

Section 6: Processing and copying of media

6.1 Electronic Recording Section services

The Electronic Recording Section (ERS) is an accredited forensic laboratory as specified by Australian and International Standard (AS ISO/IEC 17025). For advice on matters relating to the processing of exhibits of an audio/video nature, officers should contact ERS at the earliest possible time.

Where the assistance of ERS is required the OIC, ERS is to be contacted.

The ERS will provide the following services as required:

- (i) statewide technical support through the processing and presentation of audio/video evidence in a legally acceptable manner including expert testimony in court. Processing services include;
 - (a) conversion of problematic replay formats;
 - (b) enhancement of recordings;
 - (c) editing of recordings (excluding Service-issued BWC recordings);
 - (d) analysis of recordings; and
 - (e) repairs to damaged media.
- (ii) assistance with investigations involving the use of audio/video technology or concepts.

The processing of electronic evidence for production in court is to be conducted by accredited personnel of the ERS. Where it is impractical to forward to ERS, an officer is to obtain commissioned officer approval prior to forwarding to a commercial facility for processing.

6.2 ERS case file acceptance criteria

ORDER

Where an audio/video recording is to be processed by ERS, officers are to submit the primary or original recording.

Media related to a QPRIME occurrence is to be clearly labelled and identifiable as property within QPRIME prior to being forwarded to ERS.

A QP 127C: 'Request for forensic examination of electronic evidence' available in QPRIME, clearly outlining the details of the requested service, is to be submitted with any media.

The investigating officer is responsible for organising the delivery of any recording(s) and/or equipment. Items of an evidential nature should be submitted personally or via registered mail provided it is packaged in such a manner as to prevent damage.

ERS will produce a maximum of three enhanced media copies for all matters dealt by way of committal proceedings and a maximum of two copies for all other matters. Additional copies will be created where multiple offenders are identified, or suitable justification is provided.

For analysis requests, AV requests of a voluminous nature, or those which fall outside the scope of general ERS services, direct contact with the OIC or senior technical officer should be made prior to submission of any media or equipment.

General AV services such as the copying or conversion of non-problematic media, (media which can be viewed/heard on standard Service equipment in its native format and requires no forensic processing), will only be accepted in exceptional circumstances.

Media not meeting the ERS case file acceptance criteria will be returned unprocessed.

Service-issued BWC recordings

Where practicable:

- (i) basic editing ('clipping') of Service-issued BWC recordings should be conducted by officers; and
- (ii) redaction of Service-issued BWC recordings should be conducted by a district super user,

within Evidence.com.

The ERS will provide enhancement services, or advanced editing services for Service-issued BWC recordings where:

- (i) those services are not capable of being performed within Evidence.com; or
- (ii) the prior approval of the OIC, ERS has been obtained.

Where a Service-issued BWC recording is to be processed by ERS, an officer is not required to download the recording from Evidence.com. The requesting officer is to:

- (i) complete a QP 127C within the QPRIME occurrence; and

(ii) send a 'General task: Process enquiry' to ERS.

The ERS will access the primary recording in Evidence.com, upload the edited recording to Evidence.com and notify the requesting officer when the task has been completed.

6.3 Copies of master recordings held at Electronic Media, Evidence Management (EMEM)

It is the responsibility of officers to appropriately manage police copies of master recordings in order to eliminate the need for additional copies to be produced.

Obtaining copies from EMEM should be limited to situations where the police copy is not able to be located or otherwise accessed. Generally, copies should be produced at the relevant establishment using the police copy or master copy prior to forwarding to EMEM for long-term storage.

Requests for copies of master recordings held by EMEM can be generated through QPRIME.

6.4 Requests for copy of electronic record of interview

POLICY

Where a copy of an interview has been provided to a relevant person under s. 438: 'Access to electronic recordings of questioning etc.' of the *Police Powers and Responsibilities Act*, and a further request is made from the relevant person, or the relevant person's legal adviser for additional copies of the audio recording, or in the case of a DERIE interview, a copy of the video recording, the request will be granted unless exceptional circumstances exist.

The relevant person, or the relevant person's legal adviser may supply the equivalent number of blank recording media and copying may be conducted free of charge at the discretion of the investigating officer's supervising commissioned officer.

Alternatively, copies may be provided only upon payment of the fee as set out in the Schedule of fees. The member receiving the request will be responsible for ensuring that the copy of the recording is provided and a QP 268: 'Application for copy of video/audio interview,' available on Forms Select, is completed.

ORDER

A decision to not supply a copy of a video or audio recording can only be authorised by a commissioned officer.

6.5 Application for copy of record of interview: QP 268

POLICY

The member receiving a request from a relevant person, or their legal representative, for a copy of their interview recording will ensure that a QP 268: 'Application for copy of record of interview' is completed.

A copy of a recording will not be supplied unless the required payment has been received and the application signed and dated by the requesting person.

In most cases the investigating officers will be the member receiving the request and supplying the copy of the recording. In instances where another member receives this request, it is to be referred to the investigating officer where practicable. If necessary the member receiving the request will complete the QP 268 as far as possible and will forward the form to the investigating officers who will be responsible for delivering a copy of the recording to the applicant.

6.6 Covert recording: supply of copies

POLICY

Where a covert interview is electronically recorded for the purposes of any investigation and that covert interview results in the prosecution of the person interviewed, the investigating officer will supply the person interviewed with a copy of that recording. If the covert interview is by way of video and audio, the copy supplied will be a copy of the audio content of that video recording.

There is no requirement to provide copies of recordings obtained covertly in other circumstances e.g. where no prosecution for an indictable offence is commenced.

Members are required to produce all relevant evidence to the court in each instance. The provision of copies of electronic recordings covertly made, other than covertly recorded interviews, will be dealt with on an individual case basis following consultation between the investigating officers, the investigating officers' supervising officer and the prosecutor involved. Where special circumstances apply in the case of an interview which has been covertly recorded, the investigating officers will bring the matter to the attention of their supervisor for determination in accordance with the provisions of this section.

ORDER

A decision to not supply a copy of a covertly recorded interview will only be authorised by a commissioned officer.

For recordings as a result of a covert operation, see s. 2.9: 'Covert operations involving law enforcement participants' of the Operational Procedures Manual.

6.7 Requests for copies of video/audio recordings in relation to sensitive evidence or recordings of an affected child

ORDER

Where a copy or edited copy is to be made of a videoed record of interview of sensitive evidence including recordings of an affected child, officers are to refer to and comply with:

- (i) s. 438: 'Access to electronic recordings of questioning etc.' of the PPRA;
- (ii) s. 590AO: 'Limit on disclosure of sensitive evidence' of the CC;
- (iii) s. 590AOA: 'Evidence Act section 93A device statement' of the CC;
- (iv) s. 590AOB: 'Disclosure of recorded statement' of the CC;
- (v) s. 3.14: 'Disclosure of information to defence (relevant proceeding)' of the OPM; and
- (vi) s. 7.6.6: 'Releasing and copying video and audio recordings of an affected child' of the OPM.

Any request from a defendant or their legal adviser for a copy of a video recording of sensitive evidence, shall only be granted in accordance with the above legislation and policy. However, an audio copy of the defendant's own record of interview may be supplied upon payment of the prescribed fee as detailed in the Schedule of fees.

A request made by the Office of the Director of Public Prosecutions or any other authorised person or by a defendant or their legal adviser to view such a video recording of sensitive evidence will be allowed under the following conditions:

- (i) the video recording to be viewed should be the original video recording;
- (ii) the video recording will be viewed at a police station or establishment under the supervision of the investigating officer or delegate; and
- (iii) if viewing facilities are not available at a police station or establishment, the viewing may take place at a location where facilities are available but only under the supervision of the investigating officer or delegate.

6.8 Return of video recording of interview with a child complainant or witness regarding sexual abuse after court proceedings

POLICY

The investigating officer must make arrangements to recover the video recording and any edited version of the video recording after proceedings in the Supreme or District Court have been finalised. The Crown Prosecutor should be requested to seek an order from the presiding Judge in this regard. A similar request must be made to the Magistrate where the matter has been dealt with summarily. See also ss. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' and 93AA: 'Unauthorised possession of, or dealing in, s 93A criminal statements' of the *Evidence Act* and s. 590AOA: 'Evidence Act section 93A device statement'.

ORDER

Police prosecutors are to make application to the court at the conclusion of committal proceedings for the return of the relevant video recording to the custody of the investigating officer pending use at the subsequent trial.