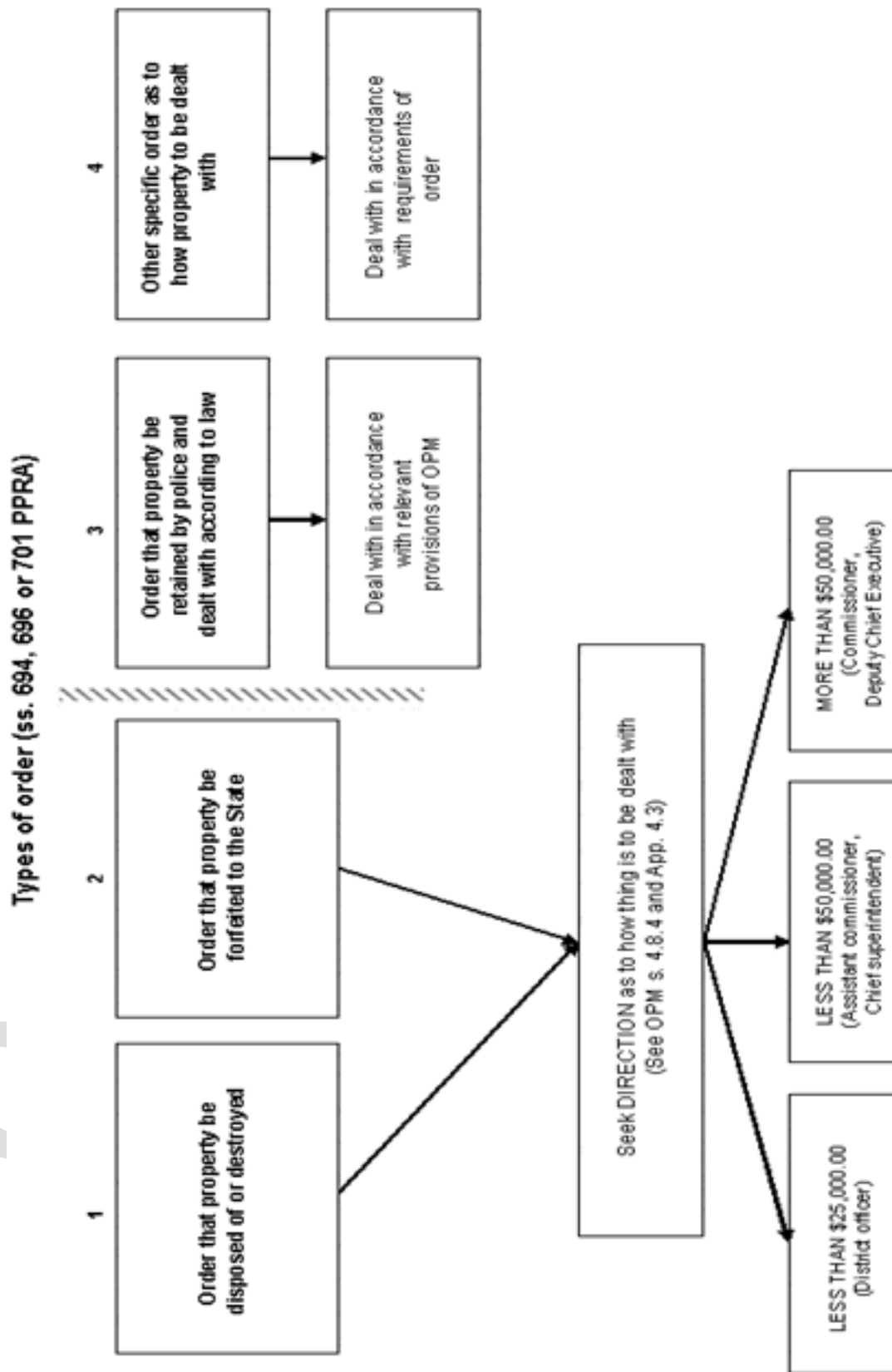
The property officer essentially has responsibility for the management of property in possession of the Service. This is to be done within the provisions of this chapter and in accordance with local procedures developed by the officer in charge of the region or command. Property officers should manage property points and handling systems in such a way that accountability is maintained and which preserves the integrity and security of property storage areas.

4.21.3 Responsibilities of officers in charge

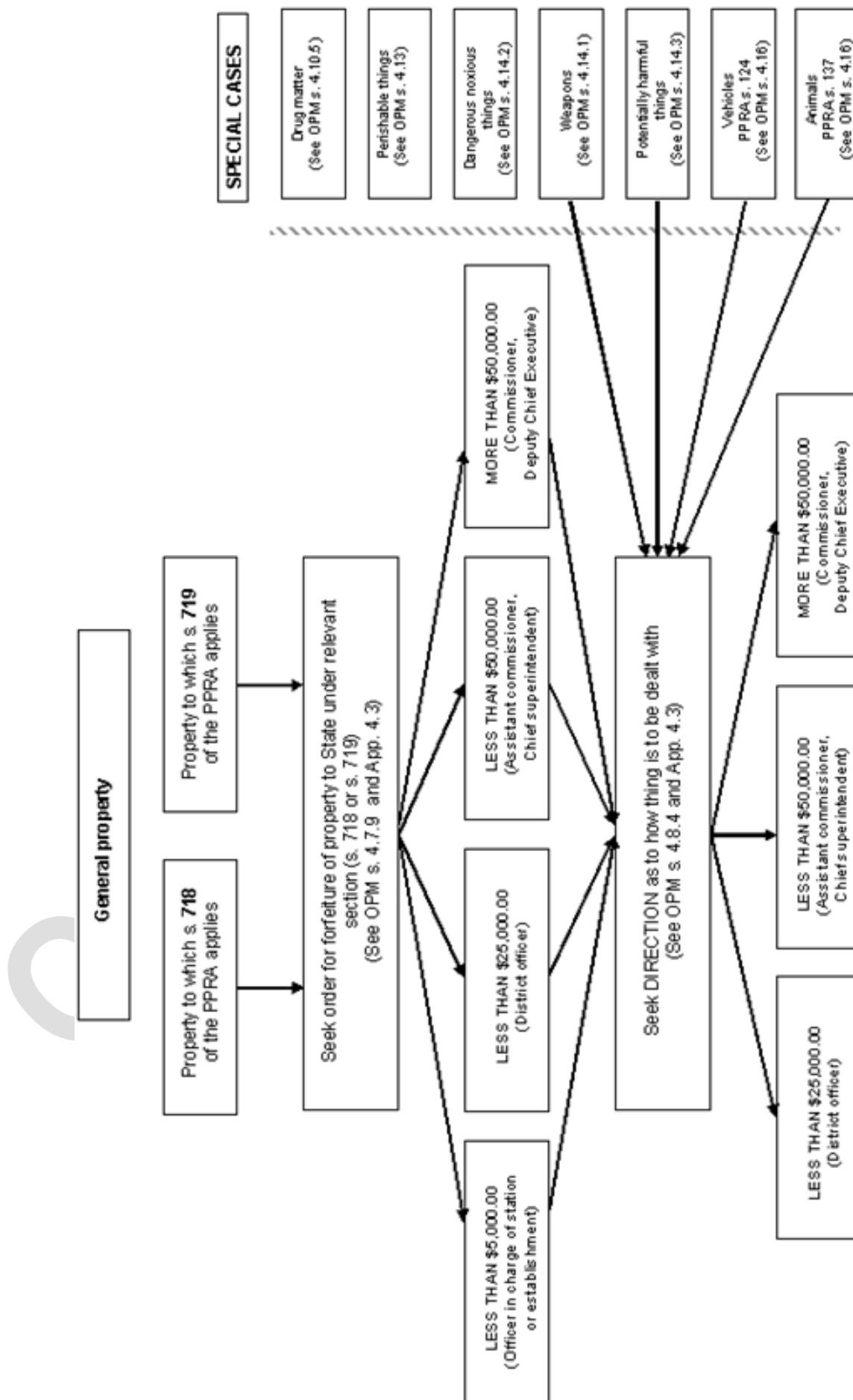
Officers in charge generally have a supervision and property disposal role. It is the responsibility of officers in charge to ensure that members under their control perform the functions required of them. The officer in charge also directs the disposal of property as provided for in this chapter.

In accordance with delegations 24.17, 24.18, 24.19 and 24.22 of the Handbook of Delegations and Authorities, Detective Senior Sergeants within State Crime Command are also provided authority to approve the forfeiture and disposal of relevant things.

4.21.4 Disposal flow chart (court order)



4.21.5 Disposal flow chart (no court order)



Disposal flow chart for property coming into possession of the Police Service for which NO lawful claimant can be located and is NOT subject of a court order

4.22 Action in special cases (arson)

POLICY

Fire scene examination is to be conducted by a forensic officer (scenes of crime or scientific officer) due to the complex nature of the scenes.

Where a scenes of crime officer is requested to attend a fire scene, the scene should be secured and preserved until their arrival.

PROCEDURE

The scenes of crime officer should perform an initial assessment of the scene. After consultation with the Superintendent, Forensic Services and the investigating officer, the scenes of crime officer should request the attendance of a scientific officer if deemed necessary.

Collection and packaging of physical evidence at a fire scene or clothing from a suspect or witness for ignitable liquid analysis, is to be conducted by a forensic officer (scenes of crime or scientific officer).

If there is a possibility that physical evidence may be damaged or destroyed before a forensic officer arrives at the scene, officers should contact a forensic officer for advice.

Incorrect packaging of exhibits from fire scenes, for analysis of flammable fluids, may result in vapour loss or contamination of items seized.

ORDER

Investigating officers are not to enter fire scenes without the appropriate personal protective equipment.

4.23 Action in special cases (passports)

POLICY

Passports coming into possession of the Service are to be returned to the passport holder. Where the passport cannot be returned to the passport holder after reasonable inquiries and efforts, the following procedures apply.

Australian passports

PROCEDURE

Where an Australian passport cannot be returned to the passport holder after reasonable inquiries, the passport is to be returned to the Australian Passport Office, Department of Foreign Affairs and Trade (DFAT).

The Australian passport is to be sent registered post, together with an indemnity receipt and a written request for the return of the signed indemnity receipt, to the Manager, Australian Passport Office, DFAT (see Service Manuals Contact Directory).

The registered post receipt and/or the signed indemnity receipt are to be filed at the relevant property point for auditing purposes.

Foreign passports

PROCEDURE

Where a foreign passport cannot be returned to the passport holder after reasonable inquiries, the passport is to be returned to the particular embassy, consulate or other representative office, of the issuing country.

Before delivering, or sending, a passport to an embassy, consulate or representative office, members are to contact the relevant office and ask the relevant office to send a letter by email or facsimile requesting the delivery of the passport. This request should be on official letter head and addressed to the officer in charge of the relevant police station/establishment. This written request should be retained and filed at the relevant property point for auditing purposes. Where the written request is not forthcoming, members may act upon a verbal request for the delivery of the passport from the relevant office.

Where there is no embassy or other representative office in Australia, the passport should be delivered or sent by registered post to the Protocol Officer, Brisbane State Office, Department of Foreign Affairs and Trade (DFAT) (see Service Manuals Contact Directory). The Protocol Officer will arrange for the passport to be delivered to the relevant country of origin through DFAT channels.

In all cases, foreign passports should be delivered personally, or where this is not practicable, by registered post together with an indemnity receipt and written request for the return of the signed indemnity receipt. Where a passport has been sent by registered post, the registered post receipt and/or the signed indemnity receipt is to be filed at the relevant property point for auditing purposes.

Information regarding the location of embassies, consulates or other representative offices may be obtained from the DFAT website (follow the link 'Embassies and Consulates' and 'Foreign Embassies etc.') or through the Consular Duty Officer, Consular Operations Centre, DFAT (see Service Manuals Contact Directory).

Also see Chapter 11: 'Federal Issues' of this Manual.

4.24 Action in special cases (Restraining or forfeiture orders issued under the Criminal Proceeds Confiscation Act 2002)

The Fraud and Cyber Crime Group, State Crime Command is responsible for the management of applications to start proceedings for restraining, unexplained wealth, serious drug conviction and forfeiture orders under the *Criminal Proceeds Confiscation Act* by the Service. This includes assisting regions or commands in the identification of property which may be liable for forfeiture under the *Criminal Proceeds Confiscation Act*, preparation of affidavits and relevant documentation relating to applications, and forwarding of applications to the Crime and Corruption Commission for approval and commencement of proceedings under the relevant provision of the *Criminal Proceeds Confiscation Act*.

The State Director of Public Prosecutions starts proceedings on behalf of the Service for Chapter 3 of the *Criminal Proceeds Confiscation Act* and the Crime and Corruption Commission for Chapter 2 of the *Criminal Proceeds Confiscation Act* (see s. 12: 'Proceedings by the State and meaning of appropriate officer' of the *Criminal Proceeds Confiscation Act*).

PROCEDURE

Where a restraining, unexplained wealth, serious drug conviction or forfeiture order is made by the Supreme Court in relation to property seized by the Service, the Director of Public Prosecutions will forward a copy of the order to the Superintendent, Fraud and Cyber Crime Unit, State Crime Command.

Upon receiving a copy of an order under the *Criminal Proceeds Confiscation Act*, the Superintendent, Fraud and Cyber Crime Unit, State Crime Command is to ensure that, in the relevant QPRIME occurrence:

- (i) a copy of the order is recorded in the relevant QPRIME occurrence by attachment as an external document (see QPRIME User Guide);
- (ii) each item subject of the order in the physical possession of the Service the item is 'Lodged' (see QPRIME User Guide); and entered as a property/vehicle item in the relevant QPRIME occurrence and the Property Link window, Classification field, includes 'Proceeds of Crime' as a classification (see QPRIME User Guide);
- (iii) an entry is made in the Property Link window Remarks field against each Property/Vehicle item subject of the order to the effect that the item is the subject of a restraining order (see QPRIME User Guide);
- (iv) if the property is money that has been lodged through a property point and the order includes a direction that the Public Trustee is to take control or possession of some or all of the property pursuant to s. 35: 'Restraining order may direct public trustee to take control of property' of the *Criminal Proceeds Confiscation Act*, the Superintendent, Fraud and Cyber Crime Unit, State Crime Command is to ensure:
 - (a) a QP 0087C: 'Collections Refund Voucher' form is completed containing details of the originating station and relevant QPRIME occurrence number. The QP0087C is to be checked and authorised by the Superintendent, Fraud and Cyber Crime Unit, State Crime Command; and
 - (b) the completed QP 0087C, restraining or forfeiture order and letter of request from the Office of the Public Trustee Queensland is forwarded to the Shared Service Agency, who will arrange for payment to the Office of the Public Trustee Queensland.

Upon receiving advice that payment to the Office of the Public Trustee Queensland has been made, the Superintendent, Fraud and Cyber Crime Unit, State Crime Command is to ensure a QPRIME task is assigned to:

- (i) the officer in charge of the investigating officer, advising the property has been dealt with in accordance with the order i.e. disposal of the property or transfer of the property to the Public Trustee; and
- (ii) the relevant property point advising the property has been dealt with in accordance with the order i.e. disposal of the property or transfer of the property to the Public Trustee and request the relevant property point update the status of the property on the relevant QPRIME occurrence.

See s. 4.24.2: 'Transfer of property from Service to Public Trustee of Queensland' of this chapter.

4.24.1 Powers of the Public Trustee of Queensland

Where the court imposes a condition of a restraining order that the Public Trustee is to take possession or control of some or all of the property or directs the Public Trustee, the Director of Public Prosecutions will forward a copy of the order to the Public Trustee of Queensland in addition to the Superintendent, Fraud and Cyber Crime Unit, State Crime Command.

The Public Trustee of Queensland is empowered under the *Criminal Proceeds Confiscation Act* and the *Public Trustee Act* to do anything necessary or desirable to give effect to a restraining order including taking receipt of property from the Service, investing any restrained money, and where applicable, disposal of property (see Chapter 6, Part 1, ss. 217 to 226: 'Powers of public trustee' of the *Criminal Proceeds Confiscation Act* and s. 19: 'Common fund and investment thereof and of other moneys' of the *Public Trustee Act*).

Officers are to be mindful that failure to transfer money to the Public Trustee in a timely manner may result in another party seeking damages from the Service in the form of lost interest or income.

POLICY

Members are to comply with a court order issued under the *Criminal Proceeds Confiscation Act* and any reasonable request of the Public Trustee in a reasonable time period.

4.24.2 Transfer of property from the Service to the Public Trustee of Queensland

The Public Trustee of Queensland has advised they will take physical possession of property restrained under a provision of the *Criminal Proceeds Confiscation Act* if the court order expressly directs the Public Trustee to take possession of the property. The Public Trustee will not take possession of property including money where a court order directs the Public Trustee only takes control of the property.

In cases where the Public Trustee is to take possession of property, the Public Trustee will be responsible for payment of any costs associated with transport and storage of the property unless the court order otherwise orders, or unless otherwise agreed with the Service. Any significant costs incurred by the Service in transferring property into the control of the Public Trustee are to be considered and agreed upon between the region actually incurring the costs and the Public Trustee, on a case-by-case basis.

POLICY

District officers are responsible for the monitoring and coordination of responses to restraining, unexplained wealth, serious drug conviction or forfeiture orders received from the Fraud and Cyber Crime Unit, State Crime Command or the Public Trustee of Queensland for matters within their area of responsibility.

Officers in charge of stations or establishments should liaise with, and provide regular advice of the status of compliance with court orders, to their Fraud and Cyber Crime Unit, State Crime Command District Officer, and the relevant officer from the Public Trustee of Queensland.

Where property subject of an order under the *Criminal Proceeds Confiscation Act* includes a direction that the Public Trustee take possession of some or all of the property held by the Service, and where reasonably requested by the Public Trustee, the investigating officer or nominated officer is to deliver or arrange delivery of the subject property to the Public Trustee.

Where money lodged through a property point is subject of an order has been banked into an account held by the Service, the Fraud and Cyber Crime Unit, State Crime Command is to make the necessary arrangements for the release of the money to the Public Trustee.

ORDER

If the property directed to the possession of the Public Trustee is money lodged through a property point the Fraud and Cyber Crime Unit, State Crime Command, is to ensure the money is transferred to the Public Trustee without delay. Where applicable, in making these arrangements the Fraud and Cyber Crime Unit, State Crime Command is to liaise with the Shared Service Agency to ensure that any money subject of the order is delivered or transferred to the Public Trustee in accordance with the Public Trustee's instructions, from the relevant Service bank account.

Upon being notified that the money has been transferred to the Public Trustee, the property officer of the relevant property point is to update the relevant QPRIME Occurrence accordingly.

4.25 Action in special cases (Saliva Analysis)

POLICY

For improved viability, saliva samples should be forwarded urgently and received by the Forensic Toxicology section at the Queensland Health Forensic and Scientific Services (QHFSS) facility (see Service Manuals Contact Directory) within seven days from the time the sample was obtained.

If unavoidable delays are expected, saliva samples are to be refrigerated and time-frames documented appropriately.

PROCEDURE

A property officer responsible for the dispatch of saliva samples should:

- (i) check for saliva samples each business day;

(ii) in circumstances where the investigating officer had decided to use a QP 0694: 'Running Statement', (see s. 4.7.15: 'Evidence of continuity of possession (Running Statements)' of this Manual) complete the relevant sections, appropriately retain and file the document; and

(iii) ensure that both the sample and applicable QP 0779: 'Saliva analysis (traffic) notice' or QP 1009: 'Saliva analysis (relevant assault) notice' is forwarded in person, or via Australia Post's 'Registered Post' to the Forensic Toxicology section at the QHFSS facility.

The QHFSS property point will receipt the item, conduct the analysis and forward the Certificate of Analysis to the investigating officer.

(See also s. 7.9: 'Handling of blood, urine and saliva specimens' of the Traffic Manual)

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Appendix 4.1 Values of property which may be forfeited or dealt with by members pursuant to the Police Powers and Responsibilities Act

(ss. 4.7.9, 4.8.4, 4.15.2, 4.16.2 and 4.21.3)

1. Directions for dealing with property where a court order is made

Where a court order is made:

(i) for the disposal of a thing, under s. 694: 'Application by police officer for order if ownership dispute' of the *Police Powers and Responsibilities Act*;

(ii) that a thing:

(a) seized for a reason mentioned in s. 695(1)(b) or (c) of the *Police Powers and Responsibilities Act*, that it be dealt with in the way decided by the Commissioner; or

(b) be disposed of or destroyed;

under s. 696: 'Orders issuer may make in relation to seized thing' of the *Police Powers and Responsibilities Act*; or

(iii) for the destruction or disposal of a thing under s. 701: 'Disposal of seized things at end of proceeding' of the *Police Powers and Responsibilities Act*. (For a seized thing, for which a court order has been made for its forfeiture under s. 701: 'Disposal of seized things at end of proceeding' of the Act, see paragraph 3: 'Directions for dealing with forfeited property pursuant to s. 721 of the Act', hereunder.)

Pursuant to Delegation D 24.24 of the Handbook of Delegations and Authorities, assistant commissioners, executive directors, chief superintendents, superintendents, commissioned officers, directors (SO level), officers in charge of stations or establishments, Detective Senior Sergeants (Operations Leader), State Crime Command and property officers may decide how a thing, which is subject of an order made for its disposal or destruction under ss. 694, 696 or 701 of the *Police Powers and Responsibilities Act*, is to be disposed of or destroyed, under s. 702(2) of the *Police Powers and Responsibilities Act*. This power is subject to any directions which may be contained in the specific order.

The values of property for which classes of members may make such decisions under s. 702(2) of the *Police Powers and Responsibilities Act* are as follows:

Class of member	Value of property
Commissioner	No limit
Deputy Commissioner (Regional Operations)	
Deputy Commissioner (Specialist Operations)	
Deputy Commissioner (Strategy, Policy and Performance)	
Assistant commissioner	Up to \$50,000.00
Executive director	
Chief superintendent	
Superintendent, director (SO Level) or inspector	Up to \$25,000.00
Officer in charge of a station or establishment	Up to \$5,000.00
Detective Senior Sergeants (Operations Leader), State Crime Command	
Property officers	Up to \$1000

2. Forfeiture orders pursuant to ss. 718 or 719 of the Police Powers and Responsibilities Act

Pursuant to Delegation D 24.22 and D 24.23 of the Handbook of Delegations and Authorities, assistant commissioners, commissioned officers and officers in charge of stations or establishments and Detective Senior Sergeants (Operations Leader), State Crime Command may make an order for the forfeiture of property pursuant to ss. 718 or 719 of the *Police Powers and Responsibilities Act* (a 'forfeiture order').

The values of property (not including drug matter) for which classes of officers may make forfeiture orders pursuant to the *Police Powers and Responsibilities Act* are as follows:

Class of officer	Value of property
Commissioner	No limit
Deputy Commissioner (Regional Operations)	
Deputy Commissioner (Specialist Operations)	
Deputy Commissioner (Strategy, Policy and Performance)	

Assistant commissioner	Up to \$50,000.00
Chief superintendent	
Superintendent, director (SO Level) or inspector	Up to \$25,000.00
Officer in charge of a station or establishment	Up to \$5,000.00
Detective Senior Sergeants (Operations Leader), State Crime Command	

3. Directions for dealing with forfeited property pursuant to s. 721 of the Police Powers and Responsibilities Act

Pursuant to Delegation D 24.24 of the Handbook of Delegations and Authorities, deputy commissioners, assistant commissioners, executive directors, commissioned officers, directors (SO Level), officers in charge of stations or establishments, Detective Senior Sergeants (Operations Leader), State Crime Command and in limited situations property officers, may make a direction as to how forfeited property may be dealt with pursuant to s. 721 of the *Police Powers and Responsibilities Act*.

The values of property (not including drug matter) for which classes of members may make such directions pursuant to the *Police Powers and Responsibilities Act* are as follows:

Class of member	Value of property
For property subject to disposal/destruction (not appropriating)	
Commissioner	No limit
Deputy Commissioner (Regional Operations)	
Deputy Commissioner (Specialist Operations)	
Deputy Commissioner (Strategy, Policy and Performance)	
Assistant commissioner	Up to \$50,000.00
Executive director	
Chief superintendent	
Superintendent, director (SO Level) or inspector	Up to \$25,000.00
Officer in charge of a station or establishment	Up to \$5,000.00
Detective Senior Sergeants (Operations Leader), State Crime Command	
Property officer. Only property forfeited or subject to court order (No authority to appropriate property)	Up to \$1,000.00
For property subject to appropriation by the Service or to another government department.	
Assistant commissioner or executive director	\$10,000.00 or more
Chief superintendent, superintendent or director (SO Level)	Less than \$10,000.00

4. Directions for dealing with vehicles pursuant to s. 127 of the Police Powers and Responsibilities Act

Pursuant to Delegation D 24.47 of the Handbook of Delegations and Authorities, assistant commissioners and commissioned officers and officer in charge of stations or establishments may be disposed of pursuant to s. 127: 'Recovery of seized vehicle' of the *Police Powers and Responsibilities Act*.

The values of property for which classes of officers may make such directions pursuant to that delegation and the *Police Powers and Responsibilities Act* are as follows:

Class of officer	Value of property
Commissioner	No limit
Deputy Commissioner (Regional Operations)	
Deputy Commissioner (Specialist Operations)	
Deputy Commissioner (Strategy, Policy and Performance)	
Assistant commissioner	Up to \$50,000.00
Chief superintendent	
Superintendent or inspector	Up to \$25,000.00
Officer in charge of a station or establishment	Up to \$5,000.00

5. Directions for dealing with animals pursuant to s. 140 of the Police Powers and Responsibilities Act

Pursuant to Delegation D 24.10 of the Handbook of Delegations and Authorities, assistant commissioners and commissioned officers and officer in charge of stations or establishments may be disposed of pursuant to s. 140: 'Recovery of seized animal' of the *Police Powers and Responsibilities Act*.

The values of property for which classes of officers may make such directions pursuant to that delegation and the *Police Powers and Responsibilities Act* are as follows:

Class of officer	Value of property
Commissioner	No limit
Deputy Commissioner (Regional Operations)	
Deputy Commissioner (Specialist Operations)	
Deputy Commissioner (Strategy, Policy and Performance)	
Assistant commissioner	Up to \$50,000.00
Chief superintendent	
Superintendent or inspector	Up to \$25,000.00
Officer in charge of a station or establishment	Up to \$5,000.00