

Section 1: Recording of interviews and other matters

1.1 Recording the questioning of relevant persons

POLICY

For the purposes of these procedures a relevant person is a person who is in the company of a police officer for the purpose of being questioned as a suspect about his or her involvement in the commission of an indictable offence.

ORDER

Subject to the following exceptions, officers will record all questioning of relevant persons for indictable offences by means of combined audio and video electronic recording equipment (see s. 436: 'Recording of questioning etc.' of the *Police Powers and Responsibilities Act*).

1.2 Exceptions to video recording

POLICY

The electronic recording of interviews with relevant persons will be undertaken by means of combined audio and video electronic recording equipment unless;

- (i) the particular location is not equipped for these purposes; or
- (ii) the particular location is equipped for these purposes, but the equipment is unavailable for any reason including a breakdown of equipment; or
- (iii) the equipment is currently being used for the purpose of an electronic recording of interview with another person. However, the electronic recording of interview should be delayed for a reasonable time until the equipment becomes available.

In these circumstances, all reasonable attempts should be made to record the interview by means of combined audio and video recording equipment. However, if for any reason circumstances prevent both audio and video recording, the interview may be audio recorded (see also ss. 3.27: 'Malfunction of equipment' and 3.31: 'Certification of the unavailability of equipment' of this Manual).

1.3 Exceptions to audio recording

Where an interview is required to be made on an audio recorder in the context of s. 1.2: 'Exceptions to video recording' and the equipment is unavailable for any reason, the interview will be recorded by means of other electronic recording equipment e.g. a portable recording device (PRD).

If other recording equipment is not available, the interview will be recorded by means of a typed record of interview or in an official police notebook or by some other method of contemporaneously recording the interview, provided that the instructions contained in s. 3.31: 'Certification of the unavailability of equipment' of this Manual are complied with in addition to the requirements in s. 437: 'Requirements for written record of confession or admission' of the *Police Powers and Responsibilities Act*, and s. 31: 'Procedure for reading back a written record—Act, s 437(5)' of the *Police Responsibilities Code*.

1.4 Field interviews

Any admissions or confessional statements made in the field by a relevant person should be recorded by means of a portable recording device (PRD) or adopted in any subsequent electronically recorded interview concerning the particular matter. The admissions should be relayed to the relevant person and the relevant person's agreement or otherwise concerning those prior matters should be obtained (see also Chapter 15: 'Powers and responsibilities relating to investigations and questioning for indictable offences' of the *Police Powers and Responsibilities Act*).

1.5 Interstate and international investigations

POLICY

Where an officer is conducting an investigation either interstate or internationally and the investigation is likely to lead to an interview with a relevant person, it will be incumbent upon the officer to take all reasonable steps to have such interview electronically recorded. All interviews are to be conducted in accordance with the legislative requirements that exist if the interview was conducted in Queensland.

Officers should familiarise themselves with the legislative provisions regarding interviews that exist in the state, territory or country where the interview is to be conducted and comply with such provisions.

Some international jurisdictions have severe penalties for failing to obtain approval before conducting investigations. Officers should contact the Australian Federal Police or Interpol for further information.

1.6 Investigations of Commonwealth offences or on behalf of interstate jurisdictions

POLICY

Where an officer is conducting an investigation in relation to offences against Commonwealth legislation or on behalf of an interstate jurisdiction and an interview of a relevant person is required, the officer is to make inquiries regarding interstate or commonwealth legislation that may apply to the conduct of the interview, prior to the interview taking place. Where such legislation applies the officer is to ensure compliance with the relevant legislation.

1.7 Recording of non-indictable offences and other matters

POLICY

Where an officer records the questioning of a person in relation to a non-indictable offence or records any other matter in the course of their duty, the officer is to:

- (i) ensure that the recording is maintained in accordance with QPS Records Retention and Disposal Handbook; and
- (ii) where the recording is of evidential value, record details of equipment used and the methodologies employed where it is necessary to copy or convert the recording to another storage medium.

See also s. 3.2: 'Interviews' of this Manual where interviews for non-indictable offences later result in indictable charges.

The recording of persons by means of electronic recording devices may under certain circumstances contravene Commonwealth and State legislation i.e. *Telecommunications (Interception and Access) Act* (Cwlth), *Telecommunications Interception Act 2009*, *Invasion of Privacy Act 1971*. Officers are to ensure that electronic recording devices are always operated in accordance with Commonwealth and State legislation (see also s. 2.5.10: 'Telecommunications interception' of the Operational Procedures Manual).