

# Chapter 6 – Persons who are Vulnerable, Disabled or have Cultural Needs

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## 6.1 Introduction

This chapter contains procedures which are designed to ensure contact between members and persons who are vulnerable, disabled or have cultural needs is conducted in a manner which is fair and does not place the person at a disadvantage.

Members seeking information on procedures for children should refer to Chapter 5: 'Children' or Chapter 7: 'Child Harm' of this Manual. Chapter 16: 'Custody' should also be consulted regarding detention of persons who are vulnerable, disabled or have cultural needs.

## 6.2 Definitions

For the purposes of this chapter:

### Impairment of the mind

means an intellectual, psychiatric, cognitive or neurological impairment or a combination of these resulting in:

- (i) a substantial reduction of the person's capacity for communication, social interaction or learning; and
- (ii) the person needing support.

### Vulnerable person

means an adult who, because of the person's age, illness or disability, is unable, or has a reduced capacity, to:

- (i) care for themselves; or
- (ii) protect themselves from harm or exploitation.

Examples of people with vulnerability may include Aboriginal people, Torres Strait Islander people, children, elderly, and intellectual or physical impaired people.

### Cognitive disability

is a condition that is attributed to a cognitive impairment and a disability within the meaning of the *Disability Services Act* (see s. 144 of the Act).

Examples of a cognitive disability include memory loss and trouble concentrating, completing tasks, understanding, remembering, following instructions, and solving problems.

### Cultural need

means the sum total of ways of living, incorporating beliefs and preferences rooted in a person's social and ethnic identity, which is transmitted from one generation to another.

## 6.3 General policy

This section applies to all dealings with persons who are vulnerable, disabled or have cultural needs, whether as suspects, complainants or witnesses, provided that no other specific legislative requirements apply.

This section will generally apply to persons who are vulnerable, disabled or have cultural needs who are:

- (i) suspects in the commission of simple or regulatory offences;
- (ii) respondents, aggrieved persons, or named persons in domestic and family violence matters; and
- (iii) complainants, witnesses or victims in all types of offences and incidents.

The PPRA contains a number of provisions that apply to persons who are vulnerable, disabled or have cultural needs and specifically applies processes for questioning persons as suspects about the person's involvement in the commission of an indictable offence, namely:

- (i) Aboriginal people and Torres Strait Islanders (see s. 420 of the Act);
- (ii) children (see s. 421 of the Act);
- (iii) persons with impaired capacity (see s. 422 of the Act);
- (iv) intoxicated persons (see s. 423 of the Act); and
- (v) persons unable because of inadequate knowledge of the English language or a physical disability to speak with reasonable fluency in English (see s. 433 of the Act).

The PPRA also contains specific provisions relating to persons with a vulnerability, disability or cultural needs in respect to forensic procedures in Chapter 17 (ss. 445 to 536). Additionally, s. 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA makes specific provision for a limited group of people with additional needs.

Where the person involved in an incident under this section is an international homestay school student, see s. 5.12.4: 'International homestay school students' of this Manual.

### 6.3.1 Circumstances which constitute a vulnerability, disability or cultural need

While it is not possible to supply an exhaustive list of persons who are vulnerable, disabled or have cultural needs, the following circumstances should be considered as creating a vulnerability until the contrary becomes apparent:

- (i) immaturity, either in terms of age or development;
- (ii) any infirmity, including early dementia or disease;
- (iii) mental illness;
- (iv) intellectual disability;
- (v) illiteracy or limited education which may impair the person's capacity to understand the questions being put to them;
- (vi) inability or limited ability to speak or understand the English language;
- (vii) chronic alcoholism;
- (viii) physical disabilities including being deaf, blind, hard of hearing or having low vision;
- (ix) drug dependence;
- (x) cultural, ethnic or religious factors including those relating to gender attitudes;
- (xi) intoxication, if at the time of contact the person is under the influence of alcohol or a drug to such an extent as to make them unable to look after or manage their own needs;
- (xii) Aboriginal people and Torres Strait Islanders;
- (xiii) children; and
- (xiv) persons with impaired capacity (see Schedule 4: 'Dictionary' of the *Guardianship and Administration Act*).

### 6.3.2 Establishing whether a person is vulnerable, disabled or has a cultural need

#### ORDER

When an officer wishes to speak to or communicate with a person, including interviewing, taking a complaint or a witness statement, the officer is to first establish whether the person is vulnerable, disabled or has a cultural need by evaluating the ability of the person, to look after or manage their own interests. The officer is to establish whether the person is capable of understanding the questions posed, or capable of effectively communicating answers. The person must be capable of understanding what is happening to them and be fully aware of the reasons why the questions are being asked by the officer. The officer must finally establish if the person is fully aware of the consequences which may result from questioning and be capable of understanding their rights at law.

In making an evaluation, the officer is to take into account the following factors:

- (i) the nature of the condition giving rise to the vulnerability, disability or cultural need. For instance, some physical disabilities do not impede a person's ability to understand and answer questions. Conversely, some physical conditions do impede a person's ability to communicate e.g. deaf, hard of hearing, blind or having low vision;
- (ii) the reason the person is being spoken to or interviewed, whether as a witness, or in relation to their complicity in an offence. Where the information to be obtained may later be used in a court, it will be necessary to show that any vulnerability, disability or cultural need was addressed;
- (iii) the complexity of the information sought from or by the person;
- (iv) the impact that the results or consequences of the interview may have on the rights or liberty of any person. An interview that may substantially affect the rights or liberty of a person should be subject to greater efforts to address the person's vulnerability, disability or cultural need than an interview that is likely to have only a minor impact;
- (v) the age, standard of education, place and type of education (e.g. special school), proficiency in the English language, cultural background and work history of the person; and
- (vi) whether the person has been subject to a life event that may impact on the person's capacity to look after or manage their own interests (e.g. acquired brain injury from an accident).

### 6.3.3 Interviewing persons with an impairment of the mind, vulnerability, disability or cultural need

When an officer intends to interview a person with an impairment of the mind, vulnerability, cognitive disability, physical disability or cultural need, the officer should take whatever action is necessary to compensate for that impairment of the mind, vulnerability, cognitive disability, physical disability or cultural need and comply with all relevant legislative requirements (see s. 6.2: 'Definitions' of this Manual).

In the case of a child or a person with an impairment of the mind, s. 93A of the *Evidence Act* may apply and officers should refer to s. 7.6.5: 'Recording of evidence of a child witness' of this Manual.

An officer's decision-making priority is to be the safety, protection and wellbeing of the person. For more information see the Vulnerable Persons Framework on the Domestic, Family Violence and Vulnerable Persons Unit webpage of the Service Intranet.

Where no specific legislative requirement applies, measures to compensate for an impairment of the mind, vulnerability, cognitive disability, physical disability, or cultural needs include, but are not limited to:

- (i) arranging for an interpreter, including sign language interpreters where appropriate, to overcome communication barriers (see s. 6.3.7: 'Interpreters' of this chapter);
- (ii) obtaining the assistance of an independent person (see s. 6.3.4: 'Independent persons' of this chapter); and
- (iii) phrasing questions in a manner which compensates for a lack of comprehension or understanding.

#### ORDER

Officers are to ensure interviews are conducted under conditions where the person being interviewed is not oppressed or overborne by any condition, circumstance or person.

Officers should:

- (i) avoid any situation or circumstance which may give rise to a suggestion of oppression, unfairness, fear or dominance by an officer, or to any other injustice to the person being interviewed;
- (ii) avoid any situation or circumstance whereby the person being interviewed may be overborne, oppressed or otherwise unfairly or unjustly treated;
- (iii) ensure that the person being interviewed is provided with sufficient assistance to enable them to understand and exercise their legal rights; and
- (iv) consider any cultural or religious factors which might cause the person being interviewed to be reluctant to provide information, e.g. devout Muslim women may be reluctant to speak in the presence of men and Aboriginal men may be reluctant to discuss certain issues in the presence of women.

### 6.3.4 Independent persons

An independent person includes a support person as defined in Schedule 6: 'Dictionary' of the PPRA and interpreters. However, a person with a vulnerability, disability or cultural need may nominate any person to fulfil the role of independent person in respect of themselves.

An independent person should be able to assist the person with a vulnerability, disability or cultural need in order to overcome the condition or circumstance creating the vulnerability, disability or cultural need.

This may include acting as an interpreter for a person who is unable to speak English or safeguarding the rights of a person who is unable to effectively look after or manage their own interests.

#### ORDER

The OIC of stations and establishments are to maintain (revising six monthly) a list of support persons appropriate for their area of responsibility (see s. 440: 'List of support persons and interpreters' of the PPRA).

A comprehensive list of interpreting and translating information and services is available from the Multicultural Affairs webpage of the Service Intranet. In addition to the required list of support persons OIC of stations or establishments should maintain a list of other independent persons who are competent and willing to assist persons who are vulnerable, disabled or have cultural needs in their dealings with the Service.

Officers may make inquiries with the Disability Information and Awareness Line (see SMCD) to identify services that may be appropriate to assist persons whose need results from a disability.

In compiling lists of suitable independent persons, officers should be aware that an independent person should:

- (i) not be likely to overbear or overawe the person in need;
- (ii) not be employed by the Service unless the person for whose benefit the independent person is to be present specifically requests otherwise;
- (iii) have an understanding and appreciation of the condition causing the vulnerability, disability or cultural need;
- (iv) have an interest in the welfare of the person with the vulnerability, disability or cultural need; and

(v) in the opinion of the interviewing officer, be capable of facilitating an interview with a person who has a vulnerability, disability or cultural need.

Where the particular vulnerability, disability or cultural need indicates an independent person should be present during an interview, the interviewing officer should:

- (i) where possible allow the person with the vulnerability, disability or cultural need to select an independent person. The person with the vulnerability, disability or cultural need should be offered the list of support persons, interpreters and independent persons to select from, but may select any person whether or not that person is on the list. However, in cases where the person with the vulnerability, disability or cultural need is being interviewed in regard to an incident that may have involved the commission of an offence, an independent person who is a witness or suspected offender, accomplice or accessory should not be permitted to be present during any interview (see also s. 6.3.7: 'Interpreters' of this chapter for details of persons who are considered unsuitable to act as interpreters);
- (ii) make arrangements for an independent person to attend if necessary and explain, if possible, the role of that person to the person with a vulnerability, disability or cultural need;
- (iii) not commence any interview until the arrival of the independent person;
- (iv) upon arrival of the independent person, explain the role of the independent person to the independent person;
- (v) allow the person with the vulnerability, disability or cultural need to consult privately with the independent person prior to the interview; and
- (vi) allow the independent person to be present, and to aid the person with the vulnerability, disability or cultural need during the interview.

Where the independent person or the person with the vulnerability, disability or cultural need requests private consultation during the interview, that request should be granted.

### **6.3.5 The role of the independent person**

The role of the independent person is to ensure the condition which creates the vulnerability, disability or cultural need does not disadvantage the person being interviewed. For this purpose, the primary function is to facilitate the conditions mentioned in s. 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need' of this chapter.

The role of the independent person does not extend to providing answers for the person being interviewed.

Once the conditions mentioned in s. 6.3.2 have been met, it then remains for the person being interviewed to decide on the appropriate responses to questions. If this capacity cannot be established, the person should not be interviewed.

The independent person is to be permitted initially to consult with the person being interviewed, and to provide support during the interview. This, however, should not be allowed to extend to constant interjections.

### **6.3.6 Aboriginal and Torres Strait Islander people**

An Aboriginal person is a person of Aboriginal descent who identifies as such and is accepted as being an Aboriginal person by the community in which he or she resides.

A Torres Strait Islander is a person of Torres Strait Islander descent who identifies as such and is accepted as being a Torres Strait Islander by the community in which he or she resides.

All persons having contact with the Service and who claim to be an Aboriginal person, or a Torres Strait Islander should be treated as such until the contrary is shown.

Persons of Aboriginal and Torres Strait Islander descent should be considered people with a vulnerability, disability or cultural need because of certain cultural and sociological conditions. When an officer intends to question an Aboriginal or Torres Strait Islander, whether as a witness or a suspect, the existence of a need should be assumed until the contrary is clearly established using the criteria set out in s. 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need' of this chapter.

#### **ORDER**

The OIC of stations or establishments are to compile and maintain a list of local Aboriginal and Torres Strait Islander Legal Service contacts. See s. 6.3.4: 'Independent persons' of this chapter for information regarding independent persons.

Upon request by an Aboriginal person or Torres Strait Islander for legal advice or legal assistance at any stage during any investigation, officers should endeavour to contact the appropriate Legal Service.

Where Aboriginal or Torres Strait Islander field officers attend in this regard, communications between field officers and clients should be treated with the same confidentiality as that of a solicitor/client relationship, even though the field officers may not be lawyers.

Officers are not to summons Aboriginal or Torres Strait Islander field officers to give evidence of their communications with a client without prior authorisation from a commissioned officer.



Prior to authorising the issuing of summonses for Aboriginal and Torres Strait Islander field officers, commissioned officers should consider the value of evidence expected to be obtained and the need to ensure Aboriginal people and Torres Strait Islanders confidence in the legal system is not undermined.

See Chapter 16: 'Custody' of this Manual for further information regarding Aboriginal people and Torres Strait Islanders in custody.

When an adult Aboriginal person or Torres Strait Islander is being investigated for an indictable offence, officers are required to comply with provisions of s. 420: 'Questioning of Aboriginal people and Torres Strait Islanders' of the PPRA and s. 25: 'Questioning of Aboriginal people and Torres Strait Islanders' of the Responsibilities Code.

In relation to the investigation of any offence when it is necessary to have an independent person present during questioning of an Aboriginal person or Torres Strait Islander, officers are to give preference to arranging for attendance of:

- (i) an independent person who is a legal practitioner; or
- (ii) a representative of the Queensland Aboriginal and Torres Strait Islander Legal Service.

Where such a person is not available or is unable to be contacted, officers are to note their attempts to contact such person in their notebook and into their station occurrence sheet.

If the Aboriginal person or Torres Strait Islander has clearly and expressly indicated that they do not wish an independent person who is a legal practitioner or representative of the Queensland Aboriginal and Torres Strait Islander Legal Service to attend, a relative of the Aboriginal person or Torres Strait Islander, or another person nominated by the Aboriginal person or Torres Strait Islander, should act as the independent person, where possible.

In circumstances where the Aboriginal person or Torres Strait Islander indicates that they do not wish a person to attend, officers should allow the person to make a written or electronic record stating they have expressly and voluntarily waived the right of having an interview friend or other independent person present.

When an Aboriginal person or Torres Strait Islander is to be interviewed, the OIC of the investigation should ask the person whether they wish to have present an 'interview friend' or a 'prisoner's friend' (see s. 3.19: 'The Anunga Rules – Aboriginals and Torres Strait Islanders' of the DERIE).

Although all efforts should be made to contact or obtain the person nominated by the Aboriginal person or Torres Strait Islander, obtaining such a person may be impractical because of time delays or distance constraints.

Consideration should be given to the needs of the investigation against delays which may negatively affect the investigation.

In instances where inordinate delays may be caused, or the needs of the investigation hampered, an independent person nominated by the OIC of the case should be contacted and requested to attend. See s. 6.3.4: 'Independent persons' of this chapter.

Officers should refer to the Anunga Rules (see s. 3.19: 'The Anunga Rules – Aboriginals and Torres Strait Islanders' of the DERIE) as a guideline to the interview of Aboriginal and Torres Strait Islanders.

When an officer intends to question an Aboriginal person or Torres Strait Islander, whether as a witness or a suspect, consideration should also be given to the relevant information and guidelines contained in Chapter 9: 'Indigenous Language and Communication' of the Supreme Court of Queensland – Equal Treatment Benchbook.

### **6.3.7 Interpreters**

#### **ORDER**

Where an officer seeks to interview a person in accordance with s. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' of this chapter, the officer is to arrange for the presence of an interpreter to assist with the interview by virtue of s. 433: 'Right to interpreter' of the PPRA and s. 28: 'Right to interpreter' of the Responsibilities Code. This includes members of the deaf community.

#### **Use and selection of interpreters and translators for spoken written and sign languages**

Where practicable, officers should provide professional, accessible and equitable services in response to the communication requirements of people from non-English speaking backgrounds, First Nations and Torres Strait Islander peoples, the deaf and hearing/speech impaired persons.

In relation to general interactions with clients (victims, offenders, informants, witnesses and members of the public requiring assistance), it is Queensland Government policy to provide fair and equitable service to all people in Queensland. This may require the use of an accredited interpreter.

#### **Using police liaison officers, multilingual staff member or other person**

Multilingual staff, including police liaison officers (PLO), family members or other community members are not to be used in instances where an official (professional interpreter) should be used. This has the potential to create the perception of a conflict of interest. i.e. a person employed by the service may not be seen as an impartial person to

translate for an offender, victim or witness (see s. 433 of the PPRA and s. 28 of the Responsibilities Code). The circumstances of the interaction will be crucial when deciding whether to use an accredited interpreter, for example:

- (i) complexity of the interaction; e.g. where the person is making a complaint of assault;
- (ii) any emergency or possible need to gain information quickly;
- (iii) availability of suitable people to assist in communication;
- (iv) availability of an accredited interpreter in a specific language or dialect;
- (v) time required to access an interpreter;
- (vi) using a relative may be inappropriate for privacy or other reasons e.g. a family member may not be suitable in family disputes; and/or
- (vii) gender roles, particularly when dealing with intimate issues.

A person employed by the Service however may assist during the investigative process, providing language, cultural and protocol advice to investigators as well as liaising with victims and families etc.

### **Using family members and friends (particularly children) to interpret conversations**

Although sometimes expedient, the use of family members or friends/colleagues (particularly children) to interpret conversations should be treated with caution by police.

Children should not be used for anything more than initial introductions or in emergency situations.

### **Arranging an interpreter or translator**

Interpreters, translators and Australian Sign Language (AUSLAN) interpreters accredited by the National Accredited Authority for Translators and Interpreters (NAATI) at the level of 'interpreter', 'translator' or higher, should be used when investigating criminal offences, complex legal matters and for court proceedings.

Interpreters and translators without NAATI accreditation qualifications (who may also be known as communicators), should only be used when NAATI accredited interpreters or translators are not available.

Sections 436: 'Recording of questioning etc.' and 437: 'Requirements for written record or confession or admission' of the PPRA require the recording of the questioning of persons in custody. The requirement to record the conversation between the interpreter and the person in custody should be considered when deciding upon an interpreting option.

When an officer intends to interview a person and an interpreter is required they are to:

- (i) seek permission from the client to engage an official interpreter;
- (ii) verify the client's language, dialect and the gender preferred for the interpreter. As these may have cultural significance for the client; and
- (iii) decide if you need an 'on site' or telephone interpreter.

Appropriate NAATI accredited, interpreters and paraprofessional interpreters and, non-accredited telephone and onsite interpreters and translators may be contacted either directly or through an interpreting or translating service provider (see Multicultural Affairs on the Service Intranet, the NAATI internet site ([www.naati.com.au](http://www.naati.com.au)) or the SMCD).

Communication with the Deaf community will require special consideration as it will require an on-site interpreter. Accredited AUSLAN interpreters may be contacted directly, through an interpreting or translating service provider.

Officers are to record the details of any interpreter used, including the accreditation level where applicable.

Where local interpreter services are non-existent or inadequate and the use of a telephone interpreter is not appropriate, officers may arrange for suitably qualified onsite interpreters to travel to their area, with charges and rates relating to that provider payable, at Service expense.

OIC approval should be sought prior to engaging an interpreter, if not available, permission from the DDO or patrol group inspector should be sought. Officers should complete any local registers or if not available, record the interpreter use in their official police notebook and the station patrol log.

The cost of providing interpreter services should not be a factor in deciding whether an interpreter is required. If there is any doubt that a client may be disadvantaged, a professional interpreter should be engaged.

Officers requiring assistance or advice in relation to interpreting services can contact Multicultural Affairs.

The following forms are available to assist in the engagement of an interpreter:

- (i) The Translating and Interpreting Service Queensland 'Request for on-site/telephone interpreting' form; and
- (ii) The Deaf Services Queensland 'Interpreter request' form.



## Communications and interviews using interpreters

Where an officer considers that s. 433 of the PPRA may apply to a person in custody, the officer may ask any question, other than questions related to that person's involvement in the offence, that may assist in determining if the person needs an interpreter (see s. 28 of the Responsibilities Code).

During an investigation, the following persons are not considered appropriate as interpreters during interviews:

- (i) co-offenders or other persons suspected of involvement in the matter, the subject of questioning;
- (ii) relatives of the person to be interviewed including children;
- (iii) police officers (generally includes PLOs and staff members);
- (iv) complainants or witnesses; and
- (v) other parties with an interest in the outcome of the investigation.

Officers should also consider the provisions of ss. 419(3), 420(6), 421(3), 424-426 and 441 of the PPRA.

Officers should ensure the interpreter:

- (i) is identified to the person;
- (ii) and the person fully understand each other;
- (iii) is acceptable to the person; and
- (iv) is not seen as exercising authority over the person.

Questioning should take the following form:

- (i) if practicable, officers should ensure electronic recording equipment is available for the questioning in compliance of ss. 436 and 437 of the PPRA;
- (ii) have the interpreter translate and ask the question;
- (iii) listen to the answer;
- (iv) have the interpreter translate and repeat the answer; and
- (v) record the answer (if written record of interview).

An interpreter used in an interview with a defendant needs to be called as a prosecution witness. Interpreters used for witnesses are potential witnesses for the prosecution and a different interpreter should be used for any subsequent court interpreting.

For further useful information and contact numbers see Multicultural Affairs on the Service Intranet.

### 6.3.8 Disability worker clearance card

A valid disability worker clearance card (known as and referred to as a yellow card) is required by a person who cares for or is employed (paid, volunteer or student) in providing services or activities which are regulated by the *Disability Services Act* (DSA).

Disability Services are responsible for the issuing of a disability worker clearance card.

The Service is responsible for the investigation and prosecution of offences under the DSA which may either be identified by an officer or referred for investigation by another department.

#### Disability worker clearance card (yellow card) offence investigations

Disability Services will refer matters for investigation and prosecution of offences under the DSA to the Service.

#### Power to demand production of disability worker clearance card

Section 789B: 'Power to demand production of disability worker clearance card' of the PPRA authorises an officer who knows or reasonably suspects a person is the holder of a disability worker clearance card (yellow card) issued by Disability Services and:

- (i) the person has been charged with a disqualifying offence; or
- (ii) is a disqualified person within the meaning,

to require the person to immediately surrender the disability worker clearance card to the officer. The person must comply with the requirement unless the person has a reasonable excuse.

#### Requirement to give disability worker clearance card to an arresting officer

An officer who knows or reasonably suspects a person is a person to which s. 789B(1) of the PPRA applies, is to give the person a requirement to immediately give the disability worker clearance card (yellow card) to the officer.

The officer exercising this power may enter and stay on a place in accordance with s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA.

The requirement may be given orally or in writing, depending on the circumstances. If orally, the officer if practicable, is to warn the person that failure to comply with the requirement is an offence unless the person has a reasonable excuse and they may be arrested for the offence (see s. 633: 'Safeguards for oral directions or requirements' of the PPRA).

An officer who is given a person's disability worker clearance card (yellow card) after a requirement under s. 789B(1) of the PPRA is made, is to:

- (i) issue a QPB 32A: 'Field Property Receipt' or if practicable, a QP 0760: 'QPRIME Property Receipt' from the relevant QPRIME occurrence for the seizure of the item;
- (ii) create a 'Seized property [1645]' occurrence in QPRIME;
- (iii) forward the yellow card to the Chief Executive Disability Services; and
- (iv) record the following information in the occurrence summary field of the QPRIME occurrence:
  - (a) that a requirement for a yellow card was made under s. 789B of the PPRA;
  - (b) the date on which the requirement was made;
  - (c) the date on which the officer was given the yellow card;
  - (d) if applicable, the QPB 32A number and date of issue; and
  - (e) the date the yellow card was forwarded to the Chief Executive Disability Services, and the means by which it was forwarded.

### 6.3.9 Deleted

### 6.3.10 Deleted

### 6.3.11 Homeless persons

Officers who come in contact with a homeless or destitute person should:

- (i) refer that person to an agency for assistance, so that emergency accommodation and resources can be provided, and if asked, supply their name, rank, and station/establishment to the homeless or destitute person;
- (ii) record particulars of any assistance provided and when assistance is offered and declined by the person. Officers should record the names of the agencies referred to and any other assistance offered;
- (iii) if the person has been acting unlawfully, consider initiating a prosecution under the relevant statute;
- (iv) if the person is a child consider s. 5.2: 'General policy' of this Manual; and
- (v) ensure the homeless or destitute person is not recorded as a missing person on the Service computer system. If the person is recorded as a missing person, see s. 12.5.1: 'Responsibility of officers who locate a missing person' of this Manual.

See also ss. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' and 6.5: 'Specific physical, age related, intellectual or health needs' of this chapter.

### 6.3.12 Public Guardian

The Public Guardian is an independent statutory officer established under the *Public Guardian Act* (PGA) to protect the rights and interests of:

- (i) adults with impaired capacity (a definition of 'impaired capacity' is provided in Schedule 4: 'Dictionary' of the *Guardianship and Administration Act*); and
- (ii) relevant children and children staying at visitable sites (definitions of 'relevant children' and 'visitable sites' are provided in Schedule 1: 'Dictionary' of the PGA).

The functions of the Public Guardian are outlined in ss. 12: 'Functions—adult with impaired capacity for a matter' and 13: 'Functions—relevant child etc.' of the PGA.

The Public Guardian:

- (i) has a variety of investigative powers and the authority to represent or advocate for an adult person with impaired capacity or a relevant child;
- (ii) is authorised to consent to health care matters on behalf of for an adult person with impaired capacity or a relevant child; and

(iii) may delegate certain Public Guardian's powers under ss. 20: 'Delegate for investigation' and 146: 'Delegation' of the PGA to an appropriately qualified member of the Public Guardian's staff or appropriately qualified person, as applicable.

Under s. 146(2) of the PGA a delegate exercising powers under the Act must, if asked, produce evidence of the delegation.

The Public Guardian and any staff or persons authorised by way of delegation above, are public officials as defined in Schedule 6 of the PPRA.

Officers called upon to assist a person exercising the Public Guardian's powers under the PGA are to comply with the provisions of s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual. In establishing that the person concerned is in fact a public official under the PGA officers are to, where applicable, ask the person to produce evidence of the delegation.

Members receiving a complaint or report of a suspected offence where an adult person with impaired capacity or a relevant child is a victim are to ensure that such offence is investigated and where appropriate, prosecution action taken against the offender (see s. 3.4: 'General prosecution policy' of this Manual).

Officers investigating an offence involving a person with impaired capacity for whom the Public Guardian is acting or representing under the PGA, should regularly provide the Public Guardian with information on the status of the investigation and any subsequent prosecution.

Releases of information to the Public Guardian are to be dealt with in accordance with s. 5.6.22: 'Release of information to the Public Guardian' of the MSM.

### **6.3.13 Release of victim details to Queensland Health Victim Support Service**

In order to provide greater support to victims of offences alleged to have been committed by persons lawfully detained in an authorised mental health service, Queensland Health has established the Victim Support Service (VSS).

The VSS is responsible for ensuring victims of serious sexual offences or other violent offences, and their families, are contacted at the earliest possible opportunity to offer support and where applicable, given information regarding the whereabouts and treatment of offenders.

The Service has agreed to provide the VSS with victims' personal particulars where the VSS has provided an electronic request for the details and subject to appropriate consent being obtained for the release of the particulars. The request will be addressed to the district mental health intervention coordinator (DMHIC) of the relevant district where the offence occurred. The request will contain patient and offence details.

DMHIC are authorised to release victim details to the VSS in accordance with the policy contained within this section. DMHIC have been delegated the Commissioner's power to release information under s. 10.2: 'Authorisation of disclosure' of the PSAA (see Delegation D 15.46).

Members receiving a facsimile request for personal particulars of a victim of an offence from the VSS are to immediately refer the request to the DMHIC for the area where the offence occurred.

Upon receiving the request, the DMHIC is to seek consent to release the personal particulars of the victim of the offence, from the victim or where the victim is unable to give consent, from the victim's parent or guardian or immediate family member.

Where consent to release the personal particulars of the victim is given, the DMHIC is to supply the following victim details to the Manager, VSS, as soon as practicable:

- (i) name;
- (ii) residential address;
- (iii) telephone number;
- (iv) relationship to offender (if known);
- (v) confirmation as to whether the victim is a minor; and
- (vi) if the victim is a minor, details of next of kin.

The details should be supplied by completing and returning the response section of the request by facsimile, or by forwarding an email containing the details. A written record of the consent and subsequent release of the information should be kept by the DMHIC.

### **6.3.14 Police Referrals**

Police Referrals allow members of the Service to connect individuals with external support providers to address social and lifestyle issues impacting on their life, along with formalised support mechanisms for victims of crime (see the Police Referrals webpage on the Service Intranet).

A Police Referral should be offered where members consider a person has a genuine need for, and would potentially benefit from, a referral. To determine who is a suitable candidate for a referral, members should conduct a 'suitability assessment' considering:

- (i) if the person is willing to access the referral service;
- (ii) if the person is vulnerable to victimisation, repeat victimisation or harm;
- (iii) if the person previously committed an offence and how likely the person is to re-offend without intervention;
- (iv) if intervention will provide a benefit or risk reduction for the person's family, peers, neighbours, social network;
- (v) if a referral is likely to reduce police calls for service; and
- (vi) if completing a referral will be an appropriate response to the person and meet community expectations.

The suitability assessment regarding a Police Referral does not extend to domestic and family violence (DFV). An officer is to offer a Police Referral to a person experiencing DFV, and a respondent who has committed an act of DFV, in compliance with s. 9.4.10: 'Domestic and family violence referral agencies' of this Manual.

Police Referrals complement existing requirements under Service policy and legislation and referrals should not be made in lieu of Service policy or statutory obligations.

Police Referrals relate to ten themes:

- (i) community support;
- (ii) DFV;
- (iii) family and youth services;
- (iv) health and wellbeing;
- (v) homelessness;
- (vi) identity theft and fraud;
- (vii) legal advice;
- (viii) mental health;
- (ix) senior support; and
- (x) victim support.

Further information in relation to the categories and services available is provided at 'Referral categories' on the Service Intranet.

Where a victim of an 'act of violence' specifically requires the services of Victim Assist Queensland (see s. 2.12.3: 'Victim Assist Queensland' of this Manual), members are to refer the victim to Victim Assist Queensland via a Police Referral.

Police Referrals electronically process submitted referrals and refers them to the appropriate service providers. When community members consent to a Police Referral they will be contacted by a service provider external to the Service within a few business days. Contact usually commences with a telephone call, SMS or an email. Assistance offered will be aligned with the needs of the referred individual and the service provider capabilities. Follow up service provision may include personal contact via telephone, face-to-face, or information provided via SMS, email or post.

### **Submitting a Police Referral**

#### **ORDER**

To ensure compliance with the *Information Privacy Act*, a referral is only to be made after consent of the person is obtained.

For referrals relating to a person experiencing domestic violence or relating to a person who has committed DFV, different provisions may apply. For all DFV related Police Referrals, see s. 9.4.10: 'Domestic and family violence referral agencies' of this Manual.

Members should submit a Police Referral on each occasion it is deemed necessary to assist the person, regardless of whether the person has been previously referred.

Where a member considers a person would benefit from a Police Referral, the member should:

- (i) explain to the person the voluntary referral process;
- (ii) where a referral is requested, obtain the person's consent to forward their details to an external support provider who will arrange appropriate assistance;
- (iii) where the person is below the age of 16 years, obtain consent from their parent or guardian;
- (iv) where the person is incapable of providing consent e.g. the person is suffering from dementia, obtain the consent from a relative or carer; and

(v) complete and submit a referral using the Police Referrals system.

### Recording a Declined Police Referral

Members should record a declined referral on each occasion a Police Referral is offered but declined, regardless of whether the person has previously been offered a referral, has previously accepted a referral, or has previously declined a referral. Recording a declined police referral captures key information to:

- (i) build the police referral history of a person; and
- (ii) create an overview of recidivism and revictimisation of the referred person.

### Obtaining Information from Police Referral Services

ORDER

Members requiring information relating to clients, previously referred using the Police Referrals system, are to forward an email request to 'Police Referral Services Unit' on email.

## 6.4 Cross cultural issues

Officers may have contact with people from diverse communities and backgrounds in the execution of their duties and should remain aware that many people will have cultural or religious beliefs which may impact on their practices and behaviours.

Officer interaction with diverse community members should be conducted in a manner that is fair and provides for those person beliefs where practicable. See Religious and Spiritual Diversity for Operational Police on Community Engagement Group and Internal Support, Communications, Culture and Engagement Division's Religious Diversity page of the Service Intranet.

The following are examples of police interaction with diverse community members, where officers' may:

- (i) deal with members of the Sikh community. Baptised Sikhs may find it offensive to be requested by an officer to undo their turban, remove their Kanga (ceremonial comb), Kara (iron bangle) or Kirpan (ceremonial sword) as these are considered to be articles of faith (sacred objects); and
- (ii) officers may require confirmation of identification from a Muslim female wearing a full faced hijab, burka or niqab. Such persons may find it objectionable to reveal their face to male officers or in public places as the Islamic dress code requires women to dress modestly, and to cover certain parts of the body.

In such circumstances, officers should consider the provisions relating to searches of persons within s. 624: 'General provision about searches of persons' of the PPRA and s. 16.10: 'Search of persons' of this Manual. This may require same sex officers to make requirements and consider additional arrangements to conduct the search in a manner that protects the dignity of the person.

Members requiring further advice may contact the Cultural Support Unit, Communications, Culture and Engagement Division.

### 6.4.1 Education and training

ORDER

The Assistant Commissioner, People Capability Command is responsible for the development and provision of training to members in Indigenous and multicultural community issues which affect policing in Queensland and ensure all:

- (i) academy teaching staff;
- (ii) district/establishment education and training officers;
- (iii) members involved in the development and writing of learning materials; and
- (iv) officers,

are made aware of policing, education and training issues involving cross cultural issues.

Provision of education and training may be facilitated by district education and training coordinators and district/establishment education and training officers.

### 6.4.2 Community involvement (responsibilities of officer in charge)

OIC of stations or establishments should, in managing the provision of services, take into account the specific cultural demographic and characteristics of their area of responsibility and the needs of the community.

ORDER

OIC of stations or establishments at Aboriginal and/or Torres Strait Islander communities are:

- (i) responsible for the identification of training issues for community police under their control;



(ii) to be conversant with legislation governing the administration of Aboriginal and Torres Strait Islander communities in Queensland; and

(iii) to ensure officers under their control are informed of and are adequately trained in legislation governing the administration of Aboriginal and Torres Strait Islander communities in Queensland.

To provide quality training and to ensure an effective policing service to the community, OIC of stations and establishments at Aboriginal and Torres Strait Islander communities should:

(i) liaise with district education and training officers; and

(ii) liaise with local community councils to become conversant with local legislation.

### 6.4.3 Cross cultural liaison officers

Cross cultural liaison officers (CCLO) are available in all regions and their role is to:

(i) establish and maintain effective liaison between police and Aboriginal, Torres Strait Islander, and other cultural communities;

(ii) to identify the needs of communities; and

(iii) enable appropriate policies and strategies to be developed to ensure the delivery of an equitable service within the district or region.

The principal responsibilities of CCLO include:

(i) managing and coordinating cultural support activities in line with Service policy;

(ii) developing and maintaining effective communication with Aboriginal, Torres Strait Islander, and other cultural community representatives; colleagues; and representatives of government departments and external agencies;

(iii) developing and presenting community-based policing programs in line with Service policy; and

(iv) providing operational support particularly in the investigation of crime in Aboriginal and Torres Strait Islander, and other cultural communities.

### 6.4.4 Senior executive Indigenous community visitation

Building relations based on trust and confidence between police and Indigenous communities is a priority for the Service.

It is important for all senior executive officers to be actively engaged with First Nations and Torres Strait Islander communities and to periodically visit them.

Assistant commissioners whose regions include First Nations or Torres Strait Islander communities should seek to visit them at least annually.

All senior executive officers should capitalise on opportunities to visit First Nations and Torres Strait Islander communities in a meaningful way with a view to enhancing partnerships and gaining a fuller understanding of issues affecting their area of responsibility. Where possible, the timing of these visits should align with whole of government engagements including negotiation tables or other significant events e.g. opening of new buildings.

Further information regarding principles, resources and advice available may be found in the Senior Executive Indigenous Community Visitation Policy Statement on the First Nations Division webpage of the Service Intranet.

## 6.5 Specific physical, age related, intellectual or health needs

### 6.5.1 Age related needs

When members are involved in matters where an elderly or older person is a victim or offender, they are to offer a referral in accordance with s. 6.3.14: 'Police Referrals' of this chapter and record this information in QPRIME.

Where an elderly person is the victim of elder abuse or associated elder abuse and an officer identifies behaviour which may constitute domestic violence within the context of a relevant relationship (see s. 13: 'Meaning of relevant relationship' of the DFVPA), the officer is to investigate, or cause to be investigated, whether domestic violence has occurred (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA and s. 9.4.2: 'Investigating domestic and family violence (initial action)' of this Manual).

Officers are to conduct an investigation in accordance with Chapter 2: 'Investigative Process' of this Manual to determine if any offences have been committed, taking action where appropriate, and establish if the elderly person requires immediate protection, and if justified, take appropriate action to immediately protect the elderly person from further domestic violence.

Due to the vulnerability of elderly persons as a victim, officers should consider consulting their district domestic and family violence co-ordinator and district crime prevention officer who may be able to advise on what specific assistance

and resources can be provided. Further information and support is located on the State Domestic, Family Violence and Vulnerable Persons Command's Elder Abuse webpage on the Service Intranet.

### 6.5.2 Intellectual disability

Officers should note the distinction between procedures affecting people who are mentally ill and those affecting people who are intellectually disabled. Where an officer is unclear if a person is intellectually disabled, advice should be sought from an appropriate source. Community psychiatric clinics are an appropriate source of advice (see s. 6.6: 'Mentally ill persons' of this chapter).

### 6.5.3 Guide Dogs

Where officers are in attendance at an incident at which the owner of a guide dog has been injured and is to be transported by ambulance, the senior officer at the scene should ask the owner of the dog where or to whom the dog is to be taken and as soon as possible thereafter, deliver or arrange for the delivery of the guide dog to the place nominated by the owner.

If the owner of the guide dog is unable to provide advice, the senior officer present should contact or cause to be contacted the Guide Dogs Queensland.

### 6.5.4 Alcohol and/or drug dependency

An officer dealing with a person who appears to be intoxicated should be aware the person may be exhibiting the symptoms of what could be a genuine medical complaint. A number of conditions may produce signs similar to intoxication, particularly when occurring in conjunction with alcohol ingestion.

#### ORDER

Where any doubt exists as to whether a person is intoxicated or exhibiting possible symptoms of a medical complaint, officers are to immediately seek medical treatment for that person.

Generally, officers should not interview a person for an offence when that person is:

- (i) under the influence of liquor or a drug; or
- (ii) suffering the effects of alcohol or drug withdrawal,

to such an extent that a vulnerability, disability or cultural need exists.

There will be exceptions to this policy which may include:

- (i) offences under s. 79 of the TO(RUM)A; and
- (ii) situations where evidence would otherwise be lost because of circumstances such as the need to protect life or property, or to prevent a co-offender taking flight or absconding.

However, officers should bear in mind any evidence obtained whilst interviewing a person who is under the influence of liquor or a drug or suffering the effects of alcohol or drug withdrawal may be ruled inadmissible in a court.

### 6.5.5 Potentially harmful things (volatile substance misuse)

Volatile substances, or inhalants, refer to a wide range of products containing substances such as toluene and hydrocarbons that produce or release chemical vapours or fumes at room temperature. Volatile substances include:

- (i) volatile solvents – glues, paint thinners, dry cleaning fluids, petrol, adhesives, felt tip markers, degreasers;
- (ii) aerosols – spray paints, deodorants, hairsprays, insect sprays, air fresheners, vegetable oil sprays;
- (iii) gases – butane cigarette lighters, propane gas, nitrous oxide (found in whipped cream dispensers); and
- (iv) nitrates – amyl nitrate, butyl nitrate.

Volatile substance misuse (VSM), inhalant use, solvent sniffing, glue sniffing, chroming, and paint sniffing are terms used to describe the deliberate inhalation of fumes or vapours from a volatile substance for an intoxicating effect (see 'Information concerning potentially harmful things' of this section).

#### Effects of volatile substance misuse

Volatile substance misuse can produce short and long-term adverse health effects which may vary from person to person depending on various factors.

Volatile substances depress the central nervous system and provide similar effects to alcohol. Intoxication occurs rapidly (1-5 minutes) with a recovery period generally of 30-60 minutes. Short term effects can include a loss of inhibition, euphoria, excitement, drowsiness, disorientation, confusion and inappropriate laughter or weeping. Other effects include a loss of coordination, numbness, anxiety, tension, nausea, vomiting and hallucinations.

The long-term effects of regular or chronic volatile substance misuse can include memory loss, depression, fatigue, irritability, weight loss, sneezing, coughing, a runny nose, nosebleeds and sores around the nose and mouth. Permanent hearing loss and damage to the major organs and central nervous system can also occur.

The inhaling of volatile substances may also result in unconsciousness, heart failure and sudden death. The likelihood of this occurring is increased where during or shortly after inhaling, an affected person is exposed to an activity or event that causes a sudden rise in heart rate (e.g. the person flees from police).

The Service and the Queensland Ambulance Service (QAS) have developed an immediate response protocol to volatile substance misuse, which is available on the Drug and Alcohol Coordination Unit site on the Service Intranet. The document outlines the role of the QAS at a volatile substance misuse incident and what officers should know and how they should deal with these incidents.

### Responding to incidents involving potentially harmful things

When responding to any incident involving potentially harmful things officers should:

- (i) consider the issue of safety. Police involvement may cause the person to become agitated and they may try to run or react violently. The primary concern of officers should be their own safety, the immediate safety of the affected person(s) and any members of the public;
- (ii) assess the affected persons level of consciousness. If the affected person:
  - (a) is unconscious;
  - (b) has an altered level of consciousness; or
  - (c) has had any reported unconsciousness,

officers are to request QAS or trained medical assistance and render first aid as appropriate;

- (iii) remove the potentially harmful thing(s) (see 'Seizing potentially harmful things' of this section);
- (iv) avoid unnecessarily chasing or aggravating the affected person. In some cases, it may be necessary to chase a person. However, chasing or aggravating the affected person may cause a serious reaction in a person affected by volatile substances and can lead to unconsciousness and possibly death;
- (v) discuss what substance(s) has been used;
- (vi) suggest a place of safety for the affected person to recover; and
- (vii) provide referral information.

In addition, if the person affected by a potentially harmful thing is:

- (i) under 18 years of age, officers should contact the parents or guardian;
- (ii) a child under the age of 12 years, and is at risk of harm and the parents of the child cannot be contacted, officers should consider taking the child to a safe place pursuant to s. 21 of the *Child Protection Act* (see s. 7.4.2: 'Moving a child to a safe place' of this Manual);
- (iii) located in a declared locality (see s. 604(4): 'Dealing with persons affected by potentially harmful things' of the PPRA), where possible, officers should ask the person if they are willing to be taken to a place of safety. If the person is unwilling or refuses, officers should consider detaining and taking the person to a place of safety (see 'Detaining persons affected by potentially harmful things' of this section). Localities declared pursuant to s. 604(4) are Mt Isa, Cairns, Townsville, Inner Brisbane, Logan, Rockhampton, Gracemere-Rockhampton and Caboolture (see s. 15: 'Declared localities—Act, s 604(4)' of the Police Powers and Responsibilities Regulation).

### Seizing potentially harmful things

An officer who reasonably suspects a person is in possession of a potentially harmful thing (see Schedule 6: 'Dictionary' of the PPRA), and reasonably suspects that person has, is or is about to ingest or inhale the thing, may search the person and anything in the person's possession to find out whether the person is in possession of a potentially harmful thing (see s. 603: 'Power to seize potentially harmful things' of the PPRA).

If the person does not give a reasonable explanation for possessing the potentially harmful thing, police may seize the thing.

Potentially harmful things seized pursuant to this section are forfeited to the State and s. 622: 'Receipt for seized property' of the PPRA does not apply (see s. 603(6) and (7) of the PPRA).

When searching a person and/or seizing potentially harmful things pursuant to s. 603 of the PPRA officers are to comply with the following provisions of this Manual:

- (i) s. 4.3.10: 'Potentially harmful things'; and
- (ii) s. 16.10: 'Search of persons'.

When items other than potentially harmful things are seized or taken from a person affected by potentially harmful things, officers are to comply with the relevant provisions of Chapter 4: 'Property' of this Manual.

The provisions of s. 603 of the PPRA apply in all cases irrespective of the person in possession of the potentially harmful thing being affected or subsequently detained and taken to a place of safety (see 'Detaining persons affected by potentially harmful things' of this section).

### **Detaining persons affected by potentially harmful things**

A place of safety is defined in s. 604(2) of the PPRA as a place, other than a police station or establishment, where an officer considers the affected person can receive the treatment or care necessary to enable the person to recover safely from the effects of the potentially harmful thing.

Examples of a place of safety include:

- (i) a hospital, for a person who needs medical attention;
- (ii) a vehicle used to transport persons to a place of safety and under the control of someone other than a police officer (e.g. a QAS vehicle);
- (iii) the person's home, or the home of a relative or friend, if there is no likelihood of domestic violence or associated domestic violence happening at the place because of the person's condition, or the person is not subject to a domestic violence order preventing the person from entering or remaining at the place; or
- (iv) a place, other than a hospital, that provides specific care for persons who are intoxicated or affected by volatile substances, if such a place or organisation exists within the particular declared locality.

As persons affected by potentially harmful things need to be assessed by members of the QAS if they are unconscious, have an altered level of consciousness or have had any reported unconsciousness, in many instances a QAS vehicle will be the most suitable place of safety.

OIC of stations or establishments within a declared locality are to ensure an appropriate list of places of safety is maintained and is available to officers under their control. Such a list should include information concerning each place of safety and:

- (i) its capacity;
- (ii) hours of operation;
- (iii) the type of persons able to be taken there; and
- (iv) the notification process (i.e. whether it is necessary to call prior to attending).

Within a declared locality:

- (i) if, because of the way a person is behaving and other relevant indicators, an officer is satisfied the person is affected by the ingestion or inhalation of a potentially harmful thing; and
- (ii) only if it is appropriate for the person to be taken to a place of safety,

an officer may detain, and as soon as possible should transport the person to a place of safety, unless:

- (i) a person at a place of safety refuses, or is unable, to provide care for the relevant person; or
- (ii) the relevant person's behaviour may pose a risk of harm, including, but not limited to, an act of domestic violence or associated domestic violence, to other persons at a place of safety; or
- (iii) the police officer is unable to find a place of safety that is willing to provide care for the relevant person (see s. 605(2) 'Duties in relation to person detained under s 604' of the PPRA).

If a detained person cannot be left at a place of safety, the detained person must be released (see s. 605(3) 'Duties in relation to person detained under s 604' of the PPRA).

Officers who detain a person under s. 604 of the PPRA are to:

- (i) comply with the provisions of s. 6.11: 'Property of prisoners' of this Manual;
- (ii) before releasing the person at the place of safety, ensure the person apparently in possession or in charge of the relevant place of safety gives a signed undertaking to provide care for the relevant person on a Form 92: 'Place of safety – Carer undertaking' (available in QPRIME); and
- (iii) as soon as practicable following the release of the detained person, complete all required entries in QPRIME and file the signed form 92 at the officer's station or establishment.

When a person is taken to and released at a place of safety, officers are not to compel that person to stay at the place of safety, unless another Act otherwise requires (see s. 606: 'No compulsion to stay at place of safety' of the PPRA).

### **Completing a QPRIME custody and search report**

ORDER

A search of a person or seizure of a potentially harmful thing under s. 603 or s. 604 of the PPRA are 'enforcement acts' and are to be recorded in QPRIME.

The occurrence type to be recorded in QPRIME is 'Volatile Substance Misuse [1582]'. Officers are to record in the QPRIME occurrence a 'Person Stop/Search report for search and seizure, and a 'Custody Report' for detention of a person under s. 603 or s. 604 of the PPRA.

(See also s. 2.1.2: 'Registers required to be kept' and s. 16.8: 'QPRIME custody, search and property reports' of this Manual).

### Information concerning potentially harmful things

The Drug and Alcohol Coordination Unit site on the Service Intranet contains information concerning Volatile Substance Misuse.

The Alcohol and Drug Information Service can provide additional information for concerned people and parents. They provide a 24 hour, 7 day service which includes advice information and referral to local agencies (see SMCD).

The Poisons Information Centre can also provide treatment advice, information and referral 24 hours, 7 days a week (see SMCD).

### 6.5.6 Persons who are deaf, hard of hearing, blind or have low vision

Many people in the community require additional assistance when communicating with others due to varying degrees of difficulty in hearing or vision. Details of interpreters or assistance through Deaf Services Queensland or Vision Australia can be found in the SMCD.

Deaf Services Queensland use the terms deaf and hard of hearing. Deaf is the term used to describe those people with a hearing loss who use sign language. Hard of hearing is the term used for those who use assistive listening devices and use English as their preferred language (through speech and lip-reading/residual hearing).

The World Health Organisation defines levels of vision impairment into 4 categories, namely: none, slight, moderate and severe. Visual impairment is comprised of blind and low vision, with low vision being a combination of the moderate and severe categories.

Officers who interact in any way with a person who is deaf, hard of hearing, blind or has low vision, should give that person a calling card with the officer's name, station and contact details (see s. 11.2: 'Police calling cards' of the MSM).

When interviewing a person who is deaf, hard of hearing, blind or has low vision, an interpreter may be required (see ss. 6.3.3: 'Interviewing persons with vulnerability, disability or cultural needs' and 6.3.7: 'Interpreters' of this chapter).

## 6.6 Mentally ill persons

### Definitions

For the purposes of this section:

#### Authority to transport absent person

means an 'Authority to Transport Absent Person' form issued for the return of an absent person pursuant to ss. 364: 'Particular person may require return of absent person' of the *Mental Health Act* (MHA) or 157H: 'Person in charge of facility may require return of absent person' of the *Public Health Act* (PHA).

#### Authorised person

is defined by s. 359: 'Who is an authorised person' of the MHA and includes a police officer.

#### Custodian of a person in custody

means the person having the lawful custody of the person (see Schedule 3 of the MHA).

### 6.6.1 Dealing with mental illness generally

#### Roles of the Queensland Ambulance Service and the Service

The Service has entered into a Memorandum of Understanding (MOU) with the Queensland Ambulance Service (QAS) that broadly identifies each agency's responsibilities with respect to working collaboratively towards the prevention and safe resolution of mental health incidents.

The MOU requires the Service and the QAS to work in full cooperation to promote a coordinated system of response to ensure effective and efficient delivery of services to meet the needs of people with a mental disorder. The MOU acknowledges and agrees that when dealing with persons with an actual or suspected mental disorder and where there is a risk to safety that:

- (i) police have the responsibility to protect the safety of all parties; and



(ii) ambulance personnel have the responsibility of addressing the physical needs of the person, including transportation to a medical facility.

Unless exceptional circumstances exist, officers responding to a mental health incident are to:

- (i) obtain the assistance of the QAS to:
  - (a) ensure the best possible medical response to the situation; and
  - (b) provide transportation for a person who is deemed in need of assessment at an authorised mental health service (AMHS);
- (ii) provide all possible assistance to the QAS personnel in such situations (this may include assisting with transportation where QAS personnel attend the scene and request such assistance); and
- (iii) provide sufficient information to QAS personnel to enable them to prevent or lessen a threat to the safety and health of any person involved in the mental health incident (e.g. providing the name, address, date of birth or any known mental health history of the person; see also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the Management Support Manual).

Likewise, the role of the QAS is to also provide sufficient information to Service members to enable them to prevent or lessen a threat to the safety and health of any person involved in the mental health incident.

OICs of regions should ensure local arrangements are developed to support the MOU entered into between the Service and the QAS.

See also s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter.

### **Accessibility of memorandum of understanding, agreements and guidelines**

The MOUs, arrangements and guidelines relating to mental health intervention entered into by the Service with other agencies are located on the Strategic Policy and Legislation, Policy and Performance Division Intranet site.

### **Voluntary referrals to authorised mental health services**

When officers consider that a person may need an assessment or treatment by a mental health service provider and where there is no immediate risk to persons or property, officers are to ask the person if they will voluntarily obtain an assessment or treatment before considering other options.

Officers contacted by members of the public about a person, who may be mentally ill and is not behaving in a manner which poses an imminent risk of significant physical harm being sustained by the person or somebody else, may advise the person to contact the nearest AMHS for advice.

When a person is in need of assessment or treatment by an AMHS provider, officers are to **discreetly** ascertain whether the person is currently a client of a mental health service provider that includes:

- (i) an AMHS;
- (ii) a private psychiatrist; and
- (iii) a community mental health centre.

Where a person is identified as a client of a mental health service provider, officers may suggest that the person contact the appropriate service provider for follow up.

Where a person is not currently a client of an AMHS provider, or there are concerns that a person who is a client of a mental health service provider will not make contact with their mental health service provider, the officer may make a direct referral to an AMHS or alternatively, if consent is obtained in accordance with s. 6.3.14 of this chapter, generate a referral through QPRIME or QLITE.

Before making a referral to an AMHS either directly or via a Police Referral, officers are to:

- (i) ensure the person is aware that the officer intends to make the referral; and
- (ii) tell the person that they can refuse an offer of service when contacted by the mental health service.

Where an officer makes a referral directly to an AMHS, the officer may make initial contact with the relevant AMHS by telephone and are to complete and fax or email a QP 0824: 'Police referral to an authorised mental health service for voluntary assessment and treatment' form to the relevant AMHS within twenty-four hours of advising the subject that the referral is to be made.

### **Privacy Protection**

#### **ORDER**

Officers are only to release personal information to staff at an AMHS where the release of information is authorised or required by law or Service policy.

Officers are to only initiate inquiries with the subject person to establish the person's mental health history or status. This restriction does not apply to requests for information from other members of the Service or Service information holdings.

Where a person provides information that may be relevant to a subject person's mental health, officers may make further inquiries with that person to obtain clarification or more details.

### **Completion of QPRIME custody reports for mentally ill persons**

Officers are to ensure that a Custody Report is recorded against a person in QPRIME under the following occurrences:

- (i) EEA (Emergency Examination Authority) [1586];
- (ii) Mental Health – Authority to Return/Transport [1691];
- (iii) Public Health Act 2005 – Request for Police Assistance [1587]; or
- (iv) Mental Health Act 2016 – Request for Police Assistance [1588],

as appropriate and as soon as practicable after processing the person in accordance with the provisions of the *Public Health Act* or *Mental Health Act* (MHA). Officers are not required to record a Custody Report in QPRIME if the person being assisted is transported for voluntary assessment/treatment. See s. 16.8: 'QPRIME custody, search and property reports' of this Manual.

### **Restraining mentally ill persons**

Officers are to treat and transport mentally ill persons with respect and in a manner which is mindful of their right to privacy and retains their dignity. Restraints should only be used as a last resort to prevent the person causing injury to themselves or someone else.

### **Protection of children of mentally ill persons**

In the event officers become aware that a person, who is apparently suffering from a mental illness, is a parent or guardian of a child or children under 18 years of age, officers are to consider the welfare of the children with respect to their obligations and powers under the *Child Protection Act* and the DFVPA.

In all cases where officers come into contact with a child who is mentally ill, officers are to enter a report of suspected harm to a child occurrence [0520] into QPRIME through PIR and send as a task for information to the local Child Protection and Investigation Unit (CPIU).

The CPIU officer, upon receiving a report of suspected harm to a child [0520], should assess the occurrence and if deemed necessary complete a Department of Child Safety intake advice form and forward to the Child Safety Services, Department of Child Safety, Youth and Women.

Officers who come into contact with a mentally ill person who has children in their care are to:

- (i) consider if the children are at immediate risk of harm, comply with the provisions of s. 7.4.1: 'Children at immediate risk of harm' of this Manual. However, before taking action under the *Child Protection Act*, officers are to, where practicable, consult with an officer from the CPIU; or
- (ii) consider if there is no immediate risk of harm, but still hold concerns for the welfare of the children, advise the local CPIU by telephone and create a report of suspected harm to a child occurrence [0520] in QPRIME, as soon as practicable. The following information is to be included in the occurrence:
  - (a) details of the mentally ill person;
  - (b) details of the children in their care;
  - (c) details of what care arrangements have been made for the children;
  - (d) the nature of the mentally ill person's behaviour;
  - (e) any concerns that the children may be in need of protection; and
  - (f) the name and location of the treating mental health service.

Officers who cannot contact the CPIU for advice or assistance, are to direct inquiries to the 'Child Safety After Hours Service Centre' (See SMCD).

Officers taking a mentally ill person into custody under the provisions of the MHA are to make all reasonable inquiries to ascertain whether a mentally ill person has responsibility for the care of children and apply the provisions of s. 16.4.5: 'Arrest of persons who have others in their care' of this Manual as appropriate.

### **Acute psychotic episodes**

Persons who suffer from schizophrenia, schizo-affective disorders, bipolar disorder, severe mood disorders, and delusional disorders may become extremely agitated, irrational, impulsive and paranoid, which may lead the person to behave in an aggressive and/or violent manner.

Persons suffering from an acute episode can rapidly develop an excited delirium condition, which can result in death.

See s. 14.3.6: 'Acute psychostimulant-induced episode and excited delirium' of this Manual for information on identifying, responding to, and risks associated with this condition.

### Attempted suicide by mentally ill person

For policy and procedure regarding action to be taken by officers attending an attempted suicide see s. 8.5.1: 'Suicide' of this Manual.

## 6.6.2 Emergency examination authority (EEA)

Section 157B: 'Ambulance officer or police officer may detain and transport person' of the *Public Health Act* (PHA) prescribes that an officer may detain a person and transport them for treatment if the officer believes:

- (i) a person's behaviour indicates the person is at immediate risk of serious harm including a person threatening to suicide;
- (ii) the risk appears to be the result of a major disturbance in the person's mental capability; and
- (iii) the person appears to require urgent examination, or treatment and care, for the disturbance.

An officer is to:

- (i) tell the person that they are being detained and transported to a treatment or care place;
- (ii) explain how the action taken may affect the person; and
- (iii) take reasonable steps to ensure the person understands the information,

(see s. 157C: 'What ambulance officer or police officer must tell person' of the PHA).

On arrival at a public sector health service facility with a person detained for an EEA, the officer is to immediately:

- (i) complete an 'Emergency Examination Authority' form;
- (ii) give it to a health service employee. The person may be detained in the public sector health service facility while the order is being made (see s. 157D(3): 'Giving emergency examination authority' of the PHA); and
- (iii) remain with the person for a reasonable time if requested by a health service employee.

The health service assumes responsibility for the person's detention once the authority is provided to staff by an officer. An officer may depart from the facility as soon as this occurs unless there are circumstances where there is concern about the person's management (e.g. a person who is considered likely to abscond).

Officers are only to be requested to remain where the individual circumstances of a case dictate that is necessary and reasonable. It is not to occur routinely. When officers are requested to remain, they are to ensure that health service staff are promptly making alternative arrangements (e.g. attendance of hospital security or moving the person to a more secure setting within the facility).

Officers are permitted to use force that is reasonable in the circumstances to help the person in charge of the public sector health service facility to detain the person (see s. 157N: 'Use of reasonable force to detain person' of the PHA).

In relation to the completed 'Emergency Examination Authority' form officers are to:

- (i) obtain a copy from the health service employee at the public sector health service facility; and
- (ii) ensure the copy is scanned into the relevant QPRIME occurrence as an attachment; and
- (iii) ensure that a QPRIME caution flag is created for the person subject to an EEA as a result of attempted suicide or expressions of suicidality and linked to the relevant QPRIME occurrence. Caution flag type is to be 'suicidal' and description is to be 'EEA' (see QPRIME User Guide 'EEA' s. 1.6).

If it is necessary to enter a place in order to take the person to a public sector health service facility, officers are to consider using the provisions of s. 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA where appropriate.

See s. 8.5.1: 'Suicide' of this Manual for additional action to be taken by officers when a person with mental illness has attempted suicide or made a serious suicide threat.

## 6.6.3 Transporting persons with impaired mental capacity

The *Mental Health Act* (MHA) and *Public Health Act* (PHA) provides an authority for officers to transport a mentally ill person to or from an authorised mental health service (AMHS) or place of custody. This may come from either an order of a court or by a request from a public official.

An officer's power to transport a person under the MHA is a power to detain the person and use force that is necessary and reasonable in the circumstances (see s. 373: 'Power to detain' of the MHA). Section 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA provides power to enter to detain a person under another Act, including the MHA, but only if the officer reasonably suspects the person is at the dwelling.

## POLICY

The Service, Queensland Health and Queensland Ambulance Service have signed the 'Safe transport of people with a mental illness – Queensland interagency agreement' available on Road Policing and Regional Support Command's 'Mental Health' webpage of the Service Intranet.

Officer presence should be requested by health service staff or ambulance officers only:

- (i) if there is an assessed risk relating to the safety of the individual or other persons that cannot be safely managed otherwise (refer to the Multi Agency Risk Information and Assistance (MARIA) Guideline at Appendix 2 of the 'Safe transport of people with a mental illness – Queensland interagency agreement' on Road Policing and Regional Support Command's 'Mental Health' webpage of the Service Intranet); or
- (ii) where the person is detained by the officer under:
  - (a) emergency examination authority;
  - (b) authority to transport absent person; or
  - (c) criminal charges.

The Service will prioritise requests for transport assistance and determine the most appropriate response based on the nature of the situation, safety considerations and the availability of operational resources.

Officer involvement in transport may take several forms:

- (i) officer/s accompanying the patient in an ambulance or health service vehicle;
- (ii) Service vehicle escorting an ambulance or health service vehicle; and
- (iii) officers conveying the person in a Service vehicle.

Transport in a Service vehicle should be an option of last resort, and should be restricted to short distances wherever possible, as it can result in:

- (i) heightened distress;
- (ii) agitation of the patient and/or family members; and
- (iii) a contribution to stigma.

An officer should always request and insist that a health practitioner or ambulance officer accompany the person to the health service, where practicable, to ensure the medical supervision of the person.

An acutely unwell, agitated patient travelling in a Service vehicle may require restraint to ensure the safety of the individual and others. The use of restraints may pose additional risks, especially when occurring in the context of a patient's drug or alcohol intoxication and/or travel in a prisoner pod, where monitoring of a patient during transit is difficult. Wherever possible, alternative means of safe transport should be arranged.

Where police are transporting an acutely mentally ill person from a rural or remote area, and the person is likely to require admission to an AMHS a considerable distance away, all agencies have a responsibility to consider alternative transport options to ensure the best outcome for the patient. By negotiation between the Service and the relevant health facility, transport by police to a local health facility for initial examination and medical care may be required. This may be followed by interfacility transport by ambulance or aircraft, with health and/or police escorts as required.

Patients who have been sedated for the purpose of safe transport should be transported by ambulance.

Where officers are transporting a person to an AMHS or place of custody and the person is not accompanied by a health practitioner, an AMHS administrator or a person lawfully helping the administrator, officers are to:

- (i) deliver a copy of any document authorising the detention of the person in the AMHS or place of custody to the person taking custody of the person at the AMHS or place of custody; and
- (ii) ensure any property, which belongs to the person and is to be transported with the person, is itemised before commencing the transport and a receipt is obtained from the person taking custody of the person at the AMHS or place of custody.

### Transport of persons in custody to authorised mental health services

A person in custody may be transported by an authorised person from the person's place of custody to an inpatient unit of an AMHS under:

- (i) s. 65: 'Transport for assessment' of the MHA if subject to a recommendation for assessment and the following have been made:
  - (a) an administrator consent; and
  - (b) a custodian consent;
- (ii) s. 66: 'Transport for treatment and care under treatment authority or particular orders' of the MHA if:

- (a) subject to a:
    - treatment authority;
    - forensic order (mental health); or
    - treatment support order; and
  - (b) the following have been made:
    - a transfer recommendation;
    - an administrator consent; and
    - a custodian consent; and
- (iii) s. 67: 'Transport for treatment and care by consent' of the MHA if:
- (a) not subject to a:
    - treatment authority;
    - forensic order (mental health); or
    - treatment support order; and
  - (b) they consent to treatment and the following have been made:
    - a transfer recommendation;
    - an administrator consent; and
    - a custodian consent.

#### ORDER

A member receiving a request for an officer to transport a person from a place of custody to an inpatient unit of an AMHS, are to:

- (i) ascertain from the person making the request what section of the MHA is applicable,
- (ii) ensure all the relevant recommendations and consents have been obtained as required; and
- (iii) if transporting under s. 67, the person still consents to receiving treatment.

Officers transporting persons from a place of custody under Chapter 3, Part 2 of the MHA are to ensure:

- (i) all the approved forms have been completed as required under the relevant section;
- (ii) if the person is being transported under s. 67 of the MHA, the person understands their consent can be withdrawn at any time; and
- (iii) a QPRIME custody report is completed prior to the completion of the shift (see s. 16.8: 'QPRIME custody, search and property reports' of this Manual).

See also s. 16.15.2: 'Removing a prisoner at a watch-house, suffering from a mental illness, to an authorised mental health service for assessment' of this Manual.

#### Persons in custody remaining in authorised mental health service

If a person is transported from their place of custody to an AMHS under an examination order or a court examination order, the person may remain in the inpatient unit to receive treatment and care only if all the conditions of s. 74: 'Person subject to examination order or court examination order remaining in authorised mental health service' of the MHA are satisfied, including a custodian consent. For this section custodian of a person means the custodian of the person immediately before the making of an examination order or a court examination order for the person (see s. 74(12) of the MHA.)

#### 6.6.4 Assistance to public officials

For the purpose of s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA the following persons are public officials when exercising a power under the *Mental Health Act* (MHA):

- (i) a doctor or authorised mental health practitioner performing a function or exercising a power under s. 32: 'Powers of doctor or authorised mental health practitioner' of the MHA, when examining a person to decide whether a recommendation for assessment for the person subject to an examination authority; and
- (ii) an authorised person other than a police officer.

Section 16 of the PPRA requires that before an officer helps a public official (as listed above):

- (i) the public official must explain their relevant powers under the MHA; and



(ii) if the public official is not present, the officer must be satisfied that giving the help is reasonably necessary in the particular circumstances.

#### ORDER

Officers are not to take responsibility for the medical supervision of a person under health care.

#### POLICY

An officer asked to help:

(i) a doctor or authorised mental health practitioner in relation to a person subject to an examination authority under s. 32 of the MHA:

(a) is to ensure that reasonable help is given as soon as practicable if they have provided a clear indication about:

- what assistance is required; and
- the circumstances (especially risks to the life or safety of the patient or others);

(b) should sight a copy of the 'examination authority' and ensure that it is current before helping;

(c) may enter:

- a place stated in the authority;
- another place in which the person considers the person may be found; and
- any other place necessary for entry to either of those places,

to find the person;

(d) may detain the person at:

- the place found;
- an authorised mental health service; or
- public sector health service facility; and

(e) may transport the person to a treatment or care place for the examination to be carried out by the doctor or authorised mental health practitioner; and

(f) may use force that is necessary and reasonable in the circumstances (see s. 33: 'Reasonable help and force to exercise powers' of the MHA); or

(ii) an authorised person transport a person under the MHA or *Public Health Act* (PHA) is to:

(a) ensure that reasonable help is given as soon as practicable if the authorised person has provided a clear indication about:

- what assistance is required; and
- the circumstances (especially risks to the life or safety of the patient or others);

(b) ensure that the authorising documents are in force and state the reasons why it is considered necessary for an officer to transport the person; and

(c) only enter a place if:

- entry is authorised by s. 21: General power to enter to arrest or detain someone or enforce warrant' of the PPRA;
- it is a public place and open to the public;
- the occupier of the place consents to the entry; or
- entry is authorised by a warrant under s. 378: 'Issue of warrant' of the MHA or 157R: 'Issue of warrant' of the PHA has been obtained (see also s. 6.6.5: 'Warrant for apprehension of a person under Mental Health Act and Public Health Act' of this chapter).

Requests for help by public officials in relation to mental illness will generally be a request to assist with the transportation of the persons. As outlined in the s. 7.1: 'Requests for police assistance' of the 'Safe transport of people with a mental illness – Queensland interagency agreement' on Road Policing and Regional Support Command's 'Mental Health' webpage on the Service Intranet, when a health practitioner or ambulance officer requests assistance with transport they should:

(i) provide a clear indication about what assistance is required and the circumstances (especially risks to the life or safety of the patient or others); and

(ii) negotiate regarding how and when assistance is to be provided.

In accordance with QH Chief Psychiatrist (formerly the Director of Mental Health) policy, where police assistance is requested by health service personnel, a health practitioner must still accompany the person to the health service. Where practicable, this should be in the same vehicle as police (see s. 7.3: 'Transport to an authorised mental health service under involuntary assessment documents' of the 'Safe transport of people with a mental illness – Queensland interagency agreement' on Road Policing and Regional Support Command's 'Mental Health' webpage on the Service Intranet).

See also s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter.

### 6.6.5 Warrant for apprehension of a person under Mental Health Act and Public Health Act

Officers have the power of entry by virtue of s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA (see s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter).

#### ORDER

Before helping a public official to exercise a power under the provisions of the *Mental Health Act* (MHA) or *Public Health Act* (PHA), officers are to ensure that if entry to a place is required, and such entry is not authorised by the provisions of:

- (i) s. 32: 'Powers of doctor or authorised mental health practitioner' of the MHA; or
- (ii) s. 376: 'Power to enter particular places' of the MHA; or
- (iii) s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA,

a warrant for apprehension of the person has been obtained by the public official under ss. 378: 'Issue of warrant' of the MHA or 157R: 'Issue of warrant' of the PHA.

### 6.6.6 Returning absent persons from authorised mental health service or a public sector health service facility

#### Officer may be asked to transport absent person

Officers may be asked to:

- (i) transport an absent person by a:
  - (a) responsible person under s. 364: 'Particular persons may require return of absent person' of the *Mental Health Act* (MHA); or
  - (b) person in charge of a public sector health service facility (PSHSF) under s. 157H: 'Person in charge of facility may require return of absent person' of the *Public Health Act* (PHA); or
- (ii) help an authorised person transport an absent person under:
  - (a) s. 366: 'Authorised person may transport absent person' of the MHA; or
  - (b) s. 157J: 'Authorised person may transport absent person' of the PHA,

but that request must:

- (i) be in the approved form:
  - (a) 'Authority to Transport Absent Person' (see MHA s. 364);
  - (b) 'Authority to Transport Person who Absconds' (see PHA s. 157H);
  - (c) 'Request for Police Assistance' (see MHA s. 366); or
  - (d) 'Request for Police Assistance' (see PHA s. 157J);
- (ii) state the name of the person to be transported;
- (iii) state the name of the authorised mental health service (AMHS) or PSHSF to which the person is to be transported;
- (iv) identify the risk the person presents to themselves, the officer, and others; and
- (v) state the reasons why the requestor considers it necessary:
  - (a) for an officer to transport the person under ss. 364 of the MHA and 157H of the PHA, or
  - (b) to ask a police to help transport the person under s. 366 of the MHA and 157J of the PHA.

#### ORDER

Before transporting a person under ss. 366 of the MHA or 157J of the PHA officers must:

- (i) tell the person they are detaining and transporting them to the AMHS or PSHSF stated in the authorisation; and

- (ii) explain to the person how taking the above action may affect them.

Completed 'Authority to transport absent person' forms are sent to the Police Information Centre (PIC) to enter in QPRIME and may be sent to the police communications centre (PCC) responsible for the area in which the AMHS or PSHSF is located.

The Manager, PIC is to ensure that any 'Authority to transport absent person' form, or revocation of authority to transport absent person issued in relation to the cancellation of such authorities, received at the PIC are promptly recorded in QPRIME under a 'Mental Health – Authority to Return/Transport' [1691] occurrence and the relevant station or establishment is tasked to finalise the occurrence. The details of the authority to transport absent person form to be entered in QPRIME should include the information required for MHA warrants in s. 13.18.12: 'Mental Health Act warrants' of this Manual.

### Initial police action

The OIC of a station or PCC receiving an authority to transport absent person form or receiving a task with a request for action in relation to an outstanding authority to transport absent person recorded in QPRIME, is to ensure that:

- (i) officers are tasked a job to attend the health service, or such other place as may be appropriate, to make inquiries into the location of the patient;
- (ii) details of the authority are accurately recorded in QPRIME under a 'Mental Health – Authority to Return/Transport' [1691] occurrence, and a task is created and sent to the officer responsible for making inquiries into the location of the patient;
- (iii) if no occurrence exists in QPRIME in relation to the authority to transport absent person, a copy of the form is forwarded by email to PIC with a request for the authority details to be recorded in QPRIME. Officers are not to email a copy of an authority that has been executed; and
- (iv) ensure that any original forms are retained at the station or establishment unless executed or otherwise revoked by the issuing AMHS or PSHSF; or requested by the PIC.

Officers tasked to assist in returning a person, in addition to carrying out first response duties and incident evaluation, are to:

- (i) request a certified copy of the authority via the relevant QPRIME occurrence;
- (ii) in cases where the patient:
  - (a) is classified by Queensland Health as a Person of Special Notification;
  - (b) has a history of serious violent offences; or
  - (c) is a patient who represents a high risk of violence to themselves or others,

evaluate the incident as a major investigation (see s. 1.4.6: 'Responsibilities of RDO, patrol group inspector, DDO and shift supervisor' and s. 2.4.5: 'Major investigations' of this Manual for the responsibilities of officers in regard to major investigations); and

- (iii) if the patient cannot be located after extensive inquiries, ensure that necessary action is taken to report the matter in accordance with s. 12.4: 'Missing person occurrence' of this Manual. A task is to also be created and sent to the Missing Persons Unit and the investigating officer, for information only.

### Obtaining patient photographs

Officers making inquiries to locate a person who is to be returned to an AMHS may, if considered necessary, request the relevant AMHS to provide a recent photograph of the person if they are a classified patient (voluntary) or an involuntary patient.

Before requesting a photograph, officers should ensure that a suitable recent photograph:

- (i) has not been previously supplied by the AMHS; and
- (ii) is not available from Service sources,

(see s. 786: 'Disclosure of photograph of patient required to return' of the MHA).

### Notification of victim, victim's family or other persons on advice from an authorised doctor

Where an authorised doctor at an AMHS or PSHSF believes that the patient poses a threat of harm to a person, the doctor will complete 'Notification of other persons' section on the Authority to Transport form.

The OIC receiving the Authority to Transport form is to:

- (i) arrange for the nominated person to be contacted and advised about the patient's absence from, or failure to return to, the AMHS or PSHSF; and
- (ii) notify a commissioned officer having responsibility for the area in which the nominated person lives or is located.

A commissioned officer who is notified that there is a threat of harm from a patient to a nominated person located or residing within their area of responsibility should determine what, if any, action should be taken to ensure the safety of the nominated person.

### **Notification of victim, victim's family or other persons on determination by an officer**

This policy does not apply in cases where an AMHS or PSHSF has notified the Service that there is a threat of harm to a person from a person.

Where officers making inquiries to locate a patient to whom an authority to transport absent person applies, have determined that there is a threat of harm to a person from the patient, the senior officer is to report details of the threat to their RDO, patrol group inspector or DDO, who is to contact the psychiatrist on call at the relevant AMHS or PSHSF to assess the credibility of the threat. Where threat of harm to a person from the patient is credible, the RDO, patrol group inspector or DDO is to ensure that:

- (i) the nominated person is contacted and advised of the patient's absence from, or failure to return to, the AMHS or PSHSF; and
- (ii) a commissioned officer having responsibility for the area in which the nominated person lives or is located is advised.

A commissioned officer who is notified that there is a threat of harm from a patient to a nominated person located or residing within their area of responsibility is to determine what, if any, action is to be taken to ensure the safety of the nominated person.

### **Action on location of person named in an authority to transport absent person**

#### **ORDER**

Officers locating a person named in an 'Authority to transport absent person' are to:

- (i) take custody of the person, which is an enforcement act for the purposes of the PPRA (see ss. 2.1.2: 'Registers required to be kept' and 16.8: 'Custody, search and property reports' of this Manual);
- (ii) notify the AMHS or PSHSF listed on the 'authority to transport absent person';
- (iii) unless otherwise advised, take the person to the nearest inpatient facility of an AMHS or PSHSF;
- (iv) endorse the 'authority to transport absent person' as set out in s. 638: 'Record of execution or warrant or order' of the PPRA;
- (v) return the endorsed form to the AMHS or PSHSF where the person was taken; and
- (vi) if the person has been reported as a missing person, take the action required by s. 12.5.1: 'Responsibility of officers who locate' of this Manual.

Officers who take custody of a person under ss. 366 of the MHA or 157J of the PHA are to execute the Authority to Return record in QPRIME prior to the termination of their shift.

When the patient is located interstate or overseas and a officer is notified of this location, the officer is to immediately advise the Chief Psychiatrist. Appropriate action with respect to the patient will be decided after consultation between the Service and Queensland Health.

### **When Authority to return ceases to have effect**

When an Authority to return ceases to have effect a 'Revocation of Authority to Transport Absent Person' will be emailed to the:

- (i) Brisbane PCC; and
- (ii) PIC.

The Brisbane PCC officer receiving a 'Revocation of Authority to Transport Absent Person' is to check if the person was reported as a missing person, and if so, create a task and send it to the Missing Persons Unit and the investigating officer, for information only.

### **Doubt about the current validity of an authority to transport absent person**

If an officer has any doubt about the current validity of an authority to transport absent person they should check with the authorised doctor, AMHS or PSHSF who issued the form, or QPRIME to determine if the authority is still valid.

If the validity cannot be ascertained, the authority is not be exercised, and further inquiries are to be made.

### **Release of information to media**

The OIC of the investigation is to determine whether it is necessary to release information, including photographs, to the media that identifies a person to whom s. 364: 'Particular persons may require return of absent person' of the MHA applies. The decision on whether to release information is to be based on the best interests of the patient balanced with the safety needs of the community. As the premature release of a photograph and information may impede an

investigation, officers are to take all reasonable steps to locate the patient before considering release of a photograph and information.

In making decisions about the release of information, officers are to consider information provided by Queensland Health and where necessary, seek further advice. Any release of information or comment to the media should be consistent with guidelines provided on the Service Media webpage.

### 6.6.7 Person with a mental illness suspected of having committed or charged with offence

#### Persons with a mental illness suspected of having committed an offence

Persons with a mental illness may be criminally responsible for their actions despite their illness. It should not be assumed that a person with a mental illness will automatically be entitled to a defence under s. 27: 'Insanity' of the Criminal Code or that they are necessarily unfit for trial. Section 26: 'Presumption of sanity' of the Criminal Code provides that every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

#### POLICY

A person who has, or is reasonably suspected of having, a mental illness and who is suspected of having committed an offence should generally be dealt with in the same manner as any other person suspected of having committed an offence. In addition to any other relevant provisions regarding the interviewing of suspects for indictable offences, officers are to apply the provisions of s. 422: 'Questioning of persons with impaired capacity' of the PPRA when interviewing suspects who are reasonably suspected to be suffering from a mental illness.

In deciding what action to take with regard to a person who is reasonably suspected to be suffering from a mental illness, officers should consider:

- (i) the seriousness and nature of the alleged offence;
- (ii) the severity and nature of the person's apparent mental illness;
- (iii) the need to collect and preserve evidence which may be on the person or in their possession;
- (iv) the need to interview the person promptly;
- (v) the apparent capacity of the person to take part in any interview; and
- (vi) the likelihood that an investigation with regard to the person could be adequately conducted at a later time.

After considering the circumstances officers should either:

- (i) complete their investigation and commence any proceeding prior to taking any necessary action to have the person's mental health assessed; or
- (ii) take the necessary action to have the person's mental health assessed prior to completing the investigation into the alleged offence.

Appropriate actions to have the person's mental health assessed include:

- (i) facilitating a voluntary referral for assessment;
- (ii) making an emergency examination authority; or
- (iii) requesting a doctor or authorised mental health practitioner examine them to decide whether a recommendation for assessment for the person would be appropriate,

(see 'Voluntary referrals to authorised mental health services' of ss. 6.6.1: 'Dealing with mental illness generally', 6.6.2: 'Emergency examination authority (EEA)' and 'Transport of persons in custody to authorised mental health services' of 6.6.3: 'Transporting persons with impaired mental capacity').

Where officers take a person to an AMHS prior to completing their investigation into the alleged offence, the officer should note the relevant occurrence number on the 'Emergency Examination Authority' in the 'Reasons' section.

The authorised mental health service (AMHS) to which a person is taken will notify the officer who completed the emergency examination authority whether the person meets the eligibility criteria for treatment. Upon receipt of such advice the officer should update the report on the relevant occurrence report. The investigation should then be completed and decision made whether to commence a prosecution in accordance with s. 3.4.2: 'The decision to institute proceedings' and s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual and Guideline 5(vi): 'Mental Illness' of the Director of Public Prosecutions (State) Guidelines.

#### Persons in watch-houses suffering mental illness

#### POLICY

Where a prisoner charged with an offence appears to be suffering from a mental illness and is in need of immediate treatment or control, the watch-house manager should consider the provisions of s. 16.15.2: 'Removing a prisoner at a watch-house, suffering from a mental illness, to an AMHS for assessment' of this Manual.



## Persons before the court

Persons appearing before a magistrates court for a simple offence for which the court is reasonably satisfied the person was of unsound mind at the time of the alleged offence or is unfit for trial may:

- (i) have their complaint dismissed;
- (ii) be subject to an examination order;
- (iii) have their hearing adjourned;
- (iv) be referred for appropriate treatment and care; or
- (v) have their case referred to the Mental Health Court,

(see ss. 22: 'Magistrates Courts' and Chapter 6, Part 2: 'Magistrates Courts' of the MHA).

Persons appearing before a magistrates, district or supreme court for an indictable offence other than an offence against a law of the Commonwealth under conditions specified under s. 175: 'When reference may be made' or Chapter 6, Part 3, Division 1: 'Making reference to Mental Health Court if person pleads guilty to indictable offence' of the MHA the court may refer the matter to the Mental Health Court.

An examination order or court examination order may require an officer to transport the person to an inpatient unit of an AMHS in which officers should ensure written notice has been provided to the administrator or person in charge of the service by the relevant court registrar. (See also s. 6.6.3 of this chapter).

## Examination orders and court examination orders

### POLICY

Officers to whom an examination order or court examination order are directed should ensure that the person to whom the order was made is transported to the stated AMHS as soon as practicable (see ss. 177: 'Power to make examination order for person charged with simple offence' and 670: 'Transport, detention and examination of person under court examination order' of the MHA).

Police prosecutors receiving notice that proceedings have been suspended should advise the investigating officer as soon as practicable.

Investigating officers who are advised that proceedings have been suspended should notify the complainant and any witnesses who have either been subpoenaed or requested to make themselves available to give evidence.

## Action required upon revocation of order by mental health court

### ORDER

Police prosecutors receiving notice that the order suspending the proceedings has been revoked by the Mental Health Court must advise the investigating officer as soon as practicable.

Investigating officers who are advised that the order suspending the proceedings has been revoked must notify the complainant and any witnesses who have been subpoenaed or requested to make themselves available to give evidence.

### POLICY

Officers to whom orders of the Mental Health Court are directed are to ensure that the person named in the order is promptly transported to the place nominated in the order (see s. 124: 'Related orders if person fit for trial' of the MHA and s. 6.6.3 of this chapter). Officers should ensure that a copy of the relevant order is delivered to the person in charge of the place of custody or AMHS upon the arrival at that place.

## 6.6.8 Effect of mental illness on matter before the court

The Mental Health Court will make decisions on a person's fitness for trial and soundness of mind at the time of committing offences. Where a proceeding has been stayed for a temporary unfitness for trial, the Mental Health Review Tribunal will periodically review the mental condition of persons to decide if they are fit for trial. This decision will be reviewed by the Director of Public Prosecutions (DPP). The relevant prosecutor must be given written notice within 7 days of proceedings being discontinued (see s. 492: 'Effect of discontinuing proceeding' of the *Mental Health Act* (MHA)).

## Responsibilities of officers when continuing proceedings

On advice that proceedings are to be continued for an offence, the police prosecutor should:

- (i) consult with the registrar of the court, where the matter is to be dealt with, to ascertain:
  - (a) whether, if the defendant is in custody, it is more convenient and practicable that the matter should be transferred to another court closer to the relevant authorised mental health service (AMHS) (see 'Transfer of matters to the court nearest the authorised mental health service' of this section); and
  - (b) a suitable time and date for the proceedings to continue (which should be within 7 days of the registrar being notified);

- (ii) notify the investigating officer (IO) and their OIC of the time, date and place of the proceedings; and
- (iii) where a defendant is in custody, request the OIC of the division in which the AMHS is located to make arrangements for the transportation of the defendant to the relevant court to ensure they appear at the appropriate time and date (see ss. 496: 'Director of public prosecutions to give notice of fitness for trial' and 497: 'Listing proceeding for mention' of the MHA).

In matters being prosecuted by the DPP, the IO and their OIC should be advised by the prosecutor attached to the Office of the DPP (ODPP) of the time, date and place of the proceedings. Where a defendant is in custody, officers should request the OIC of the division in which the AMHS is located to make arrangements for the transportation of the defendant to the relevant court to ensure they appear at the appropriate time and date.

An OIC who receives a 'Notice of decision in relation to charges' form to serve for the DPP is to ensure that the notice is detailed to an officer for service and that the matter is attended to promptly.

Officers required to serve a 'Notice of decision in relation to charges' form for the DPP, are to serve the notice personally on the defendant unless the person is in lawful custody other than in an AMHS. An appropriate oath of service should be made on the notice which should be returned to the DPP.

If an officer is unable to serve the 'Notice of decision in relation to charges' on the defendant after taking reasonable steps to do so, the officer is to prepare an affidavit outlining the steps taken to serve the notice and forward both documents to the relevant prosecutor prior to the date set for the continuation of proceedings. In such cases the prosecutor should, if the defendant does not appear before the court, request that the court issue a warrant for the defendant's arrest to be brought before the court.

### **Responsibilities of officers when proceedings are discontinued or stayed**

The DPP is required to give notice when proceedings are discontinued or stayed to the prosecuting authority within 7 days (see s. 155: 'Notice of decisions and orders' of the MHA).

Members receiving advice that proceedings have been discontinued or stayed at the order of the Mental Health Court (MHC) or the DPP are to ensure that the relevant prosecutor and/or the IO are aware of the status of the proceeding (see ss. 119: 'Unsound mind—discontinuance of proceeding', 120: 'Diminished responsibility—discontinuance of proceeding', 121: 'Temporary unfitness for trial—stay of proceeding', 122: 'Permanent unfitness for trial—discontinuance of proceeding', 490: 'Director of public prosecutions to decide whether proceeding to be discontinued', 491: 'Proceeding discontinued at end of prescribed period' and 492: 'Effect of discontinuing proceeding' of the MHA).

Police prosecutors who are advised that a proceeding has been discontinued on the order of the MHC or the DPP are to:

- (i) withdraw the charge(s) as soon as practicable;
- (ii) notify the IO; and
- (iii) attach a copy of the written advice of the MHC or DPP to the relevant court brief (QP9) for forwarding to the Manager, Police Information Centre (PIC).

The Manager, PIC, should ensure a relevant flag is entered against the person's name in QPRIME in circumstances where information is received indicating that proceedings against a person have been withdrawn on the order of the MHC or DPP. Specific details concerning the date and place of confinement of the person should be entered on the street check occurrence where such details are available.

An IO who is notified a prosecution has been discontinued or stayed as a result of a decision of the MHC or DPP is to notify all complainants and any witnesses who have been subpoenaed or requested to make themselves available to give evidence.

Officers conducting inquiries in relation to persons flagged as MHA patients in QPRIME should update the street check occurrence accordingly (see s. 16.4: 'Responsibilities of officers' of this Manual).

If the MHC orders either the staying or discontinuing of proceedings after finding that a person is of unsound mind or is not fit for trial either temporarily or permanently, the court may make a forensic order or treatment support order that the person be detained in a stated AMHS for involuntary treatment or care (see ss. 131: 'Orders if unsound mind or permanent unfitness for trial' and 132: 'Orders if temporary unfitness for trial' of the MHA).

### **Transfer of matters to the court nearest the authorised mental health service or forensic disability service**

There may be cases where a person has been detained in an AMHS forensic disability service or outside the court district where the matter is to be heard. In such cases, the relevant prosecutor is to make a determination on whether to seek the transfer of the matter taking into consideration:

- (i) financial costs to the Service;
- (ii) human resource commitments;
- (iii) the consent or otherwise of the defendant; and
- (iv) the well-being of the defendant,

(see ss. 133: 'Remand to another place' and 139: 'Where summary cases to be heard' of the *Justices Act*).

If the police prosecutor has determined to seek the transfer of the matter, the request is to be made to the registrar of the relevant court.

The registrar of the relevant court will forward in writing, their consent or refusal to transfer. Upon receiving consent, the police prosecutor should:

- (i) inform the police prosecutor, in that district where the matter is to be transferred and ascertain a suitable time and date for the matter to be heard;
- (ii) ensure all documentation required for the hearing is forwarded to the police prosecutor; and
- (iii) inform the IO where the matter is to be transferred and the time and date of hearing.

### **Information to be supplied to the Mental Health Court and assessing psychiatrists**

Requests by the registrar of the Mental Health Court (MHC) pursuant to s. 663: 'Registrar's power to require prosecuting authority to give particular documents' of the MHA for a brief of evidence or a written report about the criminal history of a person will generally be made directly to the Manager, PIC. Other members receiving such requests should refer the request to the Manager, PIC. Requests for criminal histories will be supplied by authorised members of PIC.

Requests under s. 663 of the MHA for briefs of evidence will generally be made directly to the relevant prosecuting authority. Where the brief is held by the Service, the request should be directed to the OIC of the police prosecutions corps at which the brief is held, who is to comply with the request and provide the required brief of evidence. Where the brief is held by the ODP, the request should be referred to that office. Where a brief is held at PIC the request should be referred to the Manager, PIC.

Where an offender's mental condition relating to an offence is referred to the MHC under the MHA, victims may submit material for consideration of the MHC under s. 162: 'Preparation of victim impact statement' of the MHA, and when submitted must be given to the MHC as required by s. 163: 'Production of victim impact statement by prosecuting authority' of the MHA (see also s. 2.12.1: 'Victims of Crime Assistance Act', under heading 'Principle eight: Giving details of impact of crime on victim during sentencing' of this Manual).

Occasionally, the registrar of the MHC may request information, other than criminal histories or briefs of evidence, from an officer. In these cases officers should respond to such requests in writing and in accordance with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

Officers who are requested to supply information to an administrator of a treating health service, authorised psychiatrist or chief psychiatrist under s. 96: 'Information from prosecuting authority' of the MHA should refer to s. 3.4.31: 'Supply of information under Mental Health Act' of this Manual and s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

## **6.6.9 Execution of warrant on person detained under the Mental Health Act**

### **PROCEDURE**

When officers become aware that the subject of a warrant is a patient of an authorised mental health service, contact should be made with the clinical director of the service before executing or attempting to execute the warrant. Information should be sought from the clinical director or treating medical practitioner regarding the condition and treatment needs of the patient.

After contacting the clinical director or treating medical practitioner, but before taking any action with regard to the warrant, officers should consult with a commissioned officer to determine the appropriate course of action.

A patient subject to the provisions of the *Mental Health Act*, who is on leave from a mental health service is still a patient of that mental health service while on leave and contact should be made with the mental health service as outlined above.

### **6.6.10 Death of mentally ill person**

Specific requirements relating to the investigation of the death of a person whilst detained under a provision of the *Mental Health Act* are contained in s. 8.5.16: 'Deaths in care' of this Manual.

### **6.6.11 Mentally ill person and weapons/weapons licences**

Officers who believe that a person who appears to be mentally ill is not a fit and proper person to hold a weapons licence or possess weapons are to:

- (i) check QPRIME to ascertain if the person holds a weapons licence; and
- (ii) if QPRIME indicates that the person holds a weapons licence:
  - (a) make application to an authorised officer for the issue of a revocation notice pursuant to s. 29: 'Revocation of licence by giving revocation notice' of the *Weapons Act*;

(b) upon determination of the application, notify the Director Weapons Licensing Group if a revocation notice has been issued; and

(c) if a revocation notice has been issued ensure that the notice is served on the person and the person's weapons licence and any weapons are surrendered as required by the notice (see s. 30: 'Suspension or revocation notice' of the *Weapons Act*).

### 6.6.12 Orders with non-contact conditions

Under certain circumstances, the Mental Health Review Tribunal (ss. 447: 'Conditions' and 478: 'Conditions' of the *Mental Health Act* (MHA)) or the Mental Health Court (ss. 135: 'Conditions' and 144: 'Conditions' of the MHA), may make a non-contact condition against a person who is subject to a forensic order or treatment support order.

#### PROCEDURE

Members who receive an order containing a non-contact condition should ensure that the order is forwarded to the Manager, Police Information Centre for input into QPRIME.

Officers investigating allegations of breaches of orders should check QPRIME to ascertain details of the relevant non-contact condition. Details of the non-contact condition are recorded in the 'Cautions/flags' tab of the QPRIME record for the person against whom the order has been made.

### 6.6.13 Mental health intervention coordination and training

#### Definitions

For the purposes of this section:

##### **Mental disorder**

is a generic term referring to a clinically significant behavioural or psychological condition that is associated with current distress, disability or risk. Examples of mental disorder include schizophrenia, mood disorders, anxiety disorder, personality disorder, substance-use disorders and intellectual disability.

##### **Mental health incident**

means an incident that:

- (i) involves a series of events and a combination of circumstances in which a person appears to be mentally disturbed, impaired in judgement and exhibiting highly disordered behaviour;
- (ii) may involve serious and imminent risk to the health and/or safety of the person or of another person; and
- (iii) requires:
  - (a) communication and coordination between relevant mental health services and police; and
  - (b) assessment at the earliest opportunity to:
    - ascertain the need for treatment;
    - prevent further deterioration in the mental condition and/or physical health of the person; and
    - thereby prevent or lessen harm to the safety and health of the person or any other person or to the safety and health of the public in general.

##### **Mental illness**

as defined in s. 10: 'Meaning of mental illness' of the *Mental Health Act*.

as a condition characterised as a clinically significant disturbance of thought, mood, perception or memory.

#### **Mental health intervention first response officer training**

A critical element of Mental Health Intervention (MHI) Program is the training of first response officers in de-escalation of mental health incidents through enhanced tactical communication skills. It is anticipated these officers will have the ability to identify, provide support and effectively intervene in situations which may otherwise result in mental health incidents.

#### POLICY

Officers in charge of regions are to ensure sufficient first response officers under their control complete the 'Mental Health Intervention' training package (Course Code QC0550). Where practicable, the numbers trained should support the maintenance and rostering of a trained officer on every shift.

Officers undertaking the mental health intervention training program are to complete the Competency Acquisition Program book Mental Health (QC1011).

## Regional MHI coordinators

### ORDER

Officers in charge of regions are to appoint a regional MHI coordinator to coordinate mental health issues and activities within their region and allocate adequate time and resources to those officers to enable them to carry out their stated functions.

### POLICY

The functions and duties of the regional MHI coordinator are listed on Road Policing and Regional Support Command's 'mental health' webpage of the Service Intranet.

## District MHI coordinators

### ORDER

Officers in charge of regions are to appoint district MHI coordinators within their area of responsibility and allocate adequate time and resources to those officers to enable them to carry out their stated functions.

### POLICY

The functions and duties of the district MHI coordinator are listed on Road Policing and Regional Support Command's 'Mental Health' webpage of the Service Intranet.

## Information sharing

For the performance of their role, mental health intervention coordinators have been delegated the Commissioner's power in relation to the disclosure of information to QH and/or the QAS as required in the relevant Memorandum of Understanding (MOU) and Information Sharing Guidelines between those agencies (See Delegation D 15.46 of the Delegations and Authorities Library on the Service intranet).

Pursuant to the guidelines, QH has agreed to provide mental health consultation for the prevention and intervention phases of mental health incidents.

## Prevention planning

The prevention phase of mental health response includes pre-planning and the development of crisis intervention plans. A crisis intervention plan is a mechanism by which clients of mental health services can actively contribute to their treatment and maximise their health and safety. The plan is designed to outline relevant aspects of the person's illness, behaviour, disability, culture, history and treatment that may be used by police to resolve mental health incidents. Importantly for police, the crisis intervention plan should identify a person (i.e. a senior clinician) whom the client would prefer the police to contact in a mental health incident.

Although a crisis intervention plan is confidential, QH will notify the Service of the existence of the plan for recording in QPRIME. In addition, QH will disclose the information contained in the plan to the Service where the client to whom the plan relates, has given consent for its release or where a mental health incident exists. The information will ordinarily be disclosed to a MHI coordinator.

### POLICY

For the purpose of prevention planning and case management, a MHI coordinator may exchange information with authorised representatives of QH or QAS to ensure the safety and effective treatment of a person suffering a mental disorder.

MHI coordinators are to, as far as practicable, ensure any release of information held by the Service complies with the relevant provisions of s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the Management Support Manual.

## Intervention in incidents

The intervention phase of mental health response allows the Service to initiate a request for consultation for which the following action will be taken by QH.

Where a person is not known to the contacted health service district, but is known as a client to another health service district, then police will be provided with contact details for the relevant health district. If the person is not known at all to QH mental health services then general advice only will be provided.

If the person is known to a mental health service (e.g. is a mental health service client) and the incident involves a serious risk of harm to the person or others, the mental health service will provide relevant information specific to the person in order to prevent or lessen the risk of harm to the person or others. The type of information that QH has agreed to provide includes:

- (i) the person's name, date of birth, present address;
- (ii) nature of mental illness;
- (iii) medical history/chart information, including recent behaviour, latest evaluation and expected responses;
- (iv) details of individuals who could best assist (e.g. caseworker, psychiatrist, treating doctor);



- (v) propensity for violence or self-harm;
- (vi) current medication including effects of medication and of non-compliance;
- (vii) warning signals indicating deterioration in the person's mental condition;
- (viii) 'triggers' (i.e. issues that may escalate the situation);
- (ix) previous suicide attempts/tendencies;
- (x) de-escalation strategies;
- (xi) history of possessing firearms, dangerous weapons or drugs;
- (xii) next of kin details; and
- (xiii) details of any person(s) nominated for contact in an incident.

This list is not exhaustive and does not limit the provision of further information by QH to the Service.

If the incident for which police have contacted the mental health service does not involve a serious risk of harm to the person or others, or the person is not a mental health service client, the mental health service will only provide general advice that may assist police in de-escalating the incident.

Such assistance may be limited to:

- (i) advice about how to respond to a person suffering from a mental illness including an acute episode;
- (ii) advice about how particular disturbances of mental state (i.e. symptoms) may impact on the communication process, interpretation of events and behaviour;
- (iii) suggestions of possible communication strategies; and
- (iv) advice from a medical practitioner with regard to the type and effects of medications.

QH will provide on-site mental health consultation for mental health incidents where the relevant district mental health service has the capacity to provide such a response and information supplied by police strongly indicates the person requires assessment and/or treatment for a mental disorder.

#### POLICY

Where officers responding to an incident identify the call for service may fall within the definition of a mental health incident, they should as soon as reasonably practicable, seek advice or information regarding the subject person from the relevant QH mental health service to ensure the health and safety of the person or any other person.

The request should be made:

- (i) by the senior officer attending the scene of the mental health incident;
- (ii) where it is not practicable for an officer attending the scene to make the request, by a member working in a police communications centre or otherwise performing the role as a communications officer; or
- (iii) a member assigned by the relevant supervisor (i.e. shift supervisor, district duty officer), to make such a request.

#### **Request for information from Queensland Health**

#### POLICY

A member of the Service who requests advice or information from a mental health service in relation to a mental health incident, may release the following information to an employee of QH:

- (i) the nature of the incident;
- (ii) the person's name, date of birth and present address;
- (iii) the current location of the person;
- (iv) any problems relating to the person including indications the person is suffering a mental disorder;
- (v) the current behaviour of the person;
- (vi) if the risk of harm to the person or others is serious, imminent and likely;
- (vii) details of other services that are involved in the incident;
- (viii) the presence or availability of family members;
- (ix) any evidence of firearms, dangerous weapons or drugs; and
- (x) any other information requested by QH which the member believes may assist in ensuring the health and safety of any person.

Pursuant to s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act*, the Commissioner has, in relation to a mental health incident, authorised any member to release the information in above points (i) to (x).

#### ORDER

A member of the Service who requests advice or information from a mental health service is to provide their full name, rank/designation and employee number, station and contact details, and the reasons for the request.

#### Notification of request to be provided to district MHI coordinator

#### POLICY

Members requesting information from QH are to notify the relevant district MHI coordinator or officer nominated by the district officer, as soon as practicable after such request is made. Such notification is to be in writing (e.g. email) and should contain brief details of the request made and what information was provided by QH.

District MHI Coordinators or nominated officers are to monitor requests for information made to QH and ensure any issues arising as a result of the request are addressed.

## 6.7 Forensic Disability Act

The *Forensic Disability Act* (FDA) is an Act included in Schedule 1: 'Acts not affected by this Act' of the PPRA. As such, the PPRA does not affect the powers or responsibilities an officer has under the FDA. However, this does not prevent an officer from exercising a power or performing a responsibility under the PPRA that the officer does not have under the FDA. Consequently, officers should fulfil any responsibilities imposed upon them by the provisions of the PPRA, which are not imposed by a similar provision of the FDA (see s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this Manual).

The FDA applies to persons who have committed indictable offences and are subject to a forensic order (disability), as issued by the Mental Health Court (see s. 547: 'Mental Health Court may make forensic order or treatment support order' of the *Mental Health Act* (MHA)).

### 6.7.1 Definitions

#### Cognitive disability

is a condition that is attributed to a cognitive impairment and a disability within the meaning of the *Disability Services Act* (DSA) (see s. 11 of the *Forensic Disability Act* (FDA)).

#### Forensic disability client

is an adult with an intellectual or cognitive disability for whom a forensic order (Mental Health Court – Disability) is in force for the persons detention in a forensic disability service (see s. 10 of the FDA).

#### Intellectual disability

is a disability within the meaning of the DSA that is characterised by significant limitations in intellectual functioning and adaptive behaviour and originates before a person reaches 18 years of age (see s. 12 of the FDA).

#### Relevant Place

is referred to in section 113(4) and (5) of the FDA as a forensic disability service or an authorised mental health service or a place for limited community treatment.

### 6.7.2 Return of a forensic disability client

An officer asked to help a 'practitioner' or an 'authorised person under the Mental Health Act' (MHA) under the provisions of s. 113: 'Taking client to forensic disability service or authorised mental health service' of the *Forensic Disability Act* (FDA) to take forensic disability client to a forensic disability service or authorised mental health service, must ensure that reasonable help is given as soon as practicable. Additionally an officer may detain the client which then infers the power to enter a place including a dwelling without consent of the occupier to detain a person only if the officer reasonably suspects the person is at the dwelling (see s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA).

In circumstances where the forensic disability client is located in a division outside of the stated location of the forensic disability service, police should;

- (i) take the forensic disability client to the nearest in-patient facility of the authorised mental health service; and
- (ii) notify and advise the location of the forensic disability client to the forensic disability service or the authorised mental health service that is listed on the 'Authority to Return – Forensic Disability Client' form.

In accordance with s. 113 of the FDA if a forensic disability client is taken to an authorised mental health service under s. 113(2)(b) or (4) of the FDA the client may be detained in the health service.

## Initial police action

An 'Authority to Return – Forensic Disability Client' form is issued for the return of a forensic disability client to the forensic disability service or the authorised mental health service pursuant to the provisions of s. 113 of the FDA. Officers tasked to assist in returning a forensic disability client, in addition to carrying out an incident evaluation, are to:

- (i) obtain a scanned copy of the 'Authority to Return – Forensic Disability Service' via the relevant QPRIME entry;
- (ii) in cases where the forensic disability client has a history of serious violent offences or represents a high risk of violence to themselves or others, evaluate the incident as a major investigation (see s. 2.4.5: 'Major investigations' and s. 1.4.6: 'Responsibilities of regional duty officer, patrol group inspector, district duty officer and shift supervisor' of this Manual for the responsibilities of officers in regard to major investigations); and
- (iii) if the forensic disability client cannot be located after extensive inquiries, ensure that any necessary action is taken to report the matter in accordance with s. 12.4: 'Missing person occurrence' of this Manual. A task is to also be created and sent to the Missing Persons Bureau and the investigating officer for information only.

## Police Information Centre, Information Management Services

Generally, a forensic disability service or an authorised mental health service will email the completed 'Authority to Return – Forensic Disability Client' form to the Police Information Centre (PIC) for entering in QPRIME. However, in some instances, it may be desirable to immediately notify officers of the existence of the 'Authority to Return – Forensic Disability Client' form. In these cases, the form will be emailed or faxed to a police communications centre.

The Manager, PIC is to ensure that 'Authority to Return – Forensic Disability Client' form, or 'Recall Notice – Cancellation of Authority to Return Forensic Disability Client' form is issued in relation to the cancellation of such authorities received at PIC are promptly recorded in QPRIME under a Forensic Disability Act – Authority to Return occurrence [1689] and the relevant station or establishment is tasked to finalise the occurrence.

## Officers in charge of stations or police communication centres

Officers in charge of stations receiving an 'Authority to Return – Forensic Disability Client' form from a forensic disability service or an authorised mental health service, or else receiving a task with a request for action in relation to an outstanding 'Authority to Return – Forensic Disability Client' recorded in QPRIME, should ensure that:

- (i) officers are tasked a job, via police communications, to attend the forensic disability service or the authorised mental health service, or such other place as may be appropriate, to make inquiries into the location of the forensic disability client;
- (ii) particulars of the authority are accurately recorded in QPRIME under a Forensic Disability Act – Authority to Return occurrence [1689], and a task is created and sent to the officer responsible for making inquiries into the location of the forensic disability client;
- (iii) if no occurrence exists in QPRIME in relation to the 'Authority to Return – Forensic Disability Client' form, a copy of the form is forwarded by way of email to the PIC with a request for the authority details to be recorded in QPRIME. Officers are not to forward a copy of an authority that has been executed; and
- (iv) ensure that any original forms are retained at the station or establishment unless executed or otherwise recalled by the issuing forensic disability service, authorised mental health service or requested by PIC.

## 6.7.3 A practitioner is a public official under the Police Powers and Responsibilities Act

### POLICY

If an officer is asked by a 'practitioner' or an 'authorised person under the Mental Health Act' to help in the exercise of powers under s. 113 of the *Forensic Disability Act* (FDA), they should ensure that reasonable help is given as soon as reasonably practicable. For further requirements for helping a public official see ss. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual and 16: 'Helping public officials exercise powers under various Acts' of the PPRA.

## 6.7.4 Release of information

### Release of information to media

#### POLICY

The officer in charge of the investigation is to determine whether it is necessary to release information, including photographs, to the media that identifies a forensic disability client to whom s. 113 of the *Forensic Disability Act* applies. The decision on whether to release information is to be based on what are the best interests of the forensic disability client balanced with the safety needs of the community. As the premature release of a photograph and information may impede an investigation, officers are to take all reasonable steps to locate the forensic disability client before considering release of a photograph and information.

In making decisions about the release of information, officers are to take into account information provided and, where necessary, seek further advice. Any release of information or comment to the media should be consistent with the media guidelines provided on the QPS Media and Public Affairs webpage.

## Obtaining patient photographs

### POLICY

Officers making inquiries to locate a forensic disability client who is to be returned to a forensic disability service or an authorised mental health service may, if considered necessary, request that the relevant forensic disability service or authorised mental health service provide a recent photograph of the forensic disability client.

Before requesting a photograph from a forensic disability service or an authorised mental health service, officers should ensure that a suitable recent photograph:

- (i) has not been previously supplied by the forensic disability service or the authorised mental health service; and
- (ii) is not available from sources within the Service.

## 6.7.5 Notification of victim, victim's family or other persons on advice from a forensic disability service or an authorised mental health service

### POLICY

Where an authorised practitioner or health practitioner at a forensic disability service or an authorised mental health service believes that the forensic disability client poses a threat of harm to a person, the practitioner or the health practitioner will complete the relevant section on the 'Authority To Return – Forensic Disability Client' form.

The officer in charge receiving the 'Authority to Return – Forensic Disability Client' form is to:

- (i) Identify and verify the threat level; and
- (ii) notify a commissioned officer, regional duty officer or district duty officer having responsibility for the area in which the nominated person lives or is located.

Commissioned officers, regional duty officers, patrol group inspectors or district duty officers who are advised of a threat of harm to a person from a forensic disability client should contact the practitioner or the health practitioner on call at the relevant forensic disability service or authorised mental health service to assess the credibility of the threat.

Where the commissioned officer, regional duty officer, patrol group inspector or district duty officer, in consultation with the practitioner or the health practitioner on call, determines that a threat of harm to a person from the forensic disability client is credible, the commissioned officer, regional duty officer, patrol group inspector or district duty officer should ensure that the nominated person is contacted and advised about the forensic disability client's absence from, or failure to return to, the forensic disability service or the authorised mental health service.

## Referral to support provider

Officers in charge, commissioned officers, regional duty officers, patrol group inspectors or district duty officers should consider if a referral to support link may be appropriate upon notification of the victim, victim's family or other person (see s. 5.6.25: 'Release of information under the Victims of Crime Assistance Act' of the Management Support Manual and s. 6.3.14: 'Police Referrals' of this chapter).

## 6.7.6 Action to be taken on location of forensic disability client

### POLICY

Officers locating a forensic disability client to whom s. 113 of the *Forensic Disability Act* (FDA) applies in Queensland are to:

- (i) detain and take the forensic disability client to a forensic disability service or an authorised mental health service;
- (ii) notify the forensic disability service or the authorised mental health service listed on the 'Authority to Return – Forensic Disability Client' form;
- (iii) endorse the 'Authority to Return – Forensic Disability Client' form as set out in s. 638: 'Record of execution of warrant or order' of the PPRA;
- (iv) fax or email the endorsed 'Authority to Return – Forensic Disability Client' form to the forensic disability service or the authorised mental health service where the forensic disability client was taken; and
- (v) if the forensic disability client has been reported as a missing person, take the action required by s. 12.5.1: 'Responsibility of officers who locate a missing person' of this Manual.

In circumstances where the forensic disability client is located in a division outside of the stated location of the Forensic Disability Service, officers should;

- (i) take the forensic disability client to the nearest in-patient facility of an authorised mental health service; and
- (ii) notify the forensic disability client to the forensic disability service or the authorised mental health service listed on the 'Authority to Return – Forensic Disability Client' form of the location of the forensic disability client;

In accordance with s. 113 of the FDA if a forensic disability client is taken to an authorised mental health service under s. 113(2)(b) or (4) of the FDA the client may be detained in the health service.

#### ORDER

Officers who detain a forensic disability client to whom s. 113 of the FDA applies are to execute the 'Authority to Return – Forensic Disability Client' recorded in QPRIME prior to the termination of their shift.

Officers have the power to enter any place to take a forensic disability client in accordance with the provisions of s. 21 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA.

#### POLICY

When the forensic disability client is located interstate or overseas and a member is notified, they are to immediately advise the Director of Forensic Disability or Mental Health. Appropriate action with respect to the forensic disability client will be decided after consultation between the Service, forensic disability service and the authorised mental health service.

### **Restraining of a forensic disability client**

#### POLICY

Officers should treat and transport forensic disability clients with respect and in a manner which is mindful of their right to privacy and retains their dignity. Restraints should only be used as a last resort to prevent the person causing injury to themselves or someone else.

### **Completion of QPRIME custody reports for forensic disability clients**

#### POLICY

Officers are to ensure that a Custody Report is recorded against a person in QPRIME under the occurrence 'Forensic Disability Act – Authority to Return [1689]', as soon as practicable after processing the person in accordance with the provisions of the FDA. See s. 16.8: 'QPRIME custody, search and property reports' of this Manual.

### **6.7.7 When 'Authority to Return – Forensic Disability Client' form ceases to have effect**

The administrator of a forensic disability client's treating health service will notify police when the 'Authority to Return – Forensic Disability Client' form ceases to have effect. Notice of this fact will be given in a 'Recall Notice – Cancellation of the Authority to Return Forensic Disability Client' form which will be emailed to the Manager, Police Information Centre (PIC), Information Management Services.

The officer in charge receiving a 'Recall Notice – Cancellation of the Authority to Return Forensic Disability Client' form is to:

- (i) update the relevant QPRIME occurrence and forward a task to PIC with a request to amend the status of the 'Authority to Return – Forensic Disability Client' accordingly;
- (ii) check QPRIME to ascertain to which station the 'Authority to Return – Forensic Disability Client' is assigned;
- (iii) immediately advise the officer in charge of the station to which the 'Authority to Return – Forensic Disability Client' is assigned;
- (iv) forward the 'Recall Notice – Cancellation of the Authority to Return Forensic Disability Client' form to that officer in charge;
- (v) ensure any BOLO flag that may have been entered against the forensic disability client's name in QPRIME in relation to the 'Authority to Return – Forensic Disability Client' has been removed; and
- (vi) where the forensic disability client was reported as a missing person, a task is to be created and sent to the Missing Persons Bureau and the investigating officer for information only. (See 'Tasking' and 'Missing Persons' of the QPRIME User Guide).

### **'Authority to Return – Forensic Disability Client' form (doubt about validity)**

If officers have any doubt about the current validity of the authority described in the 'Authority to Return – Forensic Disability Client' form, before acting under the authority they should check with the practitioner or the health practitioner of the forensic disability service or the authorised mental health service who issued the form, or in QPRIME to determine whether the authority is still valid.

In cases where the authority is no longer valid, members are:

- (i) not to return the forensic disability client; and
- (ii) to update the relevant QPRIME occurrence and forward a task to PIC with a request to amend the status of the 'Authority to Return – Forensic Disability Client' accordingly.

If the validity of the authority described in the 'Authority to Return – Forensic Disability Client' form cannot be ascertained, the authority should not be exercised and further inquiries should be made to ascertain validity with the practitioner or health practitioner who issued the 'Authority to Return – Forensic Disability Client' form.



## 6.7.8 Forensic disability clients suspected of having committed or charged with further offences

### Forensic disability clients suspected of having committed an offence

Forensic disability clients may be criminally responsible for their actions despite their disability. It should not be assumed that a forensic disability client will automatically be entitled to a defence under s. 27: 'Insanity' of the Criminal Code or that they are necessarily unfit for trial. Section 26: 'Presumption of sanity' of the Criminal Code provides that every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proven.

#### POLICY

A person who has, or is reasonably suspected of having a disability and who is suspected of having committed an offence should generally be dealt with in the same manner as any other person suspected of having committed an offence. In addition to any other relevant provisions regarding the interviewing of suspects for indictable offences, officers are to apply the provisions of s. 422: 'Questioning of persons with impaired capacity' of the PPRA to interviews of suspects who are reasonably suspected to have a disability (see also s. 6.5: 'Specific physical, age related, intellectual or health needs' of this chapter).

In deciding what action to take with regard to a person who is reasonably suspected to have a disability, officers should consider:

- (i) the seriousness and nature of the alleged offence;
- (ii) the severity and nature of the person's apparent disability;
- (iii) the need to collect and preserve evidence which may be on the person or in their possession;
- (iv) the need to interview the person promptly;
- (v) the apparent capacity of the person to take part in any interview; and
- (vi) the likelihood that an investigation with regard to the person could be adequately conducted at a later time.

After considering the circumstances officers should either:

- (i) complete their investigation and commence any proceeding by arrest, notice to appear or complaint and summons prior to taking any necessary action to have the person's disability assessed; or
- (ii) take the necessary action to have the person's disability assessed prior to completing the investigation into the alleged offence.

### Orders by the Supreme or District Court

If a person pleads guilty before the Supreme or District Court for an indictable offence (other than a Commonwealth offence) or is appearing for sentencing in respect of an indictable offence (other than a Commonwealth offence), and it is alleged or appears to the court that the person is disabled or was or may have been disabled when the alleged offence was committed, the court may:

- (i) order a plea of not guilty be entered for the person;
- (ii) adjourn the trial;
- (iii) refer the matter of the person's disability relating to the offence to the Mental Health Court; and
- (iv) remand the person in custody or grant the person bail.

### 6.7.9 Deleted

### 6.7.10 Forensic disability clients and matters before the court

See s. 6.6.8: 'Effect of mental illness on matter before the court' of this chapter.

### Transport of forensic clients between court and forensic disability service

#### POLICY

Section 151: 'Taking client to appear before court and return to forensic disability service' of the *Forensic Disability Act* (FDA) allows a practitioner to take a person from the forensic disability service to appear in the relevant court, also providing provisions for the practitioner to return the forensic disability client back to the forensic disability service.

Section 155: 'Use of reasonable force' of the FDA allows the practitioner to request help, using minimum force, if necessary and reasonable in the circumstances.

See also s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter.

### 6.7.11 Deaths of forensic disability clients

Specific requirements relating to the investigation of the death of a person whilst detained under a provision of the *Forensic Disability Act* are contained in s. 8.5.16: 'Deaths in care' of this Manual.

### 6.7.12 Protection of children of forensic disability clients

In the event officers become aware that a person, who is apparently suffering from a disability, is a parent or guardian of a child or children under 18 years of age, officers are to consider the welfare of the children with respect to their obligations and powers under the *Child Protection Act* and the DFVPA.

Officers taking a disabled person into custody under the provisions of the *Forensic Disability Act* are to make all reasonable inquiries to ascertain whether a disabled person has responsibility for the care of children and apply the provisions of s. 16.4.5: 'Arrest of persons who have others in their care' of this Manual as appropriate.

Officers who come into contact with a disabled person who has children in their care are to:

- (i) consider whether, due to the nature of the person's disability, the children are at immediate risk of harm, and if so, comply with the provisions of s. 7.4.1: 'Children at immediate risk of harm' of this Manual; or
- (ii) if no immediate risk of harm exists but still holds concerns for the welfare of the children, enter a report of suspected harm to a child occurrence [0520] into QPRIME through PIR and send a task for information to the local Child Protection and Investigation Unit (CPIU) ensuring the following details are included:
  - (a) details of the disabled person;
  - (b) details of the children in their care;
  - (c) details of what care arrangements have been made for the children;
  - (d) the nature of the disabled persons behaviour;
  - (e) any concerns the children may be in need of protection; and
  - (f) the name and location of the treating forensic disability service or authorised mental health service.

Where advice or assistance is required as to the appropriate course of action, officers should contact the CPIU or if the CPIU is unable to be contacted, inquiries should be directed to the 'Child Safety After Hours Service Centre' (see SMCD).