

## Chapter 5 Information Management and Privacy

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## 5.1 Records management

Service members routinely create records in a variety of paper-based, electronic and other technology-dependent formats as part of their work. As a public authority, the Service is bound by the requirements of the *Public Records Act* and must create 'full and accurate records' as evidence of its business activities.

The Service must manage and maintain all records regardless of format, created or received for the mandated period.

This chapter provides a framework to assist members at all levels to compliantly manage Service records.

## 5.2 Corporate records management

ORDER

The Service will ensure that all public records remain interpretable, searchable, and readily accessible for their entire lawfully determined lifespan and that the record retains completeness, accuracy and integrity.

All Service records will be managed according to the policies, procedures and standards of the Corporate Records Management System.

Separate manual or electronic systems of records management are disallowed unless an exemption is issued by the Commissioner.

Information Management Unit (Records) within the Service will comply with legislative requirements.

Information Management Unit (Records) within the Service will comply with Australian and International Standards of best practice. Specifically the Service has adopted the following standards:

- Australian Standard AS ISO 15489 – Records Management
- Queensland Government Information Security – IS18
- Queensland Government Retention and Disposal of Public Records – IS31
- Queensland Government Recordkeeping – IS40

### 5.2.1 Classification of records

ORDER

The Service Corporate Thesaurus must be used as the default classification system for files created in the Objective eDRMS, including the Replacement Correspondence Index.

Detailed procedures for using the Service corporate thesaurus are located at the Corporate Thesaurus webpage on the Service Intranet. For a list of permitted acronyms and abbreviations see s. 9.3: 'Service acronyms and abbreviations' of this Manual.

### 5.2.2 Managing administrative records

The process for ensuring that complete and accurate administrative records of the Service are created, stored, secured, managed and preserved in accordance with relevant legislation, Whole-of-Government Information Standards and Service policy is contained within the Managing Administrative Records in the Objective eDRMS/RCI standing operating procedures on the Service Intranet.

### 5.2.3 Mail receipt and management

ORDER

All mail received at Service establishments is considered official police business and is to be opened at a Primary Point (a unit which has responsibility for maintaining corporate records). This applies to all correspondence and even that addressed to individuals by name, other than mail specifically exempted.

Exemption criteria are defined in the Mail Receipt and Primary Point Mail Opening Handbook located on the Document Management Services webpage of the Service Intranet.

The use of Service business addresses for the receipt of private mail is discouraged.

Detailed procedures for primary point mail opening are contained in the Mail Receipt and Primary Point Mail Opening Handbook.

## 5.3 Use of Service email

The Service internal email system is to be used for the routine transfer of information and correspondence, subject to the limitations documented below.

Members are not to leave email logged on and unattended. All users are to sign off upon completion of the day's activities.

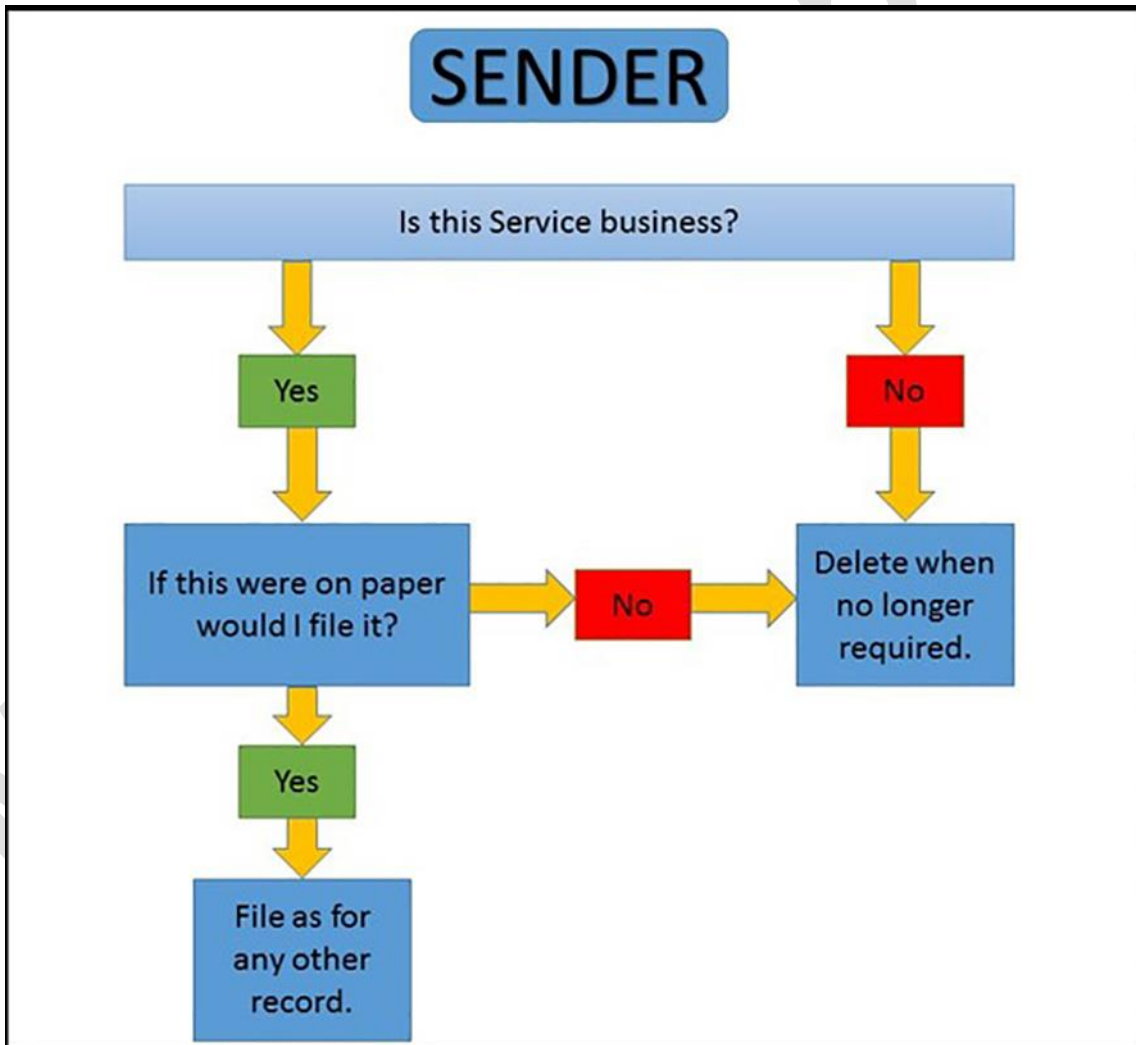
The use of private email accounts or systems (such as Gmail, Hotmail or similar) and messaging applications (such as Facebook Messenger, SnapChat, Wickr Me and WhatsApp), for Service-related business poses a security risk and prevents the proper management of records. A member is not to use such accounts or applications for Service business.

The email system is monitored by persons authorised by the Commissioner.

Email of continuing value to the Service is a public record under the *Public Records Act* and includes all messages concerning:

- (i) business activity of the Service;
- (ii) decisions (administrative and operational);
- (iii) reasons for decisions; or
- (iv) context for business activity, transactions and decisions.

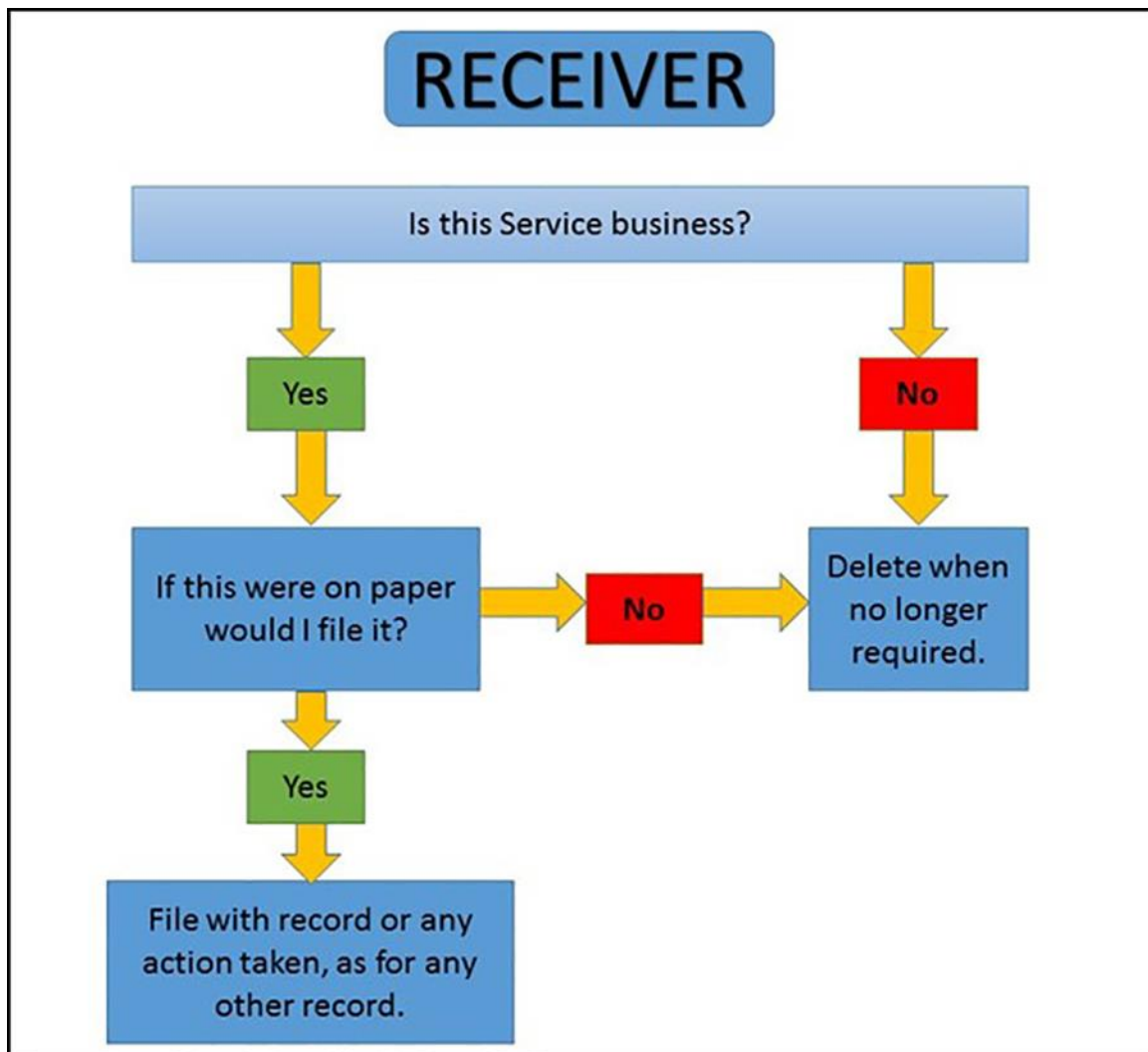
The sender is the primary decision maker on what email messages are public records, and must ensure these messages are retained/ filed.



When providing complete and accurate Service records, emails are to be delivered within a template format and are to contain:

- (i) a subject line summary and document/file reference number/s;
- (ii) structured content and context; and
- (iii) a signature block with a minimum of name, title, and organisational unit contact details.

The receiver is responsible for actioning the email message, ensuring that appropriate records management action is taken.



An email containing highly protected or confidential information is to be captured within a records management system holding appropriate security restrictions and auditing capability.

Email messages of ephemeral (short-term) interest and no continuing value to the Service are not public records.

Email may be used to transmit:

- (i) brief messages (official or informal) to a targeted distribution list;
- (ii) tagged attachments concerning Service business, e.g. minutes, memoranda, agenda, arrange meetings, reports, drafts, comments, files; and
- (iii) service authorised software.

Emails are not to be used for illegal or wrongful purposes, or to transmit:

- (i) lengthy documents;
- (ii) privileged information;
- (iii) information in breach of relevant copyright;
- (iv) solicitations or advertising;
- (v) frivolous or vexatious messages;
- (vi) gratuitous and derogatory comments;
- (vii) any material contravening legislation or Service policy, or inconsistent with the Service Code of Conduct;
- (viii) unlawful directives to act. The message text must disclose limitation of the sender's authority.

For more information refer to s. 4.11.10: 'Internal email' of the Information Management Manual.

## 5.4 Location, storage and disaster management of Service records

### ORDER

Service records of continuing value must be properly preserved in an accessible format for their entire lifespan.

Records must be stored in an environment that prevents damage, minimises physical deterioration, and preserves the information security of the records.

Back up procedures are to be applied to fixed and mobile drives, optical and other electronic media devices and is to satisfy relevant security and recoverability requirements.

Disaster management plans must be established to minimise the risk to Service records (particularly vital records).

When determining the home location of Service records, requirements for accessibility need to be balanced with requirements for preservation and security.

Detailed procedures for location, storage and disaster management of Service records are contained in the QPS Records Location, Storage and Disaster Management Handbook.

## 5.5 Records retention and disposal

### 5.5.1 Records of continuing value

#### ORDER

All Service records must be assessed for continuing value in accordance with the Records Retention and Disposal Handbook and where appropriate documented in the Corporate Records Management System and the Records Retention and Disposal Schedule (as available on the Service Intranet).

Where a record or file series is not listed in the Queensland Police Service Retention and Disposal Schedule the manager of the Information Management Unit (Records), Frontline and Digital Division is to be notified.

Detailed procedures for assessing records for continuing value are contained in the Records Retention and Disposal Handbook.

### 5.5.2 Retention of records

#### ORDER

All Service records (including electronic and non-paper records), must be retained for at least the minimum period documented in the approved QPS Records Retention and Disposal Schedule. Minimum retention periods must reflect the continuing value of the record.

When records are to be retained for periods of time that are longer than the State Archives-determined lifespan, the reasons for this decision must be documented in the QPS Records Retention and Disposal Schedule.

#### POLICY

Records may, under special circumstances, be retained for potential value unrelated to the intended purpose or current use. Generally records are not to be retained for a secondary value that may only be realized with a technological breakthrough.

### 5.5.3 Disposal of records

#### ORDER

No record may be disposed of unless in accordance with:

- (i) Records Retention and Disposal Schedule; or, for administrative records,
- (ii) The Queensland State Archives General Retention and Disposal Schedule for Administrative Records.

Unauthorised disposal of a public record is an offence under the *Public Records Act* and liable to penalty.

Authorisation must be sought from Information Management Unit (Records), Frontline and Digital Division prior to the destruction or transfer to Queensland State Archives of any record/file series.

A listing of all record/file series disposed of or transferred must be made and a copy forwarded to Information Management Unit (Records), Frontline and Digital Division for permanent retention.

The Information security of records must be preserved during disposal.

All records requiring destruction (whether they are paper, electronic, audio visual, magnetic etc.) must be destroyed in accordance with the approved guidelines.

## PROCEDURE

Detailed procedures for retention and disposal of records are contained in the Records Retention and Disposal Handbook.

### 5.5.4 Conducting a retention and disposal project instruction

Processes necessary for conducting a retention and disposal project of physical records in compliance with relevant legislation, Whole-of-Government Information Standards and Service policy is located within the Records Retention and Disposal Handbook.

## 5.6 Release of information

In accordance with community expectations of openness and accountability, and the legislative requirements of the *Right to Information Act* (RTIA) and the *Information Privacy Act* (IPA), the Service subscribes to a philosophy of endeavouring to satisfy, where possible, any reasonable request for information made by a member of the public, or external body, having regard to the efficient and effective discharge of law enforcement obligations, the proper administration of justice, the privacy of individuals, and statutory compliance.

Section 10.1: 'Improper disclosure of information' of the *Police Service Administration Act* (PSAA) creates an offence in respect of any officer or staff member or a person who has been an officer or staff member who improperly discloses official information unless the:

- (i) disclosure is authorised or permitted under the PSAA;
- (ii) disclosure is authorised by a member pursuant to Delegation D 15.46;
- (iii) disclosure is made under due process of law;
- (iv) information is not of a confidential or privileged nature;
- (v) information would normally be made available to any member of the public on request; or
- (vi) information is about a person offered an opportunity to attend a drug diversion assessment program under s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA and the disclosure is made to the chief executive of the department within which the Health Act is administered (see s. 10.1(1)(d): 'Improper disclosure of information' and s. 10.2B: 'Disclosure of criminal history for assessing suitability for diversion program' of the PSAA).

Section 10.2: 'Authorisation of disclosure' of the PSAA outlines that the Commissioner may, in writing, authorise disclosure of information that is in possession of the police service. The disclosure of any information authorised by the Commissioner, may be subject to certain conditions.

The statutes which may limit the disclosure of information under s. 10.2 of the PSAA include:

- (i) *Criminal Law (Rehabilitation of Offenders) Act*;
- (ii) *Information Privacy Act*;
- (iii) *Right to Information Act*;
- (iv) *Criminal Law (Sexual Offences) Act*;
- (v) *Penalties and Sentences Act*;
- (vi) *Youth Justice Act*;
- (vii) *Child Protection Act*;
- (viii) *Crimes Act* (Cwlth);
- (ix) *Drugs Misuse Act*; and
- (x) *Domestic and Family Violence Protection Act*.

The Queensland Police Service Standard of Professional Practice on the Service Intranet outlines the expectations of police regarding 'public comment', 'personal conduct' and 'improper access or use of QPS information'.

Pursuant to the RTIA the Service proactively discloses information through the following schemes:

- (i) publication schemes (see ss. 5.7.3: 'Accessing policy documents', 5.7.4: 'Publication schemes' and 5.7.5: 'Viewing Service policy documents' of this chapter);
- (ii) disclosure logs (see s. 5.7.2: 'Disclosure logs' of this chapter); and
- (iii) administrative access schemes.

Administrative access schemes are generally created to give individuals access to their own information. The Service administrative access schemes include the supply of:

- (i) criminal histories;
- (ii) police certificates;
- (iii) copies of charges;
- (iv) details contained in crime reports and QPRIME occurrences;
- (v) details contained in court briefs;
- (vi) audio and video tapes;
- (vii) photographs; and
- (viii) details contained in traffic incident reports and traffic crash occurrences.

However, officers are to note that ss. 53 and 54 of the *Coroners Act* provide schemes whereby persons may apply to the Coroners' office for access to coronial and investigation documents for research and non-research purposes.

Officers should not refer applications for supply of any of the above to the Right to Information and Subpoena Unit, Right to Information and Privacy Services (RTISU) but should consult the Service Publication Scheme for access guidelines. Any request for information in relation to a coronial matter should be referred to the Office of the State Coroner together with a copy of the requested document or material unless such documentation or material has already been supplied to that office (see SMCD).

#### ORDER

Members are not to release or disclose information unless:

- (i) in accordance with a structured scheme;
- (ii) in accordance with Service policy;
- (iii) with the authority in writing of the Commissioner, the relevant deputy commissioner or a member empowered to authorise disclosure of information pursuant to Delegation D 15.46;
- (iv) in compliance with ss. 623: 'Right to inspect seized documents' or 681: 'Person to be given copy of information in register' of the PPRA or s. 27: 'Provision of information relating to a relevant person' of the Police Responsibilities Code;
- (v) in accordance with the legislative requirements of the RTIA or the IPA; or
- (vi) in accordance with any other statutory authority.

The authority of a member to approve the disclosure of information does not take away an individual's right to make application for access to documents under the RTIA or the IPA.

Members are to only refer inquiries to RTISU when:

- (i) the information sought cannot be supplied in accordance with Service policy or through an existing structured scheme;
- (ii) the application for information is made specifically under the provisions of the RTIA or the IPA;
- (iii) the prudence of releasing the information sought is questionable; or
- (iv) an executive officer has directed the matter be referred to RTISU; or

See s. 5.7: 'Right to Information and Privacy' of this chapter.

### 5.6.1 Public requests – own police certificate or criminal history particulars

The supply of information to members of the public concerning their own police certificates or criminal history is the responsibility of the Manager, Police Information Centre.

#### ORDER

Members are not to release details to persons requesting information about their own criminal history unless:

- (i) authorised to do so by the Commissioner;
- (ii) authorised to do so by the Manager, Police Information Centre; or
- (iii) authorised by Service policy.

Where persons are requesting copies of a police certificate or a copy of their own criminal history, see s. 5.10: 'Documents available to the public from Police Information Centre' of this chapter.

Persons making application for their traffic history particulars should be advised to contact Department of Transport and Main Roads.



### 5.6.2 Third party requests for personal information contained in Service records

Personal information contained in Service records can include:

- (i) paper documents such as court briefs and reports;
- (ii) electronic databases such as information contained on QPRIME;
- (iii) photographic and video images;
- (iv) audiotapes;
- (v) digital information; and
- (vi) body samples and biometric data.

Examples of third-party requests can include:

- (i) employers seeking character information about prospective and current employees;
- (ii) community groups and organisations seeking character information about potential members and leaders (scouting groups, etc.);
- (iii) other government departments seeking information about members of the public for official purposes;
- (iv) legal firms seeking information about clients and witnesses; or
- (v) private inquiry agents, commercial agents and insurance companies seeking information with respect to claims and processes.

The Information Privacy Principles (IPP) contained in Schedule 3: 'Information privacy principles' of the *Information Privacy Act* (IPA) details the circumstances under which personal information may be collected, used, stored and disclosed by agencies including the Service.

Under IPP 11: 'Limits of disclosure' of the IPA, an agency having control of a document containing an individual's personal information must not disclose the personal information to an entity, other than the individual the subject of the personal information unless in prescribed circumstances.

The Service has an exemption from IPP 11 in respect of operational law enforcement activities but not in respect of administrative activities.

Except in accordance with s. 5.6.6: 'Requests for Queensland vehicle registration and driver licence details' of this chapter and release of information to local government relating to abandoned vehicles (see s. 13.2: 'Abandoned vehicles (as distinct from being stolen and abandoned)' of the OPM), information owned by other agencies should not be released to third parties. Inquiries of third parties about information owned by other agencies should be referred to the other agency (e.g. driver licences, vehicle registration details).

Any request for information held on Service records by third parties should be referred to the relevant section (e.g. weapons licensing inquiry referred to Weapons Licensing). For government department requests for information refer to s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter.

#### Personal information contained in criminal history records

Criminal history records should only be released to third parties by the Manager, Police Information Centre (PIC) unless otherwise authorised by Service policy, these include:

- (i) to defendants and legal representatives through police prosecutors, see ss. 3.4.15: 'Supply of defendant's criminal or traffic history' and 3.14.4: 'Mandatory disclosure' of the OPM;
- (ii) to the court through the police prosecutor, see ss. 3.4.16: 'Disclosure to courts of closed convictions' and 5.6.8: 'Documents required when a child is placed before a court' of the OPM; and s. 5.6.16: 'Documentation required by the courts' of this chapter;
- (iii) to Queensland Corrective Services and the Department of Justice and Attorney-General through police prosecutors and watchhouse staff, see ss. 3.4.18: 'Supply of information where court outcome requires action by Queensland Corrective Service or Youth Justice Services' and 3.4.36: 'Notification of Chief Executive, Queensland Corrective Services, regarding committal, conviction, etc. of relevant person' of the OPM;
- (iv) to sheriffs from courts outside the Brisbane Metropolitan area under the *Jury Act* through OIC of stations, see s. 5.6.20: 'Release of information under provisions of Jury Act' of this chapter;
- (v) to the ODPP (State) through police prosecutors and investigating officers, see ss. 3.7.9: 'District/Supreme Court hearings', 3.8.18: 'Committals conducted by the Office of the Director of Prosecutions (State)' and 3.4.21: 'Ex officio indictment' of the OPM;
- (vi) to the Queensland College of Teachers, see s. 3.4.28: 'Notification of Queensland College of Teachers of a committal, conviction, or end of prosecution involving an approved teacher' of the OPM;

(vii) to the Office of Fair Trading through police prosecutors, see s. 3.4.29: 'Notification of Office of Fair Trading regarding Debt Collectors (Field Agents and Collection Agents) Act and Security Providers Act' of the OPM;

(viii) to the Queensland Parks and Wildlife Service of convictions of conservation related offences through police prosecutors, see s. 3.4.33: 'Notification of Queensland Parks and Wildlife Service of convictions of conservation related offences' of the OPM;

(ix) to Health Practitioner Registration Boards through the OIC of the region or command, see s. 5.6.21: 'Release of information to health practitioner registration boards and Health Ombudsman' of this chapter.

PIC members may disclose information contained in criminal history records to third parties when:

- (i) complying with a statutory requirement;
- (ii) the information is sought by a law enforcement agency (see also IPP 11 of the IPA);
- (iii) under approved arrangements dealing with national third-party criminal history checking; or
- (iv) authorised under s. 10.2: 'Authorisation of disclosure' of the PSAA.

#### ORDER

Members who receive a third-party application for the supply of traffic history particulars of another should advise the inquirer to contact the Department of Transport and Main Roads.

Members are not to express to a third party any opinion orally or in writing as to the character, moral conduct or private affairs of any person based on criminal history records or any other records held by the Service, unless otherwise provided by Service policy (i.e. completing a QP 0215A: 'Objection to bail affidavit annexure' in accordance with s. 16.20.1: 'Arresting officer's responsibilities' of the OPM).

#### Other personal information

Members have an obligation to protect personal information from unauthorised access, modification, use and disclosure (see IPP 11, as such personal information of any person is not to be disclosed to a third party unless:

- (i) the person concerned is reasonably likely to have been aware, or made aware that information of that kind is usually passed to that third party, e.g. the passing on of relevant personal details to drivers after a traffic crash;
- (ii) the person concerned expressly or impliedly consents for disclosure, e.g. see s. 9.4.10: 'Domestic violence referral agencies' of the OPM;
- (iii) disclosure is considered necessary on reasonable grounds to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare, e.g. releasing the identity of a missing person to the media, see s. 12.3.3: 'Authority for media release' of the OPM;
- (iv) the disclosure is required or authorised by or under law, e.g. a written notice by Centrelink under ss. 192, 194 and 196 of the *Social Security (Administration) Act* (Cwlth) requiring certain information. See s. 5.6.18: 'Requests for information from Centrelink' of this chapter;
- (v) disclosure by the Service is reasonably necessary for:
  - (a) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
  - (b) the enforcement of laws relating to the confiscation of the proceeds of crime;
  - (c) the protection of the public revenue, i.e. release of information to State Penalties Enforcement Register for the processing of infringement notices;
  - (d) the prevention, detection, investigation or remedying of seriously improper conduct; and/or
  - (e) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal;
- (vi) disclosure is considered necessary for the performance of a function of the Service, e.g. disclosure of personal details to a Justice of the Peace to issue a warrant or summons;
- (vii) the disclosure is authorised by Service policy, e.g. the supply of copies of statements, see s. 5.6.4: 'Requests for copies of statements' of this chapter; or
- (viii) the disclosure is authorised in writing under s. 10.2 of the PSAA.

A breach of the IPA may render the member liable for disciplinary action. It may also render the Service liable for sanctions including the payment of compensation (see also Chapter 6: 'Protections and offences' of the IPA).

#### Members receiving a request

The PIC only holds records relating to:

- (i) warrants;

- (ii) court briefs (QP9s);
- (iii) criminal offence reports (pre-CRISP hard copy reports, not CRISP or QPRIME Occurrences); and
- (iv) criminal histories.

Members should inform inquiring third parties seeking personal information from records only available from the PIC to contact that establishment for further advice.

Members who receive a request for personal information not contained in records available from the PIC should, before releasing the information, ensure:

- (i) the information is held for the time being by that member or that member's OIC in the absence of that member and is not readily accessible or practicable to obtain from an existing information release scheme within the Service or elsewhere; and
- (ii) any disclosure complies with Service policy.

Members who receive a request for personal information which is held or managed by another member or section, should check for a specific policy related to the inquirer in this chapter or other areas or refer the inquirer to that source, i.e. weapons licensing inquiry referred to Weapons Licensing. In all other instances where:

- (i) members are unable to satisfy requests for personal information, having regard to the provisions of this chapter; or
- (ii) members have any doubts as to the appropriateness of disclosing personal details,

are to seek the advice of their OIC or the Privacy Team, Right to Information and Privacy Unit.

ORDER

Members are not to disclose the personal details of any person to a third party if such disclosure is:

- (i) in contravention of any statute;
- (ii) likely to interfere with the proper discharge of law enforcement duties;
- (iii) likely to interfere with the fair administration of justice; or
- (iv) likely to cause unnecessary interference with that person's privacy.

### 5.6.3 Requests for information contained in QPRIME occurrences

For Service policy on release of information relating to traffic crash occurrences, see s. 5.6.5: 'Requests for information related to traffic crashes' of this chapter.

Except as listed below, CITEC Confirm provides information contained in QPRIME to persons and organisations. CITEC Confirm receives requests for information relating to QPRIME occurrences and refers any request for information which requires assessment and adjudication to the Client Liaison Officer (CLO), Police Information Centre (PIC), Legal Division.

The CLO may make requests for information relating to a QPRIME occurrence from the OIC of the reporting station or establishment, or the reporting officer.

The Service will supply particulars of QPRIME occurrences to interested third parties, providing the:

- (i) reference to personal particulars of any person is deleted in cases where the inquirer has not been granted privileged access status by the Commissioner;
- (ii) reference to any proposed action or opinion is deleted; and
- (iii) disclosure is not likely to compromise or prejudice any investigation.

ORDER

Upon receiving such a request from the CLO, the relevant officer is to ensure that available requested information is forwarded as soon as practicable.

Persons or organisations requesting information from QPRIME should be advised to contact CITEC Confirm (see SMCD) except where:

- (i) particulars contained in a QPRIME occurrence and any other material associated with that occurrence may be verbally given to a person who has previously supplied that information to the Service, provided that reference to any proposed action or opinion is not disclosed;
- (ii) officers may verbally disclose information contained in QPRIME occurrences providing such disclosure is necessary for the effective conduct of an investigation;
- (iii) where the release of the information is sought by a government department, agency or instrumentality, see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter;

- (iv) where the release of information is sought by a law enforcement agency, see s. 5.6.15: 'Requests for information from other law enforcement agencies' of this chapter;
- (v) where the release of information is sought by a victim of crime, see s. 2.12: 'Victims of crime' of the OPM;
- (vi) when a request for a copy of an entry in the register of directions in relation to a move-on direction is made, which in this case is a copy of the relevant QPRIME occurrence, see s. 13.23.5: 'Inspection of the Register of directions given' of the OPM; or
- (vii) where the release of the information sought is in accordance with some other statutory provision or Service policy.

Other circumstances where Service policy allows for the release of information contained in QPRIME occurrences that is forwarded to the appropriate law enforcement agency or government entity as the matter is within another jurisdiction for investigation, include:

- (i) complaints regarding counterfeit money, see s. 11.9.1: 'Investigations regarding counterfeit money' of the OPM;
- (ii) complaints regarding breaches of film and video copyright, see s. 11.10.1: 'Investigations of breaches of film and video copyright' of the OPM;
- (iii) complaints regarding fraud related offences committed against the Commonwealth department responsible for education or employment related funding, see s. 11.20.6: 'Commonwealth department responsible for education or employment' of the OPM;
- (iv) complaints regarding fraud related offences committed against Medicare or the pharmaceutical benefits scheme, see s. 11.17: 'Offences against Services Australia legislation' of the OPM;
- (v) complaints regarding fraud related offences committed against the *Excise Act* (Cwlth) in relation to tobacco, see s. 11.22.1: 'Seizure of illicit tobacco products' of the OPM; and
- (vi) complaints regarding organised or individual criminal activity on a large scale in relation to wildlife, see s. 13.25.3: 'Reporting wildlife offences' of the OPM.

#### 5.6.4 Requests for copies of statements

##### ORDER

On taking the statement of any person, officers are, wherever practicable, to immediately supply a copy to that person.

Personal statements are not to be supplied to interested third parties unless authorised by Service policy. The policies that allow the release of statements to third parties include:

- (i) disclosure to a law enforcement agency (see s. 5.6.15: 'Requests for information from other law enforcement agencies' of this chapter);
- (ii) disclosure to another government department, agency or instrumentality (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter);
- (iii) disclosure to a defendant or legal representative (see ss. 3.4.13: 'Supply of copies of Court Brief (QP9), particulars, statements and reports' and 3.14.5: 'Disclosure that must be made on request' of the OPM);
- (iv) disclosure to a court (see s. 5.6.16: 'Documentation required by the courts' of this chapter);
- (v) disclosure to an assessing psychiatrist under the *Mental Health Act* (see s. 3.4.31: 'Supply of information under Mental Health Act' of the OPM);
- (vi) disclosure to the Office of the Director of Public Prosecutions (State) (see s. 3.8.18: 'Committals conducted by the Office of the Director of Public Prosecutions (State)' of the OPM);
- (vii) disclosure to the Office of the Director of Public Prosecutions (Cwlth) (see s. 3.7.9: 'District/Supreme Court hearings' of the OPM);
- (viii) Department of Child Safety, Youth and Women (see s. 7.9: 'Information Exchange' of the OPM);
- (ix) Department of Transport and Main Roads in relation to a Marine Infringement Notice defended action (see s. 13.8.3: 'Issue of Marine Infringement Notices under the Transport Operations (Marine Safety) Act and the Transport Operations (Marine Safety) Regulation' of the OPM); and
- (x) disclosure in compliance with the *Victims of Crime Assistance Act* (see s. 5.6.25: 'Release of information under the Victims of Crime Assistance Act' of this chapter).

A third party request for a copy of a statement, other than those permitted to be supplied pursuant to the previous order, should be dealt with under the provisions of the *Right to Information Act* or the *Information Privacy Act*.

### 5.6.5 Requests for information related to traffic crashes

Members who receive requests for traffic crash occurrence information not meeting the criteria in the below section in relation to both fatal and non-fatal traffic crashes are to advise the person or organisation requesting the information to contact CITEC Confirm by telephone or online (see SMCD).

Persons or organisations requesting copies of photographs taken by a Service photographer should be advised to apply directly to the OIC, Forensic Imaging Section, OSC and.

#### Traffic crash information authorised for release

Without further approval, members may, for a fatal or non-fatal traffic crash:

(i) provide information requested by a party involved in the traffic crash which would ordinarily have been supplied in accordance with s. 93: 'Duties of a driver involved in a crash—stopping and providing information' of the TO(RUM)A, for example:

(a) basic information, such as time, date, place of the crash and QPRIME occurrence number; and

(b) details of:

- involved drivers;
- involved vehicles; and
- investigating officer details,

(other persons and organisations not directly involved, i.e. insurance companies should be referred to CITEC Confirm as detailed in the above section).

(ii) provide witnesses, drivers, passengers and injured persons after traffic crashes with a copy of their own statements, versions and records of interview which have previously been supplied to the Service, provided reference to any proposed action or opinion is not disclosed. This may include body worn camera footage, but only where the interaction is related to the requester; and

(iii) verbally disclose information relating to traffic crashes, provided such disclosure is necessary for the effective conduct of investigations.

#### Traffic crash information not authorised for release

Where a person or organisation requests fatal traffic crash information not authorised for release under the section 'Traffic crash information authorised for release', such as notebook entries, witness versions and electronic recordings, they are to be advised to contact the Coroners Court of Queensland (see SMCD and ss. 53: 'Access to investigation documents for research purposes' and 54: 'Access to investigation documents for other purposes' of the *Coroners Act*).

#### Traffic crash information releasable with commissioned officer approval

For the purposes of this section:

(i) a commissioned officer who supervises the 'owning station' of the non-fatal traffic crash (see SMD) is responsible for determining what information can be released;

(ii) an authorised requestor is:

(a) any insurer or agent for an insurer who is acting in the matter on behalf of the Service (Service is a party to an action), including both compulsory third party and property insurers;

(b) insurers (or their agent) providing Compulsory Third Party insurance in this State or elsewhere, the Motor Accident Insurance Commission or the Nominal Defendant (see s. 31(2): 'Exchange of Information – Act, s 92' of the Motor Accident Insurance Regulation (MAIR));

(c) other government departments, agencies or instrumentalities, or other law enforcement agencies, (see ss. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' or 5.6.15: 'Requests for information from other law enforcement agencies' of this chapter); and

(d) involved persons or organisations; and

(iii) authorised traffic crash information is:

(a) notebook entries;

(b) electronic recordings. Where statements have been recorded on a body worn camera, a copy should be provided;

(c) copies of versions of involved persons and witnesses;

(d) sketches;

(e) photographs taken by members of the Service (requests should be made directly to the OIC, Forensic Imaging and Electronic Recording Sections);

- (f) court briefs (QP9);
- (g) body worn camera footage; and
- (h) all other relevant documents and records relating to the incident.

#### ORDER

With the approval of the responsible commissioned officer, members are to, on request, provide an authorised requestor authorised traffic crash information relating to traffic crashes which is not available from CITEC Confirm provided the use of such information is:

- (i) for official purposes;
- (ii) not likely to interfere with Service operations or the administration of justice;
- (iii) not likely to unduly interfere with the efficient and effective discharge of law enforcement duties; and
- (iv) not in contravention of any statute, in particular Schedule 3, 'IPP 11 – Limits on disclosure' of the *Information Privacy Act*.

When the request for information is made:

- (i) by an insurer acting in the matter on behalf of the Service, the requested information and documentation is to be forwarded to Fleet Services, OCC who will then forward this material to the relevant insurer or agent; or
- (ii) under s. 31(2) of the MAIR, costs for the preparation of copies of documents or duplication of electronic media should be obtained from the applicant in accordance with the Fees & Charges Schedule (see Finance page of the Service Intranet).

Requests for non-fatal traffic crash information, other than authorised traffic crash information should be forwarded to the Right to Information and Subpoena Unit (RTISU), Right to Information and Privacy Services. Where a request relates to a combination of information, such as authorised traffic crash information and other information, the release of the authorised traffic crash information is to be managed by the owning station and not forwarded to RTISU under any circumstances.

As soon as practicable after receiving such requests, members are to furnish a report to their OIC setting out the nature of the request. Relevant documents are to be attached to the report.

OICs of stations or establishments receiving such reports are to submit the report to the responsible commissioned officer, who is to then make the necessary decision on what information is to be supplied. The supply of this material is also subject to the restrictions on information relating to fatal traffic crashes.

Where a request for information is received by a station or establishment, other than the 'owning station', the OIC of the receiving station or establishment should:

- (i) forward the request for information to the OIC of the 'owning station'; and
- (ii) include copies of any relevant documentation held at the receiving station.

Where an issue affecting the release of information requested is identified by the responsible commissioned officer (such as relating to the points (i) to (iv) above), a request may be forwarded by the district officer or branch manager to the RTISU for advice. All relevant reports and documents that have been identified as well as the nature of the request and relevant issues identified are to be included.

#### **Release of traffic crash information by Right to Information and Privacy Unit**

Where a person or organisation properly serves or gives formal action for the discovery of material in the possession or under the control of the Commissioner (including subpoenas, Notice to non-party Disclosure, requests under s. 134A: 'Production of documents by agencies in relation to civil proceedings' of the *Evidence Act*) the OIC of the station or establishment receiving the documentation is to:

- (i) scan and email the documentation to the RTISU for their attention as soon as reasonably practicable; and
- (ii) forward the original documents to the RTISU by mail (see ss. 5.6.16: 'Documentation required by the courts' and 6.5: 'Subpoena of documents for production before a court' of this manual).

#### **5.6.6 Requests for Queensland vehicle registration and driver licence details**

Requests for Queensland vehicle registration and driver licence particulars should be referred to the Department of Transport and Main Roads. Authorised agencies can obtain the information via CITEC Confirm (on application by completing a F3563: 'CITEC Confirm Client User Application'). Alternatively, an authorised representative may attend a TMR Customer Service Centre in person with a completed F3522: 'Release of Information Request for Vehicle/Queensland Regulated Ship Registration Records'.

### 5.6.7 Requests by members of the public for information concerning vehicle/property suspected stolen

Where Service records indicate that property has been reported as stolen, members may disclose that fact to members of the public.

However, details associated with the property (name of owner, informant etc.) should not be disclosed other than through a structured scheme.

Before any indication is given as to the status of the property query, officers are to record the following information in their official police notebook, occurrence sheet, QP 0161: 'Activity log' or an approved register:

- (i) the time and date of the inquiry;
- (ii) the details of the information supplied; and
- (iii) the reason for the inquiry.

Staff members should record this information in the QP 0161, occurrence sheet or approval register. In cases where no occurrence sheet is completed, the officer in charge is to ensure that a register is maintained where the details are to be recorded.

Where the property is confirmed as being stolen, the member receiving the inquiry is to ensure:

- (i) the property is collected and dealt with in accordance with Chapter 4: 'Property' of the Operational Procedures Manual;
- (ii) if applicable, the investigating officer is notified; and
- (iii) the relevant QPRIME occurrence is updated.

Members should be aware that the Personal Property Securities Register, *Personal Property Securities Act* (Cwlth), is a Commonwealth data base of all registered interests in personal property including motor vehicles.

### 5.6.8 Requests by victims of crime for investigational information

Officers who are detailed to investigate criminal offences are, upon request of victims of crime, to supply information in accordance with s. 2.12: 'Victims of crime' of the Operational Procedures Manual.

ORDER

Information pertaining to investigations may be supplied in the following order, depending on the type of information requested:

- (i) authorised by the Commissioner under s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act* (PSAA);
- (ii) by the Manager, Police Information Centre; and
- (iii) making application to the Right to Information and Subpoena Unit (RTISU), Right to Information and Privacy Services.

Types of information held by the Police Information Centre, Legal Division are;

- (i) warrants;
- (ii) finalised Court Briefs (QP9);
- (iii) criminal offence reports (pre-CRISP hard copy reports not CRISP or QPRIME occurrences); and
- (iv) criminal histories.

All other information is to be obtained through either s. 10.2: 'Authorisation of disclosure' of the PSAA or by application to RTISU.

Copies of criminal histories, charges, QPRIME occurrence reports, court briefs (QP9), audio and video tapes, photographs and traffic crash reports pertaining to investigations may be obtained through the structured schemes in place, see also s. 5.6: 'Release of information' of this chapter.

During the course of an investigation members are not to disclose personal information of individuals who may be connected with the matter of inquiry to a victim of crime unless the disclosure is otherwise allowed by s. 5.6.2: 'Third party requests for personal information contained in Service records' of this chapter (e.g. the authority of the individual concerned is obtained).

It is also permissible, in accordance with the provisions of this chapter, to disclose certain information to a victim of crime with respect to an offender following a court appearance.

Information pertaining to an inquiry should not be transmitted over the telephone unless the member dealing with the inquiry is satisfied as to the identity of the caller.

Where a request for information is received from a party purporting to act on behalf of or in the interests of the victim (e.g. counselling support services, legal representatives), members should first confirm with the victim that the inquirer is in fact acting in that capacity. The wishes of the victim should be respected.

Before disclosing any information pertaining to an investigation, members should satisfy themselves that such disclosure is not likely to:

- (i) compromise or jeopardise any aspect of an investigation or Service operation;
- (ii) interfere with the administration of justice; or
- (iii) endanger the life or safety of any person.

### 5.6.9 Requests by persons other than victims of crime for investigational information

Members may disclose information pertaining to investigations if:

- (i) such disclosure is necessary for the effective conduct of the investigation;
- (ii) the information is of such a nature that it would be normally released in the public interest to media organisations and the like; or
- (iii) such disclosure is in accordance with Service policy.

#### ORDER

Unless disclosure is authorised by the Commissioner under s. 10.2: 'Authorisation of disclosure' of the PSAA (i.e. Service policy or Delegation D 15.46), copies of reports and notes pertaining to investigations may only be supplied:

- (i) by the Right to Information and Subpoena Unit (RTISU), Right to Information and Privacy Services after due consideration of an application made in the prescribed manner;
- (ii) by the Manager, Police Information Centre (PIC) but only where the records are held by that establishment. The PIC holds records relating to:
  - (a) warrants;
  - (b) court briefs (QP9s);
  - (c) criminal offence reports (pre-CRISP hard copy reports, not CRISP or QPRIME Occurrences); and
  - (d) criminal histories; or
- (iii) in accordance with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter where the request is from a government department, agency or instrumentality.

Copies of criminal histories, records of charges, QPRIME occurrence reports, court briefs, audio and video tapes, photographs and traffic crash reports pertaining to investigations may also be obtained through the structured schemes in place. See also s. 5.6: 'Release of information' of this chapter.

Before disclosing any information pertaining to an investigation, members should satisfy themselves that such disclosure is not likely to:

- (i) compromise or jeopardise any aspect of the investigation or Service operation;
- (ii) interfere with the administration of justice; or
- (iii) endanger the life or safety of any person.

Members should also ensure that the confidentiality of personal particulars is not unnecessarily breached.

### Investigational information (coronial matters)

Where a person seeks access to a coronial document or another type of investigation document, for purposes other than research, and such document is in possession of a coroner, the person may only access the document with the consent of the coroner (see s. 54: 'Access to investigation documents for other purposes' of the *Coroners Act*).

Members should not release investigational information to any person, other than the basic facts, on matters likely to be the subject of a coronial inquiry. Requests for details other than basic facts should be referred to the relevant coroner. Persons or organisations requesting information relating to an investigation for which a Coronial inquest has been held should be advised to contact the Office of the State Coroner, Department of Justice and Attorney-General (see SMCD).

See also 'Release of information – coronial matters' in s. 5.6.11: 'Information sought by the media for public broadcast' of this chapter.

### 5.6.10 Requests for historical information and research projects

OIC of stations and establishments may disclose historical information pertaining to the Service provided the release of such information is of a nature that it would normally be released in the public interest to media organisations, historical societies and the like (see procedures in the following section relating to information able to be released to the media).



OIC have a discretion to refuse or restrict supply of any historical information sought by any outside person or agency. Inquiries may also be referred to the Curator, Police Museum. The Curator may supply copies of documents, maps, photographs etc., to inquiring third parties in relation to requests for historical profiles on stations and establishments.

The Curator is also responsible for:

- (i) compiling and supplying of station/establishment historical profiles;
- (ii) satisfying telephone inquiries for basic historical information;
- (iii) providing access to historical information contained in Queensland Police Gazettes outside the restricted access period of sixty-five years;
- (iv) acting in a liaison/consultative capacity with respect to historical inquiries, biographical requests and research projects requiring historical information; and
- (v) granting access to the museum library and historical files compiled by museum staff.

#### ORDER

Members are not to release historical information to outside persons or agencies which is:

- (i) likely to disclose the personal particulars of any person whether currently employed by the Service or not, unless such member has been specifically authorised to do so by the Commissioner or is acting under the direction and authority of the Director, Human Resources;
- (ii) likely to interfere with the proper administration of justice;
- (iii) likely to interfere with the efficient and effective discharge of law enforcement duties;
- (iv) in contravention of any statute; or
- (v) of a confidential nature.

Members, other than those expressly provided for in this chapter, are to restrict the disclosure of details to verbal information only. Under no circumstances are copies of reports, notes or photographs to be released to inquiring third parties unless specifically authorised to do so by the Commissioner.

Requests for the supply of station or establishment histories are to be referred to the Curator, Police Museum.

Persons seeking historical information relating to stations and establishments are to be advised to fully detail the nature of their request in writing, including any relevant names, dates and places, and forward same to:

The Curator  
Police Museum  
Police Headquarters  
GPO Box 1440  
BRISBANE 4001

#### Archived material

It is not the responsibility of members to arrange for the retrieval of material from the State Archives in response to requests from members of the public or outside organisations for historical information relating to the Service or its members. Special requests (e.g. overseas inquiries) are to be directed to Ministerial Services.

Where members become aware that a Service document has been forwarded to the State Archives in accordance with the *Public Records Act* and the Service is no longer in possession of any copies of that document, inquirers seeking access to information contained in that document are to be advised to contact the State Archivist.

Where the State Archivist advises that the information sought by the inquirer is subject of a 'restricted access period' and a release authority is sought from the Service, the matter is to be dealt with as follows:

- (i) personnel files – refer to the Director, Human Resources; or
- (ii) other files – refer to Ministerial Services (restricted access period).

#### Police Gazettes

Access and inspection of Queensland Police Gazettes will be permitted after the expiration of a period of sixty-five years from the date of issue.

Requests for access to or information from Queensland Police Gazettes are to be in writing to:

- (i) the Curator, Police Museum (open period); or
- (ii) the Director, Human Resources (restricted access period).

#### Members of the Service

Requests for historical information concerning current or past members of the Service are assessed and managed by the Director, Human Resources.

**ORDER**

Members receiving any requests for historical or biographical information concerning current or former members of the Service are to refer the inquirer to the Director, Human Resources.

**Research requests**

Research includes substantial inquiries, investigations or studies.

It usually involves applications by persons undertaking academic studies to access Service data and records.

It does not include requests for information that is readily accessible in official publications held by the Service, nor does it include research undertaken as part of Service internal training courses.

Requests from members of the public and outside organisations for research assistance are assessed by the Research Committee.

The responsibility for research sits with the Executive Director, Policy and Performance Division as Chair of the QPS Research Committee. Inquiries for research assistance are to be addressed to the Secretariat, QPS Research Committee via [QPS.research@police.qld.gov.au](mailto:QPS.research@police.qld.gov.au) who will arrange a copy of the Research Application Guidelines and application form to be forwarded to the inquirer.

**ORDER**

Other than supplying brief historical facts where permitted from readily accessible records, members, other than the Curator, Police Museum on a consultative basis are not to engage or assist in research arising from outside requests unless directed to do so as a result of a Research Committee determination.

**Fees**

Photocopying fees for supply of materials associated with requests for historical information will be charged according to official Service rates as outlined in the Service Publication Scheme (see the Service Intranet). However, no fees will apply to simple requests from primary and secondary school students.

**5.6.11 Information sought by the media for public broadcast**

In considering the release of information to the media, members are to ensure they do not jeopardise a subsequent judicial process. Release of prejudicial information could result in a trial being aborted with the possibility of those who released the information being held in contempt of court.

Facts relating to occurrences of public interest may be released to the media provided the release:

- (i) does not unnecessarily disclose the personal particulars of any person involved;
- (ii) does not interfere with the proper administration of justice;
- (iii) is not likely to unduly interfere with the efficient and effective discharge of law enforcement duties; and
- (iv) is not in contravention of any statute.

In the interests of promoting the support and good will of the public and maintaining accountability, members are to be positive in their approach to media relations by actively presenting public information where possible rather than providing limited and selected responses.

Service goals are to reduce fear and improve safety by combating crime and protecting lives and property. These can be enhanced by positive media coverage.

The OIC of an investigation or incident is responsible for determining the nature of any information released. While a general discretion exists as to what information is released, any disclosure is to be restricted to brief, factual details only.

The OIC of an investigation or incident may release the information, nominate another officer, or request the Media and Public Affairs to release the information. The Media and Public Affairs are to be advised of information released to the media to ensure consistent messaging.

Members are to refer to the relevant guidelines which address the specific issue before releasing information or seek advice from the Media and Public Affairs before making comment to the media.

**ORDER**

Regardless of if a criminal investigation has been instigated, members are not to make statements to the media which in any way assign fault or blame to any person.

**Media and Public Affairs**

Media and Public Affairs provides liaison with various media agencies and operates the media operations room on a twenty-four hour basis.

Members who are unsure as to what information may be released to the media are to contact Media and Public Affairs for advice.

Members are to promptly advise and consult with Media and Public Affairs:

- (i) about any operational matter which is likely to be of significant media interest;
- (ii) where a major incident or incident of a protracted nature has occurred;
- (iii) where comments from the media on issues of State or National interests are requested;
- (iv) where requests for interviews are made; or
- (v) prior to submitting a written article for public dissemination.

In issues of state or national interest, Media and Public Affairs can advise on appropriate comment.

Officers in charge of investigations may request Media and Public Affairs to attend incident scenes to provide assistance in preparing media releases and organising media conferences.

For major incidents, those of a protracted nature or likely to attract significant media interest, it is recommended a member of Media and Public Affairs be contacted to attend, even when travel is required.

Officers are to direct media inquiries to Media and Public Affairs only after ensuring the unit has all the relevant details.

Where police request a Media and Public Affairs member to attend and they are unable to, refer to subsection 'Media liaison officer' of s. 1.12.6: 'Support Functions and roles' of the OPM.

### Information not to be released

#### ORDER

Members are not to supply information to the media which:

- (i) is critical of the Service, its policies, procedures or members;
- (ii) is critical of the Government, government policies or other government departments and agencies (including courts);
- (iii) does not relate to their specific area of responsibility;
- (iv) may interfere with or jeopardise a police operation or investigation;
- (v) may constitute contempt of court or in any way interferes with the course of justice;
- (vi) expresses an opinion of culpability;
- (vii) pertains to the criminal history record, character, or reputation of a person;
- (viii) identifies a person's medical condition or drug taking behaviour;
- (ix) relates to admissions, confessions or statements;
- (x) relates to particulars of a serious crime which, in all likelihood, would only be known to the offender;
- (xi) relates to any physical or forensic examination or test, or identification line-up or the refusal by any person to submit to such tests, examinations and line-ups;
- (xii) reflects upon the credibility of a suspect or person who may be expected to give evidence in court;
- (xiii) suggests a person's guilt, state of mind, motive for committing an offence, or the penalty which could be imposed;
- (xiv) may identify a juvenile;
- (xv) may identify deceased or injured persons before their next of kin has been notified and consent for disclosure obtained, unless publicity is the only effective means of tracing the next of kin;
- (xvi) may identify victims of crime and witnesses without their permission;
- (xvii) may identify an informant;
- (xviii) may place a person's life or safety in jeopardy;
- (xix) identifies a defendant charged with a prescribed sexual offence in s. 7: 'Publication prematurely of defendant's identity prohibited' of the *Criminal Law (Sexual Offences) Act* prior to the defendant being committed for trial or sentence or otherwise identifies a defendant on any other charges before appearance in open court;
- (xx) identifies the type and value of drugs stolen from pharmacies, doctors' surgeries, hospitals etc.
- (xxi) discloses amounts of money obtained from armed hold-ups and robberies unless the OIC of the investigation believes disclosure will assist police inquiries;
- (xxii) is descriptive of security installations on premises;
- (xxiii) concerns the affairs or activities of a law enforcement agency of another state or the Commonwealth. Such matters are to be referred to the district officer or commissioned officer in charge who may, after consideration,

release the details sought if the matter affects the Service, or refer the inquirer to the law enforcement agency concerned;

(xxiv) relates to Australian Defence Force incidents (e.g. defence force aircraft accidents) or matters associated with national security, unless approval for disclosure has been given by the agency concerned;

(xxv) reveals the intended approach of the prosecution (for example applying for a discontinuance, ex-officio indictment appeal or adjournment);

(xxvi) reveals the content of medical, psychological or psychiatric reports of offenders or victims;

(xxvii) consists of images of any person unless the person's, or in appropriate cases, the next of kin's consent has been obtained, or there is a justifiable operational reason (see also s. 5.6.12: 'Information released by police seeking public assistance in the investigation of incidents and crimes' of this chapter); or

(xxviii) is otherwise confidential.

In accordance with the Director of Public Prosecutions (State) Guidelines 58(vi), the media are not to be given copies or access to any recorded interviews, re-enactments, demonstrations or identifications.

### **Release of information following arrest**

Following the arrest of a person, the OIC of the investigation or a member nominated by that officer may only release:

- (i) the defendant's gender, age and suburb or town of residence. Officers are to ensure that no information is issued which may directly or indirectly identify the person;
- (ii) the identity of the investigating or arresting officer; and
- (iii) the factual circumstances immediately surrounding the arrest, including the time and approximate location.

### **Release of information following charging**

When prosecution has been commenced against a person (charged but has not appeared in court), the following additional details only may be released:

- (i) the general nature of the charge(s) laid;
- (ii) the court where the defendant is to appear and the date of appearance; and
- (iii) the bail status of the defendant.

The term 'alleged' is to be used when describing the actions of a charged person.

### **Release of information following appearance in court**

In addition to the above information the following may be provided, but only if the information has been disclosed in open court:

- (i) Any matters put before the presiding justice by the prosecution and defence representatives. This may include name and other personal particulars, wording of the charge(s) and allegations if stated. Criminal history details or character-related submissions in support of a bail argument are not to be released. When considering what information (if any) to release, consideration is to be given to information privacy principles and public interest.
- (ii) Any decision of the court. This may include, for example, decisions relating to penalty, remands and bail applications. However, no opinion is to be given as to the correctness or otherwise of any judicial decision or on the likely outcome of proceedings.

In responding to media requests for information of this nature, police are to remember that as the appearance is in open court, members of the public, including media representatives, are entitled to attend and hear the details.

#### **ORDER**

Members are not to disclose details of the defendant where:

- (i) a court order prohibiting disclosure has been made by the presiding justice;
- (ii) disclosure is prohibited by statute (e.g. s. 7 of the *Criminal Law (Sexual Offences) Act*); or
- (iii) the defendant is a juvenile.

Members are not to disclose information about any part of a district or supreme court trial that was conducted in the absence of the jury.

### **Release of information (coronial matters)**

Members are not to release information to the media, other than basic facts, on matters likely to be the subject of a coronial inquiry. Requests for details other than basic facts are to be referred to the coroner. Media requesting information relating to an investigation for which a coronial inquest has been held are to be advised to contact the Coroners Court of Queensland, Department of Justice and Attorney-General (see SMCD).

Where it is unclear that the information sought may become the subject of a coronial inquiry, members are to seek the advice of their OIC or Media and Public Affairs.

Members are to refrain from expressing personal opinions, as distinct from fact, to the media on any matter the subject of a coronial inquiry. Where a member has expressed an opinion whilst giving evidence in a coronial inquiry (see s. 8.4.25: 'Giving evidence in coronial inquiries' of the OPM), the opinion is not to be expanded upon outside the court for the media.

### Release of information following a crime or incident

Factual information about a crime or incident may be released to the media and may include:

- (i) the general nature of the crime or incident, e.g. assault, stealing, bus accident;
- (ii) the date, time and location of the crime or incident. Where the event occurs at a private premises, the precise location must not be disclosed to ensure the privacy of the victim (e.g. street and suburb may be released but not the number);
- (iii) the gender, age and suburb of the victim, except in circumstances which could cause embarrassment such as sexual offences (members are to take particular care that no information is released which could identify the victim);
- (iv) the name of the investigating officer and section/establishment; and/or
- (v) description of any suspect and any items which officers need to locate (e.g. motor vehicles, stolen equipment, property).

Members are to avoid offering opinions about incidents and occurrences ensuring in all cases that only clearly stated facts are provided.

### 5.6.12 Information released by police seeking public assistance in the investigation of incidents and crimes

The support of the general public in solving crime by releasing particulars of offences when considered necessary is to be used, provided such disclosures:

- (i) are not likely to interfere with or jeopardise the efficient and effective discharge of law enforcement duties;
- (ii) are not likely to compromise the proper administration of justice;
- (iii) are not in contravention of any statute; and
- (iv) do not unnecessarily reveal the personal particulars of any person.

Although the protection of the confidentiality of personal particulars is a general policy principle, disclosure in this context becomes necessary for law enforcement purposes in identifying and describing wanted persons.

Crime Stoppers and Policelink have the resources to manage feedback from the public generated by media releases.

Officers who authorise a media release which seeks information from members of the public are to ensure the Crime Stoppers and Policelink reporting information is included in the release.

See also s. 1.15.3: 'Media releases including comfits' of the OPM.

### Images (including photographic)

The term 'image' is to be interpreted as any:

- (i) photographic (including official offender identification photographs i.e. 'mugshots');
- (ii) videotape/print; or
- (iii) computer generated;

means of depicting persons.

Generally images, whether requested or otherwise, of any person including victims, witnesses, suspects or defendants are not to be released unless the person's, or where appropriate, the next of kin's consent has been obtained, there is a justifiable operational reason, or is otherwise in accordance with this chapter. Operational reasons for the release of information under s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act* are to:

- (i) be consistent with the functions of the Service outlined in s. 2.3: 'Functions of service' of that Act; and
- (ii) have a demonstrated legitimate or valid reason for such release.

The release of images or mugshots for media interest/entertainment value is not considered a valid operational reason.

The image and description of an escapee/person unlawfully at large may be released where:

- (i) the person has been imprisoned for a serious crime;

- (ii) the person has a background of violence, sexual offences or child molestation etc.; or
- (iii) there is a likelihood that the person will commit further offences.

Comfit composite images or photographs of wanted persons may be released where it is necessary to obtain public assistance or to warn of danger.

A person named or described is only to be referred to as a person:

- (i) who can assist police with inquiries (no details which may prejudice future inquiries are to be released); or
- (ii) wanted for arrest if a warrant has been issued.

Officers are to consider the provisions of the *Criminal Law (Sexual Offences) Act*, *Youth Justice Act* and the *Child Protection Act* (e.g. s. 189: 'Prohibition of publication of information leading to identity of children').

ORDER

Before releasing images and details of suspects, escapees or persons unlawfully at large to the media, officers are to obtain the authority of a commissioned officer.

Commissioned officers, before authorising the release of images of suspects and associated details to the media, are to ensure the:

- (i) images have been edited to conceal the identity of victims or witnesses; and
- (ii) consent of the victims or witnesses or their next of kin to release images to the media is obtained where the identity of victims or witnesses in such images cannot be concealed.

In the case of images and associated details of persons wanted for escaping or being unlawfully at large from Queensland Corrective Services (QCS), commissioned officers are to ensure that before authorising the release of such images and associated details:

- (i) a member of the Corrective Services Investigation Unit (CSIU) has verified the information as being correct and has forwarded a copy of the images and associated details to QCS;
- (ii) a copy of the images and associated details are forwarded to:
  - (a) Media and Public Affairs;
  - (b) Crime Stoppers; and
  - (c) Policelinkprior to release; and
- (iii) that the Crime Stoppers and Policelink reporting information is included in the release.

In the case of releasing images or relevant information about missing persons to the media, see s. 12.3.3: 'Authority for media release' of the OPM.

### Messages

ORDER

Where the need arises for an urgent police message to be broadcast over public radio or television, members are to immediately advise their OIC who may approve the request after verification of the details.

Officers in charge authorising the release of an urgent message are to immediately transmit a copy of the message to the duty officer, Police Communications Centre, Brisbane, and advise the district officer or commissioned officer in charge or equivalent as soon as practicable.

If the message relates to an occurrence involving child abduction, see s. 12.6: 'Amber alerts' of the OPM.

### 5.6.13 Requests for statistical information

Official statistics may be supplied by an OIC from the Annual Report and the Annual Statistical Review on the request of any person or organisation.

An OIC receiving requests for localised statistical information is to refer the inquiry to the relevant local area (e.g. if the information sought relates to the Bundaberg area and cannot be readily provided from official publications, the inquirer should be referred to the OIC, Bundaberg Station rather than the Information Resource Centre).

ORDER

Requests for local statistics are to be referred to the OIC. If statistical information cannot be supplied from official Service sources the following disclaimer is to be clearly endorsed on the data released:

'Disclaimer – these figures are not official Service statistics. Official Police Service statistics are released only through Research and Analytics, Policy and Performance Division after available data is collected, classified and collated in accordance with nationally accepted rules.'

Requests which cannot be dealt with at the local station/establishment level, or relate to a corporate nature, are to be referred to the Director, Research and Analytics, Policy and Performance Division, Makerston House, 4th Floor, 30 Makerston Street, Brisbane.

#### 5.6.14 Requests for information from other government departments, agencies or instrumentalities

Nothing in this section prevents the disclosing of information, contrary to the requirements of this section, if a member is satisfied on reasonable grounds that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare (see Schedule 3: 'Information privacy principles', IPP 11 – Limits on disclosure of the *Information Privacy Act* (IPA)).

##### Information disclosure requirements

Subject to the disclosure of personal information contained in criminal history records, the Service may, on request, supply to another government department, agency or instrumentality, including the nominal defendant, any information, provided it is:

- (i) for official purposes of the agency or instrumentality;
- (ii) not likely to interfere with the administration of justice;
- (iii) not likely to unduly interfere with the efficient and effective discharge of law enforcement duties;
- (iv) not in contravention of any statute; and
- (v) allowed under IPP 11, such as but not limited to:
  - (a) with the relevant persons expressed or implied consent;
  - (b) where authorised or required by law; or
  - (c) the prevention, detection, investigation or remedying of seriously improper conduct where the requestor is investigating an employee for offences or breach of law where a penalty or sanction may be imposed (i.e. discipline procedures).

The government department, agency or instrumentality making the request is to explicitly stipulate under what authority they are requesting the information from the Service. The member authorised to release the relevant information under Delegation D 15.46 is to only release relevant information and be satisfied of the authority to release the information prior to approval.

When supplying information, members should indicate to the inquirer, in the form of a caveat, that such information is not to be further disclosed to a third party unless permission is first obtained from the Commissioner or Commissioner's delegate (see Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of this Manual).

##### Where are requests for information to be directed

The Police Information Centre, Legal Division (PIC) holds records relating to:

- (i) warrants;
- (ii) court briefs (QP9s);
- (iii) criminal offence reports (pre-CRISP hard copy reports, not CRISP or QPRIME Occurrences); and
- (iv) criminal histories.

##### ORDER

Members receiving requests from another government department, agency or instrumentality for information are to direct the inquirer or advise them to make a written application directly to the responsible person. The responsible person for information:

- (i) held by PIC (as described above) is the Manager, PIC;
- (ii) held by other areas such as:
  - (a) watchhouse records;
  - (b) witness statements;
  - (c) notebook entries,

and unless there is specific policy relating to the release of the information, is the assistant commissioner (AC) or executive director responsible for the operation of that area;

- (iii) concerning a government employee of the requesting department, agency or instrumentality who has been investigated or is subject to current investigation in relation to a criminal offence is the AC responsible for the area where the investigation occurred or is occurring. Where a request is made for investigational information in relation to a criminal offence concerning an employee of another Queensland Government department, agency or

instrumentality, the AC should ensure the investigational information is released only for the use in a discipline process by that person's employer. Where the AC has concerns related to the release of information they should consult with the Privacy Unit (PU), Right to Information and Privacy Services; or

(iv) that are photographs:

(a) the OIC, Forensic Imaging and Electronic Recording Sections, Forensic Services Group; or

(b) where the photographs relate to a current investigation of a government employee, the AC where the investigation is occurring.

The table below lists specific policies relating to the sharing of information with other government departments, agencies or instrumentalities.

Manual	Section	Title
MSM	5.6.20	Release of information under provisions of Jury Act
	5.6.21	Release of information to health practitioner registration boards and Health Ombudsman
	5.6.22	Release of information to the Public Guardian
	5.6.25	Release of information under the Victims of Crime Assistance Act
	5.6.27	Requests for information from the Department of Housing and Public Works
	5.6.29	Release of information to the Australian Defence Force
OPM	2.5.10	Telecommunications interception
	2.22.11	Court ordered drug diversion
	3.4.16	Disclosure to courts of spent convictions
	3.4.18	Supply of information where court outcome requires action by Queensland Corrective Services or Youth Justice
	3.4.28	Notification of Queensland College of Teachers regarding an approved teacher
	3.4.29	Notification of Office of Fair Trading regarding Debt Collectors (Field Agents and Collection Agents) Act and Security Providers Act
	3.4.30	Supply of information to the Parole Board Queensland
	3.4.31	Supply of information under Mental Health Act
	3.4.32	Prosecuting authority to notify Chief Executive about committal, conviction etc. under the Public Sector Act
	3.4.33	Notification of Queensland Parks and Wildlife Service of convictions of conservation related offences
	3.4.36	Notification of Chief Executive, Queensland Corrective Services, regarding committal, conviction, etc. of relevant person
	3.4.38	Supply of information to the department responsible for education regarding State school students
	5.4.1	Police referral to a restorative justice conference
	5.6.4	Parent and chief executive must be advised of police action
	6.6.8	Effect of mental illness on matter before the court, subsection 'Information to be supplied to the Mental Health Court and assessing psychiatrists'
	7.9	Information exchange
	7.16.1	Information sharing with Blue Card Services
	8.4.1	Responsibility for investigating and reporting on deaths
	8.5.5	Fatal mining incidents
	8.5.8	Deaths of children
	10.4.15	Transfer of and taking charge of persons in custody
	10.9.5	Urgent arrest required prior to approval by Federal Attorney-General
	10.10.3	Documentation required for extradition from New Zealand
10.12.4	Action following approval to seek transfer of prisoners from interstate	



Manual	Section	Title
	11.15.3	Deportation and removal
	13.2	Abandoned vehicles (as distinct from being stolen and abandoned)
	13.4.6	Security Providers
	13.5.6	Supply of information impacting on the security classification, protection or security of prisoners and/or the security and good order of correctional facilities to Queensland Corrective Services
	13.8.3	Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation
	13.8.4	Fisheries management (offences detected)
	13.10.2	Classification Act offences
	13.22.5	Proceeding for an offence
	13.26	Racial, religious, sexuality, and gender identity vilification – Anti-Discrimination Act
	16.8.7	Notification to the Aboriginal and Torres Strait Islander Legal Service
	16.15	Medical information regarding a prisoner
	16.16.2	Additional responsibilities of investigating officers
	16.17.2	Arrest of children
	16.19.1	Transfer of sentenced prisoners
	16.19.8	Prisoners held in watchhouse awaiting transfer to Corrective Services centres or youth detention centres
	16.23.3	Additional responsibilities of officers investigating deaths in police custody
	16.23.5	Australian Institute of Criminology and Cultural Engagement Unit to be notified
	16.23.6	Coroner's findings and response to Coroner's findings
	17.2.2	Declaration of a disaster situation
	17.2.5	Exotic diseases in animals
	17.2.8	Space debris
	17.3.3	Aircraft incidents
	17.3.4	Rail incidents
	17.3.18	Chemical, biological and radiological (CBR) incidents
	17.3.19	Critical incidents involving Education Queensland
	17.3.21	Public health emergencies
	17.3.22	Restriction of the flight of aircraft in air space or the declaration of a danger area due to incident
	17.5	Search and rescue

### 5.6.15 Requests for information from other law enforcement agencies

#### ORDER

On request for information by a law enforcement agency, the OIC of a station or establishment is to:

- (i) supply any information on record provided that:
  - (a) it is in accordance with any relevant specific Service policy (see table below);
  - (b) where the information belongs to some other agency, subject to that agency's prior approval or any formalised national agreements;
  - (c) the request meets the following conditions, that is:
    - for official purposes of the law enforcement agency;
    - not likely to interfere with the administration of justice;

- not likely to unduly interfere with the efficient and effective discharge of law enforcement duties or compromise any investigation;
- not in contravention of any statute; and
- allowable under Schedule 3: 'Information privacy principles', s. 11: 'IPP 11—Limits on disclosure' of the *Information Privacy Act*, such as but not limited to:
  - with the relevant persons expressed or implied consent;
  - where authorised or required by law;
  - the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
  - the protection of public revenue;
  - the prevention, detection, investigation or remedying of seriously improper conduct; or
  - for court or tribunal purposes;

(d) when supplied, they indicate to the inquirer, in the form of a caveat that the information is only to be used for law enforcement purposes by the requesting agency and is not to be further disclosed to a third party unless permission is first obtained from the Commissioner or Commissioner's delegate (see Appendix 5.4: 'Example of caveat when responding to requests for information by other law enforcement agencies' of this chapter);

(e) where information is sought that is contained in records only available from the Police Information Centre (PIC), being:

- warrants;
- court brief (QP9);
- criminal offence reports (pre-CRISP hard copy reports, not CRISP or QPRIME occurrences); and
- criminal histories,

they refer the inquiring agency to the Manager, PIC and not supply such information;

(f) where the information is sought by an international law enforcement agency, it is to be authorised and organised through Interpol. Where a request has not been authorised by Interpol, the request is to be assessed in terms of 'Potential death penalty situations' prior to any information being disseminated (see s. 7.3.1: 'International inquiries through Interpol' and subheading 'Potential death penalty situations' of this Manual); or

(ii) where conditions 2 and 3 of (i)(c) above are not met, forward the request and all the relevant details to the OIC of the region or command who will make a determination as to whether the material will be released to the inquiring law enforcement agency.

Should the OIC of the region or command determine that the information sought should not be released, that officer is to forward the appropriate advice to the inquiring law enforcement agency.

The table below lists specific policy relating to the sharing of information with other law enforcement agencies.

Manual	Section	Title
MSM	5.6.2	Third party requests for personal information contained in Service records
	5.6.4	Requests for copies of statements
	5.6.29	Release of information to the Australian Defence Force
	7.3.1	International inquiries through Interpol
OPM	2.6.11	Workplace and electrical incidents
	2.23.2	Forensic procedure orders
	2.25.21	Requesting interstate law enforcement agency for a DNA person/DNA crime scene profile or to perform a DNA comparison
	5.3.16	Confidentiality
	10.8.1	Action prior to approval for extradition
	10.9.3	Action prior to approval to seek extradition
	10.10.2	Extraditions from New Zealand

Manual	Section	Title
	10.10.3	Documentation required for extradition from New Zealand
	10.11.2	Extraditions to another State or Territory of Australia
	10.12.3	Transfer of prisoners from other States
	11.9.1	Investigations regarding counterfeit money
	11.10.1	Investigations of breaches of film and video copyright
	11.15.2	Assistance to officers of the Department of Home Affairs and Australian Border Force
	11.20.6	Commonwealth department responsible for education or employment
	11.22.1	Seizure of illicit tobacco products
	17.8.1	Notification responsibilities following a Suspect Illegal Entrant Vessel incident
	17.8.3	Release of information relating to a Suspect Illegal Entrant Vessel incident

### 5.6.16 Documentation required by the courts

The Service may make available for production in court any document in its possession, provided such document:

- (i) is deemed necessary for undertaking an effective prosecution and is not considered to contain privileged information; or
- (ii) is the subject of a court summons or subpoena and is not considered to contain privileged information.

#### Notes made by police during investigations

In the course of giving evidence in court proceedings, officers generally, upon application to the court, are permitted to refresh their memory by reference to notes made at the material time.

Parties to the proceedings may be permitted by the court to inspect the notes to which reference has been made, and the relevant portion of a notebook may in such cases be admitted as an exhibit.

A claim of privilege is not made in respect of notes made by a police officer at the material time and so used to refresh the officer's memory at the time of testifying in the relevant case.

#### Statements and police documentary records

ORDER

Unless authorised by the prosecutor, officers giving evidence in magistrates courts are not to make available for production to the court any statements (other than those required by the prosecution to be produced in support of the charge(s) before the court) or Service documentary records.

Where the question of the admission of any such statement or document arises, officers are to seek the direction of the prosecutor who will determine whether or not privilege should be claimed in respect of any or all of the material.

A prosecutor who considers it beneficial to produce in evidence a Service document for the effective conduct of the prosecution case, is to, before tendering the document, carefully consider the implications of disclosing any of the contents contained therein and whether or not privilege should be claimed.

A prosecutor who considers the contents of a document to be privileged is not to tender the document as evidence, and where necessary, seek the permission of the court to refrain from producing a document requested.

Where prosecutors intending to produce a Service document in court, or are required to consider the admissibility of such document or statement, have some doubt as to the question of privilege, the prosecutor concerned is to refrain from producing the document and refer the matter to the district officer or where appropriate, the Inspector in Charge, Brisbane Police Prosecution Corps, for determination and referral to QPS Legal Services, Legal Division if necessary.

#### Documents and information required for evidence in civil proceedings

Members do not have authority to produce documents to a court that are the property of the Commissioner. Members can be authorised by the Commissioner to produce documents to the court in circumstances where the Commissioner is served with a subpoena or summons to produce such documents.

ORDER

Members who are served with a subpoena or summons to give evidence as a witness in any civil proceedings are to furnish a report briefly setting out the evidence they are able to give in relation to the matter. This report is to advise as to the amount of any expenses tendered in respect of the subpoena or summons by way of conduct money and, together with a copy of subpoena or summons, is to be forwarded to their district officer or commissioned officer in charge who will authorise that member's attendance. A further report is to be submitted upon conclusion of the proceedings.

Where time is limited due to imminent court proceedings, members should expedite the transmission of the required material by use of facsimile or email.

ORDER

Where documents are required to be produced in any civil proceedings by subpoena or summons served upon the Commissioner, such documents are to be checked by the investigating officer for a claim of privilege. If a district officer or commissioned officer in charge considers that a claim of privilege should be made in respect of such documents, all relevant material is to be submitted to the Right to Information and Subpoena Unit, Right to Information and Privacy Services for consideration and advice before the documents are tendered to the court. Officers producing documents are to ensure arrangements are made for their return. Documents are not to be produced where a subpoena or summons is served on a member only and not the Commissioner.

Officers are to deliver documents to the court and not directly to the parties or legal representatives in the civil proceedings.

### **Members taking private legal action**

ORDER

Unless approved by the Commissioner, members are not to disclose any information contained in any Service document or record to any person or court in relation to private legal action taken by that member against any person or organisation.

Members who have or are intending to take private legal action against any person or organisation may apply in writing to the Commissioner for permission to disclose information or produce Service documentation relevant to the case.

### **Documents and information required by defence representatives**

The Service may make available to any defendant or legal representative any information or document which those persons would normally be lawfully entitled to access in connection with any court proceedings.

The matter of police prosecutors supplying particulars and documentation to defendants and legal representatives concerning details of charges preferred is generally governed by provisions under the Criminal Code and *Justices Act*, as well as established legal precedent and guidelines set down by the Director of Public Prosecutions (Refer to Guideline 27: 'Disclosure' of the Director of Public Prosecutions (State) Guidelines).

Reference should be made to [Chapter 3: 'Prosecution Process' of the Operational Procedures Manual](#) for information on specific guidelines and requirements.

ORDER

Police prosecutors in possession of a defendant's criminal history are to supply that history to the defendant or the defendant's legal representative upon request.

In relation to the disclosure of a prosecution witnesses' previous criminal history for a relevant proceeding, see [ss. 3.14.5: 'Disclosure that must be made on request'](#) and [3.10.12: 'Disclosure of prosecution witnesses' previous convictions to the defence'](#) of the *Operational Procedures Manual*.

Prosecutors are not expected to examine the records to verify whether there exists any matter which might affect the character of the witness.

### **5.6.17 Requests by members for information about themselves**

It is recognised that information contained in documents such as personal files should be provided to members with restriction only in very limited cases.

Members wishing to access information contained on their personal files should refer to 'Access and Disclosure of HR Information Policy' within Records of the Human Resource Policies.

### **5.6.18 Requests for information from Centrelink**

This section is to be read in conjunction with s. 5.6.2: 'Third party requests for personal information contained in Service records' of this chapter.

Pursuant to ss. 192: 'General power to obtain information', 194: 'Obtaining information about a person who owes a debt to the Commonwealth' and 196: 'Written notice of requirement' of the *Social Security (Administration) Act* (Cwlth), Centrelink may require the Service to provide personal information in relation to a person, including details of being in custody at a watchhouse.

Where Centrelink requires information in relation to persons in custody, or who have been in custody at a watchhouse, they will by written notice specify:

- (i) how to give the required information or produce a required document;
- (ii) the period in which to give the required information or produce a required document;
- (iii) the person to whom the required information or document is to be produced; and

(iv) the section under which notice is given.

Where such written notice is given that requires personal information in relation to a person in custody or who has been in custody at a watchhouse, officers are to ensure to provide the information or document:

- (i) in the manner the written notice specifies;
- (ii) in the period specified; and
- (iii) to the person specified.

Where there is any doubt about the source of the request, officers are to confirm the validity of the request by telephoning the Centrelink office specified, prior to the forwarding of any information.

### **5.6.19 Requests for interviews with members of the Service**

This policy applies to the release of information by members, concerning an investigation in which they have been involved, following a request from an individual, agency or organisation external to the Service.

#### **Requests from insurance companies**

Officers in charge may allow representatives of insurance companies making inquiries with respect to claims made upon that company to interview members under their control, provided:

- (i) applications for any such interviews are made in writing to the OIC of the member concerned;
- (ii) any such interviews are conducted in person at a time convenient to all parties; and
- (iii) the incident does not involve cases concerning Service property or a claim involving the Service.

Subject to the approval of the member's OIC, a member may participate in such an interview.

Members who choose to participate in such an interview should comply with the provisions of this chapter relating to release of information, and in particular, s. 5.6.9: 'Requests by persons other than victims of crime for investigational information' and, where applicable, s. 5.6.3: 'Requests by members of the public and external organisations for information contained in QPRIME occurrences' or s. 5.6.5: 'Requests for information related to traffic crashes'.

In certain cases, subsequent to a member participating in an interview as described above, a sworn affidavit may be requested from the member for presentation in court or other dispute resolution forum. In such instances, members may supply an affidavit provided that:

- (i) the affidavit is prepared by a representative of the insurance company making the request;
- (ii) the member concerned examines the contents of the affidavit for accuracy and completeness and ensures any necessary changes are made prior to swearing the affidavit; and
- (iii) the contents of the affidavit are based on the member's records of the incident.

The time taken for an interview or in examining and swearing an affidavit is to be charged to the applicant as special services in accordance with the Financial Management Practice Manual with the exception of the minimum period of three hours to be charged. The charge out rate shall be calculated using a minimum of one hour for the first hour or part thereof, plus one half hour for every subsequent half hour or part thereof.

#### **Requests from other persons, agencies or organisations**

Requests for interviews with members for reasons other than those outlined above should be considered, and if deemed appropriate, approved by the OIC of the region or command of the member concerned prior to any such interview taking place. If a government department, agency or instrumentality has requested the interview in relation to a current investigation of a government employee for disciplinary purposes, the assistant commissioner responsible for the area where the investigation is taking place should be consulted before any approval is given.

The process outlined herein relating to insurance companies, with any necessary adaptation, applies in cases where an OIC of a region or command approves an interview with a member.

### **5.6.20 Release of information under provisions of Jury Act**

This section is to be read in conjunction with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter.

Section 12: 'Arrangements with commissioner of the police service' of the *Jury Act* places a duty on police to assist the sheriff by:

- (i) making inquiries reasonably required for the keeping of a jury roll; or
- (ii) giving other reasonable help relevant to keeping a jury roll.

The sheriff will normally request assistance by forwarding a list of potential jurors to the officer in charge at police stations where district and supreme court sittings are held. (An exception to this is that in the Brisbane Metropolitan area, most requests are sent direct to the Police Information Centre, Legal Division for processing.)

### Duties of officers in charge of stations

Officers in charge of stations who receive a request from the sheriff for assistance under the provisions of s. 12 of the *Jury Act* are to ensure those inquiries are completed and forwarded to the appropriate area(s) within fourteen days of receipt of the request.

Conditions for qualifications to serve as a juror are contained in s. 4: 'Qualification to serve as juror' of the *Jury Act*. Where a potential juror is a person described in s. 4(3)(a) to (j) advice is to be forwarded to the sheriff. If necessary, supporting information is to be attached.

In relation to the provisions of s. 4(3)(k) to (l), all potential jurors are to be checked on QPRIME for a criminal history. A list of all persons having a criminal history that is contained on microfilm is to be compiled and forwarded by email to the Manager, Police Information Centre. Where a person has a criminal history other than in Queensland, the name of that person and a request for a criminal history check outside Queensland is also to be included on the list forwarded to the Police Information Centre. Police Information Centre will return any criminal histories located on microfilm or outside of Queensland to the officer in charge of the relevant station who will then ensure they will be forwarded together with any other histories located through computer checks to the relevant sheriff. See Appendix 5.3: 'Request for criminal history check of potential jurors pursuant to *Jury Act*' for suggested format of a request to the Police Information Centre for criminal history contained on microfilm or outside of Queensland of potential jurors.

The following details are required by the Police Information Centre, when receiving a request for a criminal history:

- (i) name and date of birth of the person with a criminal history;
- (ii) person number and microfilm number for a Queensland criminal history; and
- (iii) ACC database (previously Crimtrac) reference number and relevant State or territory for an interstate criminal history.

The list is to be returned by or on behalf of the officer in charge of the relevant station to the relevant sheriff with appropriate correspondence indicating the existence of any of the following situations:

- (i) a potential juror is a person described in s. 4(3)(a) to (j) of the *Jury Act*. The applicable subsection is to be indicated on the list and if necessary supporting information attached; or
- (ii) a potential juror is a person described in s. 4(3)(k) to (l) of the *Jury Act* and that a list of all potential jurors with a criminal history and a copy of their criminal history including full details of dates and penalties imposed, are to be forwarded by email.

### Duties of Manager, Police Information Centre

The Manager, Police Information Centre, is to ensure criminal history checks for histories held on microfilm or for outside of Queensland which are requested on behalf of a sheriff are completed and forwarded to the officer in charge of the relevant station requesting same within seven days of receipt of the email from or on behalf of an officer in charge of a station.

Criminal histories, including full details of dates and penalties imposed, are to be forwarded by email directly to the officer in charge of a station requesting same.

The Manager, Police Information Centre, is to ensure any criminal history checks of potential jurors that are requested directly by a sheriff in the Brisbane Metropolitan area are completed, including full details of dates and penalties imposed, and forwarded within fourteen days of receipt of the email directly to the requesting sheriff.

## 5.6.21 Release of information to health practitioner registration boards and Health Ombudsman

### National Health Practitioner Registration Boards

The [Health Practitioner Regulation National Law \(Queensland\)](#) (National Law) establishes a national scheme for the regulation of health practitioners (See [SMD](#)) and students. The [National Law](#) includes registration and accreditation; which are managed by the Australian Health Practitioner Registration Agency (AHPRA) and related health profession National Boards (see [SMCD](#)).

### Health Ombudsman

The Office of the Health Ombudsman (OHO) is Queensland's health service complaints management agency which receives all complaints in relation to health service providers in Queensland (see [SMCD](#)). The provider can be an organisation or individual, registered or otherwise.

### Voluntary notifications (complaints)

Voluntary notifications can be made by any entity, including individual persons, to the OHO. The grounds for voluntary notification to the Health Ombudsman about a:

- (i) registered health practitioner includes:
  - (a) poor professional conduct;

- (b) sub-standard knowledge, skill or judgment, or care;
  - (c) not being considered a fit and proper person to be registered in the profession;
  - (d) having an impairment;
  - (e) contravening the [National Law](#);
  - (f) contravening a condition of their registration or an undertaking they gave to a National Board; or
  - (g) improperly obtaining registration; or
- (ii) health student includes:
- (a) being charged, convicted, or found guilty of an offence punishable by 12 months imprisonment;
  - (b) having an impairment; or
  - (c) contravening a condition of their registration or an undertaking they gave to a National Board.

(See s. 144: 'Grounds for voluntary notification' of the National Law)

Members receiving a complaint in relation to the conduct of a health service provider should advise the informant or victim of the existence of the OHO to deal with the complaint (see SMCD).

### Discretionary release of information

Members may receive or investigate a complaint relating to the conduct or behaviour of a health service provider. In addition to any police investigation, the circumstances of the complaint or report may provide grounds for a voluntary notification to the OHO, if:

- (i) due to the health service provider's conduct, performance or health, the provider poses a serious risk to persons; and
- (ii) it is necessary to take immediate action to protect public health or safety;

the member may consider it appropriate to disclose details of the complaint or investigation to the OHO. The member must ensure the release of any information is not contrary to other statutory prohibitions (e.g. Chapter 2A, Part 6: 'Confidentiality' of the *Child Protection Act*).

Members who consider it appropriate to disclose information to the OHO should submit a report to their officer in charge of the region or command outlining the details of the complainant, including any investigation and charges against the health service provider and what information the member considers appropriate for release.

The OIC of the region or command has been delegated the authority to authorise in writing the disclosure of information in possession of the Service pursuant to s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act*. See Delegation D 15.46.

In considering disclosure of the information, the OIC of the region or command should, in consultation with the Right to Information and Subpoena Unit (RTISU), Right to Information and Privacy Services, consider:

- (i) the use to which the information will be put following release;
- (ii) the confidentiality or privacy of all persons involved;
- (iii) the impact of other statutes on the potential release, for example, statutory prohibitions;
- (iv) ability for conditions to be placed on the use of the material to protect the Service and its investigations;
- (v) the status of any investigation or inquiries being conducted;
- (vi) the seriousness of the impact of release upon the medical practitioner involved;
- (vii) the degree to which the release may prejudice or otherwise affect inquiries by the Service;
- (viii) the attitude of the complainant or informant with respect to release; and
- (ix) any other exceptional circumstances that would warrant release to a body who otherwise may have the power to require it.

Any authority for release of information to the OHO related to a registered health practitioner should include an authority to release to the AHPRA, to allow referral of matters without requiring further approval. See SMCD for contact details of the OHO. See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' and s. 5.6.15: 'Requests for information from other law enforcement agencies' in this chapter.

### Mandatory release of information

It may be necessary at times for the OHO, a National Board or AHPRA to require from the Service certain information relating to a health service provider for use in an investigation, disciplinary action or proceedings.

For the purposes of an investigation under a relevant Act, an investigation committee, inspector or investigator appointed under the relevant Act may give a written notice requiring the giving of stated information or the attendance before the

committee, inspector or investigator to answer questions or to produce a stated thing. All statutory requests for production of documents must be addressed to the Commissioner of the Queensland Police Service and are managed by the Legal Liaison Team, RTISU.

Whenever members are given such notices, they are to forward a copy of the notice together with a report to the officer in charge of the region or command for a decision to be made as to the information to be provided, questions to be answered or thing to be produced. The report is to outline details of the subject matter relating to the notice and where appropriate include details of any circumstances whereby compliance with the written notice may:

- (i) prejudice or otherwise hinder an investigation to which the information may be relevant;
- (ii) affect the safety or wellbeing of a police officer, complainant or other person; or
- (iii) be contrary to statutory prohibitions (e.g. be considered sensitive evidence under s. 590AF: 'Meaning of 'Sensitive Evidence' of the Criminal Code).

The [National Law](#) and [Health Ombudsman Act](#) create offences for failure to comply with a requirement of a written notice without reasonable excuse. The reasons outlined above as well as other reasons prevailing in particular cases may well amount to a 'reasonable excuse'.

Inquiries regarding health practitioner registration boards or the provisions of the relevant Acts may be made to the OHO or AHPRA (see SMCD).

### **Health Ombudsman Liaison Officer, Information Management Services**

The Health Ombudsman Liaison Officer (HOLO), Police Information Centre, Information Management Services acts as a liaison between the Service and OHO. The position is funded by OHO and reports directly to the Manager, PIC. The primary function of the HOLO is to facilitate information sharing between the Service and OHO in respect to matters involving criminal charges against registered and unregistered health practitioners. The HOLO can be contacted for advice regarding referral of matters to the OHO (see also s. 7.1.4: 'Requesting information from Queensland Health' of this Manual).

### **5.6.22 Release of information to the Public Guardian**

See s. 6.3.12: 'Public Guardian' of the Operational Procedures Manual for an overview of the Public Guardian's establishment, functions, and powers under the *Guardianship and Administration Act* (GAAA) and the *Public Guardian Act* (PGA).

#### **Mandatory release of information**

There are a number of statutory provisions which provide an avenue for the Public Guardian to require certain information from persons who have custody or control of the information.

Section 210A: 'Right to information' of the GAAA provides the Public Guardian has a right to all information necessary to investigate a complaint or allegation or to carry out an audit and may by written notice given to a person who has custody or control of the information, require the person to:

- (i) give the information to the Public Guardian; and
- (ii) if the information is contained in a document, allow the Public Guardian to inspect the document and take a copy of it.

Section 44: 'Right of guardian or administrator to information' of the GAAA provides a guardian or administrator who has power for a matter for an adult has a right to all the information the adult would have been entitled to if the adult had capacity and which is necessary to make an informed exercise of the power. At the guardian's or administrator's request, a person who has custody or control of the information must give the information to the guardian or administrator, unless the person has a reasonable excuse.

Section 81: 'Right of attorney to information' of the *Powers of Attorney Act* (POAA) provides an attorney has a right to all information that the principal would have been entitled to if the principal had capacity and that is necessary to make, for the principal, informed decisions about anything the attorney is authorised to do. At the attorney's request, a person who has custody or control of the information must disclose the information to the attorney on request.

All statutory requests for production of documents held in possession of the Service must be addressed to the Commissioner.

Upon receiving a notice or request under ss. 210A or 44 of the GAAA, or s. 81 of the POAA, members are to forward a copy of the notice or request (if applicable) together with a report to the officer in charge of the region or command for a decision to be made as to the information to be provided, questions to be answered or thing to be produced. The report is to outline details of the subject matter relating to the notice or request and where appropriate include details of any circumstances whereby compliance with the written notice or release of the information may:

- (i) prejudice or otherwise hinder an investigation to which the information may be relevant;
- (ii) affect the safety and wellbeing of a person with impaired capacity or other person;



(iii) in the case of notices under s. 210A or requests under s. 44, tend to incriminate the member (see ss. 210A(4) and 44(5) of the GAAA).

Failure to comply with a notice under s. 210A of the GAAA is an offence unless the person has a reasonable excuse. A person must also comply with a request under the provisions of s. 44 of the GAAA unless the person has a reasonable excuse. The reasons outlined above as well as other reasons prevailing in particular cases may well amount to a 'reasonable excuse'.

Where the release of information is approved, members are to ensure such release complies with the relevant provisions of the GAAA.

### Discretionary release of information

In the performance of duties members of the Service may receive or investigate a complaint or report of a suspected offence where the victim is an adult with impaired capacity. The matter may provide cause for the Public Guardian to investigate whether the adult with impaired capacity:

- (i) is being or has been neglected, exploited or abused; or
- (ii) has appropriate or inadequate decision-making arrangements;

with a view to taking necessary protective action under the GAAA or PGA.

The member may consider it appropriate to disclose details of the complaint or investigation to the Public Guardian for the protection of the person with impaired capacity. The member must ensure the release of any information is not contrary to other statutory prohibitions (e.g. sensitive evidence under s. 590AF: 'Meaning of sensitive evidence' of the Criminal Code).

Members who consider it appropriate to disclose information to the Public Guardian should submit a report to the member's officer in charge of the region or command outlining the following:

- (i) the name and date of birth of the person with impaired capacity;
- (ii) the address and phone number of the person with impaired capacity;
- (iii) cause of impaired capacity/diagnosis;
- (iv) brief details of the complaint or allegation including date, place and time of events;
- (v) details of charges preferred against any person;
- (vi) name and contact details of the medical practitioner or other health professionals treating the person with impaired capacity;
- (vii) name and contact details of any relevant service providers;
- (viii) contact details of any relatives or friends of the person with impaired capacity where consent to disclose such details is given;
- (ix) brief description of how decisions are being made for the person with impaired capacity (e.g. guardian, attorney or informally);
- (x) if available, financial details of the person with impaired capacity (e.g. bank details, pension details, assets, debts);
- (xi) name of person making the complaint (if different from person with impaired capacity); and
- (xii) any other information the member considers appropriate for release.

Assistant commissioners have been delegated the authority to authorise in writing the disclosure of information in possession of the Service pursuant to s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act*, see Delegation D 15.46.

In considering disclosure of the information, the officer in charge of the region or command should consider:

- (i) the use to which the information will be put following release;
- (ii) the confidentiality or privacy of all persons involved;
- (iii) the impact of other statutes on the potential release, for example, statutory prohibitions;
- (iv) ability for conditions to be placed on the use of the material to protect the Service and its investigations;
- (v) the status of any investigation or inquiries being conducted;
- (vi) the seriousness of the impact of release upon all parties involved;
- (vii) the degree to which the release may prejudice or otherwise affect inquiries by the Service;
- (viii) the attitude of the victim or informant with respect to release; and

(ix) any other exceptional circumstances that would warrant release to a body that otherwise may have the power to require it.

Inquiries regarding the Public Guardian's powers or provisions of the GAAA may be made to the Office of Public Guardian (see Service Manuals Contact Directory).

### 5.6.23 Release of information to the Family Responsibilities Commissioner

#### Definitions

For the purposes of this section:

##### Case plan

See s. 76: 'Meaning of case plan' of the *Family Responsibilities Commission Act* (FRCA).

##### Compulsory case plan

See s. 78: 'Preparation and endorsement of particular case plans' of the FRCA.

##### Family responsibilities agreement

See s. 68(1): 'Decision to enter into agreement' of the FRCA.

##### Family responsibilities order

See s. 6: 'Definitions' of the FRCA.

##### Prescribed entity

See s. 90: 'Definitions for pt 8' of the FRCA. This definition includes the police commissioner.

##### Relevant information

See s. 91: 'What is relevant information' of the FRCA.

##### Welfare reform community area

means the following areas:

- (i) Aurukun area;
- (ii) Coen area;
- (iii) Hope Vale area;
- (iv) Mossman Gorge area; and
- (v) any other area prescribed under a regulation.

See s. 6: 'Definitions' of the FRCA for further details on how individual areas are defined.

#### Family Responsibilities Commission

The FRCA establishes the Family Responsibilities Commission (the '**Commission**') which is supported by the Family Responsibilities Commission Registry (the '**Registry**'). The aim of the FRCA is to make decisions about and give guidance to persons in welfare reform community areas to support the restoration of socially responsible behaviour and to help these persons resume primary responsibility for their own wellbeing and that of their families.

The Commission consists of the Commissioner, deputy commissioner and local commissioners as appointed. Local commissioners are appointed for, and have jurisdiction only in, a particular welfare reform community area. The Commission may hold conferences and make decisions under the FRCA including making, amending or ending a compulsory case plan, a family responsibilities agreement or family responsibilities order.

The Commission is advised by agency notices in relation to persons in welfare reform community areas about matters such as non-attendance at school, non-enrolment at school, child safety and welfare matters, convictions for offences and residential tenancy agreement matters. These notices may result in a conference between the person and the Commission being held where the relevant matters are discussed and either an agreement is reached about appropriate action to be taken or the Commission makes a decision on action to be taken. Subsequent agency notices may result in changes to or the ending of any agreements or orders made in relation to persons by the Commission.

#### Service of documents

At various stages in the process, service of different documents under the FRCA is required to be made by staff of the Registry on behalf of the Commission. Some of the documents are required to be explained in detail to the recipients under the FRCA.

Police officers are not authorised under the FRCA to serve documents on persons on behalf of the Commission. All documents are to be served by staff of the Registry. Registry staff may request police assistance when serving documents under the FRCA, e.g. in relation to a recipient who may have threatened harm to a Registry staff member on a previous occasion. When requested by Registry staff to assist in the serving of documents, in accordance with

s. 14.24: 'Priority codes' of the Operational Procedures Manual, police are to attend. Officers attending to assist the Registrar in the service of documents under this Act should refrain from intervening except to prevent riots, breaches of the peace or breaches of the law (see ss. 50, 51 and 52 of the *Police Powers and Responsibilities Act*). See also s. 13.4.9: 'Breaches of the peace' of the Operational Procedures Manual.

Part 13: 'Particular offences and legal proceedings', Division 1, ss. 125 to 134 of the FRCA outlines a number of offence provisions. Section 127: 'Retaliation against official or official's family' creates an offence for a person to cause or threaten to cause, any injury or detriment to an official or their family in retaliation of anything lawfully done under the FRCA. Officers may consider taking action under this section where persons threaten or cause harm to Registry staff whilst serving documents under the FRCA. See also s. 3.4: 'General prosecution policy' of the Operational Procedures Manual.

### Supply relevant information

Section 93: 'Information requirement made by commissioner' of the FRCA outlines that the Commissioner, Family Responsibilities Commission may ask the Police Commissioner, for particular relevant information in possession or control of the Police Commissioner. Information in possession or control of the Police Commissioner does not include information supplied by another entity. The Police Commissioner has delegated this power to stated particular positions, see Delegation D 115.1.

Relevant information is defined in s. 91: 'What is relevant information' of the FRCA, and may include (and is not limited to) information:

- (i) that is fact or opinion;
- (ii) relating to domestic violence matters;
- (iii) contained in QPRIME Occurrences;
- (iv) contained in patrol logs; and
- (v) relating to investigations.

When asked by the Commissioner, Family Responsibilities Commission for particular relevant information, in compliance with s. 93(3) of the FRCA, the particular relevant information is to be supplied unless it is reasonably considered that:

- (i) giving the information could reasonably be expected:
  - (a) to prejudice the investigation of a contravention or possible contravention of a law in a particular case;
  - (b) to prejudice an investigation under the *Coroners Act*;
  - (c) to enable the existence of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained;
  - (d) to identify a confidential source of information in relation to the enforcement or administration of a law;
  - (e) to identify a person who has given the entity or someone else information about a matter mentioned in s. 186(1): 'Confidentiality of notifiers of harm or risk of harm' of the *Child Protection Act*;
  - (f) to endanger a person's life or physical safety; or
  - (g) to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and
- (ii) it would not be in the public interest to give the information.

If the Commissioner, Family Responsibilities Commission asks the Police Commissioner for particular relevant information in the possession or control of the Service, officers delegated under Delegation D 115.1 are to comply with the request and supply the information directly, unless it is reasonably considered that the provisions of s. 93(3) or 93(4) of the FRCA apply. Particular relevant information supplied is to have any information that may come within the provisions of ss. 93(3) or 93(4) deleted/removed prior to its being supplied.

Members who receive a written request for particular relevant information from the Commissioner, Family Responsibilities Commission under s. 93 of the FRCA are to refer the request to a delegated officer under Delegation D 115.1.

Should the Manager, Police Information Centre or the relevant officers in charge as set out in Delegation D 115.1 determine the particular relevant information sought should not be released, the manager/officer is to forward the appropriate advice to the Commissioner, Family Responsibilities Commission, through the chain of command.

Officers supplying the Commissioner, Family Responsibilities Commission with particular relevant information, are to ensure compliance with the Queensland Police Service Standard of Professional Practice on the Service Intranet.

Officers are to be mindful that any particular relevant information supplied to the Commission whether it be provided in writing or otherwise, may be subject to an application under the *Right to Information Act* and the *Information Privacy Act*. See also s. 5.7: 'Right to information and privacy' of this Manual.

Section 95: 'Giving of information protected' of the FRCA provides for protection from civil or criminal liability or liability under an administrative process, for a person who gives information in compliance with this Act, if acting honestly under this Act.

### 5.6.24 Release of information in district based crime bulletin

The focus of a district based crime bulletin is to enhance public knowledge of crime in their area while promoting active participation in crime prevention, reduction and resolution. A district based crime bulletin should be distributed at least once a month and may replace or be used in addition to Neighbourhood Watch newsletters.

The creation and electronic distribution of the district based crime bulletin to the community is managed by district crime prevention officers.

The district based crime bulletin should focus on improving community safety and crime prevention while promoting volunteer programs such as Neighbourhood Watch, Volunteers in Policing and Crime Stoppers.

The purpose of the district based crime bulletin is to:

- (i) facilitate public involvement through enhanced access to crime-related information;
- (ii) provide information targeting specific crimes and hot spot areas;
- (iii) provide crime prevention strategies to develop personal safety and property security strategies;
- (iv) promote active participation in crime prevention, solution and reduction; and
- (v) provide current information in a timely and cost effective manner.

Section 5.6: 'Release of Information' of this chapter should be complied with when creating and distributing each edition of the district based crime bulletin.

An approved template, user guide and general information is available on the Neighbourhood Watch Intranet site.

Local instructions for the creation and distribution of the district based crime bulletin should be developed by each district.

A district based crime bulletin should be created and distributed to the community once a month or more frequently by each district crime prevention office.

Relevant articles may be sourced and developed through maintaining effective external and internal networks which include, but are not limited to:

- (i) Neighbourhood Watch members;
- (ii) operational police officers;
- (iii) Crime Stoppers;
- (iv) State intelligence officers; and
- (v) local business owners.

Distribution of the district based crime bulletin should include Neighbourhood Watch area coordinators, media organisations, councils and local businesses and other key district stakeholders such as tertiary institutions, licensed premises, health services, tourism agencies and other relevant organisations.

In addition to any restrictions imposed by s. 5.6 of this chapter, the use of identifiable photographs is not permitted in the district based crime bulletin if:

- (i) the photograph knowingly depicts a youth suspect or it's reasonably believed it may be a youth suspect;
- (ii) the identity of the suspect is known to police;
- (iii) the offence is a simple or regulatory offence;
- (iv) the complaint has been solved or withdrawn; or
- (v) it's believed on reasonable grounds that photograph's use is:
  - (a) likely to interfere with the proper discharge of law enforcement duties;
  - (b) likely to interfere with the fair administration of justice; or
  - (c) likely to cause unnecessary interference with that person's privacy.

### 5.6.25 Release of information under the Victims of Crime Assistance Act

One of the purposes of the *Victims of Crime Assistance Act* (VOCAA) is to operate a scheme to provide financial assistance to victims of acts of violence.

This section is to be read in conjunction with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter and s. 2.12.1: 'Victims of Crime Assistance Act' of the Operational Procedures Manual (OPM).

### **Request for information under the Victims of Crime Assistance Act**

All applications for assistance submitted by victims are considered and decided by a government assessor at Victim Assist Queensland, which is a part of the Department of Justice and Attorney-General (see also s. 2.12.3: 'Victim Assist Queensland' of the OPM). The Service has a Victim of Crime Liaison Officer seconded to the Department of Justice and Attorney-General, whose duties include facilitation of the exchange of information between the organisations in relation to the VOCAA.

In accordance with ss. 65: 'Obtaining information about act of violence from police commissioner' and 66: 'Obtaining copies of witness statements, or information about particular conduct, in relation to act of violence' of the VOCAA, the government assessor can require the Commissioner to provide information and copies of the victim's and any witnesses statements to assist with determining an application for assistance made by the victim of crime.

Pursuant to s. 65(1) of the VOCAA, the Commissioner must give the government assessor information about the act of violence, including:

- (i) the circumstances of the act of violence;
- (ii) the progress of investigations being conducted about the act of violence;
- (iii) the charges (if any) laid for the act of violence and details of the place and date of hearing of the proceeding for the charge;
- (iv) if a charge is not laid or not continued with – the reasons for not laying or continuing with a charge; and
- (v) the outcome of a proceeding for the charge, including any sentence imposed and the outcome of any appeal.

The Commissioner must also provide:

- (i) a copy of any statement about the act of violence made by the primary victim of the act; and
- (ii) further details about any information mentioned above in (i)-(v), including any changes to the information previously provided.

Pursuant to s. 65(4) of the VOCAA, the Commissioner must not give information about an investigation relating to the act of violence if the Commissioner is reasonably satisfied giving the information may:

- (i) prejudice or otherwise hinder an investigation to which the information may be relevant;
- (ii) lead to the identification of an informant or a person who is a notifier under s. 186: 'Confidentiality of notifiers of harm or risk of harm' of the *Child Protection Act*; or
- (iii) affect the safety of a police officer, complainant or other person.

Section 66: 'Obtaining copies of witness statements, or information about particular conduct, in relation to act of violence' of the VOCAA requires investigating officers to provide:

- (i) copies of witnesses' statements in relation to the act of violence; and
- (ii) documents and information the officer considers may be relevant to deciding whether:
  - (a) the applicant for the assistance committed the act of violence or conspired with the person who committed the act of violence;
  - (b) the only or main reason the act of violence was committed against the primary victim was the primary victim's involvement in a criminal activity; or
  - (c) the applicant has provided reasonable assistance during the investigation of the act, in the arrest or prosecution of the person who allegedly committed the act of violence; and
  - (d) whether the failure to provide information has prevented the arrest or prosecution of the person who allegedly committed the act of violence.

### **Duties of victims of crime liaison officer in relation to supplying copies of statements and information or documents about particular conduct**

Where the Victim of Crime Liaison Officer receives a request from the government assessor to provide information in relation to a compensation application, the Victim of Crime Liaison Officer is to:

- (i) locate the relevant QPRIME occurrence relating to the application;
- (ii) provide details to a/the government assessor of the:
  - (a) circumstances of the act of violence; and

(b) charges (if any) laid for the act of violence and details of the place and date of hearing of the proceeding for the charge;

(iii) identify the investigating officer and send a QPRIME task to the officer, or if the officer cannot be readily identified, to the officer in charge of the relevant police station or establishment requesting:

(a) a copy of the victim's statement (see s. 65(1)(b) of the VOCAA);

(b) a copy of any witnesses' statements (see s. 66(2)(a) of the VOCAA); and

(c) any other documents or information the officer considers may be relevant to identify particular conduct of the victim (see s. 66(2)(b) of the VOCAA), which may affect whether the application should be supported.

The QPRIME task sent should be sufficiently detailed to guide investigating officers by stating what information is required and how it is to be sent.

### **Duties of investigating officers in relation to supplying a copy of the victim's statement**

When requested to supply a copy of a victim's statement, investigating officers should:

(i) comply with the instructions provided in the QPRIME task;

(ii) where any of the matters in s. 65(4) of the VOCAA:

(a) do not apply, obtain a copy of the statement;

(b) apply to the victim's statement, obtain a copy of the victim's statement and remove or render unreadable any particulars which may not be provided; or

(c) apply to the victim's statement and it is not appropriate for those details to be removed or rendered unreadable (preventing the forwarding of a copy of the victim's statement to the government assessor), and

(iii) complete a QP 0846: 'Request by government assessor for a statement by the primary victim of an act of violence vide s. 65(1)(b) of the Victims of Crime Assistance Act 2009' and select the relevant check box);

(iv) where the victim's statement does not exist at the time of receiving the request, complete the QP 0846 as appropriate;

(v) forward the completed QP 0846 and any statements to the officer in charge of the station or establishment; and

(vi) finalise the relevant QPRIME task and note that the required victim's statement has or has not been provided.

### **Duties of investigating officers in relation to supplying a copy of witness statements**

ORDER

When requested by the government assessor for a copy of witness statements, investigating officers are, unless the investigating officer believes the particulars identifying the witness are relevant to deciding the application, to remove or render unreadable any particulars identifying the witness prior to the supply of the statements to the government assessor.

When requested to supply a copy of witness statements, investigating officers should:

(i) comply with the instructions provided in the QPRIME task;

(ii) where any of the matters in s. 66(6) of the VOCAA:

(a) do not apply, obtain a copy of the statement ensuring the identification particulars of the witnesses are removed (unless provision of the witness identity is relevant to deciding the application);

(b) apply to the witness statements, obtain a copy of the witness statements (ensuring the identification particulars of the witnesses are removed unless provision of the witness identity is relevant to deciding the application) and remove or render unreadable any other particulars which may not be provided; or

(c) apply to the witness statements and it is not appropriate for those details to be removed or rendered unreadable (preventing the forwarding of a copy of the witness statements to the government assessor); and

(iii) complete a QP 0847: 'Request by government assessor for a statement(s) made by witness(es) to the act of violence vide s. 66(2)(a) of the Victims of Crime Assistance Act 2009' and select the relevant check box);

(iv) where the witness statements do not exist at the time of receiving the request, complete the QP 0847 as appropriate;

(v) forward the completed QP 0847 and any statements to the officer in charge of the station or establishment; and

(vi) finalise the relevant QPRIME task and note that the required witness statements have or have not been provided and if not provided how many are outstanding.

**Duties of investigating officers in relation to supplying a copy of information or documents about particular conduct**

When requested to supply a copy of documents or information in accordance with s. 66(2)(b) of the VOCAA, investigating officers should:

- (i) comply with the instructions provided in the QPRIME task;
- (ii) where any of the matters in s. 66(6) of the VOCAA:
  - (a) do not apply, obtain a copy of the documents or information;
  - (b) apply to the documents or information, obtain a copy of the documents or information and remove or render unreadable any particulars which may not be provided; or
  - (c) apply to the documents or information and it is not appropriate for those details to be removed or rendered unreadable (preventing the forwarding of a copy of the documents or information to the government assessor); and
- (iii) complete a QP 0848: 'Request by government assessor for relevant documents and information vide s. 66(2)(b) of the Victims of Crime Assistance Act 2009' and select the relevant check box);
- (iv) forward the completed QP 0848 and any documents or information to the officer in charge of the station or establishment; and
- (v) finalise the relevant QPRIME task and note that the required information or documents have or have not been provided, and if not provided how many are outstanding.

In relation to documents or information requested under s. 66(2)(b) of the VOCAA, investigating officers should not supply:

- (i) a copy of any criminal history of the primary victim (this will be supplied by Police Information Centre);
- (ii) a copy of any criminal history of any other person such as witnesses, related victim, parent of victim unless the investigating officer believes this information will directly assist the government assessor to determine matters in s. 66(2)(b) of the VOCAA (e.g. conspiracy, insurance fraud etc.); and
- (iii) any information unless it is factual (e.g. opinions of investigating officers or other persons are not to be supplied).

Copies of any official reports supplied should have all particulars relevant to matters in s. 66(6) of the VOCAA and particulars identifying the witnesses removed or rendered unreadable (unless provision of the witness identity is relevant to deciding the application) before supply to the government assessor. In most circumstances, no documents or information other than what is contained in QP 0848 will need to be provided.

**Duties of officers in charge of stations or establishments in relation to supplying statements, information or documents under the Victims of Crime Assistance Act**

When a request is received from a government assessor through the Victim of Crime Liaison Officer for the supply of:

- (i) a copy of the victim's statement (see s. 65(1)(b) of the VOCAA);
- (ii) a copy of any witnesses' statements (see s. 66(2)(a) of the VOCAA); and
- (iii) any other documents or information the officer considers may be relevant to identify particular conduct of the victim (see s. 66(2)(b) of the VOCAA),

officers in charge of stations and establishments are to forward a task through QPRIME (where it has not already been done by the Victim of Crime Liaison Officer) to:

- (i) the relevant investigating officer; or
- (ii) where the investigating officer is unknown or unavailable, a relevant officer.

The officer in charge of the station or establishment should also ensure:

- (i) the investigating officer or nominated officer has:
  - (a) correctly assessed the victim's statement in compliance with s. 65(4) of the VOCAA;
  - (b) removed or rendered unreadable witness identification particulars (unless provision of the witness identity is relevant to deciding the application) and any relevant portions of witness statements, relevant portions of the document or information subject to s. 66(6) of the VOCAA;
  - (c) correctly assessed the documents or information in compliance with ss. 65(4) or 66(6) of the VOCAA;
- (ii) the 'Officer in charge authorisation' of the QP 0846, QP 0847 or QP 0848 (as appropriate) is signed when deemed correct;

- (iii) completed QP 0846, QP 0847 or QP 0848 (as appropriate) along with any statements, document or information which are to be provided are forwarded direct to the government assessor;
- (iv) a completed copy of the QP 0846, QP 0847 or QP 0848 (as appropriate) and a copy of any documents or information supplied are retained and stored at the reporting station; and
- (v) the QPRIME task is finalised and it is noted that the:
  - (a) victim's statement;
  - (b) witnesses statements; and/or
  - (c) required documents or information,

(as appropriate) have or have not been provided and if not provided how many are outstanding.

See also s. 2.12: 'Victims of crime' of the OPM.

### 5.6.26 Release of information to Queensland Civil Administrative Tribunal hearings

The Queensland Civil and Administrative Tribunal (QCAT) has the civil jurisdiction to resolve disputes and make and review decisions about:

- adult administration and guardianship;
- administrative decisions;
- anti-discrimination;
- building disputes;
- children and young people;
- consumer disputes;
- debt disputes;
- minor civil disputes;
- occupational regulation;
- other civil disputes;
- residential tenancy disputes;
- retail shop leases; and
- tree disputes.

It is therefore possible from time to time that police officers may investigate matters which may have some bearing on a hearing before QCAT.

The tribunal may, by written notice, require a police officer to:

- (i) attend at a stated hearing of a proceeding to give evidence; or
- (ii) produce a stated document or other thing to the tribunal.

Members receiving a notice under s. 97: 'Requiring witness to attend or produce document or thing' of the *Queensland Civil and Administrative Tribunal Act* (QCATA) requiring their attendance at a stated hearing or to produce Service documents are to comply with ss. 6.4: 'Subpoena of members as civilian witnesses' or 6.5: 'Subpoena of documents for production before a court' of this Manual.

Matters for which a claim of privilege may be made with respect to a notice under s. 97 of the QCATA include whether compliance with the written notice or released information could:

- (i) prejudice or otherwise hinder an investigation to which the information may be relevant;
- (ii) affect the safety and wellbeing of any person involved in an investigation to which information may be relevant;
- (iii) in the case of a notice under s. 97 of the QCATA, tend to incriminate the member (see s. 214(3): 'Offences by witnesses' of the QCATA); and
- (iv) be contrary to statutory provisions.

Failure to comply with a notice under s. 97 of the QCATA is an offence unless the person has a reasonable excuse. The reasons outlined above as well as any other reason prevailing in particular cases may well amount to a 'reasonable excuse'. However, a member subject of a notice under s. 97 of the QCATA must not fail to attend before the tribunal as required (see s. 214(1) of the QCATA).



### 5.6.27 Requests for information from the Department of Energy and Public Works

The Department of Energy and Public Works aims to balance the needs and rights of other tenants, private owners and the broader community with supporting tenants to sustain their public housing tenancies. The department's policy is to communicate to tenants what is and is not acceptable. Where tenants engage in unacceptable behaviour the department may take action to end their tenancy. Where behaviour is considered to be dangerous or severe, immediate action can be taken to end the tenancy.

The Service recognises the proactive nature of this approach and that effective communication practices between the Service and the Department of Energy and Public Works will improve accuracy in proactively addressing issues.

In accordance with s. 184: 'Tenant's use of premises' of the *Residential Tenancies and Rooming Accommodation Act* (RTRAA), Department of Energy and Public Works tenants must not:

- (i) use the premises for an illegal purpose;
- (ii) cause a nuisance by the use of the premises; or
- (iii) interfere with the reasonable peace, comfort or privacy of a neighbour of the tenant.

The Department of Energy and Public Works investigation of reports of unacceptable behaviour initially involves gathering information and evidence about the complaint, and may approach the Service in this regard.

#### Disclosure of information to the Department of Energy and Public Works

Provisions of this section are not to impede members of the Service from general initial interoperability with the Department of Energy and Public Works relevant to tenancies causing repeat and/or high volume calls for service. The section however, establishes policy and procedure relating to Department of Energy and Public Works requests (including subsequent requests) for Service information.

The Commissioner has delegated the authority to disclose information to the Department of Energy and Public Works to:

- (i) a patrol group inspector; or
- (ii) the officer in charge of a police communications centre.

#### ORDER

Where an officer is involved in authorising the release of information to the Department of Energy and Public Works, including providing authorisation for a subsequent dissemination to an appropriate third party agency or instrumentality, consideration is to be made as to whether the information:

- (i) is for official purposes of the department;
- (ii) is not likely to interfere with the administration of justice;
- (iii) is not likely to unduly interfere with the efficient and effective discharge of law enforcement duties; and
- (iv) is not in contravention of any statute, in particular Schedule 3, 'IPP 11 – Limits on disclosure' of the *Information Privacy Act* (IPA).

In the case of an officer in charge of a police communications centre, this authority is limited to disclosure of CAD related information under the officer's control.

(see Delegation D 15.46).

#### Important considerations for assessment of information release

Significant caution is to be exercised with the release of information to the Department of Energy and Public Works in accordance with subsections (i) to (iv) above. Not all objectionable conduct under the RTRAA constitutes criminal conduct. On the other hand, not all criminal conduct may constitute objectionable conduct. Public housing tenants, as with all tenants, have a right of quiet enjoyment in accordance with s. 183: 'Quiet enjoyment' of the RTRAA and disclosure of information by the Service could impact on the tenant's statutory right of quiet enjoyment. Lessors, whether private or the State, must not interfere with the reasonable peace, comfort or privacy of the tenant in using the premises (see s. 183(2) of the RTRAA).

#### ORDER

When an officer delegated to release information to the Department of Energy and Public Works is assessing the release of information that officer is to consider the impact the disclosure could have as relevant to the tenant's statutory right of quiet enjoyment. If the release is considered to be unreasonable and/or unjustifiable in the circumstances, the information is not to be released.

An officer assessing the release of information in accordance with this section is to ensure appropriate sanitisation has occurred to remove any personal information (see s. 12: 'Meaning of personal information' of the IPA) of person/s not relevant to any potential breach, prior to release.

Significant caution is to be exercised relevant to disclosing information that may infringe other statutory prohibitions. For example, the *Child Protection Act* prohibits the disclosure of information which may identify a child who may have been subject of abuse. Similarly the *Domestic and Family Violence Protection Act* prohibits identifying an aggrieved, respondent or protected person.

Additionally, there may be sound operational reasons for withholding information that may lawfully be disclosed. Consideration is to be provided as to whether the request holds relevance to an ongoing Service investigation and if the release of information is not in the interests of the Service and is likely to interfere with the administration of justice or unduly interfere with the efficient and effective discharge of law enforcement duties.

ORDER

The supply of information to the Department of Energy and Public Works is not to contravene the provisions of this section.

When supplying information, members are to include a caveat (see Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of this chapter) in the information release. This details that unless authorised, such document and/or its content are not to be disseminated to any third party.

Where information requested by the Department of Energy and Public Works is outside the provisions and intent of this section, the provisions of ss. 5.6: 'Release of Information' and 5.6.14: 'Requests for information from other government departments, agencies of instrumentalities' of this chapter apply.

### **Action by officers in charge of stations/establishments**

Where an officer in charge of a station or establishment receives a request for information from a verified representative of the Department of Energy and Public Works and relating to a complaint received by the department, the officer in charge should:

- (i) assess if the information request relates to their division/area of control and, if not, refer the inquirer to the appropriate officer in charge. If the request relates to CAD related information (e.g. calls for service) the inquirer should be referred to the officer in charge of the relevant police communication centre;
- (ii) where a request does relate to the officer in charge receiving it, assess relevant information held on Service databases (e.g. QPRIME, ITAS, CAD etc.);
- (iii) consider the release of the information for compliance with the provisions of subsections titled 'Disclosure of information to the Department of Energy and Public Works' and 'Important considerations for assessment of information release' of this section;
- (iv) draft an appropriate e-mail response to the inquirer sanitising the relevant information as necessary and, in particular, ensuring that no personal information (see s. 12: 'Meaning of personal information' of the IPA) is included of any person/s who is not subject of the complaint;
- (v) forward the draft e-mail to their supervising patrol group inspector requesting authorisation for release of the information to the Department of Energy and Public Works including, if relevant, a request for authorisation for subsequent dissemination to an appropriate third party agency or instrumentality;
- (vi) where authorisation is:
  - (a) not provided, advise the inquirer accordingly; or
  - (b) provided release to the inquirer only the content of the original email, with the inclusion (if relevant) of any modification/s as required by the authorising patrol group inspector;
- (vii) include a caveat (see Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of this chapter) in the information release; and
- (viii) maintain a record of all relevant emails (e.g. appropriately named and saved on a file-server). These records are to be accessible by senior officers within the relevant region/command and retained in accordance with the Records Retention and Disposal Handbook.

### **Action by patrol group inspectors**

In accordance with the provisions of this section, when a patrol group inspector receives a request from an officer in charge of a station/establishment situation within their patrol group to release information to the Department of Energy and Public Works, the inspector should:

- (i) seek full compliance with subsection titled 'Action by officer in charge of stations/establishments' of this section, including, if not already completed, the forwarding of a draft email requesting the authorisation;
- (ii) consider the release of the information in compliance with the provisions of subsections titled 'Disclosure of information to the Department of Energy and Public Works' and 'Important considerations for assessment of information release' of this section; and
- (iii) where authorisation is:

- (a) not provided, forward a return email to the officer in charge advising accordingly; or
- (b) provided, forward a return email to the officer in charge:
  - advising of the authorisation;
  - specifying if authorisation is also provided for subsequent dissemination to an appropriate third party agency or instrumentality; and
  - including (if necessary) any necessary modification/s required to the information, prior to release.

### Action by officers in charge of PCC's

Officers in charge of a police communication centre who receive a request for CAD related information (e.g. calls for service) from a verified representative of the Department of Energy and Public Works should:

- (i) assess if the information request relates to CAD information alone and, if not, refer the inquirer to the appropriate officer in charge of the relevant station/establishment for the non-CAD component;
- (ii) consider the available information and if the release is in compliance with the provisions of subsections titled 'Disclosure of information to the Department of Energy and Public Works' and 'Important considerations for assessment of information release' of this section;
- (iii) where authorisation is:
  - (a) not provided, advise the inquirer accordingly; or
  - (b) provided, ensure that such release is also conducted in accordance with the provisions of subsection titled 'Disclosure of information to the Department of Energy and Public Works' of this section;
- (iv) include a caveat (see Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of this chapter in the information release; and
- (v) maintain a record of all relevant emails (e.g. appropriately named and saved on a file-server). These records are to be accessible by senior officers within the relevant region/command and retained in accordance with the Records Retention and Disposal Handbook.

### 5.6.28 Commercial production of industrial cannabis – taking of fingerprints

Commercial production of industrial cannabis is governed within the *Drugs Misuse Act* and s. 61: 'Investigation about the suitability of applicant or licensee' therein details provisions for licensing production of industrial cannabis.

Where required the Chief Executive for Health will make a request to the Commissioner relevant to an applicant or licensee. This in turn will be allocated to the Manager, Police Information Centre for provision of a written report surrounding the criminal history of an applicant. The Manager, Police Information Centre is to make all relevant and appropriate inquiries.

As required the Manager Police Information Centre may request the applicant attend a police station for the purpose of having his or her fingerprints taken.

Upon the applicant attending a police station, the officer in charge of that station should also ensure payment of the required fee. Members should refer to the Schedule of Fees and Charges contained in the Finance Division webpage on the Service Intranet under 'Fingerprints for other than Police Certificates' to determine the fee for this service and forward the fingerprints/results to the Manager, Police Information Centre.

The Manager, Police Information Centre is to thereafter report to the Chief Executive for Health and ensure all fingerprints taken from the applicant are destroyed.

### 5.6.29 Release of information to the Australian Defence Force

The Australian Defence Force (ADF) consists of the:

- (i) Royal Australian Navy;
- (ii) Australian Army; and
- (iii) Royal Australian Air Force.

### Arrest of a defence member

Watchhouse managers or officers who arrest a known member of the ADF should contact the Joint Military Police Unit for the relevant military establishment (national number 13 11 67) and where available provide the:

- (i) service number;
- (ii) name; and
- (iii) unit,

of the relevant person. The release of further information related to a detention of an ADF member, such as details of charges or the circumstances leading to the arrest is not authorised and may be considered a breach of the person's privacy.

Supply of additional information related to the arrest of an ADF member by the ADF member's commanding officer or an appropriate senior command element in addition to the information authorised above is to be made in writing in accordance with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter. The supply of further information is limited and dependant on the circumstances and may not be compatible with the limits of disclosure of the *Information Privacy Act (IPA)* (see Schedule 3: 'Information privacy principles' IPP 11 – Limits on disclosure of the IPA).

Members who are also members of the ADF are reminded that they are not permitted to disclose information without proper authority. This includes where the member is requested to do so by the member's ADF Commanding Officer or Senior officer. The release of such information may constitute an offence under s. 10.2: 'Authorisation of disclosure' of the PSAA or grounds for disciplinary action.

### Supply of information to the Joint Military Police Unit

The Joint Military Police Unit (JMPU) is the law enforcement agency of the ADF.

Request for information from a member of the JMPU can be supplied by the OIC of a station or establishment where the request relates to but is not limited to:

- (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
- (ii) the protection of public revenue;
- (iii) the prevention, detection, investigation or remedying of seriously improper conduct; or
- (iv) for court or tribunal purposes.

#### ORDER

All requests for information by a member of the JMPU are to be managed in accordance with s. 5.6.15: 'Requests for information from other law enforcement agencies' of this chapter.

### Members in ADF proceedings

The ADF may request or require that a member appear in proceedings brought by the ADF. This may include a member appearing as a witness or subject officer in disciplinary proceedings. Where a member, whether also a member of the ADF or otherwise, is requested to appear as a witness in ADF proceedings and the information proposed to be given relates to the member's role as a QPS officer, the request should be dealt with in accordance with s. 6.4: 'Subpoena of members as civilian witnesses' of this Manual. Where a member is required to appear before ADF proceedings as a subject officer, the member is not authorised to use or disclose Service information or documents without the authorisation of the assistant commissioner or executive director of the region or command.

### 5.6.30 Release of information to the Queensland Human Rights Commission

See s. 13.26: 'Racial, religious, sexuality and gender identity vilification (Anti-Discrimination Act)' of the Operational Procedures Manual for an overview of the Queensland Human Rights Commission (QHRC) establishment, functions, and powers under the *Anti-Discrimination Act (ADA)*. Part 4 of the *Human Rights Act (HRA)* also outlines powers and functions of the QHRC.

#### Mandatory release of information

Section 156: 'Commissioner may obtain information and documents' of the ADA provides the QHRC Commissioner may direct a person to provide information or documents. The QHRC Commissioner is further authorised to copy and retain documents. A direction issued by the QHRC Commissioner may be enforceable as if it were an order of the court.

Section 78: 'Commissioner may ask or direct relevant entity to give information' of the HRA also provides that the QHRC Commissioner may ask or direct an entity to provide information (including documents) about a complaint. A direction issued under this section may be enforceable as if it were an order of the court.

All statutory requests for production of documents held in possession of the Service must be addressed to the Commissioner.

Upon receiving a written direction under either section, members are to forward a copy of the written direction together with a report to the officer in charge of the region or command for a decision to be made as to the information to be provided, questions to be answered or thing to be produced. The report is to outline details of the subject matter relating to the notice or request and where appropriate include details of any circumstances whereby compliance with the written notice or release of the information may:

- (i) prejudice or otherwise hinder an investigation to which the information may be relevant;
- (ii) affect the safety and wellbeing of a person with impaired capacity or other person; or

(iii) be subject to a claim of legal professional privilege.

Assistant commissioners have been delegated the authority to authorise in writing the disclosure of information in possession of the Service pursuant to s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act*, see Delegation D 15.46.

In considering disclosure of the information, the officer in charge of the region or command should consider:

- (i) the use to which the information will be put following release;
- (ii) the confidentiality or privacy of all persons involved;
- (iii) the impact of other statutes on the potential release, for example, statutory prohibitions;
- (iv) ability for conditions to be placed on the use of the material to protect the Service and its investigations;
- (v) the status of any investigation or inquiries being conducted;
- (vi) the seriousness of the impact of release upon all parties involved;
- (vii) the degree to which the release may prejudice or otherwise affect inquiries by the Service;
- (viii) the attitude of the victim or informant with respect to release; and
- (ix) any other exceptional circumstances that would warrant release to a body that otherwise may have the power to require it.

### 5.6.31 Requests for information from the Department of Education

The Monitoring and Compliance Unit, Early Childhood and Community Engagement, Department of Education is the regulatory authority in Queensland responsible for administering national and state laws that regulate early childhood education and care services.

Members may receive information requests from the Department of Education, for example, where a matter has occurred at a school or day care facility.

When accessing information about a police investigation into the death or serious injury of a child in early education and care, the Department of Education will communicate directly with relevant QPS officers via the Child Trauma and Sexual Crime Unit, Child Abuse and Sexual Crime Group, Crime and Intelligence Command and determine the process to be followed.

The response will depend on if the matter is a death or serious injury, regardless of the outcome of any criminal investigation.

If the matter involves a reportable death, as defined by the *Coroners Act*, then any request for information is to be referred to the Office of the State Coroner, with a copy of the requested document or material. In some instances, it may be unknown what information is required. It is the Coroner's decision as to how much information is to be shared and for what purpose, taking into consideration the regulatory role of the Department of Education. Any decision to release information is to include a provision that the information sharing will be ongoing throughout an investigation or proceeding.

If the information requested involves the serious injury of a child in early childhood education or care, members are to follow the procedures outlined in s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this chapter. In these instances, release of the information is to be under s. 10.2 of the *Police Service Administration Act*, which contains sufficient safeguards to ensure the appropriate release.

Members are to remember that information held by the QPS may be relevant to the person's child-related employment, including the nature of charges yet to be finalised. For any request under s. 10.2, consideration is to be given to proactive and ongoing sharing of information throughout the investigation or proceeding.

Such requests are to be dealt with in a timely manner.

## 5.7 Right to information and privacy

The Service is bound by the provisions of the *Right to Information Act* (RTIA) and the *Information Privacy Act* (IPA). Applications for access to documents containing the personal information of the applicant are dealt with under the IPA. Applications for access to documents containing personal information of another person or non-personal information are dealt with under the RTIA.

Section 12: 'Meaning of personal information' of the IPA provides a definition of personal information.

The RTIA does not apply to activities or records under Chapter 13: 'Surveillance device warrants' of the PPRA (see also Schedule 1: 'Document to which this Act does not apply' of the RTIA).

The Right to Information and Subpoena Unit (RTISU), Right to Information and Privacy Services is responsible for the determination of all requests for documents made under the RTIA and IPA. Any request for information in relation to a

coronial matter should be referred to the Office of the State Coroner together with a copy of the requested document or material unless such documentation or material has already been supplied to that office (see SMCD and s. 54: 'Access to investigation documents for other purposes' of the *Coroners Act*).

The term '**document**' is defined by the *Acts Interpretation Act* and can include:

- (i) all files and reports, court briefs (QP9), traffic offence notices;
- (ii) certificates;
- (iii) working papers, jottings, diaries, 'post it' notes and note books;
- (iv) computer printouts;
- (v) maps;
- (vi) films and photographs; and
- (vii) any audio and/or video recording made on any device whilst performing any rostered or non-rostered function of the Service.

As the RTIA and IPA support the concept that the community should be kept informed of government operations in its dealings with the community, members should provide necessary assistance to individuals requesting access to Service documents. Fees and charges are to be in accordance with those specified in the RTIA and Regulation, and the Service Publication Scheme.

A distinction exists between the manner in which Service policy documents are accessed under Chapter 2: 'Disclosure other than by application under this Act' of the RTIA and requests for access to documents under Chapter 3: 'Disclosure by application under this Act' of the RTIA and Chapter 3: 'Disclosure and amendment by application under this Act' of the IPA. RTISU only deals with those requests that fall under Chapter 3 of the Acts.

In all cases, RTISU will make the final determination regarding personal information.

### **5.7.1 Applications for access to documents (excluding policy documents)**

Members of the community have the right to apply for access to reports or other documents written by members of the Service. When preparing documents members should:

- (i) where practicable ensure that reports contain factual information;
- (ii) not make personal or judgemental comments on forms or reports; and
- (iii) explain and justify conclusions and judgements made relevant to the subject matter of the report.

Section 10.3: 'Protection from liability for reports' of the PSAA provides protection from liability for reports written in good faith and in the execution of duty by a member.

#### **ORDER**

Members are to provide reasonable assistance to persons who wish to make an application under the *Right to Information Act* (RTIA) and *Information Privacy Act* (IPA).

Assistance to be provided includes, but may not be limited to:

- (i) provision of necessary forms;
- (ii) advice as to completion of the forms;
- (iii) advice as to police procedures for dealing with applications under the RTIA and IPA;
- (iv) advice as to fees and charges applicable to requests; and/or
- (v) advice as to internal and external review mechanisms.

Further advice can be provided by the Right to Information and Subpoena Unit (RTISU), Right to Information and Privacy Services regarding internal and external review mechanisms.

#### **ORDER**

A member who initially receives an application is to immediately forward the application to RTISU.

Where facsimile facilities are available, a copy of the application is to be forwarded immediately to RTISU. The original application is to then be forwarded by secure mail or express delivery as soon as possible.

Where facsimile facilities are not available, the original application is to be forwarded at the first available opportunity by the most expedient, secure means available locally.

Time limits imposed by the RTIA and IPA are:

- (i) within 10 business days of receipt of a written request under the RTIA or IPA the Service, through RTISU, must acknowledge in writing the receipt of that application;

(ii) within 25 business days of receipt of a valid application RTISU must advise the applicant the result of the application; and

(iii) within 20 business days of receipt of an application for internal review a fresh determination must be made.

Where the applicant has paid an application fee, members are to:

(i) issue a general purpose receipt and remit monies against Account code 433078 – ‘Right to Information Fees and Charges’; and

(ii) endorse the application with the receipt number and the name of the receiving station or establishment.

Applications which may attract a fee in terms of the RTIA and IPA, but which are not accompanied by the required remittance should not be rejected on that basis by members who receive such a request.

In these cases, the application should be endorsed to the effect that no fee has been received and forwarded to RTISU. All further action will be taken by that unit.

On receipt of applications RTISU will forward:

(i) a tracer file containing a copy of the application;

(ii) a ‘Located Declaration’ form; and

(iii) supporting documentation;

to the appropriate station or establishment so that documents may be located.

### Tracer files

#### ORDER

Members who are detailed a tracer file from RTISU are to conduct a search for the requested documents.

Documents which are located are to be, unless otherwise stipulated, copied in their entirety and must be clear and legible. Original documents are to not be sent unless specifically requested by RTISU.

The ‘Located Declaration’ form is to be completed by the member who actually locates the documents requested.

The ‘Located Declaration’ and copies of documents are to be placed in the tracer file and forwarded to RTISU within the timeframe specified on the tracer file.

If documents cannot be located, do not exist, or have been destroyed, the ‘Located Declaration’ form is to be endorsed accordingly.

Any person, including a child, who wishes to gain access to documents of a department, or agency must:

(i) make application in approved form;

(ii) provide sufficient information to enable the documents sought to be identified;

(iii) state the address to which notices under this RTIA and IPA may be sent; and

(iv) if the application is being made on behalf of the applicant – state the name of the applicant and the name of the applicant’s agent.

Access includes viewing or hearing a document or being provided with copies of the document.

### 5.7.2 Disclosure logs

Section 78: ‘Disclosure logs—departments and Ministers’ of the RTIA provides that where a decision is made to release a document to an applicant and the document does not contain personal information, a copy of the document or details of the document may be included in a disclosure log which is accessible by members of the public in general. The Right to Information and Subpoena Unit, Right to Information and Privacy Services is responsible for updating and maintaining the Service disclosure log located on the QPS Internet.

### 5.7.3 Accessing policy documents

The term ‘**policy document**’ is defined by the *Right to Information Act*.

There is no requirement for members of the public to submit an application under the *Right to Information Act* in order to obtain access to policy documents, nor are there any fees payable for inspection of a policy document. However, fees are payable for the purchase of policy documents and are set out in the Service Publication Scheme.

Many Service Manuals and Commissioners Circulars are publicly available on the QPS Internet.

Officers in charge of regions or commands are responsible for issuing instructions in relation to access to local policy documents.

Local policy documents, as distinct from Service policy documents which originate from a region, district, division, station or establishment are available from the officer in charge of the particular area.

Service policy documents are available from the Officer in Charge, Operational Policy and Improvement, Organisational Capability Command, Brisbane.

See also s. 5.7.5: 'Viewing Service policy documents' of this chapter.

ORDER

Officers in charge of regions or commands are to ensure that a copy of each policy document initiated within their region or command is maintained.

Officers in charge are to refer requests for Service policy documents to Operational Policy and Improvement, Organisational Capability Command.

Officers in charge of regions and commands are to issue instructions in relation to the identification of exempt matter in policy documents within their area of responsibility.

#### 5.7.4 Publication scheme

The *Right to Information Act* requires that agencies publish a Publication Scheme setting out the classes of information that the agency has available, and the terms on which it will make information available, including any charges. The Service has developed a Service Publication Scheme which is available on the QPS Internet website.

OICs of regions and commands, and the Executive Director are responsible for ensuring that:

- (i) suitable documents are identified from their area of responsibility for inclusion in the Service Publication Scheme;
- (ii) identified documents are submitted to the Publication Scheme Coordinator, Right to Information and Subpoena Unit, Right to Information and Privacy Services in accordance with the Service Publication Scheme Guide; and
- (iii) the currency of their submitted document appearing on the Service Publication Scheme is maintained.

There are no fees payable for producing for inspection a policy document or the Service Publication Scheme.

ORDER

Members who receive a request from a member of the public for a copy of the Service Publication Scheme are to:

- (i) refer the member of the public to the QPS Internet website; or
- (ii) advise the member of the public they may view the Service Publication Scheme at any Queensland police station.

#### 5.7.5 Viewing Service policy documents

ORDER

Members of the public are not to view the Operational Procedures Manual, Traffic Manual and this Manual as published on the Service Intranet.

Officers in charge of stations or establishments should consider all requests to view Service policy (including regional, district and station/establishment instructions) in terms of s. 10: 'Law enforcement or public safety information' of Schedule 3: 'Exempt information' of the *Right to Information Act*. This section allows for policy documents to be withheld from public release. See also s. 5.7.3: 'Accessing policy documents' of this chapter.

Public access versions of the Operational Procedures Manual, Traffic Manual and this Manual are published on the QPS Internet website.

#### 5.7.6 Access and amendment to personal information under the Information Privacy Act

The Information Privacy Principles contained in the *Information Privacy Act* (IPA) detail the circumstances under which personal information may be collected, used, stored and disclosed by agencies including the Service (see Chapter 2, Part 1: 'Compliance with IPPs by agencies' of the IPA).

Details regarding the Information Privacy Principles and their impact on the Service can be found on the Right to Information and Subpoena Unit (RTISU) webpage on the Service Intranet.

A member who receives a written request for the supply or amendment of personal information under the IPA is to forward the request to the RTISU, Right to Information and Privacy Services for processing. Because of strict time limitations involved, the request should be forwarded immediately – a copy of the request should be forwarded by way of facsimile and the original of the request forwarded by the most expedient and secure means available (e.g. express post or registered post).

Members receiving inquiries about the supply or amendment of personal information under the IPA should advise the inquirer to fully detail the nature of their request in writing and forward same to RTISU.



## 5.8 Public interest disclosure

The main objects of the *Public Interest Disclosure Act* are to:

- (i) promote the public interest by facilitating public interest disclosures of wrongdoing in the public sector; and
- (ii) ensure public interest disclosures are properly assessed and, when appropriate, properly investigated and dealt with; and
- (iii) ensure appropriate consideration is given to the interests of persons who are the subject of a public interest disclosure; and
- (iv) afford protection from reprisals to persons making public interest disclosures.

### 5.8.1 Principles of public interest disclosure

A public interest disclosure may be made by a public officer, including members of the Service, or, in some cases, by any person (see ss. 12: 'Disclosure by any person', 13: 'Disclosure by a public officer', 21: 'Conduct of unknown person', 22: 'Involuntary disclosure' and 24: 'Past, present or future event' of the *Public Interest Disclosure Act* (PIDA)).

Members should be aware that discharging their mandatory reporting requirements under s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the *Police Service Administration Act* may be considered to be a public interest disclosure.

A person who intentionally provides false or misleading information with the intention of it being acted upon as a public interest disclosure or who provides false or misleading information during the course of inquiries into that purported public interest disclosure, commits an indictable offence (see s. 66: 'False or misleading information' of the PIDA).

#### Appropriate entity to receive a public interest disclosure

A public interest disclosure must be made to a proper authority (see ss. 5: 'Meaning of proper authority' and 17 'How disclosure to be made' of the PIDA) and a public sector entity is a proper authority to which a person may make a disclosure (see ss. 12 or 13 of the PIDA).

For matters relating to the Service, the appropriate public entity includes the Crime and Corruption Commission.

### 5.8.2 Receiving public interest disclosures

A public interest disclosure which is of a nature that may be appropriately made to the Service may be received by any of the following members of the Service:

- (i) the Commissioner;
- (ii) if a member of the Service is making the disclosure – a person who, directly or indirectly, supervises or manages the member; or
- (iii) any officer or staff member who has the task of receiving or taking action on the type of information being disclosed.

#### Disclosures concerning the conduct of the Service and its members

##### ORDER

Members of the Service making or receiving public interest disclosures relating to the Service or a member of the Service are to comply with the procedures provided in the 2013/05 Procedural Guidelines for Professional Conduct.

Members of the Service who make or receive public interest disclosures, relating to the activities of the Service or its members, which do not contain information which suggests:

- (i) corrupt conduct;
- (ii) misconduct; or
- (iii) breach of discipline,

should furnish a report outlining the substance of the disclosure and the contact details of the discloser, if known, directly through their chain of command to the Assistant Commissioner, Ethical Standards Command.

#### Disclosure constituting an offence (other than an offence by a member of the Service)

Officers who receive a public interest disclosure which, on the face of it constitutes an offence, other than an offence alleged to have been committed by a member of the Service, which the Service may investigate should take appropriate investigative action and create a QPRIME occurrence.

Officers who investigate such disclosures should, at the conclusion of any investigation, submit a brief report through the usual channels to the Assistant Commissioner, Ethical Standards Command, detailing:

- (i) the relevant QPRIME occurrence number;

- (ii) the section within the *Public Interest Disclosure Act* (PIDA) which defines the information within the complaint as a public interest disclosure; and
- (iii) whether the substance of the disclosure has been substantially verified.

Officers receiving allegations which indicate official misconduct or misconduct on the part of a public officer, other than a member of the Service, should advise the person making the allegations that they may also notify the Complaints Section, Corruption – Integrity Services, Crime and Corruption Commission.

### **Disclosures relating to conduct or responsibilities of other public sector entities**

Members of the Service who receive public interest disclosures which appear to relate to the conduct of another public sector entity or to an offence which is not within the power of the Service to investigate, should:

- (i) record details of the disclosure in their official police notebook or if the member is not in possession of an official police notebook, an official police diary or a suitable recording device; and
- (ii) submit a report of the disclosure through the usual channels to the Assistant Commissioner, Ethical Standards Command for consideration and referral to the chief executive of the public sector entity to which the information relates or which may investigate the disclosure.

Public interest disclosures should not be referred to another public sector entity if the referral would create an unacceptable risk of reprisal against the person making the disclosure, or any other person.

In assessing whether an unacceptable risk of reprisal to the discloser, or any other person, would be created, members are to, wherever possible, consult the person who made the public interest disclosure.

Where a member is to report to the Assistant Commissioner, Ethical Standards Command regarding disclosures relating to other public sector entities, the report should contain the following information:

- (i) brief particulars of the disclosure, including the name of the discloser if known;
- (ii) the section within the PIDA which defines the information within the complaint as a public interest disclosure;
- (iii) the name of the public sector entity to which the disclosure should be referred; and
- (iv) whether an unacceptable risk of reprisal to the discloser, or any other person, would be created should the matter be referred to the public sector entity.

Where the Assistant Commissioner, Ethical Standards Command is unable to refer the public interest disclosure to an appropriate public entity because such a referral would create an unacceptable risk of reprisal, the matter should be referred to the Crime and Corruption Commission for advice.

### **Maintaining records of disclosures**

ORDER

The Inspector, Internal Witness Support, Health, Safety and Wellbeing Division, is to maintain records of all reports received by that unit which identify public interest disclosures. The Inspector, Internal Witness Support, is to submit statistical information in accordance with s. 29 of the PIDA to the Queensland Ombudsman upon the request of that entity.

### **5.8.3 Disclosure of information**

ORDER

Members who receive public interest disclosures are not to make a record of that information or to recklessly or intentionally disclose the information to anyone except:

- (i) for the purposes of the *Public Interest Disclosure Act*;
- (ii) to discharge a function under another Act;
- (iii) for a proceeding in a court or tribunal; or
- (iv) if authorised under a regulation or another Act.

Members responsible for the management of public interest disclosures, who are requested to provide information about the action taken on a public interest disclosure by the person who made that disclosure, are to provide reasonable information, in writing, unless giving the information would be likely to adversely affect:

- (i) any person's safety;
- (ii) the investigation of an offence or possible offence; or
- (iii) necessary confidentiality about an informant's existence or identity.

Information need not be given to the person who has made a public interest disclosure if giving the information would be impractical in the circumstances, the information requested has already been given to the person or the request is vexatious.

### 5.8.4 Protection against reprisals

Every person, even if the person did not make the public interest disclosure, is protected from reprisals which arise as a result of a public interest disclosure being made, about to be made or believed to have been made (see s. 40: 'Reprisal and grounds for reprisal' of the *Public Interest Disclosure Act* (PIDA)).

Members of the Service who take reprisals are liable to criminal, civil and disciplinary sanctions (see ss. 41: 'Offence of taking reprisal' and 42: 'Damages entitlement for reprisal' of the PIDA).

The Inspector, Internal Witness Support, Health, Safety and Wellbeing Division is responsible for assessing the needs of members of the Service for protection against reprisals and recommending measures to prevent such reprisals.

The Inspector, Internal Witness Support, should:

- (i) assess the risk of reprisal faced by members of the Service as a result of the making of a public interest disclosure. In making this assessment the Inspector, Internal Witness Support should consult with the member making the disclosure, and with the consent of that member may consult with other members of the Service, e.g. human services officer, human resource management personnel;
- (ii) recommend to the Executive Director, Health, Safety and Wellbeing Division, any action which may be necessary to protect members of the Service from reprisals; and
- (iii) monitor the situation of a member of the Service who has made a public interest disclosure to prevent reprisals being taken against that member or any other member.

Members of the Service who have had reprisals taken against them or believe that reprisals have been taken against them may seek redress through the discipline process or the grievance procedure (see Chapter 4, Part 2: 'Administrative actions' of the PIDA).

## 5.9 Information privacy principles

### Introduction

There are 11 information privacy principles in Schedule 3 of the *Information Privacy Act*. These are:

- Principle 1 – Collection of personal information (lawful and fair);
- Principle 2 – Collection of personal information (requested from individual);
- Principle 3 – Collection of personal information (relevance etc.);
- Principle 4 – Storage and security of personal information;
- Principle 5 – Providing information about documents containing personal information;
- Principle 6 – Access to documents containing personal information;
- Principle 7 – Amendment of documents containing personal information;
- Principle 8 – Checking of accuracy etc. of personal information before use by agency;
- Principle 9 – Use of personal information only for relevant purpose;
- Principle 10 – Limits on use of personal information; and
- Principle 11 – Limits on disclosure.

### Exemptions

It is important to note that law enforcement agencies including the Service are exempt from IPPs 2, 3, 9, 10 and 11 but only if satisfied on reasonable grounds that noncompliance is necessary for the performance of activities related to the enforcement of laws and does not extend to the Service's administrative duties such as human resource related activities, training, finance, recruiting, processing applications etc.

Additionally, personal information relating to the following is exempt from the privacy principles:

- (i) **Covert activity** – controlled operation or controlled activity within the meaning of the *Police Powers and Responsibilities Act* or arising out of a warrant issued under the *Telecommunications (Interception and Access) Act* (Cwlth);
- (ii) **Witness protection** – personal information about a witness who is included in a witness protection program under the *Witness Protection Act*;
- (iii) **Disciplinary actions and misconduct** – personal information about an individual arising out of a complaint made under Part 7 of the *Police Service Administration Act* or an investigation of police misconduct or official misconduct under the *Crime and Corruption Act*; and

(iv) **Public interest disclosure** – personal information about an individual that is contained in a public interest disclosure within the meaning of the *Public Interest Disclosure Act*.

## Personal information

Personal information is defined in the *Information Privacy Act* as any information that would allow an individual to be identified (for example – name, age or physical characteristics). Personal information can be an opinion (true or false), or anything from which the person's identity could reasonably be ascertained. Personal information may be stored on a variety of media such as paper, electronic database, photographic and video image, audiotape, digital form, and may also extend to body samples and biometric data.

### 5.9.1 Guidelines

These guidelines will consolidate policies and procedures with the aim of improving an awareness of information privacy issues applicable to the Service.

The guidelines address:

- (i) legislation binding all employees of the Service;
- (ii) circumstances where disclosure of personal information is authorised;
- (iii) informed consent for disclosure of information;
- (iv) general safeguards to be observed when dealing with personal information; and
- (v) data collections and security.

The guidelines are general in nature to ensure they relate to the broad range of policing services delivered by the Service. The guidelines are not prescriptive and not all situations or issues have been specifically addressed. Local procedures and policies may need to be produced to assist compliance with or to supplement these guidelines.

#### Purpose

The purpose of these guidelines is to assist in the interpretation and application of the IPPs contained in the *Information Privacy Act* as they relate to the Service.

The guidelines aim to:

- (i) ensure personal information is collected, stored and used in accordance with Information Privacy Principles;
- (ii) outline the responsibility of the Service to ensure that the privacy of client information is protected;
- (iii) inform employees of acceptable practices when dealing with personal information; and
- (iv) constitute a benchmark, which can be used for auditing performance.

The guidelines should be read in conjunction with the *Police Service Administration Act* and *Right to Information Act*.

### 5.9.2 Scope of the guidelines

The guidelines applies to all employees, contractors and other workers who, in the course of their work, have access to personal information in the Service. This includes:

- (i) all police personnel;
- (ii) all staff members of the Service;
- (iii) technical, and scientific personnel;
- (iv) auditors;
- (v) interpreters;
- (vi) volunteers;
- (vii) students;
- (viii) consultants;
- (ix) temporary and contract staff; and
- (x) external custodians of information owned by the Service.

Where access is granted to information held by the Service for research or other purposes, the person or organisation granted access should, under the conditions of access, also be required to comply with these guidelines.

The guidelines apply to personal information that is obtained and retained by the Service. The guidelines apply irrespective of whether the person to whom the information relates is living or dead.

## What information is not covered by the guidelines?

The guidelines do not apply:

- (i) to information other than personal information which may be considered sensitive, such as tender documents;
- (ii) to information covered by legislated exemptions;
- (iii) when the release of information is covered by a legislative provisions, the legislative provisions prevail over the Information Privacy Principles, for example:

*Child Protection Act*; and

*Recording of Evidence Act*.

## What do clients have a right to expect?

The procedures established to protect the privacy of information in these guidelines extend to all Service clients. Clients can be assured that:

- (i) their personal information will be protected in accordance with the information privacy principles;
- (ii) confidential information will be given to another person, body or agency only if it can be legally justified; and
- (iii) they are, subject to limited exceptions, entitled to access their own records.

## What can data users expect?

The Service is committed to the provision of information services. These guidelines aim to promote:

- (i) the integrity of data, so that information is accurate and current (information integrity is critical for quality service provision, evaluation of services and the maintenance of public safety);
- (ii) the availability of data, so that authorised persons who need information for legitimate law enforcement purposes have ready access to it; and
- (iii) the optimum use of data, primarily for the benefit of those clients to whom the data relates, but also for the delivery of law enforcement services to the people of Queensland.

## 5.9.3 Interpretation and implications of the principles for the Service

### Principle 1 – Collection of personal information (lawful and fair)

The functions of the Service are outlined in the responsibilities in s. 2.3 of the PSAA, and include administrative activities that are properly incidental to those functions.

Compliance with this Principle dictates that the Service only collects information that is lawfully obtained and directly related to its function. The lawful purpose for collecting the information must exist prior to the collection, not after. It prohibits practices such as asking for private/inappropriate information like telephone numbers when issuing traffic infringement notices and recording registration details for private/inappropriate purposes. At the same time, the information privacy principles recognise the need for the lawful collection of information for law enforcement purposes and public safety.

### Principle 2 – Collection of personal information (requested from individual)

The Service is generally exempt from this principle for operational law enforcement functions. Where practical/appropriate, the Service has included a collection statement on its forms (for operational as well as administrative purposes).

In collecting personal information for administrative purposes such as human resource management, contracting for the supply of goods and services and other financial management activities, the Service will be required to consider the use of collection statements or seek the approval of the individual identified before such information is used for a purpose other than initially intended/specified.

An example of a collection statement that may be included on Service forms includes:

*The collection of this information is authorised by legislation or Queensland Police Service (QPS) policy established under the Police Service Administration Act 1990 (Qld) and the Police Powers and Responsibilities Act 2000 (Qld). The information may be used to assist in performing the statutory functions and responsibilities of the QPS, primarily in this instance, but not limited to... The QPS may disclose some or all of this information to other State and Federal Government agencies as provided for by legislation or in accordance with the Queensland Government's Privacy Policy.*

### Principle 3 – Collection of personal information (relevance etc.)

The Service is generally exempt from this principle for operational law enforcement functions. The Service's responsibilities are such that it could not function effectively and efficiently if records were not maintained in an accurate and up to date manner. The Service has policies that endeavour to ensure the accuracy and relevance of all personal information in line with this principle.

In collecting personal information for administrative purposes such as human resource management, contracting for the supply of goods and services and other financial management activities, the Service will be required to take steps to ensure the personal information is relevant, up to date and complete.

#### **Principle 4 – Storage and security of personal information**

The security standards for the Service have been developed on the requirements of the Commonwealth Protective Security Manual, and the PSAA and provide sufficient regulatory instructions to ensure compliance with this Principle.

The Service relies heavily on the collection of personal information and as such has a responsibility to have in place a comprehensive policy covering the security of that personal information. Responsibilities are detailed in the Information Management Manual specifically in the Information securities instructions. Also, individual members of the Service have a responsibility to abide by Service policy and procedures in relation to the use, disclosure, access to and modification of personal information.

#### **Principle 5 – Providing information about documents containing personal information**

Generally, the provision of the information mentioned in this principle is subject to right to information legislation.

Procedures are in place allowing persons to access personal information through the *Right to Information Act* (RTIA) or other recognised scheme and these procedures should remain current despite the implementation of the privacy principles.

The publishing of the Service's Information Privacy Plan on the QPS Internet site.

#### **Principle 6 – Access to documents containing personal information**

Access to information mentioned in this principle is to be in accordance with the RTIA or other administrative schemes. Other arrangements, as detailed in the Information Privacy Plan, also provide for the release of personal information on request.

The RTIA will be used to access personal information along with other arrangements authorised by legislation or Queensland Police Service policy and procedures. Requests from individuals for access to their personal information are to be referred to the Right to Information and Subpoena Unit, Right to Information and Privacy Services for processing.

#### **Principle 7 – Amendment of documents containing personal information**

The Service's responsibilities are such that the effectiveness and efficiency of the Service depend on accurate and up to date record management practices. The Service has policies that endeavour to ensure the accuracy and relevance of all personal information in line with this principle.

Members of the Service should continue to maintain the practice of validating personal information prior to its use for an indirect purpose. It is given that the immensity of the task precludes the Service from constantly updating personal information it holds. Requests from members of the public for amendment of their personal information are to be referred to Right to Information and Privacy Services for processing.

Sections 42, 44 and 45 of the *Information Privacy Act* provides a vehicle for persons to amend their personal information held by the Service.

#### **Principle 8 – Checking of accuracy etc. of personal information before use by agency**

Despite the magnitude of the task and the level of costs involved, the Service takes all reasonable steps to ensure that records of personal information are maintained in an up to date, relevant and complete manner. The Service is an extremely large organisation that has a range of policies, procedures and practices in place to ensure its records are maintained in an accurate and up to date manner.

It is, and should remain, common practice within the Service for its members to validate personal information prior to using it for an indirect purpose. It is noted that the complexity and scope precludes the Service from constantly updating personal information it retains. However, all reasonable care is taken.

#### **Principle 9 – Personal information only for relevant purposes**

Generally, the Service is exempt from this principle for operational law enforcement functions.

In collecting personal information for administrative purposes such as human resource management, contracting for the supply of goods and services and other financial management activities, Service will be required to pay due cognisance to the fact that the personal information may only be used for the purpose which it was supplied unless:

- (ii) that person identified by the information has been advised of the use; or
- (ii) has consented for their particulars to be used other than for the purpose they have been collected or stored.

#### **Principle 10 – Limits on use of personal information**

Generally, the Service is exempt from this principle for operational law enforcement functions.

In collecting personal information for administrative purposes such as human resource management, contracting for the supply of goods and services and other financial management activities, the Service will be required to pay due cognisance to the fact that the personal information may only be used for the purpose which it was supplied unless:

- (i) that person has consented, or
- (ii) there is a serious threat to life of the individual, or
- (iii) use is authorised by law, or
- (iv) enforcing criminal law.

#### **Principle 11 – Limits on disclosure**

The Service is generally exempt from this principle for operational law enforcement functions. The Service has processes in place that regulate information release in relation to motor vehicle crashes and crime reports and then report details to insurance companies. The release of this information is either legislated for, or encapsulated by policy.

It has been an accepted practice that parties involved in motor vehicle accidents, incidents of theft, assault, wilful damage to property and arson would reasonably expect that information contained in police reports may be released to third parties who have a legitimate interest in the incident. This practice assisted insurance companies in assessing claims and assisted solicitors instituting civil compensation proceedings.

This practice does not contribute to Service operational effectiveness. However, the practice is of value to the community and is in the public's interest. The information assists individuals instigating civil litigation and pursuing insurance claims and is seen as a community service adjunct to the policing function. Public interest and judicial efficiency are sufficiently persuasive to provide leniency from this privacy principle in the cases previously mentioned.

The release of personal information regarding persons involved in motor vehicle accidents, incidents of theft, assault, wilful damage to property and arson is permissible under the following conditions:

- (i) information shall only be disclosed to the extent that is relevant to the resolution of disputes or claims arising from incidents that are the subject of the report;
- (ii) information may only be disclosed to an individual or organisation directly affected by the incident or responsible for the management or resolution of claims arising from the incident;
- (iii) any disclosure shall be conditional, as far as practical, on an undertaking from the recipient of the information that the information will be handled in a manner consistent with the Information Privacy Principles, and in particular Information Privacy Principle 11.3 (limiting the re-use and re-disclosure); and
- (iv) a record of the disclosure be noted and, where appropriate, the reason for disclosure.

In collecting personal information for administrative purposes such as human resource management, contracting for the supply of goods and services and other financial management activities, the Service will be required to pay due cognisance to the fact that the personal information may only be used for the purpose which it was supplied unless:

- (i) that person has consented;
- (ii) there is a serious threat to life of the individual;
- (iii) use is authorised by law; or
- (iv) enforcing criminal law.

### **5.9.4 Authorised disclosure**

#### **Informed consent**

Informed consent of the client is acknowledged as one of the cornerstones of information privacy. Personal information should not be disclosed without the consent of the person to whom it relates, except in the specific circumstances set out in these Guidelines.

For consent to be valid:

- (i) the client must be legally competent, that is, be able to understand the nature and consequences of the proposed use of the information;
- (ii) it must be freely given;
- (iii) it must be informed, that is, sufficient information provided to allow a reasoned decision; and
- (iv) it must be specific.

In those areas for which exemptions don't apply, there is a need for clients to be better informed about how their personal information will be used. This should include an understanding of:

- (i) who will have access to the information;
- (ii) the reason why the information is collected;

- (iii) whether collection of the information is voluntary or mandatory (though consent will not be required if mandatory, the patient/client should nonetheless be informed);
- (iv) how the information will be used;
- (v) any proposed disclosure of the information to third parties, and
- (vi) if relevant, that the information will be computerised.

### Minors

Where a client is less than 14 years of age, consent from the parent or legal guardian must be given for access to information.

Where the client is between 14 and 16 years of age, consent of the parent or legal guardian should be sought unless the client indicates a strong objection. In such cases, the maturity of the client should be assessed, in particular their ability to understand the consequences of their decision. If the member assesses the person to be capable of properly deciding on the issue, then it is a matter for the client. Otherwise consent of the parent or legal guardian should be obtained.

Where the client is 16 years of age or over, they are considered by law to be capable of deciding on the access issue for themselves.

### Access by government authorities

A number of government authorities, both state and federal, have specific statutory powers to demand access to information. In circumstances where a request is made by an officer of an authority or government department for access on this basis, the request must be in writing and contain:

- (i) the full name, position and position number of the person requesting access;
- (ii) the precise authority of the requester including reference to the section of the Act under which access is authorised (e.g. the relevant IPP);
- (iii) the information required and the purpose for which the information is required; and
- (iv) information should be restricted to the minimum required to satisfy the statutory requirement.

(See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of this Manual)

## 5.9.5 Other situations bound by information privacy principles.

### Civil emergencies

A '**civil emergency**' means an emergency situation as defined in the *Public Safety Preservation Act*:

'**emergency situation**' means –

- (i) any explosion or fire; or
- (ii) any oil or chemical spill; or
- (iii) any escape of gas, radioactive material or flammable or combustible liquids; or
- (iv) any accident involving an aircraft, or a train, vessel or vehicle; or
- (v) any incident involving a bomb or other explosive device or a firearm or other weapon; or
- (vi) any other incident,

that causes or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment, includes a situation arising from any report in respect of any of the matters referred to in paragraphs (a) to (f) which if proved to be correct would cause or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment.

In the event of an emergency situation, the Privacy Principles do not bind the Service if a declaration of an emergent situation has been made pursuant to s. 5 of the *Public Safety Preservation Act*.

### Complaints management

All complaints concerning actions by members of the Service are to be dealt with in accordance with the policy and guidelines published on the Ethical Standards Command 'Policy and Guidelines' webpage of the Service Intranet. Complaints can be made to any member of the Service in either writing, personally or by telephone.



## 5.9.6 Implementation and review

### Compliance

The implementation of these guidelines and any locally developed guidelines or rules, including dissemination and ensuring user compliance, is the responsibility of the Commissioner. Breaches of the guidelines may result in disciplinary action.

### Public availability

These guidelines are public documents and may be viewed by members of the public who wish to be informed on how information privacy is protected within the Service. A copy should be kept at all stations and establishments for this purpose. Requests for a copy of these guidelines should be processed in accordance with Parts 8 and 9 of the QPS Publications Scheme.

### Review

The guidelines will be reviewed on an annual basis to ensure continuing relevance and coverage of developing areas.

## 5.10 Documents available to the public from Police Information Centre

The Police Information Centre, Information Management Services, Legal Division (PIC) is responsible for the disclosure of several documents available to members of the public. Members of the public can apply at their local police station for certain documents. Applicants should be made aware of the differences of the documents available so that the correct application is made.

Details of who a member of the public should apply to for documents is listed below.

Document type	Supplier	Further information
Court Brief (QP 9)	Manager, PIC	Application must be in writing only to Manager, PIC. See Court Brief (QP 9) of the QPS Internet.
Person History (record of charges)	Manager, PIC	Application must be in writing only to Manager, PIC. See Person History of the QPS Internet.
Crime Reports	CITEC Confirm	See Crime Reports of the QPS Internet and s. 5.6.3: 'Requests for information contained in QPRIME occurrences' of this chapter.
Criminal History (Qld only)	Manager, PIC	Mostly for court-related purposes. Application is to be submitted and payment receipted via a police station where identification is confirmed. See Criminal History (Queensland Only) on QPS Internet.
Traffic History	Qld Transport	See <a href="http://www.tmr.qld.gov.au">www.tmr.qld.gov.au</a> .
National Police Certificate (name only)	Manager, PIC	Mostly for employment, study or overseas travel visa. Make application online – See National Police Certificate on the QPS Internet.
Fingerprint National Police Certificate	Manager, PIC	For persons applying for a visa to work or reside in another country, or for adoption purposes. Application is to be submitted and payment receipted via a police station where identification is confirmed and fingerprints are taken. See Fingerprint National Police Certificate on QPS Internet.
Ammonium Nitrate National Police Certificate	Manager, PIC	For persons employed, or seeking employment, with companies and other employers who are licensed to access security sensitive Ammonium Nitrate e.g. mining companies. Application is to be submitted and payment receipted via a police station where identification is confirmed. See Ammonium Nitrate National Police Certificate on QPS Internet.

Where applications are required to be submitted and payment receipted at a police station; it is essential that members, on receiving an application, confirm the identity of an applicant to ensure that the disclosure of information by the PIC is made lawfully and that certificates are not issued to the wrong person.

#### ORDER

A member who receives an application for a document is to check the identity of the applicant by sighting a current form of identification as follows:

- (i) driver licence issued in any Australian State or Territory;
- (ii) passport;
- (iii) Australian proof of age card (formerly 18+ card);
- (iv) two forms of identification bearing the signature of the applicant; or
- (v) a form of identification accepted at the discretion of the Manager, PIC.

A member of the Service is not to accept an application that is incomplete, illegible, unsigned, or the wording of the form has been altered or deleted in any way.

Where a member of the Service is not satisfied as to the identity of an applicant, the member should:

- (i) accept the application where the applicant discloses that he/she has been previously fingerprinted for an offence and the fingerprints have not been destroyed, and the applicant willingly provides their fingerprints for comparison; or
- (ii) refuse to accept the application.

When a member has received an application subject of this section, appropriate checks are to be conducted to determine if the person is subject of any outstanding occurrences, warrants, officer safety flags or cautions. The member is to ensure that all appropriate action is taken.

#### 5.10.1 Court brief

A copy of a court brief (QP 9) can be obtained from the Police Information Centre (PIC) by a member of the public where that document contains information about that person or relates to the exercise of a right that may be available to the person e.g. criminal injury compensation.

A court brief (QP9) is only provided where the court proceedings have been finalised and the appeal period (if applicable) has expired. Personal information relating to a person other than the applicant is deleted from the document e.g. address and telephone number of the complainant is erased before release to the offender.

When an applicant requests a copy of a Court Brief (QP 9) where court proceedings have been finalised and the appeal period (if applicable) has expired, they should advise the person to:

- (i) apply in writing to the Manager, PIC for the Court Brief;
- (ii) be advised to include in their application –
  - (a) full identifying particulars i.e. name (including any name which the applicant has been or is known by, including any aliases), date and place of birth, and gender at birth;
  - (b) the basis for eligibility in obtaining the Court Brief e.g. complainant wishing to make a claim under the *Victims of Crime Assistance Act*, and
  - (c) their current residential address and contact details, such as telephone number (if available);
- (iii) attach to the application a photocopy of their driver licence or passport (other forms of identification will only be accepted at the discretion of the Manager, PIC); and
- (iv) receive payment or attach a cheque or money order for the current fee made payable to the Commissioner of Police. (see Schedule of Fees and Charges)

Where the court proceedings have not been finalised or the appeal period has not expired, the requesting member of the public should be advised of Service policy.

#### 5.10.2 Crime report

A person can obtain a copy of the QPRIME crime occurrence report in which they are the complainant by applying to CITEC Confirm (see Service Manuals Contact Directory).

QPRIME crime occurrence reports can also be obtained by:

- (i) the complainant's legal representative;
- (ii) insurance companies; and
- (iii) loss assessors.

See Schedule of Fees and Charges.

The procedure for the verbal disclosure of information contained in QPRIME crime occurrence report records is contained in s. 5.6.3: 'Requests for information contained in QPRIME occurrences' of this chapter.

A member who receives an inquiry by a member of the public, insurance company, or loss assessor about obtaining a copy of a QPRIME crime occurrence report should advise the inquirer to contact CITEC Confirm.

### 5.10.3 Criminal history

The criminal history document of a person contains the criminal convictions of the person incurred in Queensland for offences arising from prosecution action initiated by officers of the Service. It does not contain convictions imposed outside of Queensland.

This document is only released to the person who is the subject of the document or their legal representative. See also s. 5.6.1: 'Public requests – own police certificate, record of charges or criminal history particulars' of this chapter.

A member who receives a request by a member of the public for a copy of their criminal history should:

- (i) provide or print a copy of form QP349A: 'Application for a Copy of Own Queensland Criminal History' (available from the Criminal History (Queensland Only) page of the QPS Internet);
- (ii) request the person to complete the form;
- (iii) ensure that the application is –
  - (a) completed in ink and legible;
  - (b) fully completed;
  - (c) signed by the applicant; and
  - (d) not rendered void by the alteration or deletion of the wording of the form;
- (iv) request the person to produce proof of identity and confirm that the application is for the criminal history of the person concerned;
- (v) obtain payment of the prescribed fee (See Schedule of Fees and Charges); and
- (vi) ensure the completed application is forwarded to the Manager, (PIC) as soon as practicable.

### 5.10.4 National police certificate

A national police certificate (NPC) contains a certification that the person to whom the document relates has either:

- (i) no disclosable convictions; or
- (ii) has disclosable convictions.

A disclosable conviction is a conviction that is recorded and has not been rehabilitated or otherwise spent, the disclosure of which to any person does not breach the *Criminal Law (Rehabilitation of Offenders) Act*, *Penalties and Sentences Act*, or the *Crimes Act (Cwth)*.

There are three types of certificate:

- (i) NPC online application for a search of the person's name against the criminal history records held by police services Australia-wide. Sought for:
  - (a) employment purposes.
  - (b) providing insurance companies with an official document relating to past offending, and
  - (c) visa applications to gain employment or reside in another country (this is limited to only a few countries as most require a fingerprint search as well as a name search),

(see National Police Certificate page of the QPS Internet);

- (ii) fingerprint NPC for a search of the person's name and fingerprints against the criminal history and fingerprint records held by police services Australia-wide. Sought for:

- (a) applications for a visa to gain employment or reside in another country; or
- (b) adoption purposes,

(see QP 0349B: 'Application for a police certificate name with fingerprint search' available from Fingerprint National Police Certificate page of the QPS Internet);

- (iii) ammonium nitrate NPC for a search of the person's name against the criminal history records held by police services Australia-wide, and an ASIO security assessment relating to politically motivated violence. This certificate is sought by persons:

- (a) employed; or
- (b) seeking employment,

with companies and other employers who are licensed to access security sensitive ammonium nitrate e.g. mining companies (see QP 0349D: 'Application for a police certificate and ASIO security assessment – Ammonium nitrate' available from Ammonium Nitrate National Police Certificate page of the QPS Internet).

Where convictions are recorded in any state or territory, they will appear in the relevant NPC if disclosable under the legislation or policy of the state or territory concerned.

National police certificates issued for visa purposes (overseas) are forwarded directly to the consulate indicated in the application form.

A member who receives a request by a member of the public for an NPC should determine the type of certificate the person requires and if:

- (i) a fingerprint or ammonium nitrate NPC:
  - (a) print or inform them where they can download a copy of form QP349(B/D);
  - (b) request the person to complete the form;
  - (c) ensure that the application is:
    - completed in ink and legible;
    - fully completed;
    - signed by the applicant; and
    - not rendered void by the alteration or deletion of the wording of the form;
  - (d) request the person to produce proof of identity to ensure that the particulars on the application agree with the identity of the applicant;
  - (e) obtain payment of the prescribed fee; (See Schedule of Fees and Charges)
  - (f) obtain a set of fingerprints from the applicant where the application is for a police certificate based on name and fingerprints; and
  - (g) ensure the completed application and fingerprints (if applicable) are forwarded to the Manager, PIC as soon as practicable; or
- (ii) NPC name only provide the person with the below weblink to make an online application:  
<[www.police.qld.gov.au/documents-for-purchase/national-police-certificates](http://www.police.qld.gov.au/documents-for-purchase/national-police-certificates)>.

## Appendix 5.1 Principal features of the Right to Information Act and Information Privacy Act

(s. 5.7)

The access schemes under the *Right to Information Act* (RTIA) and the *Information Privacy Act* (IPA) are based on the objective of giving the public a right of access to information held by government agencies unless, on balance, it is contrary to the public interest to provide the information. To achieve this objective, the Acts provide that:

- (i) a person may apply for access to a document held by government agencies and, provided the application meets certain criteria, agencies must respond to that application within a certain time;
- (ii) in certain circumstances, the agency may refuse or defer the application;
- (iii) where an application is refused or deferred, the agency must provide the applicant with the reasons for its decision;
- (iv) exempt material can be deleted from a document so that access to the document can be granted rather than denied;
- (v) an applicant may request an internal review by a senior officer who was not the original decision maker. The RTIA and the IPA also confer the right to proceed directly to external review by the Information Commissioner, bypassing internal review by the Queensland Police Service; and
- (vi) there is unlimited retrospectivity with respect to documents sought.

The RTIA imposes obligations on agencies:

- (i) to publish details of arrangements for access to documents; and
- (ii) to publish and make publicly available for inspection and purchase copies of police documents and certain information about the functions of agencies.

The RTIA and the IPA also make provision for a number of related matters:

- (i) applications can be transferred to another more appropriate agency provided the agency agrees;
- (ii) documents which relate to the personal affairs of an individual can be amended if the agency agrees that the applicant has proven that the records are incomplete, incorrect, or out of date;
- (iii) agencies must consult with a person, organisation, other agency or other government where the application seeks access to documents which, if released, would be of concern to those third parties. Documents of this kind would include matters relating to law enforcement, trade secrets, business affairs, research, inter-governmental relations, personal affairs and confidential matters; and
- (iv) decisions on applications are to be made by principal officers of agencies or by other officers who are authorised by the principal officer to make the decision. In the case of the Service, decisions will be made by the Commissioner or selected staff at the Right to Information and Subpoena Unit, Right to Information and Privacy Services (see Delegations D 57.1, D 57.2, D 118.1 and D 118.2).

**Appendix 5.2 Example of caveat when responding to requests for information by government departments, agencies or instrumentalities**

(s. 5.6.14)

*'This document is released under s. 10.2 of the Queensland Police Service Administration Act 1990. Unless authorised, such document and/or its content is not to be disseminated to any third party.'*

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## Appendix 5.4 Example of caveat when responding to requests for information by other law enforcement agencies

(s. 5.6.15)

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