

Chapter 16 – Custody

16.1 Introduction	5
16.1.1 Duty of care	5
16.1.2 Holding cells at a police station	6
16.2 References to legislation	6
16.3 Definitions	6
16.4 Responsibilities of officers	7
16.4.1 Responsibilities of arresting officer	7
16.4.2 Responsibilities of watch-house manager	7
16.4.3 Duties of officers	7
16.4.4 Guarding of persons in custody	8
16.4.5 Arrest of persons who have others in their care	8
16.5 Arrest by warrant	8
16.6 Discontinuing arrest	9
16.6.1 General rule	9
16.6.2 Adults	9
16.6.3 Intoxication	10
16.6.4 Children	11
16.6.5 Limit on re-arrest	11
16.7 Foreign nationals	11
16.7.1 Incidents involving foreign nationals	12
16.7.2 Information to be forwarded to the officer in charge	12
16.8 QPRIME custody, search and property reports	13
16.8.1 Introduction	13
16.8.2 Exceptions to making entries in QPRIME custody, search and property reports	13
16.8.3 Accessing QPRIME custody, search and property reports	15
16.8.4 Maintaining QPRIME custody and search reports	15
16.8.5 Querying QPRIME custody, search, property and occurrence reports	16
16.8.6 Inquiries as to the location of a person suspected of being in custody	16
16.8.7 Notification to the Aboriginal and Torres Strait Islander Legal Service	17
16.8.8 Transfer of prisoners from Corrective Services	17
16.9 Lodging a prisoner in a watch-house	18
16.9.1 Prisoner's health prior to acceptance in a watch-house	18
16.9.2 Responsibilities of arresting officer when lodging a prisoner in a watch-house	19
16.9.3 Responsibilities of officer relinquishing custody of a prisoner	20
16.9.4 Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house	20
16.9.5 Determining the frequency of prisoner inspections	21
16.10 Search of persons	22
16.10.1 General requirements concerning searches of persons	23
16.10.2 Unclothed searches of persons	27
16.10.3 Searches of Corrective Services prisoners and youths from Youth Detention Centres	31
16.10.4 Deleted	31
16.10.5 Property taken possession of by police after search of a person	31
16.11 Property of prisoners	31
16.12 Management of persons in watch-houses	32

16.12.1 Segregation of prisoners	33
16.12.2 Transfer of prisoners	34
16.12.3 Restraining devices	34
16.12.4 Violent detention cells	34
16.12.5 Management of violent prisoners and prisoners considered to be security risks	35
16.12.6 Smoking by prisoners in watch-houses	35
16.12.7 Presence or conduct of prisoners in court cell	36
16.12.8 Prisoners and hanging points	36
16.12.9 Leaving prisoners unattended	36
16.12.10 Requests by prisoners or legal representatives for attendance of doctor at watch-house	37
16.13 Healthcare of persons in custody	38
16.13.1 Assessment of prisoners	39
16.13.2 Person in custody's medical condition	42
16.13.3 Prisoner/watch-house inspection	43
16.13.4 Provision of medication	45
16.14 Call-out procedures for Government Medical Officers	48
16.14.1 Generally	49
16.14.2 Watch-house	49
16.15 Medical information regarding a prisoner	49
16.15.1 Medical transfer of a prisoner or person under arrest	50
16.15.2 Removing a prisoner at a watch-house, suffering from a mental illness, to an authorised mental health service for assessment	52
16.16 Serious illness, serious injury, attempted suicide or self-harm in custody	53
16.16.1 Additional first response procedures	53
16.16.2 Additional responsibilities of investigating officers	54
16.17 Children	54
16.17.1 Considerations for the custody of children	54
16.17.2 Arrest of children	55
16.17.3 Care of children in custody	56
16.17.4 Custody of children	57
16.17.5 Custody of children in watch-houses	58
16.17.6 Transportation of a child to court	59
16.17.7 Child breaching bail conditions	59
16.17.8 Application for removal of child from custody	60
16.17.9 Appearance in court of violent and potentially violent children	61
16.18 Transfer of prisoners	61
16.18.1 Transfer of prisoners	61
16.19 Transfer and release procedures	62
16.19.1 Transfer of sentenced prisoners	62
16.19.2 Development of release procedures	62
16.19.3 Release of sentenced prisoners	63
16.19.4 Release of prisoners detained by warrants	63
16.19.5 Deleted	63
16.19.6 Responsibilities of releasing police officers releasing respondents taken into custody under the Domestic and Family Violence Protection Act	63
16.19.7 Release of persons after expiration of detention period	63
16.19.8 Prisoners held in watch-house awaiting transfer to Corrective Services centres or youth detention centres	64
16.19.9 Fine option orders	65
16.20 Bail	65
16.20.1 Arresting officer's responsibilities	65

16.20.2 Prescribed police officer's (PPO) responsibilities	65
16.20.3 Court ordered bail	70
16.20.4 Breach of bail conditions	71
16.20.5 Electronic bail compliance, monitoring and recording	72
16.21 Administration of a watch-house	72
16.21.1 Responsibilities of watch-house managers at change of shifts	72
16.21.2 Watch-house maintenance	73
16.21.3 Watch-house training	73
16.21.4 Emergency plans for the evacuation of all persons from a watch-house	74
16.21.5 QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register entries	74
16.21.6 Updating operational information in QPRIME	76
16.21.7 Prisoners registered on the opioid treatment program or on prescribed opioid medication	76
16.21.8 Personal duress alarms in watch-houses	78
16.21.9 Communication with and by prisoners	79
16.21.10 Aboriginal and Torres Strait Islander Legal Service seeking information and interviews	80
16.21.11 Arrangements for prisoners to attend court including a change of clothes, shaving and showering	80
16.21.12 Meals for prisoners	81
16.21.13 Deleted	81
16.21.14 Tendering for the supply of meals for prisoners	81
16.21.15 Sanitation and exercise	81
16.21.16 Prisoners performing tasks in watch-houses	81
16.21.17 Assistance provided to other agencies	82
16.21.18 Expenses for deportees	82
16.21.19 Use of watch-houses for private accommodation prohibited	82
16.21.20 Prisoner breastfeeding child in watch-house	82
16.21.21 Watch-house officers	83
16.22 Cell visitors scheme	84
16.22.1 Authorising cell visitors	84
16.22.2 Procedure to be adopted when allowing entry to authorised cell visitors	84
16.23 Deaths in police custody	85
16.23.1 Investigation of deaths in police custody	85
16.23.2 Additional first response procedures for deaths in police custody	85
16.23.3 Additional responsibilities of officers investigating deaths in police custody	86
16.23.4 Deaths in police custody (investigation file)	87
16.23.5 Australian Institute of Criminology and Cultural Engagement Unit to be notified	87
16.23.6 Coroner's findings and response to Coroner's findings	87
16.24 Electronic monitoring (bail)	88
16.24.1 Court ordered bail condition to wear an electronic monitoring device	88
16.24.2 Action on granting bail with an electronic monitoring condition	88
16.24.3 First response officers	88
16.24.4 Electronic monitoring device alerts	89
16.24.5 Police communications centre responsibilities when an alert has been generated and imminent risk to another person	89
16.24.7 Electronic monitoring device removal	89
16.24.8 Actions on court varied bail	89
16.24.9 Actions on electronic monitoring device fault	89
16.24.10 Officers requiring electronic monitoring data for court or tracking purposes	89
16.24.11 Travel advice from a defendant wearing an electronic monitoring Device	90
Appendix 16.1 The assessment of persons in police custody	91
Appendix 16.2 Rights and responsibilities of children whilst in custody in a watch-house	97
Appendix 16.3 Suggested format for reports on deaths in custody or in police company	98
Appendix 16.4 Deleted	100

<u>Appendix 16.5 Deleted</u>	100
<u>Appendix 16.6 Example form: Australian Institute of Criminology</u>	101
<u>Appendix 16.7 Deleted</u>	106
<u>Appendix 16.8 Watch-houses where children are not to be kept in custody overnight</u>	107
<u>Appendix 16.9 Guidelines for conducting personal searches</u>	108
<u>Appendix 16.10 Drug and alcohol intoxication, overdose and withdrawal</u>	112
<u>Appendix 16.11 Deleted</u>	114
<u>Appendix 16.12 MOU – Coroner reporting timeframe</u>	115

OPM Issue 102
Public Edition

16.1 Introduction

The purpose of this chapter is to:

- (i) reinforce the legal obligations of police officers and watch-house officers to care for the health and safety of persons in their custody;
- (ii) set uniform minimum standards of custodial care throughout the State;
- (iii) consolidate policies, orders and procedures for the performance of duties; and
- (iv) allow additional station/establishment instruction where necessary.

POLICY

Holding cells at police stations are designed to hold prisoners in custody for a short time, whilst watch-houses are primarily designed to hold persons overnight or for 24 hours or longer. Never-the-less, both these facilities are for the temporary holding of prisoners before prisoners are released or transferred to a corrective services facility or detention centre. Therefore, prisoners are to be held in police custody for the minimum length of time necessary.

To ensure policy is complied with releasing a person after the expiration of a detention period (including an extension of that period), discontinuing arrest procedures, bail requirements or the transfer of prisoners are to be undertaken as soon as practicable, subject to any necessary legal requirements.

ORDER

Police officers and watch-house officers who have custody of persons are to ensure that persons are treated with dignity and that they are provided with the necessaries of life.

16.1.1 Duty of care

Police officers and watch-house officers have a duty of care to those persons in their custody, which is recognised in both criminal and civil law. Each is derived from notions of common humanity.

Section 30: 'Humane treatment when deprived of liberty' of the *Human Rights Act* which provides the right to humane treatment whilst deprived of liberty and requires that:

- (i) all persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person;
- (ii) an accused person who is detained or a person detained without charge must be segregated from persons who have been convicted of offences, unless reasonably necessary; and
- (iii) an accused person who is detained or a person detained without charge must be treated in a way that is appropriate for a person who has not been convicted.

Chapter 27 of the Criminal Code provides for duties relating to the preservation of human life.

Section 285 of the Code imposes duties to provide the necessaries of life. Section 285 imposes the same duty on one having charge of another who is unable by reason of that person's detention to provide themselves with the necessaries of life, as it does on a parent in relation to that parent's child. Therefore, the people to whom necessaries are being provided are the persons who are being detained.

Additionally, various provisions of the PPRA place an onus on police officers and watch-house officers regarding the responsibility to those persons in their custody. In particular, Chapter 16 contains specific responsibilities regarding searches of persons in custody.

A failure to discharge a duty that is imposed by these provisions of the Code or by the PPRA and which results in some detriment to another person may make the person upon whom that duty is imposed liable for the result.

Use of body worn cameras in watch-houses

For the purpose of this section officers includes:

- (i) watch-house officers and police officers rostered for duties at a watch-house or other places of custody such as holding cells;
- (ii) RDOs and DDOs conducting inspections of a watch-house or other places of custody;
- (iii) other officers lodging prisoners or visiting a watch-house or other places of custody; and
- (iv) any of the above members involved in the movement of persons in custody into or out of the watch-house or place of custody, but does not include within the precincts of a court, except when authorised by a Court Practice Direction (see s. 4.4: 'Body worn cameras' of the DERIE).

ORDER

Officers are to at all times whilst performing duties at a watch-house or other places of custody:

- (i) wear and use a body worn camera (BWC);

- (ii) turn the BWC on (buffering mode) at the commencement of their shift;
- (iii) commence a recording as soon as practicable after the member reasonably believes they may:
 - (a) exercise a power under legislation;
 - (b) apply a use of force (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual); or
 - (c) have any interaction with a prisoner, including:
 - the issuing of medication;
 - searching; and
 - conducting cell checks.

Officers activating a BWC for an unclothed search are to:

- (i) comply with section 'Video recording of unclothed searches' of s. 16.10.2: 'Unclothed searches of persons' of this chapter; and
- (ii) categorise the recording as an 'unclothed search' as soon as reasonably practical.

OICs of stations and establishments that contain watch-houses and other places of custody are to ensure all police officers and watch-house officers performing duties under their control:

- (i) are issued and trained in the use of a BWC;
- (ii) wear a BWC whilst performing duties;
- (iii) turn the BWC on (buffering mode) at the commencement of their shift; and
- (iv) commence a recording as soon as practicable after an officer reasonably believes they may:
 - (a) exercise a power under legislation;
 - (b) apply a use of force (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual); or
 - (c) have any interaction with a prisoner, including:
 - the issuing of medication;
 - searching; and
 - conducting cell checks.

16.1.2 Holding cells at a police station

POLICY

Holding cells at a police station are intended to hold prisoners in custody for short periods pending release (e.g. release on bail, notice to appear, domestic violence release conditions) or transfer to a watch-house.

For the processing, acceptance and management of persons held in holding cells at a police station, the relevant provisions of this chapter that apply to watch-houses, are to apply to holding cells.

All the duties and responsibilities imposed on watch-house managers in this chapter are to be taken to be imposed on the officer in charge of holding cells at a police station. Where reference is made in this Manual to watch-house manager, in relation to holding cells at a police station the term means the police officer for the time being in charge of the holding cells. It is the responsibility of the officer in charge of the station or establishment to ensure an officer is nominated each shift to perform duties as the officer in charge of the holding cell(s).

16.2 References to legislation

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

16.3 Definitions

See SMD.

16.4 Responsibilities of officers

16.4.1 Responsibilities of arresting officer

When instituting proceedings, officers are to comply with s. 3.5: 'The institution of proceedings' of this Manual.

Following the arrest of an offender, the arresting officer is to query QPRIME (including the ACC database (previously CrimTrac)), as soon as practicable, to establish if:

- (i) the person is wanted for questioning for an offence;
- (ii) the person is wanted on warrant; or
- (iii) there is any other relevant information.

Officers are to conduct checks on the ACC database to establish if the person is wanted in another state or territory (see s. 7.2.2: 'ACC database (system for the national exchange of police information)' of the MSM).

The arresting officer is to:

- (i) where the person is wanted for questioning for any matter, or warrants or outstanding summonses for execution or service, ensure that all matters are finalised at the time if practicable;
- (ii) where the person has previously been confined in a secure hospital unit, make inquiries to determine if the person is on leave from that hospital and if it is expected that the leave will be revoked. The officer is to advise the receiving officer and update the relevant QPRIME occurrence (see also s. 6.6: 'Mentally ill persons' of this Manual);
- (iii) where the person is charged, advise the receiving officer if the person is recorded as being wanted for questioning and the proposed course of action;
- (iv) attempt to verify the name and address of the person;
- (v) advise the receiving officer of the verification of the person's name and address;
- (vi) provide the receiving officer and prescribed police officer with any further information about the person which will assist in the consideration of bail;
- (vii) provide information to the receiving officer about the subject person's custodial needs, including warnings etc.; and
- (viii) enter all relevant bail information, including flags and warnings, into the 'Bail App' and QPRIME.

16.4.2 Responsibilities of watch-house manager

Following the refusal of bail or being sentenced to imprisonment where the prisoner was not in police custody prior to the refusal of bail or imprisonment, the watch-house manager is to ensure QPRIME (including ACC database (previously CrimTrac)) is queried, as soon as practicable, to establish if:

- (i) the subject person is wanted for questioning regarding an offence;
- (ii) the subject person is wanted on warrant; or
- (iii) there is any other information that will assist with the management of the person.

Officers are to conduct checks on the ACC database through QPRIME to establish if a subject person is wanted in another state or territory (see s. 7.2.2: 'ACC database (system for the national exchange of police information)' of the MSM).

The watch-house manager is to:

- (i) where the subject person is wanted for questioning or subject of a warrant or summons, ensure these matters are referred to an officer for finalisation;
- (ii) where the subject person has previously been confined in a security hospital, determine if the subject person is on leave from that hospital and whether it is expected that the leave will be revoked. A notation is also to be made on the relevant QPRIME occurrence. See also s. 6.6: 'Mentally ill persons' of this Manual;
- (iii) ensure watch-house staff are aware of any QPRIME warnings or flags to assist in assessing custodial needs, including security risks; and
- (iv) verify the name and address of the person.

16.4.3 Duties of officers

In some establishments, the duties of an officer may include several areas of responsibility including watch-house manager, arresting officer, receiving officer and prisoner inspection officer. It is not necessary to have a separate officer for each duty, however, if the ability exists for the duties to be separated, those duties are to be performed by separate officers. Where practicable, the receiving officer is not to also be the arresting officer.

For example, it may not be practicable to separate roles, such as officers working remotely where the second officer is sick.

The OIC of a station or establishment in conjunction and consultation with the OIC Watch-house (if applicable) is to develop an instruction to address circumstances where it is not reasonably practicable to separate the areas of responsibility including watch-house manager, arresting officer, receiving officer and prisoner inspection officer.

Officers acting in several capacities are to ensure compliance with:

- (i) Chapter 16: 'Custody' of the OPM, such as:
 - (a) s. 16.4.1: 'Responsibilities of arresting officer';
 - (b) s. 16.20.1 'Arresting officer's responsibilities';
 - (c) s. 16.20.2 'Prescribed police officers (PPO) responsibilities'; and
- (ii) other Service policies, such as:
 - (a) the 'Standard of Professional Practice';
 - (b) the 'Integrity Framework',

available on the Ethical Standards Command webpage on the Service Intranet.

16.4.4 Guarding of persons in custody

When an officer or watch-house officer is required to tend or guard a person in custody, responsibility for duty of care of the person rests with that officer or watch-house officer. Where more than one officer or watch-house officer is required to tend or guard a person, the senior officer or senior watch-house officer is the responsible officer.

Staff members, and police liaison officers (PLOs), except for watch-house officers, are not to tend or guard persons in custody unless a PLO with the appropriate physical presence and communication skills may be able to prevent or reduce violent behaviour.

Officers in charge are to ensure staff members and PLOs, except for watch-house officers, do not tend or guard persons in custody unless a PLO with the appropriate physical presence and communication skills may be able to prevent or reduce violent behaviour. This includes ensuring staff members and PLOs are not placed in a position where they may be required to do so.

See also s. 16.21.21: 'Watch-house officers' of this chapter.

ORDER

Volunteers in Policing (VIPs) and authorised cell visitors are not to be required or placed in a position where they may be required to tend or guard persons in custody.

16.4.5 Arrest of persons who have others in their care

Officers who take persons into custody have a duty of care to those persons while they are in police custody (see s. 16.1.1: 'Duty of care' of this chapter). This duty of care may extend to persons who are being cared for by the arrested person.

Officers taking persons into custody who are caring for other persons, are to ensure that appropriate arrangements are made for the care of the person while the arrested person is in police custody.

Appropriate arrangements for persons being cared for by an arrested person may include:

- (i) allowing the person in custody to make arrangements for the care of dependent children or other persons (see s. 16.21.9(i): 'Communication with and by prisoners' of this chapter);
- (ii) arranging for a suitable person to assume custody and care for a child or elderly person while the arrested person remains in custody;
- (iii) where appropriate, in the case of children, contacting the Department of Children, Youth Justice and Multicultural Affairs or the Child Safety After Hours Service Centre outside business hours (see SMCD); or
- (iv) where the person arrested is the driver of a motor vehicle, allowing that person to make arrangements for the care and safety of any vehicle occupants.

See also s. 14.28.1: 'Rendering assistance to stranded motorists and passengers' of this Manual.

16.5 Arrest by warrant

Watch-house managers are not to accept a person who has been arrested by warrant unless the reporting officer can show:

- (i) an applicable executed warrant report in QPRIME;

- (ii) the printed executed QPRIME warrant report;
- (iii) an executed certified copy of a paper warrant; or
- (iv) an executed paper warrant.

The exception is where a person is lodged at the watch-house by virtue of a warrant executed under the provisions of the *Service and Execution of Process Act* (Cwlth), where a copy of the paper warrant is sufficient.

16.6 Discontinuing arrest

Chapter 14, Part 4: 'Discontinuing arrest' ss. 376, 377, 378A-381 of the PPRA contains a number of provisions regarding situations where officers may release a person who has been arrested.

For circumstances where a prescribed police officer may release a person who has been arrested and delivered into custody at a police station, police establishment or watch-house, see s. 394: 'Duty of police officer receiving custody of person for offence' of the PPRA. See also s. 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' and s. 16.20: 'Bail' of this chapter.

ORDER

In any case where a person has been arrested and subsequently charged that person is not to be released from custody unless:

- (i) granted bail for the relevant offence(s) by the prescribed police officer (see s. 16.20: 'Bail' of this chapter);
- (ii) in the case of a child, served with a release notice (see s. 5.10: 'Releasing children from custody' of this Manual);
- (iii) under the order of a court;
- (iv) issued and served with a notice to appear (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual);
- (v) in the case of a child – served with a notice to appear under the *Youth Justice Act* (see s. 5.9.2: 'Proceedings against a child by notice to appear' of this Manual); or
- (vi) the charge(s) is otherwise appropriately finalised.

In any case where a person has been arrested, any charge of an offence for which the arrested person is released is discontinued because of s. 375: 'Effect of release under pt 4' of the PPRA when the offence:

- (i) is a minor drugs offence, and the arrest has been discontinued under Division 5: 'Additional case—minor drugs offence' outlined in ss. 378A-379AB of the PPRA;
- (ii) is a graffiti offence committed by a child, and arrest has been discontinued under s. 379A: 'Additional case when arrest for graffiti offence may be discontinued' of the PPRA; and
- (iii) has been committed by a child, and it is appropriate to discontinue the arrest, as outlined in s. 380: 'When arrest of child may be discontinued' of the PPRA.

In all cases where a person has been arrested and subsequently released without being charged the arresting officer is to comply with the provisions of s. 16.8: 'QPRIME custody, search and property reports' of this Manual.

16.6.1 General rule

Section 376: 'When arrest may be discontinued—general rule' of the PPRA specifies situations where a police officer must release an arrested person if the person is no longer reasonably suspected of committing the offence for which the person was arrested.

16.6.2 Adults

Section 377: 'Additional case when arrest of adult may be discontinued' of the PPRA outlines situations where police have a duty to release an adult who has been arrested. These situations include where it is more appropriate to serve an arrested person with an infringement notice, notice to appear or summons for the offence (see s. 377(2) of the PPRA).

Section 377(4) specifies a police officer must release a person at the earliest reasonable opportunity if:

- (i) the police officer reasonably considers it is more appropriate for the arrested person to be dealt with other than by charging the person with an offence; and
- (ii) the person and any victim of the offence agree to the person being dealt with in that way.

Examples of situations where the arrest of an adult may be discontinued include where a person:

(i) arrested for a minor assault involving pushing a person during a heated argument with a neighbour may agree to attend alternative dispute resolution; and

(ii) may be released under a scheme developed by the Commissioner for cautioning elderly first offenders.

See also ss. 3.5.3: 'Proceedings by way of notice to appear'; 3.5.4: 'Proceedings by way of complaint and summons'; 13.15: 'Issue of infringement notices generally' and 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' of this Manual as appropriate.

16.6.3 Intoxication

Detaining intoxicated persons

Officers may detain a person in a public place if the officer is satisfied the person is intoxicated and it is necessary to detain the person because:

(i) their behaviour is:

(a) disorderly, offensive, threatening or violent; and

(b) is likely to interfere with the peaceful passage through or enjoyment of the public place by a member of the public;

(ii) the person is behaving in a manner that is likely to risk the life, health or safety of any person, including the intoxicated person to be detained; or

(iii) the person is incapable of preserving their own life, health or safety,

as outlined in s. 53BP(2) and (3): 'Detaining intoxicated persons' of the PPRA.

ORDER

When a person is detained for being intoxicated in a public place, the person is to be taken to a place of safety, at the earliest reasonable opportunity and released if able to do so.

A 'place of safety' is defined in s. 792B: 'Meaning of place of safety' of the PPRA, this section defines a place of safety for a person who is intoxicated or who has ingested or inhaled a potentially harmful thing.

A 'place of safety' is:

(i) a place, other than a police station or watch-house, that the person can recover safely from the effects of being intoxicated or from the potentially harmful thing, and a place:

(a) other than a hospital, which provides care for persons who are intoxicated or who have ingested or inhaled the potentially harmful thing;

(b) where the person is living, whether on a temporary or permanent basis; or

(c) where a relative or friend of the person is living, whether on a temporary or permanent basis;

(ii) a vehicle, other than a police vehicle, if the vehicle is used to safely transport the person to a place mentioned in above section (i); and

(iii) a hospital, if the person requires medical attention only available at a hospital.

It is important to note, that it is not a place of safety if there is a risk of an act of domestic violence being committed by, or against, the person while at the place.

To remove any doubt, there is no requirement for the person who is released at a place of safety to remain at that place.

Transporting detained persons to a place of safety

If an officer has detained a person under s. 53BP of the PPRA, the officer can transport the detained intoxicated person to a place of safety as outlined in s. 53BQ: 'Transporting detained persons' of the PPRA.

An officer may transport the detained person to, and release the person at, a place of safety if the following apply:

(i) the place of safety contains a person who is apparently in charge of the place, and the person apparently in charge of the place agrees, verbally or in writing, to provide care for the person at the place; and

(ii) the officer is satisfied the person's behaviour or presence does not pose a risk of harm to any person at the place, including, for example, harm caused by domestic violence.

Transporting detained person to a police station or watch-house

If an officer has detained an intoxicated person under s. 53BP of the PPRA, and a place of safety cannot be located, the following transport procedures apply.

If after making reasonable enquiries an officer is unable to:

(i) find a place of safety located within a reasonable distance from where the person is detained; or

(ii) transport and release the detained person to someone who can care for the person and there is no risk of harm posed as outlined above.

In these circumstances the officer may:

- (i) transport the person to a police station or watch-house; and
- (ii) continue to detain the person at the police station or watch-house, for no more than 8 hours, until they can be released, as outlined in s. 53BQ of the PPRA.

Officers are to monitor the detained intoxicated person as outlined in s. 16.13: 'Healthcare of persons in custody' sub-section 'Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal' of this chapter.

Releasing detained intoxicated persons

If an intoxicated person has been detained, officers are to release the detained person at a place of safety or whichever of the following situations comes first:

- (i) the officer is satisfied the person is no longer intoxicated; or
- (ii) eight hours has elapsed after the person was first detained for this purpose.

Additionally, the officer may also choose to release the person from detention if the officer is satisfied that it is appropriate to do so in the circumstances, as outlined in s. 53BP(2) and (3) of the PPRA.

Prior to releasing a detained person at a place of safety, the officer is to ensure the person apparently in charge of the place of safety signs a Form 44: 'Place of safety undertaking (Intoxication Detention)' to provide care for the person (available in QPRIME).

Anything taken from the detained person is to be given:

- (i) if the place of safety is the person's home, to a person at the home who is an adult member of the person's family;
- (ii) if the place of safety is the home of a friend or relative, to the friend or relative, for safe keeping while the person is at the place; or
- (iii) otherwise, to the person apparently in charge of the place of safety, for safe keeping while the person is at the place.

The officer who takes and releases the detained person at a place of safety is to:

- (i) complete the QPRIME custody entry as appropriate;
- (ii) pass any relevant information regarding the detained person onto the person at the place of safety; and
- (iii) complete and scan the Form 44 into the relevant QPRIME occurrence.

Signed copies of the Form 44 should be filed at the detaining officer's station or establishment.

OIC of stations or establishments should maintain a list of places of safety including information such as:

- (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).

Officers dealing with intoxicated persons are to consider information outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter.

16.6.4 Children

Section 380: 'Additional case when arrest of child may be discontinued' of the PPRA outlines situations where police must release a child who has been arrested. Refer to s. 5.9.4: 'Taking a child into custody' of this Manual for procedures regarding this issue.

16.6.5 Limit on re-arrest

Section 381: 'Limit on re-arrest' of the PPRA restricts the re-arrest of a person, who has been released after being arrested for an offence. A police officer must form a reasonable suspicion, because of new evidence, that the person is responsible for the offence.

16.7 Foreign nationals

For consular and diplomatic immunity and unlawful non-citizens refer to Chapter 11: 'Federal Issues' of this Manual.

ORDER

The watch-house manager is to, where practicable, permit consular officers to visit their nationals, unless the national concerned expressly opposes that action or the national concerned is detained under the authority of a Commonwealth or State preventative detention order. For access by Chinese, Vietnamese and Indonesian consular officials to their foreign nationals, officers are to:

- (i) obtain consent from the detained foreign national to contact their consular officials; and
- (ii) refer to the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website for specific notification requirements.

Where the foreign national concerned is detained under the authority of a:

- (i) Commonwealth preventative detention order, the detainee is not allowed any contact with other persons other than relevant police officers unless contact is authorised by the senior Australian Federal Police member, Crime and Intelligence Command representative or case officer (see s. 17.3.26: 'Terrorist emergency' of this Manual); or
- (ii) State preventative detention order, the detainee is not allowed any contact with other persons unless contact is approved by the senior police officer (see s. 17.3.26: 'Terrorist emergency' of this Manual).

The only exception to this is contact between the detainee and any person providing urgent and necessary medical treatment.

16.7.1 Incidents involving foreign nationals

ORDER

The provisions of this section are in addition to the requirements of ss. 434: 'Right of visiting foreign national to communicate with embassy etc.' and 441: 'When sections 418-422, 432 and 434 do not apply' of the PPRA and s. 29: 'Right of visiting foreign national to communicate with embassy etc.' of the Responsibilities Code.

Foreign national taken into custody

An officer who takes a foreign national into custody is to refer to the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website, unless the foreign national is being held under a Commonwealth or State Preventative Detention Order (see s. 17.3.26: 'Terrorist emergency' of this Manual). 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.

16.7.2 Information to be forwarded to the officer in charge

In addition to immediately notifying the relevant consulate in accordance with the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website, police officers and watch-house officers are to, where a foreign national has:

- (i) expressed a wish to obtain the assistance of their consulate; or
- (ii) in the case of a Chinese, Vietnamese or Indonesian foreign national, remained silent when asked if he or she wanted their consulate notified of their arrest/detention; or
- (iii) in the case of an Indonesian foreign national, stated they do not want their consulate notified of their arrest/detention;

forward a Work Request Task through QPRIME to the OIC of the station or establishment.

Where the prisoner, who is foreign national, has expressed a wish to obtain the assistance of their consulate, the relevant Work Request Task is to include:

- (i) the name, address and nationality of the prisoner and whether such prisoner is an overseas student;
- (ii) a brief description of the offence;
- (iii) the time, date and place the prisoner is required to appear in court;
- (iv) details of the prisoner's passport, including the number, date and place of issue;
- (v) the date, place and means of the prisoner's arrival in Australia;
- (vi) the location at which the prisoner is detained or any bail conditions; and
- (vii) whether the prisoner requires the assistance of an interpreter.

Where the prisoner is:

- (i) a Chinese, Vietnamese or Indonesian foreign national and remained silent when asked if they wanted their consulate notified of their arrest/detention; or

(ii) in the case of an Indonesian foreign national who has advised that they do not want their consulate notified of their arrest/detention,

the Work Request Task is not to contain the prisoner's personal information.

The OIC of a station or establishment is to pass on the information to the relevant embassy. The OIC, Police Communications Centre, Brisbane, is to assist in providing contact information for foreign embassies.

16.8 QPRIME custody, search and property reports

16.8.1 Introduction

POLICY

The various custody, search and property reports available in QPRIME are designed to:

- (i) assist in locating persons:
 - (a) in the company of an officer for the purpose of being questioned about his or her involvement in the commission of an indictable offence; or
 - (b) in custody (for definition see SMD);
- by recording details of such persons; and
- (ii) record details of searches of persons, vehicles and places (enforcement acts) see s. 2.1.2: 'Registers required to be kept' of this Manual.

The information in the QPRIME custody, search and property reports are also used to provide security risk information relating to persons held in custody by police (also see ss. 1.6.11 and 16.21.6 both titled 'Updating operational information in QPRIME' of this Manual) and for statistical purposes.

ORDER

In addition to the requirements of s. 2.1.2: 'Registers required to be kept' of this Manual, police officers and watch-house officers are to be aware of and, if applicable, comply with the provisions of s. 415: 'When does this part apply to a person', s. 637: 'Supplying police officers details' and s. 671: 'Who must record information relating to covert search warrants in register' of the PPRA, and Part 7, Division 1: 'Register of enforcement acts' of the Responsibilities Code when making entries in QPRIME custody, search and property reports.

16.8.2 Exceptions to making entries in QPRIME custody, search and property reports

Chapter 21, Part 2: 'Registers' of the PPRA and Part 7: 'Responsibilities relating to enforcement registers' of the Police Responsibilities Code (PRC) requires a register entry to be made for any enforcement act as defined in Schedule 6: 'Dictionary' of the PPRA.

Breath and saliva test/analysis

For the purposes of this chapter, a person is not deemed to be in custody if the person is being detained pursuant to the provisions of the TO(RUM)A for the purpose of either a breath or saliva test or a breath or saliva analysis, unless the detention results in the arrest of the person. In this case the arrest and the original detention are required to be entered into QPRIME.

In cases where:

- (i) a person is detained for the purpose of a breath or saliva test or breath or saliva analysis pursuant to the provisions of the TO(RUM)A and such detention results in the arrest of the person detained; and
- (ii) no facility for making the required entry into the QPRIME custody, search or property report exists at the place where the person is charged;

the responsible officer is to ensure that the required entry into the QPRIME custody, search or property report, is made as soon as practicable after processing the person concerned but in any event not later than two days from the time of arrest.

Mental Health

For the purpose of this chapter, a person is not deemed to be in custody if the person is transported to a mental health service for voluntary assessment/treatment. A person who is transported for voluntary assessment/treatment is not required to be entered into any QPRIME custody or search report.

Chemical, biological and radiological emergency declaration

Section 27: 'Power to require name and address' of the *Public Safety Preservation Act* (PSPA) does not require an entry to be made in any QPRIME custody or search report unless the power to require name and address is also exercised

together with the detention power. Where a person is detained pursuant to s. 32: 'Power to detain' of the PSPA, a QPRIME custody or search report entry is required.

Section 31: 'Power to give particular directions' of the PSPA does not require an entry to be made in any QPRIME custody or search report. Giving a person a direction under s. 31(1) of the PSPA is not an enforcement act for the purposes of the PPRA. See also s. 17.3.18: 'Chemical, biological and radiological emergencies' of this Manual.

Exercise of extraordinary emergency powers

Section 8AZA: 'Power to control movement of persons'; s. 8AZB: 'Power to search a person without a warrant' and s. 8AZE 'Power to require access information' of the PSPA, exempts acts in certain circumstances from being an enforcement act for the purposes of the PPRA.

Any direction given to a person in compliance with s. 8AZA of the PSPA is not an enforcement act for the purposes of the PPRA and therefore entries are not required to be made for persons subject to such directions in any QPRIME custody or search report. Directions which may be made under this provision to a person who is in the authorisation area include:

- (i) not to enter a stated place in the authorisation area;
- (ii) to go to a stated place in the authorisation area (i.e. move people from place to place within the area); and
- (iii) to stay at or in a stated place in the declared area (i.e. prevent persons from leaving).

In compliance with s. 8AZB of the PSPA, any person who is in an authorisation area, may be stopped, detained, searched. Also, an emergency situation officer may search anything in the person's possession (e.g. laptop or mobile phone) and have relevant property seized if the officer reasonably suspects it may provide evidence of the commission of an offence or the person may use the thing to cause harm to themselves or another person. However, most of these actions do not constitute an enforcement act for the purposes of the PPRA and no QPRIME custody, search or property report entry is required to be made. The exceptions to this are where a search of the person involves the removal of the person's clothing, other than outer clothing (i.e. an unclothed search). These acts require a QPRIME custody, search or property report entry to be made. All unclothed searches made under the provisions of this section are also to be made in strict compliance with ss. 16.10.1: 'General requirements concerning searches of persons' and 16.10.2: 'Unclothed searches of persons' of this Manual.

When a storage device (e.g. a computer or smart phone) is being searched or has been seized under s. 8AZB of the PSPA and information stored on the device can only be read or accessed by using access information (e.g. a fingerprint that is necessary to access information protected by a fingerprint lock) and the officer reasonably suspects that a person knows, has or is able to provide the access information s. 8AZE gives power to require the person to provide the access information and any other information or help necessary to access or read information stored on the storage device. If the person does not comply with the requirement the storage device may be seized, the seizure is not an enforcement act under the PPRA, however the provisions of Chapter 20: 'Other standard safeguards' of the PPRA apply.

Terrorist emergency declaration

Section 8M: 'Power to control movement of persons' and s. 8N: 'Power to search a person without a warrant' of the PSPA, exempts acts in certain circumstances from being an enforcement act for the purposes of the PPRA.

Any direction given to a person in compliance with s. 8M of the PSPA is not an enforcement act for the purposes of the PPRA and therefore entries are not required to be made for persons subject to such directions in any QPRIME custody or search report. Directions which may be made under this provision to a person who is in a declared area or who is suspected is about to enter the declared area include:

- (i) not to enter the declared area;
- (ii) to go to a stated place in the declared area (i.e. move people from place to place within the area);
- (iii) to temporarily stay at or in a stated place in the declared area (i.e. prevent persons from leaving); or
- (iv) not to enter a stated place in the declared area.

In compliance with s. 8N of the PSPA, any person who is about to enter, is in or is suspected has just left a declared area, may be stopped, detained, searched and have relevant property seized. However, most of these actions do not constitute an enforcement act for the purposes of the PPRA and no QPRIME custody, search or property report entry is required to be made. The exceptions to this are where a search of the person involves the removal of the person's clothing, other than outer clothing (i.e. an unclothed search) or property is seized. These acts require a QPRIME custody, search or property report entry to be made. All unclothed searches made under the provisions of this section are also to be made in strict compliance with ss. 16.10.1: 'General requirements concerning searches of persons' and 16.10.2: 'Unclothed searches of persons' of this Manual.

Searches

The PPRA Schedule 6: 'Dictionary', definition of 'enforcement act' makes a number exceptions to what is defined as an 'enforcement act'. Entries are not required to be made in any QPRIME custody or search report for:

(i) the search of a person, vehicle or premise by using a drug, or firearms and explosives detection dog to carry out drug or explosive detection respectively under Chapter 2, Part 3: 'Use of detection dogs without warrant' of the PPRA;

(ii) the search of a vehicle at a roadblock; or

(iii) the search of premises that is a vehicle or a public place.

See also s. 2.1.2: 'Registers required to be kept' of this Manual.

Other exceptions

Some investigations may be compromised if relevant information obtained and placed in the register is accessed by other members of the Service.

The following circumstances that involve enforcement acts are not exempt from being recorded in a QPRIME custody, search, property or occurrence report, however such entries are to be made in the appropriate QPRIME custody, search, property or occurrence report but are to have an Access Control List (ACL) applied to the entry or relevant parts of the entry (i.e. person report) as soon as practicable to restrict viewing and access to the entries.

These circumstances include enforcement acts in relation to:

(i) persons detained on a preventative detention order pursuant to Division 105: 'Preventative detention orders' of the *Criminal Code Act (Cwlth)* or the *Terrorism (Preventative Detention) Act*; and

(ii) investigations being made against a member of the Service.

In these circumstances, officers are to comply with the relevant subsections of s. 2.1.2: 'Registers required to be kept' of this Manual in relation to making entries on a QPRIME custody, search, property or occurrence report.

16.8.3 Accessing QPRIME custody, search and property reports

PROCEDURE

There are a number of reports available in QPRIME which are required to be completed when persons are in custody, searched by police, vehicles or places are searched by police, property is seized, persons are fingerprinted, photographed or DNA samples taken or persons are transported. These fields and reports include:

(i) Custody Report;

(ii) Custody Report (Full);

(iii) Detention Log;

(iv) Interview Report;

(v) Location Search Report;

(vi) Person Stop/Search Report;

(vii) Vehicle Search Report;

(viii) QP 0760: 'Property Receipt' (QPRIME);

(ix) QPRIME Property Evidence Report; and

(x) Identification (Ident)/Fingerprint Report.

Officers are to refer to the QPRIME User Guide for assistance to access these reports.

16.8.4 Maintaining QPRIME custody and search reports

PROCEDURE

When a change in status occurs to a person who is recorded on any QPRIME custody and search reports, this change is to be recorded accurately and appropriately in the relevant report.

The responsible officer is to ensure that the appropriate QPRIME custody and search report is maintained until the person is:

(i) no longer in the company of an officer for the purpose of being questioned about his or her involvement in the commission of an indictable offence;

(ii) released from custody; or

(iii) transferred into the custody or company of another person or organisation

The relevant QPRIME custody report is to be finalised after a person is transferred into the custody of another person or organisation (e.g. Queensland Health, Corrective Services, a diversionary centre).

Where practicable, details of the prisoner's transfer are to be entered into the appropriate QPRIME custody and search report by the officer who is the responsible officer immediately before the actual transfer of the prisoner.

Where a prisoner provides an incorrect name which is entered into QPRIME, the report is to be modified by entering the correct name, followed by the word 'alias' and the name initially provided by the prisoner.

POLICY

Officers in charge are to ensure regular checks are conducted of QPRIME custody records linked to their unit, at least monthly, to ensure officers at their station, establishment or unit are complying with the requirements of this section.

16.8.5 Querying QPRIME custody, search, property and occurrence reports

POLICY

General statistics available from QPRIME are to be used for official purposes and may not be used for any other purpose other than with the permission of the Commissioner.

QPRIME is accessible to all officers for statistical or query purposes.

16.8.6 Inquiries as to the location of a person suspected of being in custody

Police or watch-house officers receiving inquiries to the whereabouts of a person suspected of being in custody are to comply with the provisions of ss. 432: 'Provision of information relating to a relevant person' of the PPRA and 27: 'Provision of information relating to a relevant person' of the Police Responsibilities Code.

This requirement does not apply if:

- (i) the person in custody refuses to agree to giving the information and the refusal is in writing or electronically recorded. Any refusal to agree to the giving of information is to be recorded in the relevant:
 - (a) QPRIME custody report; or
 - (b) custody report (Full) in the detention log, under general detention.
- (ii) the police or watch-house officer reasonably suspects the person asking for the information is not a relative, friend or lawyer of the person in custody; or
- (iii) the provisions of s. 441: 'When sections 418-422, 432 and 434 do not apply' of the PPRA apply.

Staff members are to advise a police or watch-house officer whenever they receive an inquiry as to the location of a person suspected of being in custody.

Person not in custody or no longer in custody

Where the person subject of the inquiry is not recorded in QPRIME or is recorded but is no longer in custody, police or watch-house officers are to advise the inquirer that the person subject of the inquiry is not recorded as being in custody.

Where the person subject of the inquiry is recorded as being in custody, police or watch-house officers are to:

- (i) check the QPRIME custody report or custody report (Full) detention log, under general detention to determine if an objection to giving information has been recorded;
- (ii) check the QPRIME occurrence type to ensure it does not relate to:
 - (a) persons detained on a preventative detention order pursuant to Division 105: 'Preventative detention orders' of the *Criminal Code Act* (Cwith) or the *Terrorism (Preventative Detention) Act*; or
 - (b) investigations being made against a member of the Service.
- (iii) where practicable, inform the person subject of the inquiry of the request;
- (iv) if there is no recorded objection to the release of relevant information or it does not relate to occurrence types in subsection (ii):
 - (a) inform the inquirer the person subject of the inquiry is in custody; and
 - (b) that person's current location;
- (v) if there is a recorded objection to the release of relevant information or it does relate to occurrence types in subsection (ii), confirm that the person subject of the inquiry is in custody only if:
 - (a) there are extraordinary or
 - (b) emergent circumstances which justify the release of the information; and
- (vi) make an entry in the QPRIME custody report or custody report (Full) detention log, under general detention. The entry is to include:
 - (a) time and date of the inquiry;
 - (b) name of the inquirer;
 - (c) name and registered number of the officer; and

(d) whether or not any information was released.

Where a legal representative attends at a police station or establishment for the purpose of obtaining access to a suspect being interviewed, refer to s. 3.21: 'Legal representatives at interviews' of the DERIE Manual.

16.8.7 Notification to the Aboriginal and Torres Strait Islander Legal Service

The provisions of this section are also in addition to the following sections of the PPRA:

- s. 414: 'Part applies only to indictable offences';
- s. 415: 'When does this part apply to a person';
- s. 418: 'Right to communicate with friend, relative or lawyer';
- s. 419: 'Speaking to and presence of friend, relative or lawyer';
- s. 420: 'Questioning of Aboriginal people and Torres Strait Islanders';
- s. 421: 'Questioning of children';
- s. 422: 'Questioning of persons with impaired capacity';
- s. 423: 'Questioning of intoxicated persons'; and
- s. 441: 'When sections 418-422, 432 and 434 do not apply'.

The provisions of this section are in addition to the requirements of s. 25: 'Questioning of Aboriginal people and Torres Strait Islanders' of the Responsibilities Code.

See s. 1: 'Recording of interviews and other matters' of the DERIE Manual.

PROCEDURE

The regional or district police cross cultural liaison officer in consultation with the local Aboriginal and Torres Strait Islander groups and organisations, and the Aboriginal and Torres Strait Islander Legal Service, is to develop a protocol for the supply of information to the Aboriginal and Torres Strait Islander Legal Service concerning situations where Aboriginal and Torres Strait Islander people have been arrested or are in custody.

The protocol is to cover the issues of:

- (i) authorisation of identified members of a legal service to whom the information is to be released;
- (ii) the location and frequency of the transfer of the information;
- (iii) the method of transfer of information;
- (iv) the identity of the member of the Service who is responsible for providing the information;
- (v) any other local arrangements that are deemed necessary and appropriate; and
- (vi) a system designed to assist Aboriginal and Torres Strait Islander persons who are charged with an offence to transfer any relevant records of interview, statements and/or bail documents to the relevant Aboriginal and Torres Strait Islander Legal Service.

The involvement of police or watch-house officers in this process may include an offer to supply stamped self-addressed envelopes to the accused together with an explanatory note. The envelopes are to be supplied by the relevant legal service. Police officers and watch-house officers are not required to place the articles in the envelopes or to post the package, but may assist if requested.

The information provided to the Aboriginal and Torres Strait Islander Legal Service is to include:

- (i) identification details of the prisoner;
- (ii) the nature of the charge(s);
- (iii) the time, date and place of the court at which the prisoner is to appear; and
- (iv) information on the health and wellbeing of the prisoner.

See s. 16.21.9: 'Communication with and by prisoners' and s. 16.21.10: 'Aboriginal and Torres Strait Islander Legal Service seeking information and interviews' of this chapter.

16.8.8 Transfer of prisoners from Corrective Services

ORDER

When a prisoner is transferred from a correctional services facility/youth detention centre into police custody for any matter, including:

- (i) a court appearance; or

(ii) an order of a magistrate under the provisions of ss. 399: 'Application for removal of person from lawful custody' and 401: 'When magistrate may make removal order' of the PPRA,

the prisoner's details are to be entered into QPRIME. Upon admission to a watch-house the prisoner is to be checked on the person record in QPRIME (see also s. 16.4.2: 'Responsibilities of watch-house manager' of this chapter).

Any other relevant information (e.g. health and security issues) from Queensland Corrective Services (QCS) transfer documentation is also to be included on the custody report (Full) in QPRIME and, where appropriate, as a flag or caution.

The responsible officer is to ensure the initial entry on the custody report (Full) in QPRIME is completed as soon as practicable.

Whilst in police custody the custody report (Full) in QPRIME is to be maintained in accordance with the provisions of s. 16.8.4: 'Maintaining QPRIME custody and search reports' of this chapter.

Where a QPRIME custody report is to be completed, the member is to complete the QPRIME Custody report 'Use of Force Tab' in accordance with the QPRIME User Guide (see s. 14.3.9: 'Use of force reporting' subsection 'QPRIME Custody report 'Use of force tab' to be completed' of this Manual).

16.9 Lodging a prisoner in a watch-house

16.9.1 Prisoner's health prior to acceptance in a watch-house

An officer is not to arrest a person who is:

- (i) unconscious or apparently unconscious; or
- (ii) in need of or apparently in need of urgent or immediate medical treatment;

but is to assist that person in obtaining professional healthcare advice/assistance as soon as reasonably practicable.

An officer lodging a person at a watch-house is to:

- (i) ascertain if the prisoner has a medical condition that may require medication;
- (ii) ascertain if the prisoner is affected by alcohol or drugs; and
- (iii) where possible, obtain details of the prisoner's medication, as well as Medicare and health care cards.

A receiving officer is not to accept into custody a prisoner who is:

- (i) unconscious or apparently unconscious;
- (ii) unable to give a sensible verbal response; or
- (iii) in need of or apparently in need of urgent or immediate medical treatment,

without obtaining professional healthcare advice as soon as practicable.

A watch-house manager is authorised to oversee and coordinate the processing of persons in custody in need of medical attention, provided that the watch-house manager seeks guidance from qualified healthcare professionals and assesses that the individual's well-being will not be compromised by their placement in a watch-house.

If medical care cannot be administered while in custody, the arresting officer is to arrange for reasonable assistance to be offered to obtain medical treatment to the individual once they are released from custody.

The preferred assessor of a person's fitness for custody when a degree of suspicion exists with regards to their health is the Queensland Ambulance Service (QAS). A call to QAS to attend and assess at the watch-house or a call to QAS Virtual Emergency Care (VEC) should be considered for all persons in need of medical attention. Other professional healthcare advice may be utilised if required. This advice may come from a nurse working within the watch-house or a doctor arranged by the watch-house manager. All available health information in relation to the person in custody is to be provided to the assessing health care provider.

Watch-house managers should not refer operational crews with violent or disorderly prisoners (where a degree of suspicion exists in relation to their health), to a hospital or other medical facility unless no other healthcare provider can be accessed at that watch-house.

See s. 16.13.1: 'Assessment of prisoners' of this chapter.

ORDER

Where a decision is made by the receiving officer not to accept a prisoner due to that prisoner's state of health or need of medical treatment, as soon as practicable, that receiving officer is to:

- (i) notify the arresting officer that the prisoner is not fit to be held in a watch-house due to the prisoner's medical condition as per the advice of a professional healthcare provider;
- (ii) notify the watch-house manager;

(iii) where directed by the watch-house manager not to process the prisoner, record in the relevant place in the Custody Report (Full) or Custody Report, Detention Log in QPRIME, the:

- (a) name of the arresting officer;
- (b) name of the prisoner; and
- (c) reason for the refusal to admit that prisoner to the watch-house; and

(iv) notify the regional duty officer or district duty officer or patrol group inspector by whatever means appropriate in the circumstances. This may include by:

- (a) telephone;
- (b) e-mail; or
- (c) a Notification Task in QPRIME.

Where a receiving officer has notified the arresting officer that the prisoner will not be accepted due to the prisoner's medical condition, the arresting officer is to ensure that professional healthcare assistance is provided to that prisoner. Where a person has been taken into custody, the responsible officer is to:

- (i) inspect and assess the prisoner as soon as practicable (see s. 16.13.1: 'Assessment of prisoners' of this chapter);
- (ii) determine how frequently the prisoner needs to be inspected and assessed (the higher the risk, the more frequent the need for inspection and assessment) see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter;
- (iii) arrange, where it is considered necessary, professional healthcare assistance for the prisoner; and
- (iv) continue to inspect and assess the prisoner at regular intervals until the prisoner is transferred into the custody of another person, or released (see s. 16.13.3: 'Prisoner/watch-house inspection' of this chapter).

16.9.2 Responsibilities of arresting officer when lodging a prisoner in a watch-house

ORDER

An arresting officer is responsible for the supervision of an arrested person until the person is transferred to another responsible officer or released from custody.

For the purpose of this section, arresting officer includes detaining officer for persons detained under Part 8: 'Power to detain particular intoxicated persons' of the PPRA (see SMD 'Arresting Officer').

Where the arresting officer is present at the watch-house and the prescribed police officer (PPO) has determined the arrest or detention should be discontinued, the PPO should explain the basis for their determination and request the arresting officer issue a notice to appear or infringement notice if applicable (see Chapter 14, Part 4: 'Discontinuing arrest' of the PPRA).

For persons detained for intoxication, refer to s. 16.6.3: 'Intoxication' of this Manual for releasing detaining intoxicated persons.

If the arresting officer is preferring a charge against an arrested person, they are to ensure:

- (i) bench charge sheets are prepared, and copies are provided to the prisoner. An individual officer is to be nominated as the arresting officer for each individual charge preferred against a defendant;
- (ii) a QP 0215: 'Bail affidavit' and QP 0215A: 'Bail affidavit annexure' is to be completed **unless otherwise directed** by the PPO; and
- (iii) if bail is refused, and the PPO has not otherwise directed that a QP 0215 or QP 0215A are not required, the QP 0215 and QP 0215A are to be sworn or affirmed and attached to the Court Brief (QP9) and the receiving officer advised.

The arresting officer (other than when preferring a charge against a person) is to ensure the receiving officer is informed of the reason for arrest or detention of a person in custody including the relevant time and circumstances, and such information is noted in the Custody Report or Custody Report (Full) of QPRIME.

Officers that have detained a person for intoxication under Part 8 of the PPRA, that have not been able to transport a detained person to a place of safety as outlined in s. 16.6.3: 'Intoxication' of this Manual, are to inform the receiving officer the reasonable inquires the officer:

- (i) made to locate a place of safety located within a reasonable distance from where the person is detained; and
- (ii) the time the intoxicated person was detained.

The arresting officer is to:

- (i) search the prisoner upon arrival at the watch-house. See s. 16.10: 'Search of persons' of this Manual;

- (ii) immediately advise the receiving officer of the prisoner's details to enable the receiving officer to enter them on the relevant QPRIME whiteboard;
- (iii) listen to the questions asked of the prisoner by the receiving officer, and the prisoner's replies;
- (iv) ensure the details entered in the property tab of the QPRIME Custody Report (Full) correctly describe the property taken from the prisoner at the watch-house;
- (v) check the details entered in the QPRIME Custody Report (Full) by the receiving officer;
- (vi) provide a digital signature on the QPRIME Custody Report (Full) if the entries are a true record; and
- (vii) when lodging a child in custody, include in the Custody Index details of the notification of:
 - (a) a parent of the child, including where a parent cannot be found after reasonable inquiries; and
 - (b) the chief executive, or a person who holds an office within the department nominated by the chief executive for the purpose.

See s. 5.9.6: 'Parent and other notification requirements' of this Manual.

Where the arresting officer considers the QPRIME Custody Report (Full) entry is not an accurate record, the officer is to bring the discrepancy to the notice of the receiving officer and have the record corrected.

Where the receiving officer fails to correct the entry or disagrees with the arresting officer, the arresting officer is to note the discrepancy in QPRIME. The Detention Log entry window wording is to reflect the discrepancy or disagreement when the arresting officer is completing the prisoner handover and providing a digital signature.

16.9.3 Responsibilities of officer relinquishing custody of a prisoner

PROCEDURE

An officer relinquishing custody of a prisoner is to advise the person receiving the prisoner of any:

- (i) incident of which the officer is aware where the prisoner:
 - (a) was involved in, or threatened any violence;
 - (b) suffered any injury;
 - (c) was emotionally upset or disturbed;
 - (d) attempted or threatened self-harm; or
 - (e) received any medical attention which is to include the information contained in s. 16.13.2: 'Prisoner's medical condition' of this Manual;
- (ii) known or suspected medical history/condition of the prisoner, including information in QPRIME relating to the prisoner (see ss. 16.4.1: 'Responsibilities of arresting officer' and 16.4.2: 'Responsibilities of watch-house manager' of this chapter); and
- (iii) other information that may assist in providing appropriate treatment for the prisoner.

16.9.4 Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house

ORDER

When a person in custody is taken to a watch-house, the receiving officer is responsible for ensuring that at the earliest reasonable opportunity:

- (i) the prisoner is placed on the relevant QPRIME whiteboard; and
- (ii) an assessment of the prisoner is conducted. See s. 16.13.1: 'Assessment of prisoners' of this chapter.

When a person is:

- (i) arrested for an offence; or
- (ii) detained for being intoxicated in a public place,

and delivered into the custody of a prescribed police officer, and the person is not being detained under Chapter 15: 'Powers and responsibilities relating to particular investigations and questioning' of the PPRA, and it is not practicable to bring the person before a court promptly (if applicable), in accordance with s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the Act, the prescribed police officer as soon as reasonably practicable is to:

- (i) if arrested:
 - (a) decide whether or not to grant bail under the *Bail Act* (see s. 16.20: 'Bail' of this chapter);
 - (b) issue and serve a notice to appear on the person (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual);

(c) for a minor drugs offence, decide whether to discontinue the arrest under Chapter 14, Part 4, Division 5: 'Additional case—minor drugs offence' of the PPRA;

(d) for a prescribed public nuisance offence (see ss. 6(1): 'Public nuisance' and 7(1): 'Urinating in a public place' of the *Summary Offences Act*), issue and serve on the person an infringement notice for the prescribed public nuisance offence and any associated offence (see s. 394(2)(e): 'Duty of police officer receiving custody of person arrested for offence' of the PPRA); or

(e) take the person before a court to be dealt with according to law; and

(ii) if detained for being intoxicated in a public place, and the person was not able to be transported and released at a place of safety, record in the QPRIME custody report:

(a) what reasonable enquiries the detaining officer has made to find a place of safety located within a reasonable distance from where the person was detained; and

(b) the time originally detained,

as outlined in s. 53BQ: 'Transporting detained persons' of the PPRA.

The detained person is to be released on the earlier of the following:

(i) the officer is satisfied the detained person is no longer intoxicated;

(ii) a period of 8 hours has elapsed after the person was first detained for this purpose, or

(iii) the officer may also choose to release the person from detention if the officer is satisfied that it is appropriate to do so in the circumstances.

As outlined in s. 53BP(2) and (3): 'Detaining intoxicated persons' of the PPRA.

If the arrested person is not to be released from custody, or the detained intoxicated person is being temporarily held in a watch-house:

(i) the receiving officer is to:

(a) arrange for the attendance of an interpreter, where considered necessary, to provide the opportunity for the prisoner to understand the process;

(b) search the prisoner if required;

(c) make the relevant entries as required in the QPRIME Custody Report or Custody Report (Full); and

(d) make a determination on a Care Plan. Frequency of prisoner inspection will be determined by the level of care plan selected. (see s. 16.9.5: 'Determining frequency of prisoner inspections' of this chapter); and

(ii) relevant prescribed officer is to be the officer who is recorded as authorising the detention of the prisoner within the QPRIME Custody Report (Full).

The prescribed officer prior to accepting a charge against a prisoner, is to ensure, if applicable, the arresting officer has considered releasing the prisoner under Chapter 14, Part 4: 'Discontinuing arrest' of the PPRA.

When the prescribing officer determines the arrest should be discontinued and the arresting officer is present, the prescribing officer should advise the arresting officer to issue a notice to appear or infringement notice as appropriate.

The receiving officer is to:

(i) where a prisoner has been accepted into custody at the watch-house, assess the prisoner to determine:

(a) if the prisoner is apparently in need of professional healthcare (see s. 16.13.1: 'Assessment of prisoners' of this chapter);

(b) whether the prisoner is to be confined alone or with other prisoners; and

(c) the frequency of prisoner inspections (see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter); and

(ii) record in the QPRIME Detention Log of the relevant Custody Report or Custody Report (Full), details of:

(a) a prisoner's need for professional healthcare;

(b) the need to isolate a prisoner; or

(c) any increase in the frequency of prisoner inspections.

16.9.5 Determining the frequency of prisoner inspections

In watch-houses equipped with a **pod** or **wing** for housing prisoners, it is mandatory for these areas to be supervised continuously by an officer at all times, 24/7. Should a watch-house feature multiple pods or wings, each must have its own dedicated officer. If an officer needs to leave their post for any reason exceeding 10 minutes, a relief officer must take their place to ensure uninterrupted supervision.

In the case of watch-houses lacking designated pods or wings, prisoners are to be monitored constantly, 24/7, through CCTV. This monitoring is to be conducted by an officer who is solely assigned to this task, without any additional duties.

In determining the frequency of prisoner inspections, the police officer or watch-house officer assessing a prisoner is to ensure that:

- (i) prisoners are to be physically inspected regularly at varying intervals (the intervals between inspections is to be no greater than one hour);
- (ii) inspections are to be conducted on a basis consistent with the prisoner's risk assessment level;
- (iii) a prisoner displaying suicidal tendencies is to be closely monitored until medical attention can be obtained;
- (iv) officers are to continuously reassess the prisoner's mental and physical health and update the care plan as required; and
- (v) prisoners are to be monitored by CCTV in between the physical inspections, in (i) to (iv) above, by an officer not assigned to any other duties.

The following levels of physical inspection frequency are to be considered the minimum standard times acceptable and are to be recorded in the QPRIME custody suite 'Level of Observation' field:

- (i) Level 1: General – sixty minutes or less. This is for normal physical prisoner inspections;
- (ii) Level 2: Intermittent – thirty minutes (where the member conducting the checks is to interact with the prisoner). Typically, this frequency of inspections related to a prisoner with a higher-than-normal risk, such as mental health or suspected of possessing contraband;
- (iii) Level 3: Mandated – as a minimum thirty minutes for the first four hours, with the results of the three-stage assessment (open eyes/respond verbally/move limbs) recorded in the detention log. If affected by alcohol or drugs, refer to Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter; and
- (iv) Level 4: Constant – constant visual supervision in the case where a person in custody has known significant risk factors e.g. suicidal behaviour, actively attempting self-harm, severe intoxication (above 0.20) or exhibits signs or symptoms outlined in Appendix 16.10 of this chapter. Prisoners are to remain Level 4 until assessed by a healthcare professional and that written advice is provided to police and recorded in QPRIME. Prisoners can revert to Level 3 if not transported to hospital. However, if concerns remain that the prisoner be suicidal, they should remain Level 4 under constant visual supervision.

In instances where a prisoner is identified as high risk according to the criteria outlined in Appendix 16.10 of this chapter, which pertains to drug and alcohol intoxication, overdose, and withdrawal, the care plan must be escalated to Level 4. This level necessitates constant supervision of the prisoner to ensure their safety and well-being. Additionally, it is mandatory for the prisoner to undergo an assessment conducted by a qualified healthcare professional such as a nurse or a member of the QAS.

See also s. 16.13.3: 'Prisoner/watch-house inspection' of this chapter.

16.10 Search of persons

This section outlines the processes governing the searching of persons, and includes, in Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter, guidelines for the conduct of such searches and is designed to ensure consistency with respect to search practices across the Service whilst also respecting the fundamental rights of members of the community who are subject to a personal search by police.

A police officer's or watch-house officer's approach to searching persons is to be based upon the following general principles:

- (i) a person's physical integrity is a fundamental right that is to be respected even when the person is in custody;
- (ii) being subjected to a personal search by a police officer or watch-house officer, in particular a search involving the removal of clothing, is a traumatic and degrading experience for most people;
- (iii) whilst the PPRA allows a police officer or watch-house officer to require someone to remove clothing when the person is being searched, and that circumstances which justify such a search may arise from time to time, searches involving the removal of clothing are not to be conducted as a matter of routine; and
- (iv) searches that involve the removal of clothing which are not appropriately conducted may invite adverse criticism of the Service.

It is important to note the legislative and policy requirements of police officers and watch-house officers involved in the search of a person, contained both within the PPRA and this section, apply regardless of whether the search is conducted in a watch-house or elsewhere. Also, whether a person to be searched either has been detained for the purpose of the search or has consented to being searched.

Definitions

For the purposes of this section:

Frisk search

see Schedule 6: 'Dictionary' of the PPRA.

Personal search

means a search of a person by or at the direction or request of a police officer or watch-house officer. A personal search includes a pat-down search and an unclothed search but does not include a frisk search.

Pat-down search

includes a search of a person by or at the direction of a police officer or watch-house officer, that:

- (i) involves the searching of the outer clothing of a person;
- (ii) uses a grab, squeeze and/or pat technique over the outer clothing and all of the body except genitals;
- (iii) involves the use of a metal detector (where available) waved over the entire body; and
- (iv) may also involve one or more of the following:
 - (a) the removal or moving, and inspection of, one or more outer garments worn by the person being searched, including jackets, shoes, socks, belts, hats and other minor items, but does not involve the removal or moving of any clothing that would reveal underwear or expose bare skin normally expected to be covered by underwear;
 - (b) the removal and inspection of some or all articles from the clothing worn by the person being searched; and
 - (c) the opening and inspection of any other thing in the immediate possession of the person being searched, such as hand-bags, suitcases, backpacks and any other container.

See also Appendix 16.9: 'Guidelines for conducting personal searches', subsection 'Procedures for conducting searches', of this chapter.

Responsible officer

is defined in the SMD. Additionally, and for the purpose of this section, the term includes the officer who is to conduct a search of a person who is not arrested or detained and who consents to being searched.

Unclothed search (also known as a strip-search)

includes a search of a person by or at the direction of a police officer or watch-house officer, that involves:

- (i) the removal of all of a person's clothing; or
- (ii) the removal or moving of all items of outer clothing from the upper or lower part of the body which reveals underwear or exposes bare skin normally expected to be covered by underwear.

See also Appendix 16.9: 'Guidelines for conducting personal searches', subsection 'Procedures for conducting searches', of this chapter. All guidelines relevant to a pat-down search also apply to an unclothed search.

16.10.1 General requirements concerning searches of persons

Officers are reminded of their responsibilities under the *Human Rights Act* (HRA) to consider the human rights of persons prior to taking action. Section 1.2: 'Human rights and policing' of this Manual provides additional information about officers' obligations under the HRA.

The responsible officer conducting a search of a person (in all circumstances):

- (i) must ensure, as far as reasonably practicable, that the search is conducted in a way that causes minimal embarrassment, and protects the dignity of the person;
- (ii) who determines that a more thorough search is necessary, and the search is not required to be conducted immediately, is to restrict the search of the person in public to an examination of outer clothing until the search can be conducted out of public view, for example, in a room of a shop or, in a station if nearby;
- (iii) is to comply with gender safeguards outlined in s. 624A: 'Gender safeguard for searches of persons' of the PPRA, unless it is necessary to carry out an immediate search of a person. For example, an officer reasonably suspects that the person to be searched is concealing a weapon and there is an immediate need to carry out the search;

(iv) if reasonably practicable, is to be of the same gender as the person being searched, however, the person being searched can express a preference as to the gender of the persons they would like to search them, that preference must be accommodated by the officer, unless:

(a) there are reasonable grounds that the officer believes the preference is for an improper purpose, such as:

- making lewd comments or gestures about a particular officer they prefer to exercise the search power;
- expresses an offensive preference to be searched by a person of a gender they do not identify as; or
- not genuinely have a preference to be searched by a particular gender, and express a preference to solely frustrate the responsible officer from performing their duties;

(b) it is not reasonably practicable to accommodate the preference, for example:

- in a remote area; or
- late at night in regional or remote areas;

(v) is to prior to the commencement of any search:

(a) explain the process of the search to the person; and

(b) offer the person being searched the opportunity to express a preference about the gender of the person conducting the search. The person being searched is to be given a reasonable opportunity to express their gender preference.

In circumstances where a preferred gender is not reasonably available, the search may be conducted by different officers, or person, under the direction of an officer, to search the upper body, lower body or head;

(vi) has discretion about who conducts the search to help protect the officer from potential physical harm or degradation, if they believe the gender preference request has been made in bad faith or for an improper purpose. In these circumstances, they are to contact a supervisor to outline their decision.

In the absence of any gender preference being expressed by the person being searched, the search may be conducted by an officer of the same or different gender of the person if, in the circumstances, which is the most appropriate way to address any actual or potential concerns related to gender.

There is no requirement for the person being searched, or the officer, to disclose information about their gender at any point in the process.

Decision/delegation to search persons

Generally, only the responsible officer is to decide if it is appropriate to conduct a personal search of a person.

However, for a pat-down search only, the responsible officer may delegate this decision-making power to a suitable police officer or watch-house officer. When a police officer or watch-house officer delegated the ability to decide if a person is to be subjected to a pat-down search decides that a pat-down search is to be conducted, that police officer or watch-house officer becomes the responsible officer for that search under this policy.

In deciding whether a person is to be subjected to a personal search, the responsible officer or, in the case of a pat-down search, the delegated police officer or delegated watch-house officer is to ensure any decision made is based upon:

- (i) legislative requirements;
- (ii) Service policy;
- (iii) the individual circumstances surrounding the person to be searched; and
- (iv) reasonableness; and
- (v) the interests of both the public and the person involved.

General responsibilities of police officers and watch-house officers conducting personal searches (safeguards)

Responsible officers, who decide to conduct an immediate search of a person of the opposite sex, are to ensure, that the risk of a complaint by the person to be searched is minimised, wherever practicable. Suitable methods to minimise risk include video recording or audio recording of the search (see sub-section titled 'Electronic monitoring and recording of unclothed searches' of s. 16.10.2: 'Unclothed searches of persons' of this chapter), or having another person, inline with gender safeguard principles, observe the search.

A police officer or watch-house officer is generally not to be directed to conduct an immediate search of a person of the opposite sex if the police officer or watch-house officer has advised the responsible officer that they would consider such search overly offensive.

Additional safeguards relating to personal searches

The responsible officer is to ensure that any person conducting a personal search conducts the search in accordance with the relevant guidelines contained in Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter. Wherever practicable, Before a personal search commences, the responsible officer is to:

- (i) explain to the person to be searched the purpose and process of the search; and
- (ii) ask if there is a preference about the gender of the person who is to conduct the search;
- (iii) ask the person:
 - (a) if they understand why the search is to be conducted;
 - (b) if applicable, whether they are prepared to participate willingly, with reference made, if necessary, to the possibility of force being used (see s. 615: 'Power to use force against individuals' of the PPRA); and
 - (c) if they have any objections or concerns with being searched and with the manner of the search as explained to them.

Any reasonable objections or concerns of a person who is to be subjected to a personal search is to be considered, and wherever practicable, accommodated by the responsible officer. For example, to prevent embarrassment to, or an affront to the dignity of a person because of their physical condition, appearance, age, cultural or religious background, or a disability that they have, it may be appropriate to afford the person a higher level of privacy by conducting a pat-down search of them out of public view and in an area where a person not directly associated with the search cannot view the search (See also s. 6.4: 'Cross cultural issues' of this Manual).

If it is apparent to the responsible officer intending to conduct a personal search that the person is unable, because of impairment caused by drugs or alcohol, to comprehend the purpose of the search, the responsible officer is to ensure, wherever practicable, that the purpose of the search is explained to the person at a later time when it is considered that the person's ability to comprehend is no longer impaired.

When an immediate personal search of a person is conducted, the responsible officer is to ensure, wherever practicable, that the purpose of the search is explained to the person as soon as possible after the search.

Additional considerations at a watch-house

ORDER

All persons detained or arrested are to be subjected to at least a pat-down search upon initial arrival at a watch-house.

When a person is to be subjected to a personal search at a watch-house before the person is accepted by the watch-house manager, the responsible officer at that time is to ensure that, as far as practicable, any station/establishment instructions adopted by that watch-house for conducting personal searches are complied with.

Searches of persons at watch-houses are to, wherever practicable, be conducted:

- (i) before the person is locked in a cell; and
- (ii) unless otherwise provided for in this chapter, at the watch-house counter.

(Also see ss. 16.9.2: 'Responsibilities of arresting officer when lodging a prisoner in a watch-house' and 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' of this chapter.)

Where a person cannot be searched prior to being locked in a cell, the watch-house manager is to arrange for that person to be segregated from other prisoners and subjected to more frequent inspections.

Protective services officers

Whilst providing security of a state building a protective services officer (PSO) may ask an entrant to the state building to do any of the following:

- (i) allow the officer to inspect the entrant's belongings;
- (ii) remove 1 or more outer garments worn by the entrant as specified by the officer and allow the officer to inspect the garments;
- (iii) remove all articles from the entrant's clothing and allow the officer to inspect them;
- (iv) open an article for inspection and allow the officer to inspect it;
- (v) allow the officer, or another adult assisting the officer, to touch a garment the entrant is wearing for the purpose of the officer inspecting the entrant's belongings;
- (vi) open a vehicle or a part of it for inspection and allow the officer to inspect it;
- (vii) remove an article from a vehicle as specified by the officer and allow the officer to inspect it;
- (viii) move a vehicle to, and park it in, a place specified by the officer; and

- (ix) if the officer reasonably believes a belonging of the entrant is capable of concealing a proscribed thing—deposit the belonging in a place specified by the officer.

The PSO may prevent the entrant from entering the state building and remove the entrant using reasonably necessary force (see ss. 552 'Power to inspect entrant's belongings' and 557 'Refusal of entry to and removal from state buildings' and 615A 'Power to use force against individuals—protective services officers' of the PPRA).

Use of interpreters

Also see ss. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need', 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need exists' and 6.3.7: 'Interpreters' of this Manual.

If a personal search is to be conducted on a non-English speaking person or a person with a hearing or speech impairment, the assistance of an interpreter is generally to be obtained by the responsible officer to enable the person to understand the purpose for, and the procedures involved in the search.

However, a non-English speaking person or a person with a hearing or speech impairment may be subjected to a personal search without the assistance of an interpreter being obtained if:

- (i) obtaining the assistance of an interpreter would cause the person to be searched to be detained any longer than is reasonably necessary (see s. 626: 'Limitation of period of detention for search' of the PPRA);
- (ii) delaying the search is likely to result in evidence being concealed or destroyed;
- (iii) an immediate search is necessary to protect the safety of any person; or
- (iv) the person is capable of understanding and effectively communicating with the responsible officer and indicates to that officer that they:
 - (a) understand the purpose for the search;
 - (b) understand the procedures involved in the search; and
 - (c) do not require an interpreter to assist during the conduct of the search.

An interpreter obtained under this policy for the purpose of an unclothed search is to, wherever practicable, be able to communicate with all parties involved in the actual search without viewing the search. If the responsible officer considers that it would be beneficial for the interpreter to be in a position where they may view the unclothed search, both the person to be searched and the interpreter must first agree to this occurring before commencing the search.

Use of persons other than police officers or watch-house officers in personal searches

ORDER

Responsible officers who decide to use a person other than a police officer or watch-house officer to assist in or conduct a personal search are to ensure, before the search commences, that that person clearly understands the type of actions that they are authorised to take with respect to that search.

Persons other than police officers or watch-house officers are generally not to be asked or permitted to conduct or assist in personal searches of persons when suitable police officers or watch-house officers are available. However, when it is deemed necessary to use a person other than a police officer or watch-house officer to conduct or assist in a personal search, medical practitioners or police liaison officers (PLOs) are to be used in preference to any other persons.

A responsible officer is only to allow a person other than a police officer or watch-house officer to conduct or assist in a personal search:

- (i) if it is not reasonably practicable for a police officer or watch-house officer to conduct the search, as a result of the gender preference requested by the person to be searched;
- (ii) under their direction and supervision;
- (iii) after the person has received appropriate instruction in conducting personal searches (see Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter);
- (iv) if, in the opinion of the responsible officer, it is safe for the person to conduct or assist in the search; and
- (v) if the person consents to conduct or assist in the search.

A PLO may only conduct a personal search of a person who is of the same cultural background as themselves. This does not prevent a PLO being present during any other type of search (e.g. unclothed search of a child) as a support person where appropriate.

Spouses or other immediate family members of officers are only to be used to conduct or assist in the search of a person where no other suitable person is available.

Volunteers in Policing (VIPs) and authorised cell visitors are not to be used to search or assist in a search of a person.

Officers in charge of stations and establishments are to ensure station/establishment instructions identify suitable persons within their locality who may conduct or assist in personal searches.

Before asking a person other than a police officer or watch-house officer to conduct or assist in a personal search of a person, the responsible officer must consider all relevant matters, including the:

- (i) availability of a suitable police officer or watch-house officer from another division to conduct the search;
- (ii) desirability of recalling a police officer or watch-house officer to duty to conduct the search;
- (iii) urgency attached to the search;
- (iv) ability of another police officer or watch-house officer to conduct the search;
- (v) the practicability of providing the person to be asked appropriate instruction in conducting personal searches; and
- (vi) any workplace health and safety issues.

Information to be recorded in QPRIME custody, search and property reports

ORDER

As soon as reasonably practicable after conducting a personal search at or proceeding to a watch-house the police officer or watch-house officer conducting the search is to ensure the required information is recorded, including:

- (i) when and where the person was searched;
- (ii) the purpose of the search;
- (iii) whether the search involved the removal or moving of outer clothing in circumstances requiring the search to be conducted out of public view;
- (iv) for a search because of reasonable suspicion – how long the person was detained for the search;
- (v) a description of anything seized because of the search;
- (vi) information about the return, destruction or disposal of anything seized during the search; and
- (vii) where an unclothed search is involved, the following additional applicable information is recorded in the Detention Log of the relevant Custody Report, see the QPRIME User Guide (Custody: Detention Log: Record Activity):
 - (a) the purpose for the unclothed search was provided to the person to be searched, and if provided after the search was conducted, the reason(s) for the delay, or, if applicable, why it was not practicable to provide the purpose for conducting the search at all;
 - (b) where force is used to conduct an unclothed search due to lack of cooperation by the person being searched, all relevant details of the use of force, including the names of all police officers and/or watch-house officers involved in conducting the search;
 - (c) details of any immediate unclothed search conducted by officer(s) not of the same sex as the person searched;
 - (d) details of any request to the responsible officer by the person to be searched for a support person or additional person to be present during the unclothed search, and details of the decision of the responsible officer;
 - (e) details of any immediate unclothed search conducted of a child or person with impaired capacity where a support person was not present, including reasons why a support person was not present; and
 - (f) a video recording was made of the unclothed search.

16.10.2 Unclothed searches of persons

For the purposes of this section:

Responsible officer

means the police officer or watch-house officer (where a search is conducted in a watch-house):

- (i) deciding whether an unclothed search of a person is necessary; or
- (ii) conducting an unclothed search of a person.

Video recording

means a visual recording (with or without audio) stored on a video cassette or as a digital recording (e.g. DVD or hard-drive recording system)

In accordance with s. 654: 'Search of persons' of the PPRA, the power of a police officer to search a person includes a watch-house officer when a person in custody is searched in a watch-house.

General considerations in determining whether to conduct an unclothed search

A police officer or watch-house officer searching a person, may require a person to remove items of clothing in accordance with Chapter 20, Part 3, Division 2: 'Searches involving removal of clothing' of the PPRA for the purpose of the search. Where a person is being held in a watch-house, s. 649: 'Watch-house officer may search person in custody at watch-house' of the PPRA authorises a watch-house officer to search and re-search a person in custody.

A police officer's or watch-house officer's general duty of care toward a person is not in itself sufficient justification to conduct an unclothed search. An unclothed search should only be conducted when a responsible officer reasonably suspects the person poses a particular risk and an unclothed search is necessary to mitigate the risk.

Where a responsible officer exercises their discretion to conduct an unclothed search of a person, the officer is to comply with the provisions of Chapter 20, Part 3, Division 2 of the PPRA.

When a responsible officer is deciding whether or not to exercise their discretion to conduct an unclothed search of a person, the following factors, as a minimum, should be considered:

- (i) the risk a person may possess in their clothing or on their body something that:
 - (a) is evidence of the commission of an offence;
 - (b) may be used to harm themselves or another person;
 - (c) may be used to escape from custody;
 - (d) may be used to damage property; or
 - (e) could be unlawfully taken from the person while they are in custody;
- (ii) the circumstances in which the person has been or will be held in custody, including:
 - (a) the period the person is to be detained or held in custody;
 - (b) whether the person has been or will be in contact with other persons in custody;
 - (c) the availability of suitable custody facilities; and
 - (d) the seriousness of the offence the person has been charged with or being detained for;
- (iii) known relevant history of the person, including:
 - (a) previous or present threat of suicide or self-harm;
 - (b) previous violence;
 - (c) previous instances/attempts of concealing contraband while in custody;
 - (d) intravenous illicit drug use history;
 - (e) previous escapes or attempts or threats of escape; and
 - (f) criminal history;
- (iv) demeanour of the person, including whether noticeably drug or alcohol affected;
- (v) whether an unclothed search has been conducted since the person was taken into custody;
- (vi) the level of risk associated with the person possessing the thing; and
- (vi) whether the risk can be mitigated by some other means, such as:
 - (a) the person making an immediate payment in relation to an outstanding warrant;
 - (b) the person being released on bail or after the issue of a notice to appear;
 - (c) segregating the person from other persons in custody;
 - (d) holding the person in a cell within full view of the watch-house counter; and
 - (e) the use of appropriate facilities to ensure the person will not cause any harm to themselves or others.

Responsibilities of police officers and watch-house officers conducting unclothed searches

Section 630: 'Protecting the dignity of persons during search' of the PPRA places certain requirements upon responsible officers intending to or conducting an unclothed search.

When it is considered necessary to conduct an unclothed search of a person, the responsible officer is to, in addition to the requirements of the PPRA, ensure:

- (i) where an unclothed search of a person was conducted prior to lodging that person at a watch-house, the watch-house manager is to determine whether an additional unclothed search is to be conducted;
- (ii) the unclothed search is conducted, at a watch-house or police station, unless the person consents to an alternative location identified by the responsible officer;

(iii) only one officer is present during the unclothed search unless:

- (a) the subject person requests more than one officer to be present and the request is both reasonable and practicable; or
- (b) exceptional circumstances exist (e.g. forced unclothed search, or there is a reasonable belief that the person may become violent/attempt to escape custody),

and the responsible officer considers it is reasonable or appropriate to have an additional police officer or watch-house officer present. No more than two police officers or watch-house officers are to be present during the search unless the subject person's demeanour indicates additional assistance would be required.

If the person to be searched requests that an additional person be either in the search room or nearby, this request is to be granted by the responsible officer if, in the police officer's or watch-house officer's opinion, it is practicable and the request is reasonable in all the circumstances.

Special requirements for searching children and persons with impaired capacity

ORDER

In accordance with s. 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA, an unclothed search of a child or person with impaired capacity must be conducted in the presence of a support person, unless the responsible officer reasonably suspects:

- (i) delaying the search is likely to result in evidence being concealed or destroyed; or
- (ii) an immediate search is necessary to protect the safety of any person.

(See Schedule 6 of the PPRA for definitions of 'person with impaired capacity' and 'support person'.)

Video recording of unclothed searches

Section 632: 'If video cameras monitor place where person is searched' of the PPRA requires police officers and watch-house officers where a video camera (including CCTV) monitors the area in which a person is subjected to an unclothed search to ensure any unclothed search is not monitored by CCTV cameras in places such as watch-houses, stations or other public areas where the cameras can reasonably be controlled.

ORDER

Where an unclothed search is required to be conducted, officers are to ensure:

- (i) the search is conducted in an area which is not monitored by a video camera; or
- (ii) the video camera is turned off.

Where there is no area available that is not monitored by a video camera and the camera cannot be turned off without turning off any other monitoring the monitor that is being used to view the area, if reasonably practicable, is to be:

- (i) turned off; or
- (ii) selected to monitor another area.

Video or audio recording of unclothed searches are only to be undertaken if, in the opinion of the responsible officer, there is reason to believe that:

- (i) any person(s) conducting or assisting to conduct the search may be in danger, and that it is not otherwise possible to protect such person(s); or
- (ii) the person to be searched:
 - (a) is not cooperating with the person(s) conducting the search;
 - (b) is likely to become violent; or
 - (c) may make a complaint about how an unclothed search was conducted.

Where it has been determined that an unclothed search is to be electronically recorded:

- (i) whenever practicable, a real time video and audio recording is made by an appropriate qualified officer using Service video recording equipment; or
- (ii) if a video recording cannot be made of the search, a recording on a Service audio recorder should be used.

Prior to making a recording of an unclothed search, the responsible officer should, if practicable, advise the person to be searched that a video or audio recording:

- (i) will be made of the search;
- (ii) may be used in any future investigation relating to the unclothed search; and
- (iii) will be destroyed after a period of six months, unless required as evidence.

A person to be subjected to an unclothed search may request that a video recording be made of the unclothed search. In determining whether to agree to a request in such cases, the responsible officer is to take into account relevant circumstances surrounding that person and the availability of video recording equipment.

Security of video recordings of unclothed searches made on portable video cameras

Where an unclothed search is recorded by an appropriate officer using Service video recording equipment, the responsible officer is to:

- (i) immediately take possession of the video storage media or digital recording device from the officer operating the video recording equipment;
- (ii) clearly mark the video recording with:
 - (a) the name and date of birth of the person searched;
 - (b) the name of the responsible officer authorising the unclothed search;
 - (c) the name of the officer/s conducting the unclothed search;
 - (d) the date, time and place of the search; and
 - (e) the reason for the video recording of the unclothed search;
- (iii) secure the video recording in a heat-sealed polytubing or a property bag and sign across the heat seals;
- (iv) update the relevant QPRIME occurrence to record the unclothed search and add the video recording to the property tab; and
- (v) ensure that the video recording is lodged at a property point.

Where the recording of the unclothed search is not required to be retained as an exhibit, the responsible officer is to forward a QPRIME task, if the search was recorded:

- (i) in a watch-house, to the watch-house manager; or
- (ii) at a location other than a watch-house, to their officer in charge,

to manage the recording as the reporting officer for the purposes of Chapter 4: 'Property' of this Manual.

Security of video recordings of unclothed searches made on closed circuit television systems

Where an unclothed search is recorded on a watch-house, police station or establishment CCTV system, the responsible officer is to advise the watch-house manager or officer in charge of the station or establishment:

- (i) that an unclothed search had been recorded on their establishment's CCTV system;
- (ii) provide the details of the search, including:
 - (a) the name and date of birth of the person searched;
 - (b) the name of the responsible officer authorising the unclothed search;
 - (c) the name of the officer/s conducting the unclothed search;
 - (d) the date, time and place of the search; and
 - (e) the reason for the video recording of the unclothed search; and
- (iii) where a copy of the search is required for evidential purposes request the officer in charge to generate a copy of the search.

The officer in charge should, when notified of an unclothed search being recorded on their establishment's CCTV system:

- (i) take all practical steps to restrict access to the video recording within the CCTV system;
- (ii) if practicable, record within the CCTV system the details of the search; and
- (iii) where the responsible officer requests a copy of the search;
 - (a) generate a copy of the video recording from the CCTV system as soon as practicable after the request is made; and
 - (b) lodge the copy of the recording in the establishment's property point for collection by the responsible officer.

Destruction of video recordings of unclothed searches

Video recordings of unclothed searches:

- (i) are to be retained for at least six months prior to destruction (see s. 5.5.2: 'Retention of records' of the Management Support Manual); and

- (ii) if evidence, are not to be destroyed until the finalisation of all proceedings to which they relate, including any appeal periods.

Video recordings of unclothed searches are to, wherever practicable, be destroyed by incineration or in such a manner that prohibits viewing or copying the recording or any part thereof.

Accessing, viewing or copying video recordings of unclothed searches

ORDER

Video recordings of unclothed searches are not to be accessed, viewed or copied except:

- (i) in compliance with this policy; or
- (ii) to allow persons identified in s. 632(3) of the PPRA to view the recording.

A video recording of an unclothed search is not to be accessed, viewed or copied unless it is required by a police officer who is authorised to view the recording pursuant to s. 632 of the PPRA.

When a video recording of an unclothed search is accessed or viewed, the relevant QPRIME occurrence is to be updated by the most senior officer present to show:

- (i) when the recording was accessed or viewed;
- (ii) the reason the recording was accessed or viewed; and
- (iii) the names of the persons who accessed or viewed the recording of the unclothed search.

Where a copy of video recording of an unclothed search is made, the reporting officer is to ensure the relevant QPRIME occurrence property entry is updated to record the name, rank and station or establishment of the police officer who received the copy of the video recording.

16.10.3 Searches of Corrective Services prisoners and youths from Youth Detention Centres

POLICY

An unclothed search of a person is not to be conducted merely because that person is a Corrective Services prisoner or a youth from a youth detention centre. A decision to conduct such an unclothed search is to be made pursuant to the provisions of the sub-section titled 'General considerations in determining whether to conduct an unclothed search' of s. 16.10.2: 'Unclothed searches of persons' of this chapter.

Watch-house managers are to ensure that, as soon as practicable after entering their watch-house:

- (i) Corrective Services prisoners and youths from youth detention centres are subjected to at least a pat-down search; and
- (ii) Corrective Services prisoners additionally change into prison browns (unless they are dressed in suitable attire to attend court) under the supervision of watch-house staff of the same sex as the prisoner. In such a case, the provisions of the subsection titled 'General considerations in determining whether to conduct an unclothed search' of s. 16.10.2: 'Unclothed searches of persons' of this chapter do not apply.

16.10.4 Deleted

16.10.5 Property taken possession of by police after search of a person

Property may be seized or taken and retained from persons whilst being subjected to a personal search under a number provisions of the PPRA (refer ss. 31: 'Searching persons without warrant', 443: 'Police officer may search person in custody' and 649: 'Watch-house officer may search person in custody at watch-house').

Property seized from a person whilst being subjected to a personal search is to be dealt with in accordance with the relevant provisions of Chapter 4: 'Property' of this Manual.

Property taken and retained from a person subjected to a personal search while the person is in custody is to be kept in safe keeping and returned to the person when the person is released from custody.

Property taken from a person detained for intoxication (see s. 16.6.3: 'Intoxication' of this chapter) may be given to a person, friend or relative if the detained person is diverted to a place of safety, in which case a signed receipt (Form 44) is to be obtained from the person to whom the property is given. See ss. 53BQ: 'Transporting detained persons' and 444: 'Powers relating to thing taken from person taken to place of safety' of the PPRA.

16.11 Property of prisoners

POLICY

Persons who are arrested or detained are often in possession of property which, if left unsecured or unattended, could be stolen or damaged. Although officers are to deal expeditiously with the person arrested or detained, the offenders, wherever practicable, should be afforded the opportunity of securing property in their possession or making suitable

arrangements for its safekeeping. Measures taken may include the locking of residences, premises or motor vehicles or allowing the person to make arrangements for the towing or removal of a vehicle.

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

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

When the person detained is in possession of personal items of property such as luggage, etc., which cannot be secured or left in the care of a person acceptable to the detainee, that property is to accompany the detainee, and in cases where the detainee is conveyed to a watch-house, it is to be processed and accounted for in accordance with 'Responsibilities of receiving officers' of this section.

Responsibilities of receiving officers

POLICY

The receiving officer is to:

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

Responsibilities of watch-house managers

POLICY

The watch-house manager, on commencing duty, is to:

- (i) ensure that a check of prisoners' property is undertaken; and
- (ii) report any discrepancy, as soon as practicable, to the:
 - (a) district duty officer;
 - (b) patrol group inspector; or
 - (c) regional duty officer.

16.12 Management of persons in watch-houses

In accordance with the provisions of Chapter 21, Part 1, ss. 639-640: 'Watch-houses' of the PPRA, the watch-house manager may give or cause to be given to a person in custody in the watch-house any reasonably necessary directions, or take or cause to be taken any reasonably necessary steps, for ensuring the good management and control of the watch-house. See also s. 16.19: 'Transfer and escort of prisoners' of this chapter.

Watch-house managers are to ensure that all prisoners held in watch-houses are photographed using a digital still camera as soon as practicable upon entering the watch-house unless an existing 'watch-house description' photograph depicting a suitable likeness already exists in QPRIME. The digital photograph taken for the purposes of 'watch-house description' is to be added to the QPRIME Person Record through Description by clicking on the yellow starburst icon and adding as Watch-house Description.

The use of a photograph entered into QPRIME as a 'watch-house description' is to ensure the correct identification of prisoners whilst they are in the watch-house, attending court, being escorted in custody and when released. Photographs taken for the purposes of 'watch-house descriptions' are not to be attached to the QPRIME Ident/Fingerprint Report (See s. 2.5.6: 'Use of digital still cameras' of this Manual for the correct use of digital still cameras. See also s. 16.21.5: 'QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner

Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register entries' of this chapter).

16.12.1 Segregation of prisoners

Other than in circumstances where it is necessary for the appropriate management and control of a watch-house and the safety and welfare of a prisoner(s), prisoners should not be segregated.

Where it is necessary for the safety and welfare of a prisoner(s), a watch-house manager may segregate prisoners according to the following criteria:

- (i) male and female prisoners are not to be held in the same cell or permitted direct access to each other in other areas within a watch-house;
- (ii) Aboriginal or Torres Strait Islander prisoners are to be placed in a multi-prisoner cell, preferably with other Aboriginal people or Torres Strait Islanders, unless there is considered to be a threat, such as cultural, family, or social differences, created by placing them together;
- (iii) children are not to be placed in the same cell as an adult prisoner, unless there are compelling reasons in the child's interests e.g. the custody of an Aboriginal or Torres Strait Islander youth with an Aboriginal or Torres Strait Islander adult prisoner may be safer than isolation where the child is agreeable, and the adult is the same gender;
- (iv) children are to be segregated from another child known to be violent or to have a history of sexual assault offences;
- (v) where there is an assessed risk of harassment, abuse or assault from another prisoner(s), a prisoner should be placed in a cell where the risk of harassment, abuse or assault can be monitored and mitigated;
- (vi) prisoners who may create a potential danger to themselves, other persons, or officers, which may include:
 - (a) violent prisoners;
 - (b) prisoners with a history of committing sexual assaults;
 - (c) prisoners suffering from a disease or condition or suspected to have a disease or condition that requires the isolation of the prisoner to minimise the risk of transmission to other persons in the watch-house. Diseases or conditions that require the isolation of a prisoner, at least until the prisoner is assessed by a healthcare service provider include:
 - tuberculosis;
 - chickenpox;
 - measles;
 - mumps;
 - hepatitis A;
 - gastroenteritis;
 - body Lice; and
 - severe skin infection.

It is not necessary to isolate a prisoner with, or suspected to have HIV/AIDS, Hepatitis B or Hepatitis C unless there are specific circumstances that indicate other persons may be exposed to infectious body fluids (cerebrospinal fluid, peritoneal fluid, amniotic fluid, pleural fluid, pericardial fluid, synovial fluid, breast milk, semen, vaginal secretions, unfixed organs and tissues, saliva in association with dentistry and any other body fluids containing visible blood). Circumstances that may indicate other persons may be exposed to infectious body fluids if the prisoner is not isolated include a propensity by the prisoner to violence, self-harm or sexual assault. The mere condition of having HIV/AIDS, Hepatitis B or Hepatitis C is not sufficient reason to segregate a prisoner;

(d) prisoners with suicidal tendencies. Prisoners who are considered suicidal are to be detained in a cell which is appropriate to their level of risk. This may include a violent detention cell (VDC). Prisoners detained in a VDC are to be clothed in a manner appropriate to their risk level (e.g. removal of dangerous items of clothing, ensuring the prisoner is wearing a tear resistant smock) (see s. 16.12.4: 'Violent detention cells' of this chapter);

(vii) sentenced prisoners;

(viii) prisoners detained pursuant to the DFVPA; and

(ix) prisoners who for any reason are considered by the watch-house manager to be vulnerable. The watch-house manager is to consider those who do not want to be segregated or isolated while ensuring that in placement the person's vulnerabilities are not exploited by the other prisoners.

Gender diverse, transgender and intersex prisoners

It is acknowledged gender diverse, transgender and intersex (see QPS internet: 'LGBTIQ+ communities' website for more information) prisoners may:

- (i) be subject to harassment or abuse by other prisoners; and
- (ii) require discretion to ensure their privacy and dignity is maintained.

ORDER

A prisoner is not to be segregated solely on the basis:

- (i) the prisoner identifies as, or a watch-house manager suspects the prisoner is, a gender diverse, transgender or intersex person; or
- (ii) a watch-house manager perceives a prisoner's gender presentation to be masculine or feminine.

Where reasonably practicable, a watch-house manager should discreetly ask where a gender diverse, transgender or intersex prisoner would feel most safe and consider any request to be isolated or segregated with prisoners of a particular sex.

16.12.2 Transfer of prisoners

Section 640: 'Transfer of person in watch-houses' of the PPRA sets out the grounds to allow a watch-house manager to transfer a prisoner.

Section 54: 'Custody of child pending court appearance' and s. 56: 'Custody of child if not released from custody' of the *Youth Justice Act* allows for the transfer of a child arrested on a charge of an offence or a warrant issued under the *Youth Justice Act* who is not released from custody, to a detention centre until the child can be brought before a court.

POLICY

The transfer of prisoners in accordance with these sections is not to be performed unless it is:

- (i) for the:
 - (a) safety and welfare of:
 - an individual or number of prisoners;
 - watch-house staff; or
 - watch-house visitors; or
 - (b) good management and control of the watch-house;
 - (c) processes under the PPRA or *Youth Justice Act*; or
- (ii) in accordance with s. 2.5.7: 'Removal of prisoners from a watch-house' of this Manual.

16.12.3 Restraining devices

In addition to ss. 14.19: 'Handcuffs' and 5.12.1: 'Handcuffing of children' of this Manual, a police officer or watch-house officer is only to use handcuffs and other restraining devices as a precaution against escape, to prevent a prisoner from self-injury or injury to others, or to prevent damage to property.

PROCEDURE

The police officer or watch-house officer with responsibility for a prisoner has discretion in all situations other than when prisoners are in court cells to use or remove any restraining device from the prisoner. For situations when prisoners are in court cells, see s. 16.12.7: 'Presence or conduct of prisoners in court cell' of this chapter. The police officer or watch-house officer is to take into consideration the:

- (i) demeanour of the prisoner;
- (ii) history of the prisoner;
- (iii) environment in which the prisoner is held; and
- (iv) health and welfare of the prisoner;

when assessing whether to use or remove restraining devices.

16.12.4 Violent detention cells

The watch-house manager is to, in situations where a violent detention cell (VDC) is available:

- (i) only use a VDC for the management of violent or aggressive prisoners in the interests of safety of those prisoners and other persons; and
- (ii) ensure that a VDC is not used for punishment of prisoners.

When a prisoner known to be suicidal is placed into a VDC, the prisoner should have their clothing removed and issued with an anti-suicide smock. Consideration should be given to supplying the prisoner with an anti-suicide blanket. Officers are to adhere to the following:

- (i) the use of the VDC must be recorded in the person's QPRIME detention log;
- (ii) the shift supervisor is to ensure the person placed in the VDC is personally monitored during the first five minutes, delegating an officer this responsibility, until satisfied all risk has been mitigated;
- (iii) watch-house staff will continue to monitor the prisoner every 30 minutes, or as prescribed by inspection intervals assigned by the relevant shift supervisor (see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter);
- (iv) a prisoner is to be allowed access to a toilet and provided with water upon request, all requests are to be recorded in the prisoner's QPRIME detention log;
- (v) a prisoner is not to be detained in a VDC for longer than necessary. The removal time must be recorded in the prisoner's QPRIME detention log; and
- (vi) when a prisoner is placed in a VDC, the shift supervisor must consider whether the prisoner needs medical assessment and attention. If the prisoner shows obvious signs of deteriorating health, QAS is to be called immediately. This medical assistance is to be recorded in the prisoner's QPRIME detention log.

16.12.5 Management of violent prisoners and prisoners considered to be security risks

PROCEDURE

Where prisoners are considered to be:

- (i) violent;
- (ii) susceptible to violent behaviour, including verbal threats, which those prisoners can reasonably be assumed to have the ability to carry out; or
- (iii) liable to escape attempts;

police officers, watch-house officers and police liaison officers (PLOs) dealing with those prisoners are to take precautions for their own safety and the safety of other persons in the watch-house.

Procedures to deal with such prisoners include:

- (i) leaving those prisoners in their cell until the level of threat is manageable;
- (ii) obtaining assistance (e.g. other police officers, watch-house officers and PLOs) before attempting to deal with those prisoners; and
- (iii) transporting prisoners to another watch-house where more appropriate facilities are available to manage prisoners.

POLICY

Where appropriate, watch-house managers are to develop station/establishment instructions to deal with such prisoners, including:

- (i) the availability of assistance from other police officers, watch-house officers and PLOs (see s. 612: 'Assistance in exercising powers' of the PPRA); and
- (ii) the transfer of prisoners to a watch-house with more appropriate facilities for dealing with such prisoners.

16.12.6 Smoking by prisoners in watch-houses

The Service has a smoke-free workplace policy. However smoking in watch-houses may be permitted in certain circumstances. Legislation relevant to smoking in watch-houses is contained in Part 2B: 'Smoke free enclosed places' ss. 26Q to 26V of the *Tobacco and Other Smoking Products Act*.

Before watch-house managers can exercise reasoned discretion and permit smoking by prisoners, they are to ensure:

- (i) a separate place is available that is not enclosed completely or substantially in accordance with the definition 'enclosed' as defined by the *Tobacco and Other Smoking Products Act*, where prisoners can be permitted to smoke;
- (ii) consideration is given to the:
 - (a) extent to which aggressive behaviour displayed by a prisoner maybe a result of not permitting that prisoner to smoke;
 - (b) level of risk which the prisoner's behaviour poses to other prisoners or members;
 - (c) period of time for which the prisoner will be held at the watch-house;

(d) health risks posed to other prisoners and to members which would arise from permitting a prisoner to smoke; and

(iii) where prisoners are permitted to smoke, the appropriate place is used.

Watch-house managers who permit prisoners to smoke are to make a record in the QPRIME Custody Report (Full), Detention Log (see QPRIME User Guide : Custody : Detention Log : Record Activity).

16.12.7 Presence or conduct of prisoners in court cell

Section 796(2): 'Helping courts etc.' of the PPRA sets out the requirement of police officers to comply with requests from the court.

Watch-house officers are to ensure that all lawful directions, requests or orders and any reasonable requests made by judges, magistrates or other presiding officers that relate to the presence or conduct of a prisoner in a court cell and before the court are to be complied with. This may include matters such as the removal of handcuffs and other restraining devices from prisoners and the removal and restraint of prisoners whilst in a court cell.

PROCEDURE

Should a police officer or watch-house officer have concerns about the nature of a direction or request in regards to a prisoner when given a lawful direction, request order or reasonable request, those concerns are to be put before the judge, magistrate or other presiding officer through the prosecutor. This procedure is to ensure the judge, magistrate or other presiding officer makes an informed decision. Those considerations listed in subsections (i) to (iv) of s. 16.12.3: 'Restraining devices' of this chapter or any other relevant considerations or circumstances regarding the prisoner are matters that may be put before the judge, magistrate or other presiding officer.

16.12.8 Prisoners and hanging points

All watch-house cells have been designed or modified to minimise obvious hanging points. The level to which individual watch-house cells have been designed or modified to minimise hanging points varies according to individual circumstances. Regardless, no watch-house cells are hang proof and all still carry a level of risk in relation to prisoners suiciding or other forms of self-harm. (There have been instances where prisoners have hung/asphyxiated themselves in watch-house cells where the hanging point has been their own body.)

Other areas of watch-houses such as exercise yards, reception cells and shower facilities provide a greater number of hanging points.

An OIC of a watch-house is to ensure prisoners are supervised at all times when in areas of a watch-house where there are hanging points such as open cell doors, protruding door hinges, plumbing fixtures and open cell door flaps.

As an example, prisoners who access exercise yards or showers where hanging points are more readily available are to be supervised at all times until returned to cells.

In watch-houses with dedicated areas for holding prisoners, such as pods or wings, it is mandatory that an officer maintains constant supervision (see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter).

Where prisoners are unable to be constantly supervised at all times, prisoners are to remain locked in a watch-house cell or otherwise transferred to watch-houses which have facilities and staff for constant supervision. See also s. 16.21.15: 'Sanitation and exercise' and s. 16.13.1: 'Assessment of prisoners' of this chapter in relation to prisoners who may be suicidal.

16.12.9 Leaving prisoners unattended

Section 394: 'Duty of police officer receiving custody of person for offence' of the PPRA outlines circumstances where a prescribed police officer may release a person who has been arrested and delivered into custody at a police station, establishment or watch-house. See s. 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' and s. 16.21.1: 'Bail arrangements' of this chapter.

Nevertheless, there are circumstances where a person in custody is not to be released prior to appearing in court. For example, where there is an unacceptable risk the person, if released, would commit further offences or the release would endanger the safety or welfare of any person, including the person in custody.

When a person is held in custody in a watch-house, the guidelines relating to prisoner inspections are set out in the following sections of this chapter:

(i) s. 16.9.5: 'Determining the frequency of prisoner inspections'; and

(ii) s. 16.13.3: 'Prisoner/watch-house inspection'.

However, for operational reasons there may be instances where it is necessary for a person in custody to be left unattended temporarily in a watch-house or holding cell. For example, at a single officer station, an officer may be required to leave a person in custody in a holding cell unattended while the officer responds to an urgent incident involving significant risk to persons or property.

POLICY

Where possible, officers are not to leave persons in custody in a police station, establishment or watch-house unattended. Prior to leaving a person in custody unattended, officers are to consider whether any suitable alternatives exist. For example:

- (i) recalling another officer to duty;
- (ii) obtaining assistance from another station or establishment; or
- (iii) transferring the person in custody to another watch-house (see s. 16.12.2: 'Transfer of prisoners' and s. 16.19.1: 'Transfer of prisoners' of this chapter).

Officers are not to leave persons in custody unattended when a suitable alternative exists. Any decision to leave a person in custody unattended must be justifiable in the circumstances.

See also s. 16.1.1: 'Duty of care' of this chapter.

16.12.10 Requests by prisoners or legal representatives for attendance of doctor at watch-house

POLICY

When a prisoner or the prisoner's legal representative requests that the prisoner be examined by a medical practitioner of their choice or that blood tests, bodily samples, photographs or other intimate forensic procedures be taken, subject to operational and security considerations, the watch-house manager is to:

- (i) provide the prisoner with facilities to contact the medical practitioner if necessary;
- (ii) permit a prisoner to be examined or have tests, samples, photographs or other procedures performed at a convenient time;
- (iii) upon the attendance of the medical practitioner provide adequate facilities, having regard to watch-house security, for the examination, tests, samples, photographs or other procedures to be conducted;
- (iv) ensure an entry is made in the relevant place in the Custody Report (Full) or Custody Report, Detention Log in QPRIME in relation to the prisoner examination, test, sample, photograph or procedure;
- (v) ensure an entry is made in the Watch-house Inspection Register in relation to the prisoner examination, test, sample, photograph or procedure, see also s. 16.13.3: 'Prisoner/watch-house inspection' of this chapter;
- (vi) where necessary, ensure the prisoner knows in general terms what examination, tests, samples, photographs and procedures are to occur and consents to these occurring, (see 'Admittance of medical practitioners to the watch-house' of this section);
- (vii) advise the prisoner or legal representative prior to any visit that the cost of any examination, test, sample, photograph or procedure is the responsibility of the prisoner or legal representative including where a forensic medical officer (FMO) or government medical officer (GMO) is used. Ensure that in any accounts issued to the watch-house by the FMO or GMO the relevant visit has not been charged to the watch-house; and
- (viii) provide every assistance to prisoners and/or legal representatives.

PROCEDURE

For security reasons it is preferred that government medical officers or forensic medical officers attend at watch-houses on behalf of the prisoner or legal representative to make examinations, take tests, samples, photographs or other procedures. However, other medical practitioners should be admitted to the watch-house provided that verification of their identification and qualifications can be made. See 'Admittance of medical practitioners to the watch-house' of this section. It is the responsibility of the prisoner or legal representative to arrange any visit by a private medical practitioner to the watch-house.

Watch-house staff are not to transport a prisoner to any other place to visit a medical practitioner of the prisoner's choice where the visit is at the request of the prisoner or their legal representative.

During business hours:

- (i) Brisbane, Ipswich and Richlands watch-house staff should advise the prisoner or legal representative to contact the Brisbane Forensic Medical Office (and provide contact details if necessary);
- (ii) Southport and Beenleigh watch-house staff should advise the prisoner or legal representative to contact the Gold Coast Forensic Medical Office (and provide contact details if necessary);
- (iii) Townsville watch-house staff should advise the prisoner or legal representative to contact the Townsville Forensic Medical Office (and provide contact details if necessary);
- (iv) watch-houses where a government medical officer/forensic medical officer is on call, should advise the prisoner or legal representative to contact the government medical officer in their local area (and provide contact details if necessary); and

(v) watch-houses that are not serviced by an FMO/GMO, should advise the prisoner or legal representative that they are to make their own arrangements;

to conduct any required medical examination, test, take samples, photographs or procedures.

After hours:

(i) in places where a government medical officer/forensic medical officer is on call, watch-house staff are to contact the government medical officer or forensic medical officer on behalf of a prisoner or legal representative; and

(ii) in places where a government medical officer/forensic medical officer is not on call, watch-house staff are to advise the prisoner or legal representative that they are to make their own arrangements;

to conduct any required medical examination, test, take samples, photographs or procedures.

Watch-house staff should pass on the contact details of the requesting legal representative to the government medical officer or forensic medical officer on call or provide a prisoner with facilities (e.g. dial telephone number) to contact the respective medical officer on call. Watch-house staff are not responsible for locating a medical practitioner to assist with requests after hours where an on call government medical officer or forensic medical officer is not readily contactable by prisoners or legal representatives.

Admittance of medical practitioners to the watch-house

POLICY

When a medical practitioner who is unknown to watch-house staff, attends at a watch-house for the purpose of obtaining access to a prisoner, the watch-house manager is to:

(i) request proof of the medical practitioner's identity. If the medical practitioner has identification issued by Queensland Health, (i.e. a government medical officer or forensic medical officer) no other identification is necessary. Where the medical practitioner does not have Queensland Health identification (e.g. a private medical practitioner), watch-house staff are to require photographic identification and check the name on the Medical Board of Queensland website to confirm the person's registration (www.medicalboard.qld.gov.au/publicAccess/). If identification and registration as a medical practitioner cannot be verified, admittance to the watch-house may be refused;

(ii) advise the medical practitioner and any accompanying legal representative of relevant watch-house procedures including:

(a) no property is to be handed directly to prisoners, all property for prisoners is to be handed to watch-house staff;

(b) all visits where physical contact is necessary, such as to take blood samples, are to be in the sight and hearing of watch-house staff; and

(c) where a private conversation with the prisoner is required, arrangements will be made to facilitate the conversation in line with usual watch-house procedures. For private communications between prisoners and legal representatives or medical practitioners, such arrangements will as far as practicable be in circumstances where no physical contact can be made;

(iii) confirm that the prisoner desires the services of the medical practitioner and the specific conversation to this effect should be recorded, preferably in an audio recording. If the prisoner does not desire the services of the medical practitioner, the medical practitioner and where necessary the relevant legal representative should be advised;

(iv) ensure all material (syringes, swabs etc) used by a medical practitioner during a visit to a prisoner is accounted for and disposed of appropriately. See also 'First Aid and Infection Control' within Safety and Wellbeing Policies intranet site;

(v) ensure all biological samples taken from prisoners whilst in the watch-house are removed from the watch-house;

(vi) ensure after a visit from a medical practitioner of their choice, that the prisoner is searched and any items located are removed and reported as appropriate; and

(vii) advise the medical practitioner, legal representative and prisoner that the watch-house is not responsible for the storage or transportation of any samples taken.

See also s. 2.14.10: 'Legal representatives at interviews' of this Manual.

16.13 Healthcare of persons in custody

POLICY

Members are to be mindful of the need to continually reassess the healthcare needs of persons in custody throughout the duration of such custody.

It is the responsibility of each officer who forms a reasonable degree of suspicion (see SMD) with regards to the health of a person in custody, either in a watch-house or not, to contact or cause to be contacted a professional healthcare provider (see also the State Watch-house Coordinator's 'Statement of Intent' on the Service Intranet).

16.13.1 Assessment of prisoners

ORDER

Every person in custody, whether held in a watch-house or not, is to be assessed and reassessed as appropriate using Appendix 16.1: 'The assessment of persons in police custody' of this chapter.

Where a person is taken to a watch-house the receiving officer is to:

- (i) complete, at the earliest opportunity, the QPRIME risk assessment regarding:
 - (a) the person's health; and
 - (b) officer observations and prisoner injuries; and
- (ii) prior to asking the risk assessment questions **must** read the following statement aloud in its entirety:

Every question you are being asked is to help you with any health needs while you are in the watch-house. Your answers cannot be used as any evidence against you in any court proceeding or be used for any other purpose except health care.

If a person is compliant:

- (i) request they provide a voluntary specimen of their breath for a blood alcohol concentration test for the purpose of a health assessment. There is no requirement for the person to comply with the request and cannot be used as evidence against the person in any court proceeding; and
- (ii) where the person indicates they are diabetic, a Service glucometer is to be offered to the person to check their blood sugar level (BSL),

(see 'Conducting alcohol and blood sugar level tests on compliant persons in custody' of this section).

Where a reasonable degree of suspicion (see SMD) exists after any assessment of a person in custody (including outside of a watch-house), the responsible officer is to seek appropriate professional healthcare assistance or advice.

Where a professional healthcare provider is performing duty at a watch-house, the responsible officer (see SMD) is to consult with the provider regarding a person's health and medical needs (see 'Professional healthcare provider assessment of persons transported to watch-houses' of this section).

A police or watch-house officer assessing or reassessing a prisoner is to:

- (i) observe the prisoner's physical appearance and demeanour;
- (ii) seek from the prisoner, police, watch-house officers or other persons who have had contact with the prisoner, information that will assist in the management of the prisoner;
- (iii) determine the healthcare requirements of the prisoner, including the provision of medication and treatment plans (e.g. medical devices or care) and obtaining medical assistance for minor injuries or illnesses. Prisoner healthcare requirements may be determined by:
 - (a) asking other persons who have had contact with the prisoner;
 - (b) locating medication etc. in their property;
 - (c) checking all relevant QPRIME entries;
 - (d) asking the prisoner questions about their health; and
 - (e) making observations about their health and behaviour; and
- (iv) determine whether the prisoner is:
 - (a) fit to be held in police custody; or
 - (b) requires the intervention of a professional healthcare provider.

This determination is to be made by using Appendix 16.1 of this chapter.

The responsible officer is to immediately assess and re-assess the level of supervision and healthcare requirements for a prisoner where the prisoner:

- (i) is suicidal or at risk of self-harm;
- (ii) is believed to be suicidal or at risk of self-harm;
- (iii) attempts suicide or self-harm;
- (iv) has personal circumstances which may have changed whilst in custody, including:

- (a) being refused bail or sentenced to a period of imprisonment;
- (b) death or serious illness of someone meaningful to them;
- (c) break-up of a personal relationship or conflict with family members; or
- (d) loss of employment or other significant economic stress;
- (v) displays signs, symptoms or other indicators that would give rise to a reasonable degree of suspicion with regards to that person's health;
- (vi) is believed to have taken an overdose of prescription or non-prescription drugs;
- (vii) is believed to be heavily intoxicated or affected by drugs; or
- (viii) is believed to be alcohol or drug dependent.

Where any of the above issues are evident, the responsible officer is to ensure that the prisoner is closely monitored while in their custody.

Conducting alcohol and blood sugar level tests on compliant persons in custody

Members obtaining voluntary breath specimens are to advise the person in custody, prior to the test "I now request a specimen of your breath as part of a health assessment. This information will not be used in evidence against you. Do you consent?"

Where a person checks their own BSL, if a reading:

- (i) falls below 4 or above 20 then professional healthcare providers are to be contacted; or
- (ii) between 4 and 20 is obtained, if the person is remaining in custody, their BSL is to be requested again immediately prior to their next meal and the relevant forensic medical officer/government medical officer is to be advised of the reading.

All tests and readings obtained are to be recorded on the person's QPRIME risk assessment.

Further assessments to be made of prisoners who are to be held in a watch-house

A police or watch-house officer assessing or reassessing a prisoner is to:

- (i) ensure the initial assessment of all prisoners who are to be held in a watch-house is conducted at the earliest available opportunity. Where the prisoner is violent, aggressive or non-cooperative, ensure the prisoner is monitored closely until an assessment can be made;
- (ii) ask all prisoners processed at a watch-house the QPRIME risk assessment questions and record any answers and observations made. Exceptions to asking the questions may be made where:
 - (a) a prisoner is being immediately released from the watch-house; and
 - (b) the responsible officer is satisfied adequate medical assessment and treatment has been provided by a correctional centre and no new circumstances have arisen since being received into police custody;
- (iii) request the prisoner to electronically sign the responses recorded for the risk assessment questions in the QPRIME Risk Assessment tab. If the prisoner is unable or refuses to sign:
 - (a) record the reason for not obtaining a signature in QPRIME; and
 - (b) if possible, the prisoner's refusal or inability to sign the form is to be observed by more than one police or watch-house officer; and
- (iv) take into account any vulnerability, disability or cultural needs and take appropriate action as suggested in Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual. Appropriate action may also include:
 - (a) asking health questions of, or with the assistance of an interpreter, independent person, carer, guardian, legal representative or relative;
 - (b) rephrasing or rewording health questions to suit the prisoner's understanding; or
 - (c) having the prisoner medically assessed by a professional healthcare provider before accepting custody of the prisoner into the watch-house.

Managing risk of suicide and self-harm for all prisoners

The responsible officer is to take appropriate action to prevent the likelihood of a prisoner suiciding or self-harming. Appropriate action may include:

- (i) locking a prisoner in a cell;
- (ii) placing a non-violent prisoner at risk of suiciding or self-harming with another prisoner;
- (iii) removing all items that may be used by a prisoner to hang or injure themselves from the cell;

- (iv) placing a prisoner in a violent detention cell (VDC);
- (v) transferring a prisoner to a watch-house that has a VDC;
- (vi) removing clothing and placing a prisoner in a VDC in a tear resistant smock;
- (vii) transferring a prisoner to another place where the prisoner may receive treatment necessary for the prisoner's welfare, e.g. hospital;
- (viii) constant direct/personal supervision of the prisoner. The greater the likelihood that a prisoner may suicide or self-harm, the greater the level of supervision and action required to prevent the prisoner suiciding or self-harming. See also s. 16.12.1: 'Segregation of prisoners' of this chapter;
- (ix) placing a caution or flag of the suicide risk in the QPRIME Person Report;
- (x) liaise with mental health service to obtain guidance or information that may facilitate care of the prisoner whilst in custody or appropriate suitable aftercare when released (see s. 6.6.13: 'Mental health intervention coordination and training' of this chapter); and
- (xi) prisoners that have indicated thoughts of suicide and are being released, are to be offered a referral in accordance with s. 6.3.14: 'Police referrals' of this chapter. If the referral is declined the refusal must be recorded in the QPRIME person report.

Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal

Police and watch-house officers are to be aware that in some cases of severe alcohol or drug dependency or intoxication, withdrawal may result in death if the person does not receive medical treatment.

The responsible officer must take appropriate action to prevent the likelihood of a prisoner becoming seriously ill or dying in custody because of intoxication, an overdose or withdrawal from a dependency on alcohol or drugs. Appropriate action may include:

- (i) monitoring for signs, symptoms and behaviours consistent with a person suffering from drug or alcohol intoxication, overdose or withdrawal. See Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;
- (ii) being aware that persons in custody may not be truthful, may refuse or be unable to answer the risk assessment questions asked from the QPRIME Risk Assessment tab about their alcohol or drug intake;
- (iii) constant direct/personal supervision; and
- (iv) ensuring Appendix 16.1 of this chapter is complied with.

Any person displaying signs and symptoms or behaviours consistent with a person suffering from alcohol or drug intoxication, overdose or withdrawal must have a minimum Level 3 care plan as per s. 16.9.5: 'Determining the frequency of prisoner inspection' of this chapter. If the person is unable to give a sensible verbal response to risk assessment questions the prisoner must be assessed by a healthcare professional prior to being accepted into watch-house custody.

Medical advice or attention is to be sought from a professional healthcare provider if a watch-house prisoner is discovered to be in possession of drug paraphernalia. This is in addition to any criminal investigation to identify how/when the drugs were brought into the watch-house.

The greater the likelihood that a prisoner or person in custody may be intoxicated, has taken an overdose or is suffering withdrawal from a dependency on alcohol or drugs, the greater the level of supervision and action that is to be taken to prevent the prisoner becoming seriously ill or dying.

ORDER

Wherever a reasonable degree of suspicion exists regarding a prisoner's health, a professional healthcare provider is to be contacted.

Assessment of persons handed over to police

A medical assessment in compliance with Appendix 16.1 is to be completed when a person has been detained/restrained by members of the public and subsequently 'handed over' to police for further investigation. Examples may include:

- (i) hotel security staff who may have restrained a disorderly hotel patron;
- (ii) hospital security staff who have restrained a person who may be suffering from a mental disorder; or
- (iii) a member of the public who has performed a citizen's arrest type of detention and may have restrained or held down a person until police arrived.

Members are to be mindful that the detainee may have been involved in a struggle with persons for some time prior to being restrained. Where a person has been involved in a violent or lengthy struggle prior to being restrained there is a heightened risk of a post arrest collapse (see s. 14.3.7: 'Post arrest collapse (medical risk factors)' of this Manual).

Professional healthcare provider assessment of persons transported to watch-houses

For the purposes of this subsection, a professional healthcare provider is a:

- (i) paramedic employed by the Queensland Ambulance Service (QAS); and
- (ii) registered nurse employed by Queensland Health.

In accordance with the Memorandum of Understanding between the Service and QAS, professional healthcare providers can perform duty at identified watch-houses and will:

- (i) conduct a health assessment of persons in custody who report a medical condition or injury:
 - (a) during the initial prisoner assessment upon arrival at a watch-house; or
 - (b) whilst being held in a watch-house; and
- (ii) assist with the medical care of persons being held in custody.

The health assessment will assist the responsible officer in determining whether the person is to:

- (i) remain in custody at the watch-house;
- (ii) be transported to a medical facility for treatment, either whilst in custody or after release;
- (iii) be released from custody and issued with a notice to appear or an infringement notice in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA; or
- (iv) be taken to a place of safety to recover from the effects of intoxication in accordance with s. 378A: 'Power to detain particular intoxicated persons' of the PPRA,

(see s. 16.6: 'Discontinuing arrest' of this chapter).

Professional healthcare providers performing duty at watch-houses are able to:

- (i) provide ongoing medical assistance to persons being held in custody;
- (ii) provide advice to the responsible officer when a higher level of care is necessary (i.e. hospitalisation);
- (iii) arrange for the transportation of the person to an appropriate medical facility at the request of the responsible officer; and
- (iv) supervise persons in custody whilst they are taking prescribed medication (see s. 16.13.4: 'Provision of medication' of this chapter).

Where requested by the responsible officer, a professional healthcare provider performing duty at a watch-house is to conduct a health assessment of the person in custody and brief the responsible officer of the outcome of the assessment. The responsible officer is to determine whether the person is to be held at the watch-house.

Where a professional healthcare provider has:

- (i) conducted a health assessment; or
- (ii) provided medical assistance or treatment to a person in custody,

and the prisoner will remain in the sole custody of Service members, the healthcare professional is to complete a QP 0638: 'Prisoner observation recommendation form' in accordance with s. 16.13.2: 'Person in custody's medical condition' of this chapter.

Members are to regularly update the person's QPRIME Custody report (Full) with information regarding the treatment or medication provided.

16.13.2 Person in custody's medical condition

ORDER

A responsible officer with a person in custody who has received a professional healthcare assessment (whether in the watch-house or not), is to request a written notice from the professional healthcare provider, indicating the medical condition of the person in custody.

PROCEDURE

The written notice may be provided:

- (i) in an official police notebook; or
- (ii) on a QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet'; or
- (iii) on a form bearing the letterhead of the healthcare professional or their organisation; or
- (iv) on a QP 0638: 'Prisoner observation recommendation form'; or
- (v) by electronic QAS notes.

The notice is to include:

- (i) the name and classification of the medical person;
- (ii) the date and time of the completion of the medical treatment;
- (iii) the name and location of the hospital or medical facility (if appropriate);
- (iv) details of any special attention that needs to be taken regarding the prisoner, e.g. medication, frequency of observations, segregation of the prisoner;
- (v) any other information that will assist in the management of the prisoner in custody;
- (vi) the nature and the prognosis of any injury or illness; and
- (vii) whether the prisoner is fit to be held in the watch-house.

The completed form or notice is to be scanned as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry.

Where the professional healthcare provider declines to provide a written notice as to the medical condition of the person in custody, detailed notes of the advice provided are to be taken and included in the relevant QPRIME detention log. A separate report to the State Watch-house Coordinator should also be completed as to the circumstances of the refusal.

In circumstances where a person in custody refuses medical treatment such refusal must be made by that person to the healthcare professional personally. Such refusal is to be documented in the relevant QPRIME detention log.

16.13.3 Prisoner/watch-house inspection

Inspection by watch-house manager

ORDER

The watch-house manager is to ensure each prisoner and the watch-house complex are inspected regularly.

The watch-house manager is to ensure regular inspections are conducted at varying intervals. The interval between prisoner inspections is to be no greater than one hour. Intervals between watch-house inspections may vary according to circumstances.

The watch-house manager is to ensure a record is kept of all prisoner inspections through entries in the appropriate QPRIME Custody Report (Full) Detention Log.

The watch-house manager is to ensure station or establishment instructions are developed and implemented to ensure where prisoners are violent, aggressive or non-cooperative and are held in a watch-house cell (including a violent detention cell (VDC)) that in all circumstances, inspections of such prisoners are conducted in compliance with this section.

The station or establishment instructions are to ensure, even in circumstances where:

- (i) prisoners are naked;
- (ii) where the cell has been soiled with urine or faeces;
- (iii) only one officer is on duty in the watch-house; or
- (iv) in any other circumstance,

inspections of the prisoners are still conducted.

The watch-house manager is to ensure station or establishment instructions are developed, implemented and maintained, as per s. 1.5.3: 'Regional, district and station/establishment instructions' of this Manual.

Responsibilities of officers in charge

OIC of stations or establishments are to ensure any reasonable requests made by a watch-house manager to ensure compliance with this section, including supply of officers to assist watch-house staff in making checks on prisoners within watch-house cells or modifications to watch-house cells, are considered.

Inspection by independent inspection officer

OIC of regions are to ensure prisoners held in watch-houses are inspected where practicable by a police officer other than a police officer involved in the administration of the watch-house (independent inspection officer) on at least one occasion each shift during which the watch-house operates (at least 3 checks in a 24-hour period for a 24-hour watch-house) and further as appropriate in the circumstances. The independent inspection officer is to be nominated by the OIC of the region and may include, for example, the RDO, patrol group inspector, DDO, or shift supervisor. All the factors to be considered by the RDO or DDO in relation to watch-houses are also to be considered by the independent inspection officer. See s. 1.18: 'Significant events' of this Manual. It may be impracticable to have an independent inspection officer inspect a watch-house when:

- (i) the distance to the watch-house by the independent inspection officer does not permit travel to the watch-house within a reasonable time;
- (ii) due to staffing arrangements, no independent inspection officer is available; or
- (iii) the watch-house has no prisoners.

Factors to be considered when determining whether travel to inspect a watch-house by the independent inspection officer is within a reasonable time include:

- (i) the number of watch-houses to be inspected; and
- (ii) the amount and relative importance of other duties to be performed.

Factors to be considered when determining how often prisoners held in watch-houses are to be inspected by the independent inspection officer include:

- (i) the number of prisoners held;
- (ii) the health condition (i.e. whether in need of medical treatment or has sustained injuries) of prisoners;
- (iii) the demeanour (i.e. whether intoxicated or affected by alcohol or drugs) of prisoners;
- (iv) the rank and experience of the watch-house manager; and
- (v) any other relevant factors.

Inspection of prisoners

ORDER

Prisoner inspections are to be conducted personally irrespective of whether or not video monitoring equipment is installed (see s. 16.13.1: 'Assessment of prisoners' of this chapter).

Intervals between watch-house inspections may vary as per s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter.

Each person in custody is to be inspected to determine:

- (i) whether a degree of suspicion exists in regard to the health of the person in custody (see s. 16.13.1: 'Assessment of prisoners' of this chapter); and
- (ii) whether the person in custody is to remain isolated or is to be placed in the company of others in custody;
- (iii) the frequency of further persons in custody inspections; and
- (iv) where a professional healthcare provider has recommended observation of a person in custody the following assessment criteria are to be carried out and recorded at a minimum of 30 minutes (if required) for four hours from the time of that assessment:
 - (a) the ability of the person to open their eyes (yes/no);
 - (b) the ability of the person to respond verbally and be understood (yes/no); and
 - (c) the ability of a person to move their limbs on both sides of their body in a purposeful manner (yes/no).

The watch-house manager is to ensure a record is kept of all prisoner inspections through entries in the appropriate QPRIME Custody Report (Full) Detention Log.

The inspection officer is to:

- (i) where practicable and subject to prisoner numbers, prior to the initial inspection, read the information in the QPRIME Custody Report (Full) Detention Log relating to each prisoner;
- (ii) observe the prisoner's physical appearance or demeanour;
- (iii) ask prisoners who are awake if they are well;
- (iv) pay particular attention to any prisoner apparently intoxicated to ensure intoxication is not masking symptoms of a serious medical condition (see Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter);
- (v) ensure a sleeping prisoner is breathing comfortably and appears well by observing the prisoner's breathing and moving. Breathing is to be observed by the rise and fall of the prisoner's chest. In low light conditions a torch or other method of illumination, is to be used to confirm the rise and fall of the prisoner's chest;
- (vi) wake a sleeping prisoner;
 - (a) when they cannot easily observe the rise and fall of the chest; and
 - (b) if unsure of a prisoner's condition and suspects the prisoner may require medical attention; and

(vii) ensure the security of the cell keys and where reasonably practicable, be in the company of a second officer when entering a cell.

The inspection officer is to record or cause to be recorded in the relevant QPRIME Custody Report (Full) Detention Log for each prisoner immediately after the inspection:

- (i) the date and time of the commencement of the prisoner inspection;
- (ii) the number of prisoners inspected;
- (iii) a brief comment in relation to each prisoner inspected;
- (iv) relevant details where the current assessment differs from the previous assessment;
- (v) any injuries observed on prisoners; and
- (vi) what action, if any, was taken in relation to the prisoner.

ORDER

The inspection officer is to immediately notify the watch-house manager if the officer forms a reasonable suspicion as to the prisoner's health, segregation from other prisoners, or an increased frequency of inspection is required and is to record the details in the relevant QPRIME Custody Report (Full) Detention Log where necessary.

If the inspection officer forms a reasonable suspicion with regards to a prisoner's health, they must seek or cause to be sought the assistance of a professional healthcare provider.

The member is to record both the details of the occurrence and the notification of the watch-house manager in the QPRIME detention log.

Wherever practicable, at night, watch-house staff are to leave corridor lights on and turn cell lights off except where there is a need (e.g. suicide watch).

Inspection of watch-houses

Watch-house managers are to cause periodic inspections of watch-houses to be conducted to locate items which may have been illegally brought into a watch-house. Inspections may be deemed necessary for a number of reasons, including before a prisoner is allowed a visitor, and immediately after that visitor has left the watch-house. Where practicable, non-contact visitor rooms are to be used to reduce the risk of items being illegally brought into a watch-house.

Whether the whole watch-house is inspected, or relevant cells or rooms, may vary according to the circumstances of each search. Care is to be taken to inspect areas and fittings, such as mattresses and furnishings, where items may be concealed.

ORDER

The inspection officer or inspection watch-house officer is to immediately notify the watch-house manager of any breaches or potential breaches of watch-house security raised during the inspection.

16.13.4 Provision of medication

For the use, storage and supply of prescription and non-prescription medication to persons temporarily held in custody at a station or establishment, the relevant provisions of this section that apply to watch-houses are to, where practicable, apply to stations or establishments.

All duties and responsibilities imposed on watch-house managers in this section are to be taken to be imposed on OICs of station or establishments, or if the person is held elsewhere than at a station or establishment, the senior officer who has actual custody of the person (e.g. removal of a prisoner from a corrective services facility for the purpose of visiting a crime scene).

As a general rule, new medication should not be supplied to a prisoner temporarily removed from a corrective services facility unless the withholding of such medication for the duration of temporary custody would be detrimental to the health and well-being of the prisoner.

Medication is to be obtained and provided to a prisoner where:

- (i) it is established that a prisoner has been prescribed medication by a medical practitioner;
- (ii) after following the procedures in s. 16.13.1: 'Assessment of prisoners' of this chapter it is determined medication is required (see also Appendix 16.1: 'The assessment of persons in police custody' of this chapter); or
- (iii) a prescription is filled and provided by a pharmacy or hospital. If approved by a prisoner, officers are required to provide the pharmacy or hospital with Medicare and health care card details of the prisoner.

Obtaining of prisoner medication

Medication may be obtained for a prisoner:

- (i) by using medication or a prescription in the prisoner's possession after seeking medical advice on the medication being required and verifying its contents;
- (ii) by allowing friends or family to supply medication or a prescription after seeking medical advice on the medication being required and verifying its contents;
- (iii) by prescription from a pharmacy or hospital; or
- (iv) from a government medical officer (GMO), other doctor or registered nurse.

Officers are to ensure medication is obtained for prisoners using the most efficient and effective means available in the circumstances. Where possible, GMO's, other doctors or registered nurses are to be used to dispense and manage medication within watch-houses.

Use, storage and supply of prescription medication in the watch-house

The watch-house manager is to:

- (i) seek medical advice before the provision of any prescribed drug;
- (ii) ensure that medication is given at the strength, quantity and times as prescribed on the label of the medication or as per other written instructions;
- (iii) ensure the identity of prisoners is verified to ensure the medication is given to/taken by the prisoner for whom it is prescribed;
- (iv) ensure medication is taken in the presence of the person providing same to prevent prisoners accumulating it;
- (v) ensure that the following are recorded in the QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet', which is to be attached to the QPRIME Custody Report (Full) Detention Log in the relevant prisoner's entry:
 - (a) the name of the prisoner;
 - (b) the name of the medication(s);
 - (c) how the medication was obtained (medication received/delivered to the prisoner does not have to be recorded in compliance with s. 16.11: 'Property of prisoners' of this chapter if it is recorded in the QP 0462), including where the:
 - prisoner or family/friends supplied the medication/prescription;
 - prisoner's usual doctor provided the medication/prescription; or
 - prisoner saw a government medical officer or other doctor to obtain medication/prescription;
 - (d) the strength, quantity and the times the medication is to be given;
 - (e) the date and time medication is provided;
 - (f) the name of the person (includes a GMO, nurse, police officer, watch-house officer) who provided the medication;
 - (g) the signature of the prisoner given the medication;
 - (h) any departure from the prescribed strength, quantity or the times the medication is to be given that is inconsistent with the written label or other written instructions, and reason for such departure including the doctor authorising the change;
 - (i) whether medication can/cannot be given to the prisoner on their release from the watch-house, including the name of any doctor contacted who approves/disapproves the supply of any remaining medication;
 - (j) the quantity of medication remaining on release of the prisoner from the watch-house;
 - (k) any advice sought from a doctor and provided to the prisoner on release from the watch-house, where medication is not to be supplied on release; and
 - (l) the signature of the prisoner to indicate their receipt of any medication provided on release from the watch-house;
- (vi) use the expertise of the Aboriginal and Torres Strait Islander Community Health Service for Aboriginal and Torres Strait Islander prisoners, particularly for prisoners from traditional Aboriginal and Torres Strait Islander communities, where this service is available;
- (vii) ensure where the prisoner or the prisoner's family/friends supply the medication/prescription, or medication/prescription is obtained from the prisoner's usual doctor that unless point (ix) applies, the remainder of any medication is given to the prisoner when they leave the watch-house. Leaving the watch-house includes when being sent to a Queensland Corrective Services (QCS) facility or detention centre. It is irrelevant whether or not the Service has paid for the medication;

- (viii) ensure where a GMO or other doctor prescribes medication to a prisoner and they are not the prisoner's usual doctor:
- (a) the doctor who prescribed the medication is asked to specify whether or not when the prisoner leaves the watch-house, the prisoner can be supplied with the remainder of any medication; or
 - (b) when the prisoner is leaving the watch-house, a GMO or other doctor is contacted if it has not already been done, to determine whether the remainder of any prescribed medication can be given to the prisoner; and
 - (c) where a doctor does not authorise a prisoner to receive any remaining quantity of medication on release from the watch-house, advise the prisoner to seek medical advice after their release;
- (ix) ensure, where a prisoner indicates on being released from the watch-house the possibility of suicide or self-harm, the prisoner is treated as requiring medical assessment under an emergency examination authority. See s. 6.6.2: 'Emergency examination authority (EEA)' of this Manual, and seek medical advice before the supply of any medication to the prisoner;
- (x) ensure no prescribed medication remains in the watch-house if it is a high-risk medicine or a restricted medicine (see ss. 9: 'Restricted medicines' & 10: 'High-risk medicines—Act, s 40' of the Medicines and Poisons (Medicines) Regulation) after the person it has been prescribed for has left the watch-house. It is an offence against the *Medicines and Poisons Act* to keep such medications in the watch-house, unless the drugs are kept in a locked cabinet and a doctor or nurse has control of the cabinet. See also 'Use, storage and supply of non-prescription medication in the watch-house' of this section;
- (xi) ensure where a prisoner is no longer required to take any prescribed medication, a doctor has determined medications are not to be provided to the prisoner on their leaving the watch-house, or medications become out-of-date the medications are disposed of by giving the drugs to a local pharmacy, hospital, registered nurse or doctor on a frequent and regular basis. A record is to be kept of all medications disposed of in this manner. This policy does not apply in those watch-houses where drugs are kept in a locked cabinet and a doctor or nurse has control of the cabinet. Disposing of the drugs then becomes the responsibility of the doctor or nurse in control of the cabinet;
- (xii) ensure medications where possible are stored in compliance with the label on the product, including where refrigeration is required. Refrigerated medicines are to be kept separated from food, so that food cannot be affected by the medication;
- (xiii) ensure no medication prescribed for an individual prisoner is used for any other prisoner. This policy does not apply in those watch-houses where drugs are kept in a locked cabinet and a doctor or nurse has control of the cabinet. The reuse of any drugs for other prisoners then becomes the responsibility of the doctor or nurse in control of the cabinet;
- (xiv) ensure all prescribed medication is used from and stored in its original packaging, and is not to be used where any administering label is unclear or missing unless medical advice has been obtained. Where medication has been supplied in open containers, is not in tamper proof packaging, or is not obtained through a pharmacy, hospital or doctor, the medication is to be checked to ensure it is genuine before it is used. Where the contents of prescribed medication cannot be verified or may be contaminated, unless it is the property of a prisoner, it should be disposed of. See point (xi) above. Seek medical advice if in doubt;
- (xv) ensure where possible that all tablets and capsules are swallowed whole by a prisoner unless the pharmacist or doctor advises otherwise;
- (xvi) ensure no injections of prescribed medication for prisoners other than diabetic medications are given by any person other than by a registered nurse, doctor or dentist. Prisoners may self-inject diabetic medications. For all other medications to be injected, medical advice is to be sought. Prisoners should be isolated when using syringes and needles and other safety measures taken as appropriate; and
- (xvii) ensure medications are stored in the watch-house in compliance with the 'order' below.

Use, storage and supply of non-prescription medication in the watch-house

Non-prescription medication may be stored in the watch-house. See SMD.

Non-prescription medication that may be given to prisoners includes:

- (i) painkillers (analgesics) such as paracetamol;
- (ii) antacids;
- (iii) mild laxatives;
- (iv) Ventolin or similar spray; and
- (v) non-restricted topical agents such as calamine lotion.

Non-prescribed medication is not safe for all people at all times. There are some risks with certain doses of non-prescribed medication for certain people.

Where non-prescription medications are stored/used in the watch-house, the watch-house manager is to ensure:

- (i) they are stored in compliance with the 'order' below and with 'Use and disposal of prescription medication in the watch-house', points (x) and (xii) above;
- (ii) any caution and warning statement on the pack or container is communicated to the prisoner before dispensing. Ascertain where possible, whether warnings and cautions listed on the pack or container apply to the prisoner. Non-prescription medication is not to be used contrary to any warnings or cautions;
- (iii) any non-prescription medication that does not have original packaging is disposed of in compliance with 'Use and disposal of prescription medication in the watch-house', point (xi) above, and is not used;
- (iv) supply to any prisoner is limited to the recommended dose and is given in accordance with the manufacturer's instructions on the packaging, unless otherwise instructed by a doctor;
- (v) that all doses supplied of non-prescription medication are recorded in the QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' as for prescribed medication procedures, see: 'Use and storage of prescription medication in the watch-house' point (v) above;
- (vi) where any doubt exists about whether to supply non-prescription medication to a prisoner, do not supply and seek medical advice;
- (vii) ensure non-prescribed medication is taken in the presence of the person providing same to prevent prisoners accumulating it;
- (viii) ensure where possible that all tablets and capsules are swallowed whole by a prisoner unless the package, container, pharmacist or doctor advises otherwise;
- (ix) ensure, any non-prescribed medications supplied by prisoners or their family/friends are returned to prisoners unless 'Use and disposal of prescription medication in the watch-house' point (ix) above, applies; and
- (x) ensure all non-prescribed medications which, when used by one prisoner may become contaminated (such as Ventolin or similar sprays) are not used by any other prisoner.

ORDER

Watch-house managers are to ensure that all prisoner medication, both prescription and non-prescription is kept in a locked drawer or cabinet with limited access to both the drawer or cabinet and the key. A record of the provision and any disposal of medication to prisoners is also to be maintained in the relevant QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet'.

Prisoners and medication received from Queensland Corrective Services

On occasion, prisoners are transported from Queensland Corrective Services (QCS) facilities to watch-houses with a supply of medication. Watch-house managers are to ensure whilst these prisoners are in the watch-house that this medication is:

- (i) supplied to the relevant prisoner in accordance with the directions supplied with the medication; and
- (ii) where a prisoner is supplied with a dose or may miss a dose, QCS is to be advised of this fact in writing on the documentation supplied.

Where a prisoner from QCS is released from the watch-house and will not be returning to QCS custody, all medication supplied from QCS is to be given to the prisoner when released. QCS assess all prisoners and only provide up to one week's supply of medication. This minimum quantity of medication is appropriate to be supplied to prisoners on their release from the watch-house. Any queries in relation to the provision of medication supplied by QCS should be directed to the medical staff at the relevant QCS facility.

Where a prisoner from QCS is to be returned to QCS custody, all medication is to be returned with the prisoner to the relevant QCS facility.

16.14 Call-out procedures for Government Medical Officers

The policy of the government medical officer with respect to call-outs for the possible treatment of persons in custody is as set out below.

When a doctor is called regarding a prisoner in custody seeking medical treatment, it is prudent that the doctor makes inquiries to ascertain the nature of the complaint, the duration of the complaint, the previous treatment and the urgency of the symptoms. When the doctor has considered this information the doctor can then make a decision as to whether the patient is to be transported urgently to hospital, whether the doctor's physical attendance is necessary or whether telephone attendance is all that is required.

There can be no stated policy regarding medical management of either prisoners or ordinary patients. All requests are treated individually.

16.14.1 Generally

The duty of care for a person in custody is the obligation of the responsible officer.

PROCEDURE

Police officers or watch-house officers requesting the services of a government medical officer, a suitable medical practitioner, or medical person after hours is to make the requests through their immediate supervisor.

Supervising police officers or supervising watch-house officers who receive a request from a subordinate police officer or watch-house officer for the services of a government medical officer, medical practitioner or medical person after hours is to ensure that there is an immediate need for such a call-out.

Supervising police officers or supervising watch-house officers are to use local procedures to obtain the service of a government medical officer, suitable medical practitioner or medical person after hours.

ORDER

Police officers and watch-house officers are to strictly adhere to appointments made with the government medical officer, medical practitioner or other medical person, and are to bring any delays to the notice of such persons immediately.

16.14.2 Watch-house

POLICY

The duty of care for a person in custody in a watch-house rests with the watch-house manager.

PROCEDURE

The watch-house manager is to obtain medical treatment or advice from another suitable medical practitioner, or medical person when the government medical officer is unavailable, and where the watch-house manager identifies that a person in custody is:

- (i) in need of medical treatment; or
- (ii) requesting medical treatment.

The watch-house manager is to:

- (i) contact the government medical officer, a suitable medical practitioner or medical person to obtain medical treatment or advice for a person in custody, where it has been identified that medical treatment or advice is required;
- (ii) contact the government medical officer, a suitable medical practitioner or medical person again and seek further advice and assistance if a medical problem experienced by the person in custody continues; and
- (iii) where the watch-house manager is not satisfied with the medical advice received from the government medical officer, a suitable medical practitioner or medical person, seek a second opinion by transporting the prisoner to a hospital or other medical facility.

POLICY

The discretion to seek further assistance and advice from the government medical officer, a suitable medical practitioner or medical person before transporting a prisoner to a hospital or other medical facility lies with the watch-house manager.

16.15 Medical information regarding a prisoner

ORDER

When a prisoner is in the custody of a police officer or watch-house officer and has received medical attention and a:

- (i) completed QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet';
- (ii) written statement, or
- (iii) record of the prisoner's medical condition,

has been obtained, the police officer, watch-house officer who has custody of the person is to advise the person into whose custody the prisoner is being placed, of that prisoner's medical condition.

The police officer or watch-house officer who is receiving a prisoner into custody in instances where there may be some indication that that prisoner has received medical treatment or is otherwise suffering from some medical condition, is to request from the police officer or watch-house officer who is relinquishing custody of that prisoner:

- (i) the history associated with such treatment or medical condition; and
- (ii) a completed QP 0856; or

- (iii) any document relating to the prisoner's treatment or condition (e.g. medical certificate) including:
 - (a) sufficient information in accordance with s. 16.13.2: 'Prisoner's medical condition' of this chapter; and
 - (b) a medical clearance stating the prisoner is fit for extended custody in a police watch-house.

Any information obtained is to be scanned as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet'.

Provision of medical information to a professional healthcare provider attending a watch-house

When a professional healthcare provider attends a watch-house in relation to a person in custody, they are to be provided with all available medical information, including:

- (i) a copy of the QPRIME risk assessment;
- (ii) a copy of the Prisoner Running Log (if it contains relevant information); and
- (iii) any other information that might assist them in the care of the prisoner.

16.15.1 Medical transfer of a prisoner or person under arrest

Where bail cannot be granted or is to be opposed, and a prisoner requires medical attention and transfer from a watch-house to a hospital or other medical facility, the watch-house manager is to facilitate the transfer pursuant to s. 640: 'Transfer of persons in watch-houses' of the PPRA.

Watch-house manager responsibilities for the medical transfer of a prisoner

The watch-house manager is to:

- (i) consider the seriousness of the medical condition and identify if bail should be granted;
- (ii) if bail is not granted, as soon as practicable, advise the supervising commissioned officer, RDO, patrol group inspector or DDO of the requirement for medical treatment and arrange for and coordinate the attendance of escorting officers at the watch-house;
- (iii) complete Part A of QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet';
- (iv) ensure notification of the NOK or person nominated by the prisoner, unless:
 - (a) specifically requested not to by the prisoner; or
 - (b) concerns exist that notification will jeopardise the security of the prisoner or safety of persons at the medical facility;
- (v) verbally brief the senior escorting officer and ensure they are aware of the details in the risk assessment (on the QP 0856) and provide escorting and guarding directions;
- (vi) ensure the prisoners QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' is attached to the QP 0856 for review and updating by the treating medical practitioner;
- (vii) obtain a copy of the QP 0856 once the senior escorting officer has entered their details in Part B;
- (viii) ensure regular inquiries of the prisoner's medical condition are conducted and record information obtained;
- (ix) if the prisoner is to appear in court, advise the prosecutor responsible for the court in which the prisoner is to appear, of the prisoner's medical treatment;
- (x) on prisoner return to the watch-house, review the QP 0856 and if necessary, conduct inquiries to rectify deficiencies. The completed QP 0856 is to be scanned to the prisoner's Custody Report in compliance with s. 16.13.2: 'Person in custody's medical condition' of this chapter. Any medical records or documents attached to the form should not be scanned into QPRIME to maintain prisoner confidentiality;
- (xi) ensure all information has been recorded in accordance with s. 16.8: 'QPRIME Custody, search and property reports' of this chapter; and
- (xii) comply with the provisions of s. 16.18.1: 'Transfer of prisoners' of this chapter.

Escorting and guarding officer responsibilities

Officers escorting or guarding prisoners or other persons in custody who have been taken to a hospital or other medical facility, are to maintain situational awareness and ensure a continual risk assessment is completed with changes recorded on the QP 0856 and the offender's QPRIME record. Escorting and guarding officers who are terminating their shift are to ensure all risks and safety concerns about the prisoner are discussed with the officers relieving them of duty and commencing the following shift.

The senior escorting officer is to ensure either the district tasking and coordination centre (DTACC), RDO, patrol group inspector or district duty officer are made aware of any changes in the risk assessment. In addition, the senior escorting officer is to ensure hospital security staff and Queensland Health staff are made aware of changes in the risk assessment, to ensure a consistent and balanced approach to any security arrangements.

The senior escorting officer is to:

- (i) review the QP 0856 risk assessment and QP 0462;
- (ii) acknowledge and comply with any escorting and guarding directions briefed by the watch-house manager;
- (iii) commence Part B of the QP 0856;
- (iv) update the custody register;
- (v) conduct a detailed handover briefing to secondary and relieving escorting officers; and
- (vi) provide the QP 0462 and Part C of the QP 0856 to the medical practitioner and advise of any safety concerns.

Responsibilities of all escorting officers:

- (i) comply with the requirements for handcuffed prisoners in hospitals or under medical treatment provisions (see ss. 14.19.1: 'Use of handcuffs' and 14.19.6: 'Body belts and leg cuffs' of this Manual);
- (ii) conduct a detailed handover briefing to relieving escorting officers;
- (iii) ensure completion of Part B of the QP 0856 including relevant details in the incident log;
- (iv) ensure that upon prisoner release from medical care, the medical practitioner has completed and signed the medical fitness for custody Part C of the QP 0856 and made all relevant entries to the QP 0462;
- (v) retain the QP 0856 and QP 0462 and hand to the watch-house manager on returning the prisoner to the watch-house; and
- (vi) ensure the custody register is amended.

Medical transfer of an arrested person to a hospital or other medical facility prior to acceptance at a watch-house

Where an arresting officer or supervisor determines that, prior to lodgement at a watch-house, an arrested person requires medical attention (see s. 16.9.1: 'Prisoner's health prior to acceptance in a watch-house' of this section) they are to determine if the person can be unarrested and proceedings commenced by other means. If unarrested, the arresting officer is to assist the person in obtaining medical care, unless assistance is refused.

If arrest is to continue, the arresting officer is to:

- (i) as soon as practicable, advise the supervising commissioned officer, RDO, patrol group inspector or DDO of the requirement for medical treatment;
- (ii) obtain a QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet' and convey the person to a medical facility. If a QP 0856 cannot be obtained, arrange for one to be delivered to the medical facility;
- (iii) ensure notification of the NOK or person nominated by the prisoner, unless:
 - (a) specifically requested not to by the prisoner; or
 - (b) concerns exist that notification will jeopardise the security of the prisoner or safety of persons at the medical facility;
- (iv) comply with the requirements for handcuffed prisoners or persons under arrest in medical facilities (see s. 14.19.1: 'Use of handcuffs' and s. 14.19.6: 'Body belts and leg cuffs' of this Manual);
- (v) complete Part A and B of the QP 0856 ensuring the risk assessment section is completed, and provide the medical practitioner with Part C. The medical practitioner must be briefed on any risk issues;
- (vi) coordinate relieving escorting officer attendance and conduct detailed handover briefings including amendments to the QP 0856, Part B;
- (vii) ensure upon prisoner release from medical care, the medical practitioner has completed and signed the medical fitness for custody on the QP 0856, Part C;
- (viii) on prisoner lodgement at the watch-house, the completed QP 0856 and any medical documents are to be provided to the watch-house manager; and
- (ix) ensure all information has been recorded in accordance with s. 16.8: 'QPRIME Custody, search and property reports' of this chapter.

District tasking and coordination centre, regional duty officer, patrol group inspector or district duty officer responsibilities

When notified that a prisoner or person under arrest has been conveyed to a medical facility, a DTACC, an RDO, patrol group inspector or DDO is to:

- (i) coordinate the allocation of escorting and relieving officers;

- (ii) ensure the commissioned officer responsible for the watch-house, or who has line command for the arresting officer, is notified;
- (iii) monitor the medical treatment and where appropriate attend the medical facility; and
- (iv) ensure next of kin notifications are conducted when appropriate.

Commissioned officer responsibilities

The commissioned officer responsible for the watch-house or who has line command for the arresting officer, is to:

- (i) ensure regular checks are made regarding the medical condition of the prisoner or person under arrest until release from the medical facility;
- (ii) ensure the:
 - (a) NOK or person nominated by the prisoner; and
 - (b) relevant prosecution corps for the court in which the prisoner is to appear;have been notified of the prisoner's location or condition as appropriate in the circumstances.

16.15.2 Removing a prisoner at a watch-house, suffering from a mental illness, to an authorised mental health service for assessment

Section 71: 'Custodian consent' of the *Mental Health Act* (MHA) set out the conditions under which a watch-house manager must make a 'Custodian consent' in respect of a person in custody unless doing so would pose an unreasonable risk to the safety of the person or others having regard to the security requirements for the person.

Once the person is taken to the authorised mental health service the person becomes a 'classified patient' (see s. 64: 'Meaning of classified patient' of the MHA). The person is then detained in the authorised mental health service and the administrator of the authorised mental health service assumes legal custody of the classified patient while detained in the health service.

Upon becoming a 'classified patient' proceedings against the person for any offence (other than a Commonwealth offence) are suspended until the person ceases to be a 'classified patient' (see s. 616: 'Suspension of proceedings' of the MHA).

If a 'return event' as defined in s. 83: 'Return of classified patient to custody' of the MHA occurs the Chief Psychiatrist will issue a written notice that the 'classified patient' is to be returned to custody to the watch-house manager. Within one day of receiving the notice the watch-house manager is to ensure that the 'classified patient' is returned to custody (see ss. 6.6.3: 'Transporting persons with impaired mental capacity' of this Manual and 83 of the MHA).

A 'classified patient' ceases to be a 'classified patient' when the patient is taken from the authorised mental health service (see ss. 83(5) of the MHA).

POLICY

Watch-house managers who believe that a person, who is in custody, may be mentally ill and in need of treatment or care are to:

- (i) arrange for a doctor or authorised mental health practitioner to examine the person and complete a 'Recommendation for assessment' if appropriate (see ss. 31: 'Examination' and 39: 'Making recommendation for assessment' of the MHA);
- (ii) if a 'Recommendation for assessment' is made, contact the administrator of an authorised mental health service to arrange an 'Administrator consent' at a particular authorised mental health service;
- (iii) if a 'Recommendation for assessment' and an 'Administrator consent' have been made, complete a 'Custodian consent'. The 'Recommendation for assessment' is to be attached to the 'Custodian consent'. All Forms are to be added as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry;
- (iv) ensure that the person is transported as soon as practicable, but within seven days of the 'Recommendation for assessment' being made, to the authorised mental health service for which an 'Administrator consent' was made;
- (v) comply with s. 16.18.1: 'Transfer of prisoners' of this chapter; and
- (vi) upon the removal of the person from the watch-house, promptly advise the commissioned officer responsible for the watch-house of the:
 - (a) name and date of birth of the person;
 - (b) details of the charges against the person;
 - (c) date and place of any scheduled court appearances of the person; and
 - (d) authorised mental health service to which the person has been transported.

The commissioned officer may be advised by whatever means appropriate in the circumstances. This may include by:

- (i) telephone;
- (ii) e-mail; or
- (iii) a Notification Task in QPRIME.

Officers to whom a 'Custodian consent' is directed are to ensure that the person named is transported to an in-patient facility of the stated authorised mental health service as soon as practicable. Officers are to give the 'Custodian consent', 'Administrator consent' and the 'Recommendation for assessment' along with other transfer documents to an appropriate person at the receiving authorised mental health service.

Watch-house managers who have made a 'Custodian consent' which results in the detention of a person at an authorised mental health service are to advise the relevant prosecutor that the person has become a 'classified patient'. The prosecutor may be advised by whatever means appropriate in the circumstances. This may include by:

- (i) telephone;
- (ii) e-mail; or
- (iii) a Notification Task in QPRIME.

Watch-house managers who are advised that a person is not to be held as a 'classified patient' and is to be returned to custody, are to ensure that the person is removed from the authorised mental health service within one day of receiving such advice and returned to custody (see s. 83 of the MHA).

Police prosecutors who are advised by the chief executive (justice) that a person is to be brought before a court, are to comply with the relevant provisions of subsection 'Responsibilities of officers when continuing proceedings' of s. 6.6.8: 'Effect of mental illness on matter before the court' of this Manual.

16.16 Serious illness, serious injury, attempted suicide or self-harm in custody

16.16.1 Additional first response procedures

PROCEDURE

In addition to the requirements of Chapter 2: 'Investigative Process' of this Manual, the police officer or watch-house officer who first discovers that a person in custody or in police company has attempted suicide or other forms of self-harm, is seriously ill or seriously injured is to:

- (i) take adequate precautions to limit the chances of prisoners escaping custody (police officers and watch-house officers are to be aware that an incident may be a ploy for prisoners to escape);
- (ii) call for assistance and render necessary attention to the person;
- (iii) subject to security requirements, ensure that the health and well-being of the person is given priority;
- (iv) record the details of the incident and any action taken in relation to the incident;
- (v) notify the responsible officer of the incident as soon as practicable; and
- (vi) take any necessary action in accordance with s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' of this Manual.

The responsible officer is to:

- (i) notify the regional duty officer, patrol group inspector or district duty officer;
- (ii) where appropriate, notify the commissioned officer responsible for the station or establishment; and
- (iii) where the responsible officer is the watch-house manager, record details of the incident and action taken against the relevant QPRIME Custody Report or Custody Report (Full) Detention Log entry and/or the Watch-house Inspection Register as appropriate.

The regional duty officer, patrol group inspector district duty officer, commissioned officer or watch-house manager may be advised by whatever means appropriate in the circumstances. This may include by:

- (i) telephone;
- (ii) e-mail; or
- (iii) a Notification Task in QPRIME.

POLICY

Depending on the nature of the incident, watch-house managers are to take action pursuant to s. 639: 'Control of persons in watch-houses' or s. 640: 'Transfer of persons in watch-house' of the PPRA to ensure the safety of staff,

visitors and prisoners in watch-houses. (See ss. 16.12: 'Management of persons in watch-houses' and 16.19: 'Transfer and escort of prisoners' of this chapter).

16.16.2 Additional responsibilities of investigating officers

Officers responsible for the investigation of a serious illness, serious injury, attempted suicide or self-harm of a person in custody or in police company are to be mindful of s. 3.4: 'General prosecution policy' of this Manual. Officers are to exercise discretion when deciding to charge persons in custody or in police company with minor criminal or regulatory offences (e.g. damages to property) arising from incidents where self-harm or suicide was solely the intended outcome of the unlawful conduct.

Where appropriate, investigating officers are to:

- (i) attend the scene of the incident as soon as practicable;
- (ii) initially review the procedures and actions taken in relation to the incident and take any additional action required to remedy any deficiencies;
- (iii) ensure all due consideration is given to the psychological welfare of members involved with the incident and the ensure the immediate provision of 'Psychological First Aid' (PFA) is applied where necessary, as per the Guidelines for Psychological First Aid (PFA) available on the Safety and Wellbeing Policies webpage of the Service intranet;
- (iv) ensure the notification to the next of kin is given as soon as reasonably possible; and
- (v) if the prisoner is identified as an Aboriginal or Torres Strait Islander, ensure the appropriate Aboriginal and Torres Strait Islander Legal Service or other Aboriginal and Torres Strait Islander community organisation with responsibility for the area is notified, regardless of whether a relative has been located.

16.17 Children

16.17.1 Considerations for the custody of children

In addition to Chapter 5: 'Children' of this Manual, officers or watch-house officers who have responsibilities in relation to the custody of children are to consider:

- (i) a child is only to be held in custody as a last resort and for the least time that is justified in the circumstances;
- (ii) wherever possible, proceedings against a child in relation to an offence are to be commenced by way of notice to appear or complaint and summons;
- (iii) a child arrested for an offence is to be released with or without bail at the earliest possible time, pending that child's appearance before a court, unless a decision is made to keep the child in custody under the provisions of s. 48: 'Releasing children in custody in connection with a charge of an offence' of the YJA;
- (iv) a child should not be kept in custody where an external agency cannot assume responsibility for the child because of a lack of resources (e.g. the Department of Child Safety, Seniors and Disability Services are to provide accommodation for the child), unless a court issues a release order or bail undertaking stipulating a child can only be released into the custody of a named person or external agency;
- (v) a child held in custody is to, wherever reasonably possible, be held in a detention centre;
- (vi) where all other reasonable alternatives have been exhausted and a child is to be held in a watch-house/police custody, the child:
 - (a) is to be held for the least possible time;
 - (b) must be segregated from adult prisoners unless there are compelling reasons in the child's interests (e.g. the detention of an Aboriginal or Torres Strait Islander child with Aboriginal or Torres Strait Islander adult prisoners may be safer than isolation where the child is agreeable, and the adult is of the same gender); and
 - (c) is to be, if detained for more than four hours, provided with materials for age appropriate activities if available or otherwise supplied, unless any of these items constitute a security risk;
- (vii) a child in custody is to be treated/supervised in a manner that has due regard to that child's age, level of maturity and vulnerability and is consistent with the child's safe custody at all times;
- (viii) permitting daily visits by family members, legal representatives or other appropriate adults to children in watch-houses contributes significantly to the wellbeing and morale of such children; and
- (ix) a child who is ill, injured, or intoxicated and needs immediate medical treatment must not be admitted to a youth detention centre unless the child has been examined by a medical practitioner and given the immediate treatment required. Additionally, the medical practitioner has given a medical certificate stating the child is medically fit to be admitted to the detention centre (as required under s. 12: 'Medical examination of child before

admission' of the Youth Justice Regulation). Any medical certificate is to be added as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry.

16.17.2 Arrest of children

In addition to s. 5.9.6: 'Parent and other notification requirements' of this Manual, an officer arresting a child is to, as soon as possible, advise a representative from the Department of Child Safety, Seniors and Disability Services (CSSD) of the:

- (i) child's name, date of birth, and usual address;
- (ii) circumstances of the child's arrest, including the offence for which the child is charged and whether the child will be held for any length of time before release;
- (iii) particulars of the release being granted including any special conditions or the reason for the refusal of bail where bail was refused;
- (iv) name and nature of the relationship of the child to the person(s) into whose custody the child has been released if the child has been released;
- (v) child's history of prior offences, if any, or breaches of bail undertakings;
- (vi) notification to the child's parent of the child's arrest; and
- (vii) date, time and place of the intended appearance of the child before a children's court.

ORDER

An officer arresting a child is to request a representative from the CSSD to provide information that would help determine appropriate custodial management for the child (e.g. whether the child is violent, potentially suicidal, or has a communicable disease) and where applicable, request a representative from the CSSD to nominate a detention centre. The arresting officer is also to record in the child's relevant QPRIME custody report the name of the person to whom such request was made, details of that person's response and give relevant information to any other person taking responsibility for the custody of the child.

Representatives from the CSSD may be contacted:

- (i) between 0900 hours and 1700 hours, Monday to Friday, at the area office nearest the area where the child has been arrested; or
- (ii) outside business hours through Child Safety After Hours Service Centre (see SMCD).

A CSSD representative may nominate to the arresting officer a detention centre where the child may be detained. Once a detention centre is nominated the watch-house manager is to arrange for the child's transportation to the nominated detention centre as soon as practicable.

Bail decision-making framework

In any circumstance, a child is only to be detained in custody as a last resort and for the least time that is justified in the circumstances (see Principle 18 of the Charter of Youth Justice Principles, Schedule 1 of the *Youth Justice Act* (YJA)).

Officers are to release a child from custody unless:

- (i) required to keep the child in custody under the YJA; or
- (ii) exercising a discretion to keep the child in custody under the YJA or another Act.

It is a requirement under the YJA that officers not release a child from custody if satisfied that if the child is released:

- (i) there is an unacceptable risk the child will commit an offence that endangers the community, or the safety or welfare of a person and it is not practicable to impose a bail condition(s) to adequately mitigate the risk; or
- (ii) the circumstances of the offending are such that the child's safety would be endangered and there is no other reasonably practicable way of keeping the child safe.

Welfare concerns, including the child having no accommodation or family support, is not reason alone to keep the child in custody.

See ss. 48AAA(2): 'Releasing children in custody—risk assessment' and 48AE: 'Releasing children whose safety is endangered because of offence' of the YJA.

When deciding whether to release a child from custody, officers should consider whether there is an unacceptable risk the child will:

- (i) not surrender into custody;
- (ii) commit an offence other than an offence that is likely to endanger the safety of the community or the safety and welfare of a person; or
- (iii) interfere with a witness or obstruct the course of justice.

When deciding whether:

- (i) a child is an unacceptable risk of committing an offence that endangers the community, or the safety or welfare of a person and it is not practicable to impose a bail condition(s) to adequately mitigate the risk;
- (ii) there is an unacceptable risk the child will (i)-(iii) above;
- (iii) to release a child despite there being an unacceptable risk the child will (i)-(iii) above;
- (iv) to release a child with or without bail; or
- (v) whether the child has shown cause under s. 48AF(2) of the YJA why the child's detention in custody is not justified,

officers should consider:

- (i) the nature and seriousness of the offence;
- (ii) any criminal history and other relevant history, associations, home environment, employment and background;
- (iii) any previous bail history;
- (iv) the strength of the evidence;
- (v) the child's age, maturity, cognitive ability and developmental needs;
- (vi) whether a parent of the child, or another person, has indicated a willingness to the court or the officer to do any of the following:
 - (a) support the child to comply with the bail conditions;
 - (b) notify the chief executive or police of a change in the child's personal circumstances that may affect the child's ability to comply with the bail conditions; or
 - (c) notify the chief executive or police of a breach of the bail conditions;
- (vi) if the child identifies as an Aboriginal person or Torres Strait Islander, a submission made by a representative of the child's community; and
- (vii) any other relevant matter.

Officers are to also have regard to the considerations in s. 48AA(2): 'Matters to be considered in making particular decisions about release and bail' of the YJA.

When deciding whether to release a child with or without bail, officers should consider:

- (i) Principle 18 of the Youth Justice Principles;
- (ii) the relationship between the child and the child's parents and family;
- (iii) whether the child's living arrangements, education or work will be interrupted;
- (iv) any reputational harm that may arise from keeping the child in custody;
- (v) the child's physical and mental health; and
- (vi) if the child:
 - (a) has a disability, what support the child needs;
 - (b) is an Aboriginal person or Torres Strait Islander, the desire to keep the child connected with the child's family and community; and
 - (c) is under 14 years, the vulnerability of the child and community expectation a child under 14 requires care and protection.

Bail Conditions

Bail conditions should only be imposed if doing so will mitigate an unacceptable risk mentioned in s. 48AAA(2)(a) or (3) of the YJA (see ss. 52: 'Conditions of release on bail—generally' and 52A: 'Other conditions of release on bail' of the YJA and s. 5.10.2: 'Child released on bail' of this Manual).

16.17.3 Care of children in custody

In addition to s. 16.9.1: 'Prisoner's health prior to acceptance in a watch-house' and s. 16.13: 'Healthcare of persons in custody' of this chapter, when assessing a child's medical condition, an officer or watch-house officer is to consider the child's apparent emotional and psychological state, signs of distress, injury or illness, and the possible influence of drugs or alcohol on the child.

ORDER

Officers or watch-house officers are to advise, as soon as possible, the child's parent(s) or adult caregiver, where practicable and an officer from the Department of Child Safety, Seniors and Disability Services (CSSD) (when the child is under the care of the CSSD), when a child is transferred from a watch-house to a hospital or other medical facility for medical attention.

In addition to s. 16.13.4: 'Provision of medication' of this chapter, the provision of medication to children is to be recorded in a QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' and the Detention log in the child's relevant QPRIME custody report.

The watch-house manager is to allow access visits by parents or an authorised cell visitor (see s. 16.22: 'Cell visitor scheme' of this chapter) subject to operational or security needs of the watch-house, and the consent of the child.

An officer from the CSSD is to, whenever practicable, be permitted access to children in watch-houses.

Where a child is assessed as being at significant risk of attempting suicide or engaging in self-harming activities and it is not possible to transport the child promptly to a youth detention centre, the watch-house manager is to request the relevant CSSD regional office to provide suitable departmental staff to attend the watch-house and provide appropriate support to the child if required. Watch-house security and safety of departmental staff are to be considered prior to complying with this procedure.

As soon as practicable upon admission, a child who is lodged in a watch-house must be provided with information regarding their rights and responsibilities whilst in a watch-house. A copy of Appendix 16.2: 'Rights and responsibilities of children whilst in custody in a watch-house' of this chapter is to be given to the child and to any parent or adult caregivers present when the child is admitted to the watch-house. If the police officer or watch-house officer who gives this document to the child reasonably suspects the child cannot understand or read the document, the police officer or watch-house officer is to ensure the material is explained verbally. For this purpose, the CSSD representative, independent person, authorised cell visitor or child's legal representative can be present.

Receiving officers are to ensure the copy of the document is included in the child's property tab within the QPRIME Custody Report (Full) and dealt with in accordance with the relevant provisions of Chapter 4: 'Property' of this Manual.

If a child in custody: attempts self-harm; is assaulted; or becomes ill or injured and requires medical treatment; a significant event message is to be completed (see s. 1.18: 'Significant events' of this Manual).

16.17.4 Custody of children

Refer to s. 10.4.24: 'Documents to accompany escorted children' of this Manual for documents required to accompany a child to a detention centre. Also refer to ss. 39, 54, 56 and 265 of the YJA.

Custody of child pending court appearance

Where a child is arrested and not released with bail in accordance with the provisions of s. 50: 'Dealing with a child not brought before Children's Court in accordance with s 49' of the YJA, watch-house managers are to ensure the child appears before a children's court as soon as practicable.

Where a children's court is not listed to sit within a reasonable time following the delivery of the child into that watch-house manager's custody, the watch-house manager is to consider making arrangements to have a children's court convened as soon as practicable. Consideration is also to be given, in appropriate cases, to establishing an audio-visual or audio link with a court to allow a bail application on behalf of the child to be heard (see s. 53: 'Granting of bail by audio visual link or audio link' of the YJA).

Where it is not possible to promptly bring an arrested child before a children's court following arrest and lodgement in a watch-house, the watch-house manager is to make arrangements for the child to be placed in a detention centre wherever practicable.

Watch-house managers are to seek advice for the selection of a suitable detention centre for placement of the child pending that child's court appearance from the nearest area office of the Department of Youth Justice (DYJ). Outside of office hours, the Child Safety After Hours Service Centre is to be contacted (see SMCD).

Where a representative from the DYJ nominates a detention centre where the child is to be detained, the watch-house manager is to arrange for the child's transportation to the nominated detention centre as soon as practicable.

Custody of child ordered to be detained or remanded in custody

Following a child's court appearance; whether the child is sentenced to a term of detention or remanded in custody, the relevant watch-house manager is to make arrangements for the child to be placed in a detention centre wherever practicable. Watch-house managers are to seek advice for the selection of a suitable detention centre for placement of the child pending that child's court appearance from the nearest area office of the DYJ as per the above paragraph (generally, a DYJ Court Officer present at court will advise on the admission to a detention centre).

Where a child has been sentenced to a term of detention or remanded in custody, and escort arrangements cannot be made to immediately transport the child, the watch-house manager shall advise a DYJ representative.

In rural areas where there is no representative of the DYJ at court, the watch-house manager shall, by the most expeditious means available, consult with the responsible DYJ area office and record the outcome of the conversation in the child's relevant QPRIME custody report.

16.17.5 Custody of children in watch-houses

For the purpose of this section:

Custody in a watch-house overnight

means a continuous period of custody in a watch-house of at least six hours, commencing after 9pm and ending at or before 6am.

Wherever practicable children are not to be kept in custody in a watch-house. Following the:

- (i) arrest of a child where the child remains in custody and the child's court appearance is delayed; or
- (ii) sentencing in detention or remanding of a child in custody,

the relevant watch-house manager should ensure, wherever practicable, the child is transferred to a detention centre nominated by a Department of Youth Justice (DYJ) representative.

When a child is to be held in custody in a watch-house overnight, the prescribed OIC of the watch-house is to record the reasons for the decision to hold the child in custody in the child's relevant QPRIME custody report.

A child should only be kept in custody in a watch-house overnight where:

- (i) it is not reasonably practicable to immediately transport the child to a youth detention centre; and
- (ii) there are no extenuating factors, such as:
 - (a) a perceived need for the child to remain close to significant family members; and
 - (b) subjecting the child to lengthy transportation to a youth detention centre only to return soon after to the same watch-house to attend court.

If, following consultation with the nearest area office of the DYJ (or the Child Safety After Hours Service Centre), in accordance with the provisions of the previous section, it is not reasonably practicable to transfer the child to a detention centre, the watch-house manager should notify the commissioned officer responsible for that watch-house. The commissioned officer, after consulting with the delegated officer of the DYJ in that region, may authorise that the child continues to be kept in custody in a watch-house. The commissioned officer should:

- (i) record the reasons for the decision in the officer's diary; and
- (ii) ensure the reasons for the decisions are recorded in the child's relevant QPRIME custody report.

Where appropriate or necessary, a child may be transported to a youth detention centre or watch-house outside of the designated catchment area by Queensland Government Air (QGAir). QGAir availability is limited to the condition where the aircraft is on a scheduled flight on a scheduled route, unless there are compelling reasons or extraordinary circumstances. This would include where commercial or charter flights are either not appropriate or unavailable.

If QGAir is not available a child may be transported to a detention centre by commercial flight or charter flight (if a commercial flight is not available).

Payment of airfares for the child and escorting officer(s) and payment of overtime, travel allowance and meal allowances to be incurred by the escorting officer(s) are to be approved by the:

- (i) commissioned officer responsible for the watch-house; and
- (ii) Inspector, State Watch-house Coordinator (Email: Inspector Brisbane Watch-house),

prior to arranging commercial or charter flights.

The commissioned officer responsible for a watch-house will determine, in consultation with the delegated officer, DYJ, the need for special transport arrangements referred to above (see s. 10.4.22: 'Escort of children' of this Manual).

Where QGAir is available, a child is to be considered as a priority for transport by QGAir.

If a child is to be kept in custody in a watch-house longer than overnight the commissioned officer is to ensure the relevant Manager, DYJ is aware of the custody.

Where a child of any age:

- (i) is appearing in extended proceedings; and
- (ii) it has been determined no suitable alternative exists; and
- (iii) the child is required to be kept in custody in a watch-house during the court's sittings; or
- (iv) there are exceptional circumstances that prevent the transportation of a child to a youth detention centre;

it may be necessary for the child to be kept in custody in a watch-house for two or more consecutive nights. This constitutes an extraordinary circumstance and does not alter or override the provisions of this policy in its general application. In all other situations the provisions of this policy should be adhered to.

16.17.6 Transportation of a child to court

Refer to Chapter 10: 'Escorts and Extraditions' of this Manual.

Where a child is being kept in custody in a detention centre which, due to its distance from the place of the child's court appearance, requires that the escort commences the day before the child's court appearance, the OIC of the station or establishment responsible for the escort is to advise the manager of the detention centre at which the child is being held, of this fact a reasonable time before the escort is commenced.

The manager of the detention centre is to authorise the release of the child to the police escort.

The watch-house manager is to make arrangements for the escorting of children to a court directly with the relevant manager of a youth detention centre, or that person's delegate. Such arrangements are to be made at least 24 hours before the child is to be ready for the escort. Where commencement of the escort is necessary prior to the day of the child's appearance in court the watch-house manager is to advise the manager of the relevant youth detention centre a reasonable time before the escort commences.

16.17.7 Child breaching bail conditions

ORDER

Prior to considering the arrest of a child who:

- (i) has been released from custody on bail (court ordered bail or police bail); and
- (ii) the officer reasonably believes is likely to contravene, is contravening, or has contravened a condition of that bail,

an officer is to consider if it is appropriate to do one of the following:

- (i) take no action;
- (ii) warn the child;
- (iii) for a contravention in relation to a condition for the child to appear before a court, make an application under the *Bail Act* (BA) to vary or revoke the child's bail.

See [s. 59A: 'Police officers must consider alternatives to arrest for contraventions of bail conditions' of the YJA.](#)

The officer may consider alternatives to arrest where they reasonably suspect a child:

- (i) has contravened a bail condition, or
- (ii) is contravening a bail condition, or
- (iii) is likely to contravene a bail condition,

if the grant of bail relates to a charge of:

- (i) a prescribed indictable offence;
- (ii) contravene a DVO;
- (iii) contravene a Police Protection Notice.

In accordance with Youth Justice Principles, a child should be detained in custody as a last resort and officers are encouraged to consider alternatives to arrest.

See [s. 59AA: 'Police officers may consider alternatives to arrest for contraventions of bail conditions – bail granted for serious indictable offence etc.' of the YJA.](#)

The requirement to consider an application under the BA does not apply in the circumstances outlined in [s. 367\(5\) of the PPRA](#). Where a court has revoked bail in relation to a child, a Form 17: 'Warrant of committal where bail has been revoked' under the BA may be issued. A breach of bail conditions by a child does not constitute an offence but does provide grounds for a court to reconsider the child's bail.

ORDER

Arresting officers are to ensure arrangements are made for a child arrested under the provisions of [s. 367 of the PPRA](#) to appear before a children's court forthwith (see [s. 29A: 'Procedure in respect of defendants apprehended under s 21\(7\) of the Police Powers and Responsibilities Act 2000' of the BA](#)).

Arresting officers are also to ensure arrangements are made for a child arrested under a Form 17: 'Warrant of committal where bail has been revoked' under the BA to appear before a children's court as directed in the warrant.

Upon arrival at a watch-house the officer arresting a child under the provisions of [s. 367 of the PPRA](#) is to:

- (i) comply with s. 16.17.2: 'Arrest of children' of this chapter and s. 5.9.6: 'Parent and other notification requirements' of this Manual; and
- (ii) contact Policelink and create a 'Juvenile breach bail' [1518] occurrence to record relevant details; and
- (iii) complete a QP 0727A: 'Notice of exercise of power – child'. When completing the QP 0727A, officers are to include:
 - (a) a statement of facts concerning the alleged breach of bail conditions;
 - (b) information about the circumstances which made it inappropriate for an application to be made under the BA to vary or revoke the child's bail or the circumstances as defined in s. 367(5) of the PPRA which existed to remove the requirement to consider making such an application; and
 - (c) an outline of what endeavours were made to advise a parent of the child, the Chief Executive, Department of Child Safety, Youth and Women (DCSYW) of the arrest of the child.

There is no requirement to complete a bench charge sheet or Court Brief (QP9) for a child who has breached bail conditions.

Arresting officers are to ensure a copy of the QP 0727A is:

- (i) given to the arrested child;
- (ii) provided to the court;
- (iii) provided to the prosecutor; and
- (iv) delivered to the Chief Executive, DCSYW.

The prescribed officer responsible for custody decision-making under s. 7: 'Power of police officer to grant bail' of the BA is to consider s. 50: 'Dealing with children not brought before Childrens court in accordance with s 49' of the YJA when determining if a child is to be released or held in custody.

In compliance with s. 16.17.1: 'Considerations for the custody of children' of this chapter, a child should only be held in custody as a last resort when all other release options have been excluded.

When a child is to be kept in custody, the prescribed officer is to make a record outlining the reasons for the decision to keep the child in custody in compliance with s. 48B: 'Reasons for decisions to keep or remand children in custody' of the YJA within the relevant QPRIME custody report.

If the child cannot be brought before a court immediately, arrangements are to be made to:

- (i) release the child into the custody of their parent(s) or alone by:
 - (a) a Form 14: 'Release notice' or a notice to appear under s. 51: 'Release of child without bail' of the YJA;
 - (b) an undertaking to bail in compliance with s. 52: 'Conditions of release on bail – generally' of the YJA;or
- (ii) have the child kept in custody in a detention centre until the child's appearance in court.

Where transportation to a detention centre prior to the child's appearance in court is impracticable the child is to be held in a watch-house subject to the provisions of s. 16.17.5: 'Custody of children in watch-houses' of this chapter.

If a child is to be kept in custody in a detention centre, the police officer or watch-house officer transporting the child to the detention centre is to take a completed copy of the QP 0727A. This form is to be given to the person admitting the child into the detention centre.

16.17.8 Application for removal of child from custody

Where an officer seeks a removal order to remove a child from lawful custody for investigation or questioning under the provisions of Chapter 15, Part 2, Division 2: 'Removal of persons from lawful custody' of the PPRA, s. 400: 'Chief executive must be advised of application for removal order' of the PPRA is to be complied with. For the purpose of s. 400 of the PPRA, the manager of the relevant youth detention centre, or that person's delegate, is to be advised of the location and anticipated period of detention of the child.

A child who is removed from a place of custody for investigation or questioning is to be returned to that place of custody as soon as possible after the investigation or questioning ends, unless an extension is granted. See also s. 2.5.6: 'Removal of prisoners/children from corrective services facilities and detention centres' and s. 2.5.7: 'Removal of prisoners from a watch-house' of this Manual.

16.17.9 Appearance in court of violent and potentially violent children

Child in custody at a detention centre

When it is considered that a child in custody at a detention centre who must appear before a children's or magistrates court may be violent or has displayed violent behaviour on past court appearances, in order to ensure the safety of the child, court staff, the public and members of the Service, the use of an audio-visual link or audio link is to be considered.

An audio-visual link or audio link may be used:

- (i) in the granting of bail (see s. 53: 'Granting of bail by audio visual link or audio link' of the YJA); and
- (ii) to sentence (see s. 159: 'Audio visual link or audio link may be used to sentence' of the YJA);

but only where the child agrees to the use of the link and is legally represented or in the case of a bail application the court is satisfied the child has had an opportunity to obtain independent legal advice.

The investigating officer is to contact the child and their legal representative to determine if they consent to the use of a link or in the case of a bail application, the child has had independent legal advice. If consent is reached, contact the relevant court and detention centre to ensure they have appropriate facilities for the use of the link. If facilities are available, make the appropriate arrangements with the relevant court and detention centre for use of the link on the date of the court appearance. Ensure all other relevant persons are informed prior to the court appearance that an audio-visual or audio link is to be used. These relevant persons are to include the police prosecutor with carriage of the matter who is also to inform the Magistrate, the watch-house normally receiving the child for court and the Department of Youth Justice, who will need to consult with the child before the relevant court appearance.

16.18 Transfer of prisoners

16.18.1 Transfer of prisoners

Watch-house managers may authorise the transfer of prisoners from one watch-house to another where the transfer is reasonably necessary for ensuring the good management and control of the watch-house (see Chapter 21, Part 1: 'Watch-houses' [ss. 639-640] of the PPRA).

When a prisoner is transferred from one watch-house to another watch-house, the transferring watch-house is to notify the prisoner's legal representative.

Prior to authorising the transfer of a prisoner, watch-house managers are to:

- (i) consider requirements that a prisoner be taken forthwith before a justice to be dealt with according to law (see s. 10.4.2: 'Legal requirements relating to escorting police officers and watch-house officers' of this Manual);
- (ii) consider the implications transferring a prisoner may have on preventing, restricting or significantly inconveniencing access being gained to the prisoner at any time by any person lawfully entitled to access the prisoner;
- (iii) consider any relationships which may exist between prisoners being transported together to ensure no conflict exists (i.e. DFV, Bail Act or any other orders which may impact the prisoner's welfare); and
- (iv) ensure such transfer is recorded in the relevant QPRIME Custody Report or Custody Report (Full) entry in accordance with s. 16.8.4: 'Maintaining QPRIME custody and search reports' of this Manual.

Watch-house managers are to ensure that for each prisoner transferred from the watch-house to a detention centre, institution or another watch-house, a:

- (i) QPS Person Report (Custody) including details of police custody in relation to the offence in compliance with s. 3.7.16: 'Presentence custody certificates (*Penalties and Sentences Act*)' of this Manual;
- (ii) QP 0035: 'Prisoner Property Sheet';
- (iii) QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' (if applicable);
- (iv) QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet' (if applicable);
- (v) Court Brief (QP9) and criminal history (if any) in compliance with s. 3.4.18: 'Supply of information where court outcome requires action by Queensland Corrective Services or Department of Youth Justice' of this Manual;
- (vi) criminal history (if any); and
- (vii) relevant warrant, QPRIME warrant report or other authority, in compliance with s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this Manual,

is prepared and associated property is packaged (see s. 10.4.13: 'Packaging prisoner property for escort' of this Manual) and forwarded with the escorting officer or watch-house officer; and the signed QPS Prisoner Property Sheet (after handover or transfer of prisoner is completed) is filed at the watch-house either:

(i) in hardcopy; or

(ii) added as an attachment to the relevant QPRIME Custody Report (Full) entry,

and a notation made in the relevant Detention Log.

Where prisoners in a watch-house are regularly transferred to another watch-house, local standing orders should be developed regarding the transfer of prisoners between such watch-houses (see also s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this Manual).

Footwear

Watch-house managers are to ensure that where prisoners enter the watch-house wearing footwear and are transferred from the watch-house to another place, including court and corrective services facilities, the prisoners are permitted to wear their footwear during the transfer. Where it is believed that allowing a prisoner to wear shoes may create an unacceptable risk of suicide, self-harm, escape, injury to police etc., and this risk cannot be mitigated by removing laces, socks, searching shoes etc., prisoners may be transported without shoes.

Watch-house managers should consider obtaining thongs or other open footwear for prisoners who are determined an unacceptable risk and unable to wear shoes during transit. Thongs or other acceptable footwear may be obtained from sources including:

(i) prisoner's family or friends;

(ii) Department of Child Safety, Seniors and Disability Services, where prisoner is a child;

(iii) Aboriginal and Torres Strait Islander Legal Service or community, where prisoner is an Aboriginal or Torres Strait Islander;

(iv) Queensland Corrective Services; and

(v) purchasing a supply.

See also ss. 16.6.3: 'Intoxication' regarding detained intoxicated persons who may be taken to and released at a place of safety and 16.12: 'Management of persons in watch-houses' of this chapter.

16.19 Transfer and release procedures

16.19.1 Transfer of sentenced prisoners

POLICY

The officer in charge of a watch-house is to ensure that:

(i) Queensland Corrective Services is notified of the custody of any prisoner who is eligible to be transferred to the Queensland Corrective Services as soon as practicable but within seventy-two hours of the prisoner entering into police custody; and

(ii) where the prisoner is not accepted by Queensland Corrective Services the:

(a) name of the Corrective Services Centre contacted;

(b) date and time the advice was provided by Queensland Corrective Services;

(c) name of the Corrective Services officer refusing to accept the prisoner; and

(d) reason the prisoner was not accepted by the Corrective Services Centre;

is recorded against the relevant QPRIME Custody Report (Full) Detention Log entry.

PROCEDURE

The officer in charge of a watch-house is to maintain contact with appropriate Corrective Services personnel to facilitate the earliest practicable transfer of a sentenced prisoner, taking into account other operational needs.

16.19.2 Development of release procedures

ORDER

The officer in charge of the watch-house is to develop release procedures to ensure that prisoners are released at the termination of their lawful custody.

POLICY

The procedures developed and adopted at each watch-house are to ensure that:

(i) the correct person is being released;

(ii) prisoners are not held for periods longer than necessary; and

(iii) unreasonable bail conditions are not demanded of prisoners.

The procedures developed need to take local issues and conditions into account, including the number of prisoners which are usually processed.

16.19.3 Release of sentenced prisoners

ORDER

The watch-house manager is to ensure that a prisoner who has completed a sentence and who is not otherwise lawfully detained is released.

PROCEDURE

When a prisoner has completed a sentence, the watch-house manager is to:

- (i) calculate the day the prisoner is sentenced as one day and the day of expiry of the sentence as one day; and
- (ii) discharge prisoners by 0630 hours on the day of expiry of the sentence.

It will be necessary to determine the length of a term of imprisonment manually. In cases where a sentence is of a number of hours the sentence shall be calculated on a daily basis of twenty four hours per day.

The watch-house manager is to ensure that a prisoner who has been sentenced to a term of imprisonment, a portion of which is ordered to be suspended on the prisoner entering into a recognisance, is discharged as soon as such recognisance first takes effect.

16.19.4 Release of prisoners detained by warrants

ORDER

The watch-house manager is to ensure that a prisoner is not detained in custody longer than any period authorised by the relevant warrant.

PROCEDURE

Where a prisoner has paid a portion of the fine, the default period of imprisonment will be reduced as calculated, as near as practicable, in proportion to the amount paid.

Where a prisoner has served a period in custody, the amount of money to be paid will be reduced as calculated using QPRIME. Where there is no access to the QPRIME system the default period of imprisonment will be reduced as calculated, as near as practicable, in proportion to the balance of the default period shown on the warrant.

The term of imprisonment will be calculated manually. The first day, or any part of the first day, counts as one day. The last day, or any part of the last day, counts as one day.

POLICY

In circumstances where a prisoner is detained by virtue of a warrant of commitment and an appeal is made against the conviction on which the warrant is based, the watch-house manager is to release the prisoner if a relevant order has been made by a justice (see s. 3.11: 'Appeals' of this Manual).

If an appeal against a conviction on which a warrant is based is by way of an appeal to a Judge of the District Court, the prisoner is only to be released in compliance with an order of a justice made upon the appellant having entered into a recognisance or lodging security as required (see s. 222: 'Appeal to a single judge' of the *Justices Act*).

16.19.5 Deleted

16.19.6 Responsibilities of releasing police officers releasing respondents taken into custody under the Domestic and Family Violence Protection Act

ORDER

The 'releasing police officer', prior to releasing a respondent from custody under the DFVPA is to ensure that the release conditions and QP 0937: 'Release from custody conditions' are completed in the relevant QPRIME Custody Report (Full) (see s. 9.2.1: 'Definitions' of this Manual; the subsection titled 'Service of domestic violence application on respondent' of s. 9.5: 'Domestic violence custody' of this Manual; and QPRIME User Guide).

16.19.7 Release of persons after expiration of detention period

Chapter 15, Part 2: 'Investigations and Questioning' (ss. 398-413) of the PPRA contains authority for police officers to question persons in relation to, or detain a person for investigating, indictable offences. During detention periods it may be necessary to detain persons in watch-houses while officers complete further investigations.

ORDER

Releasing a person, who is not in lawful custody for other reasons, at the expiration of a detention period (including the lawful extension of a detention period) is the responsibility of the senior investigating officer.

POLICY

Where a detained person is held at a watch-house it is sufficient for the senior investigating officer to advise the watch-house manager that the person may be released. It is then the responsibility of the watch-house manager to release the person. This is subject to the lawful detention of that person for any other reason. Where a detained person is held at a watch-house (e.g. under arrest while police make further inquiries or for the safety of that person) the senior investigating officer is to inform the watch-house manager:

- (i) when the detention period commenced and when it will expire;
- (ii) when the person may be released; and
- (iii) of any extension to the detention period.

Where a detained person is held in a watch-house the relevant QPRIME Custody Report, Custody Report (Full), Detention Log, Interview Report and/or Ident/Fingerprint Report are to be fully and accurately completed. If a detention period is extended a copy of the magistrate's order extending the detention period is to be added as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry and a notation made in the relevant Detention Log.

The provisions of this section are in addition to the requirements of Part 5, Division 2: 'Questioning detained persons' (ss. 32-33) of the Responsibilities Code.

16.19.8 Prisoners held in watch-house awaiting transfer to Corrective Services centres or youth detention centres

Watch-house managers are to ensure prisoners awaiting transfer to Corrective Services or youth detention centres are transferred as soon as possible. Watch-house managers are to submit a return on the number of prisoners held in watch-houses that are waiting to be transferred to a corrective services centre or a youth detention centre. The following information in relation to prisoners is to be compiled in a QP 0405: 'Prisoner Movement Sheet', available in QPRIME:

- (i) full name;
- (ii) date of birth;
- (iii) sex;
- (iv) details of remand or sentence where applicable;
- (v) if the prisoner was arrested on warrant(s) of commitment, the number of warrants and days to be served;
- (vi) date prisoner was initially taken into police custody;
- (vii) date of departure from that watch-house; and
- (viii) any other relevant information.

All watch-house managers are to forward the relevant information each day from Monday to Friday, excluding public holidays. Where no prisoners are waiting to be transferred, a nil return is to be submitted.

Where prisoners are held in excess of 24 hours in facilities regarded as holding cells, the OIC is to forward the relevant information on a daily basis from Monday to Friday, excluding public holidays. Prisoners are only to be held in holding cells in excess of 24 hours when transfer to a watch-house is not possible.

Returns on Form QP 405: 'Prisoner Movement Sheet' are to be forwarded by 0700 hours to e-mail address 'Watch-house Brisbane.Leave'. A copy of the e-mailed return is to be retained at the watch-house.

The Inspector, Brisbane Watch-house is responsible to ensure all information is forwarded for information of the:

- (i) Strategy and Performance Officer, Deputy Commissioner, Regional Operations and Youth Crime;
- (ii) Strategy and Performance Officer, Deputy Commissioner, Regional Services;
- (iii) Inspector of Police, Office of Minister for Police and Corrective Services;
- (iv) Assistant Commissioner, Brisbane Region;
- (v) Transfer Coordinator, Queensland Corrective Services;
- (vi) Allocations Officer, Arthur Gorrie Correctional Centre;
- (vii) Brisbane Youth Detention Centre;
- (viii) Brisbane Women's Prison;
- (ix) Queensland Parole Board;
- (x) South Queensland Regional Parole Board; and
- (xi) Central North Queensland Parole Board.

16.19.9 Fine option orders

Where a person arrested on a warrant of commitment (under the *Justices Act*) is admitted to a watch-house, the watch-house manager is to inform the person of the opportunity to apply for a fine option order. Where the prisoner wishes to apply for a fine option order, the watch-house manager is to:

- (i) provide the prisoner with a fine option order application (Form 21, under the *Penalties and Sentences Act* (PSA), available from the court registry only)
- (ii) endorse the application with the time and date the sentence was commenced; and
- (iii) arrange for the application to be delivered to the proper officer of the court that imposed the fine.

Officers are not to make determinations regarding a fine option order.

Where a prisoner is discharged after the issue of a fine option order, the watch-house manager is to:

- (i) add the fine option order as an attachment to the relevant QPRIME Custody Report (Full) entry; and
- (ii) made a notation in the relevant Detention Log.

Persons arrested on a Form 61: 'Warrant of arrest and imprisonment for non-payment of penalty' of the PSA are not eligible to apply for a fine option order.

16.20 Bail

16.20.1 Arresting officer's responsibilities

An arresting officer who delivers a person into the custody of a prescribed police officer (PPO) is to, where the person is eligible to be granted bail (see s. 7: 'Power of police officer to grant bail' of the *Bail Act* (BA)):

- (i) unless otherwise directed by the PPO:
 - (a) if the person is refused bail, swear or affirm the bail affidavit (being a QP 0215: 'Bail affidavit' and QP 0215A: 'Bail affidavit annexure (adult)' or, where relevant, a QP 0215B: 'Bail affidavit annexure (child)'), if required) and upload it to QPRIME and attach it to the documentation required for the defendant's first court appearance (see s. 3.7.2: 'Documentation at first appearance' of this Manual); and
 - (b) prior to leaving the place of custody, provide a copy of the bail affidavit to the PPO; or
- (ii) when the defendant is in a show cause situation under s. 16(3): 'Refusal of bail generally' of the *Bail Act*. Officers should be aware that where further charges and grounds exist to justify bail conditions or a refusal of bail, a bail affidavit should be completed.

This will ensure the PPO has sufficient information to make a decision regarding bail as required by s. 16 of the BA.

16.20.2 Prescribed police officer's (PPO) responsibilities

Officers discharging the duties of a prescribed police officer (PPO) are to ensure they are aware of their responsibilities under the *Bail Act* (BA) and specifically:

- (i) s. 7: 'Power of police officer to grant bail';
- (ii) s. 11: 'Conditions of release on bail';
- (iii) s. 11A: 'Release of a person with an impairment of the mind';
- (iv) s. 11AA: 'Release of a person only after surrender of passport';
- (v) s. 14: 'Release of persons apprehended on making deposit of money as security for appearance'; and
- (vi) s. 16: 'Refusal of bail generally'.

A PPO is defined in s. 7(9) of the BA.

Where the OIC of a station or establishment will be absent they are to nominate an officer as the OIC for the purpose of s. 7 of the BA.

Criminal Law Bulletin 297 (available on the Legal Division Criminal Law Bulletin webpage on the Service Intranet) includes detailed information to assist PPOs in determining whether a person should be released on bail or held in custody.

The PPO is to:

- (i) ensure, where applicable, a prisoner is assessed in accordance with:
 - (a) s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the PPRA;
 - (b) the BA; and

(c) the *Youth Justice Act* (YJA),

as soon as practicable;

(ii) ensure checks to establish if a prisoner is wanted in another state or territory are conducted on the National Criminal Intelligence System (NCIS) on the ACC database, in QPRIME (see s. 7.2.2: 'ACC database (system for the national exchange of police information)' of the MSM);

(iii) ensure the arresting officer and defendant are each to be given an opportunity to submit why bail should be refused or granted (see s. 15(1)(b): 'Procedure upon application for bail' of the BA). The defendant is not to be questioned by the PPO about the offence when determining bail;

(iv) ensure the information and evidence presented by the arresting officer and defendant are recorded in QPRIME, including, where relevant, if the defendant poses an unacceptable risk of committing further acts of domestic or associated domestic violence;

(v) take reasonable action to facilitate bailing a prisoner from custody, including

(a) considering any bail affidavit submitted by the arresting officer and determine whether:

- bail should be refused (see 'Refusing bail' of this section); or
- specific conditions are imposed (see 'Granting bail generally' of this section);

(b) considering whether to discontinue the arrest:

- and issue the person a NTA (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual);
- of an intoxicated person who can be released to a place of safety (see s. 16.6.3: 'Intoxication' of this chapter);
- of a person charged with a prescribed public nuisance offence, and any associated offence, and issue an infringement notice (see 'Discontinuing a prescribed offence arrest' of s. 13.15.1: 'Issuing infringement notices for public nuisance, public urination and associated offences' of this Manual);
- of a person charged with a minor drugs offence who is eligible to be given a drug diversion warning or offered an opportunity to participate in and complete a Drug Diversion Assessment Program (see s. 2.22.14: 'Duty of prescribed police officers' of this Manual);

(c) in cases involving a child, considering ss. 48: 'Releasing children in custody in connection with a charge of an offence' and 50: 'Dealing with children not brought before Childrens Court in accordance with s 49' of the YJA (see s. 5.10: 'Releasing children from custody' of this Manual);

(d) contacting relatives, friends or legal representatives of the prisoner and arranging for them, where appropriate, to deliver money for payment of any warrant or bail;

(e) exercising discretion to set the amount of cash bail, where applicable (i.e. consider the prisoner's ability to pay the bail);

(f) not automatically denying bail if a prisoner has no fixed place of abode. However, this may be considered as a factor in a decision to deny bail; and

(g) bailing from any place in the State to appear in the court where the matter will initially be heard;

(vi) when considering bail for an intellectually impaired person, consider s. 11A of the BA and where the person is released using this provision the PPO is to ensure that a Form 24: 'Release notice (by police officer)' (available in QPRIME) is fully and accurately completed and given:

(a) to the person being released; and

(b) if the person is released into the care of another person, to the other person;

(vii) where a defendant is in a show cause situation:

(a) refuse bail unless the defendant can show cause as to why detention is not justified (see s. 16(3) of the BA); and

(b) where bail is granted or the defendant is released under s. 11A of the BA, record the statement of reasons in the QPRIME Custody Report (Full) in the relevant report under the Documents tab. The 'Statement of Reasons' field is under the External Report Window – Report tab within the:

- 'Form 7 Undertaking as to bail Form 8 Surety' report, where bail is granted; or
- 'Form 24 Release notice (by police officer)' report where they are released;

(viii) where a defendant is refused bail for any reason (see s. 7 of the BA), a statement of reasons is to be recorded in the QPRIME Custody Report (Full) Detention Log entry;

(ix) where a statement of reasons is required (see (vii) and (viii) above), include:

- (a) reference to the evidence or other material on which the decision is based;
 - (b) any findings on any material questions of fact (e.g. there is an unacceptable risk if released the defendant would commit further offences); and
 - (c) the decision on whether bail is granted or refused; and
- (x) advise the arresting officer whether the defendant is granted or refused bail.

Granting bail generally

When granting bail, the PPO:

- (i) should release the defendant on an undertaking;
- (ii) should consider the imposition of conditions and special conditions under s. 11 of the BA as appropriate to ensure the defendant's appearance at court;
- (iii) prior to imposing reporting conditions, is to determine the opening times of the relevant station or establishment;
- (iv) is to create a 'Bail conditions flag' in the person's QPRIME Person Entry;
- (v) is to advise the OIC of the station or establishment where the defendant:
 - (a) resides;
 - (b) works; or
 - (c) is otherwise known to frequent,of the relevant bail conditions (e.g. reporting conditions, restrictions or curfew imposed) by sending a 'Bail notification task';
- (vi) is to set an initial court appearance date:
 - (a) at least 14 days after bail is granted, unless the circumstances of the case justify an earlier or later initial appearance date; and
 - (b) not more than 28 days after bail is granted, except in areas where court will not be convened within this period. In these circumstances, the date is to be set to the next court date;
- (vii) is to provide the prisoner with a copy of:
 - (a) Form 7: 'Undertaking as to bail';
 - (b) Form 8: 'Notice to defendant and surety or sureties of undertaking as to bail'; and
 - (c) QP 1067: 'Notice to seek legal advice',(available in QPRIME);
- (viii) is to consider all information which may justify a departure from the standard 14-day period for setting initial appearance dates, including:
 - (a) the nature and seriousness of the offence;
 - (b) any bail conditions. Such conditions may be imposed by the PPO prior to the release of the defendant;
 - (c) requirements for researching legal issues;
 - (d) preparation of documentation required for the initial court appearance (see s. 3.7.2: 'Documentation at first appearance' of this Manual);
 - (e) the need to obtain:
 - medical records;
 - written estimates to support claims for restitution or compensation; and
 - relevant certificates; and
 - (f) the availability of the defendant and their legal representative to appear on the date set;
- (ix) is to, where the matter relates to a licensed premises, consider imposing special bail conditions, in consultation with the investigating officer, under s. 11(3) of the BA. Where special bail conditions are imposed:
 - (a) the defendant is to be photographed (see s. 13.7.7: 'Imaged orders' of this Manual);
 - (b) the Banning Order/Notice/Bail Conditions (Liquor) Report is to be added as an external report in QPRIME (see 'Banning Provisions' of the QPRIME User Guide);
 - (c) the PPO is to send a QPRIME 'for your information' task to:

- the local Liquor Unit, or the officer responsible for coordination of liquor incidents (if appointed); and
- the OIC of the station or establishment where the licensed premises are located,

(see s. 13.7.4: 'Bail conditions relating to licensed premises' of this Manual),

prior to release;

(x) is to, when the defendant is a non-Australian citizen or not a permanent resident (see s. 11(10) of the BA), consider imposing a special condition defined in s. 11(4A) of the BA and where the bail is granted subject to a passport surrender condition:

(a) the undertaking is to state the defendant's current passport has been surrendered; and

(b) the person is to be held in custody until the passport is surrendered (see s. 11AA of the BA),

see also s. 7.2.7: 'Australian passports (request for information, cancellation and refusal)' of the MSM.

Cash bail

Where a PPO considers it appropriate under s. 11(1) of the BA to require an amount of money to bail a person where cash bail can be accepted (see Schedule: 'Offences for which bail must not be granted under section 14 or 14A' of the BA), they are to ensure:

(i) a Form 3: 'Notice to person granted bail and released from custody on the person making a deposit of money as security for appearance before a court' (available in QPRIME) is:

(a) handed to the person granted bail; and

(b) a copy is to be kept at the watch-house for audit purposes;

(ii) any money deposited for bail at the watch-house is:

(a) stored in a secure place; and

(b) processed in compliance with the Financial Management Practice Manual;

(iii) money collected is remitted to the clerk of the court at the court where the defendant is to appear; and

(iv) within 48 hours after the court date, the clerk of the court is supplied with:

(a) a list setting out the full details of all persons who forfeit cash bail; and

(b) a list detailing:

- who cash bail has been extended to;
- the amount of cash bail; and
- the short title of the charge;

(v) when a deposit of money for bail is received, entries are made on the Bench Charge Sheet regarding the:

(a) amount of money; and

(b) court, including the date, time and place the person is required to appear before; and

(vi) they record in the relevant QPRIME Custody Report (Full) entry:

(a) the receipt number and the amount of money which is issued or received; and

(b) any subsequent deposits of money and orders.

To ensure consistency of cash amounts at a watch-house, the OIC of the watch-house is to compile a list of commonly occurring offences and the appropriate cash amount for which a prisoner may be released on cash bail.

Aboriginal and Torres Strait Islander defendants

Where the defendant is an Aboriginal or Torres Strait Islander, a representative of a community justice group may make a submission to the PPO on the defendant's behalf (see s. 16(2)(e) and (6) of the BA).

The PPO considering a bail application is to:

(i) ensure the person making the submission belongs to a category within the definition of 'community justice group' (see s. 6: 'Definitions' of the BA);

(ii) receive all submissions, where received:

(a) orally, notes are to be made in the relevant QPRIME Custody Report (Full) Detention Log of the substance of the submission; or

(b) in writing, a copy of the written submission is to be uploaded to the relevant QPRIME Custody Report (Full) entry and a notation made in the relevant Detention Log; and

- (iii) require the representative of the community justice group to advise whether:
 - (a) any member of the community justice group responsible for the submission is related to the defendant or the victim; or
 - (b) there are any circumstances giving rise to a conflict of interest between any member of the community justice group responsible for the submission and the defendant or victim.

Where the representative of the community justice group fails to advise:

- (i) they are related (including extended family and kinship relationships) to; or
- (ii) fails to advise there are circumstances giving rise to a conflict of interest between them and,

the defendant or victim, the PPO is to investigate whether an offence under s. 204: 'Disobedience to statute law' of the Criminal Code has been committed.

Refusing bail

A PPO who refuses a defendant bail is to ensure:

- (i) the defendant is placed before the next available court; and
- (ii) the sworn/affirmed bail affidavits (see s. 16.20.1: 'Arresting officer's responsibilities' of this chapter) are attached to the relevant QP9 for the information of the prosecutor.

Where a defendant has been refused bail by a magistrate or justice, the PPO is to record the decision in the relevant QPRIME Custody Report (Full) Detention Log entry.

Variation of bail conditions by OIC of station or prosecution corps, or ODPP

The OIC of a station or police prosecutions corps (PPC) has no general authority to vary, amend, delete, suspend or cancel conditions of bail once lawfully imposed (see Re DNV [2020] QSC 276).

When a PPO determines that it is appropriate to grant a defendant bail under s. 7 of the BA on conditions under s. 11 of the BA, including a residential or reporting condition, either or both of those conditions may contain a clause that allows the address the defendant must reside at (residential condition) or the station the person must report to (reporting condition) to be varied in writing by the OIC of a specified station or PPC, or the ODPP.

Example of a residential and reporting conditions with provisions for variation by OIC of a station or PPC, or ODPP are:

- (i) a residential condition requiring the defendant to reside at a [stated address] or 'another address as approved in writing by the Officer in Charge of [named] police [station/prosecutions corps]'; or
- (ii) a reporting condition requiring the defendant to report at a [stated] police station or 'another [stated police station] approved in writing by the Officer in Charge of [named] police [station/prosecution corps]'.

No other condition of bail, imposed by a prescribed police officer exercising their authority under ss. 7 and 11 of the BA, is to contain a clause that purports to authorise or delegate any decision making in relation to the suspension, variation or operation of that condition (see Re DNV [2020] QSC 276 at [33]-[35]).

Once conditions of bail have been lawfully imposed, only the defendant's residential address or reporting station are able to be varied by an OIC of the stated station or PPC, or the ODPP if the relevant bail condition imposed included provision for variation by the OIC of a station or PPC, or ODPP.

OIC of stations or PPCs are not to purport to vary, amend, suspend or delete conditions of bail that have previously been lawfully imposed. If a defendant seeks a variation of a condition of the bail imposed, then the person should make application to the relevant court to vary their bail.

Applications for bail by remote communication device outside district or division

Where a PPO has refused a defendant bail and it is not practicable for a local magistrate court to hear an application for bail, the PPO:

- (i) is to advise the defendant that they may apply to an alternative magistrates court by video or audio link (see s. 15A: 'Conduct of proceeding by Magistrates Court outside district or division' of the BA);
- (ii) is to be present with the defendant if an application is made;
- (iii) is to record in the relevant QPRIME Custody Report (Full) Detention Log entry:
 - (a) the details of why the defendant was refused bail; and
 - (b) that the defendant was offered the opportunity to apply for bail by video or audio link;
- (iv) may make submissions about the application for bail by the defendant;
- (v) may need to provide the magistrate hearing the application with copies or details of:
 - (a) relevant charge (bench charge sheets);

- (b) facts and circumstances of the offence(s);
 - (c) the defendant's criminal history and antecedents; and
 - (d) bail affidavits;
- (vi) is to, if bail is granted by the magistrate:
- (a) request the magistrate email a copy of the Form 27: 'Order as to bail upon an application by a remote communication device' to the PPO; or
 - (b) complete a Form 27 with terms of the order, as informed by the magistrate;
- (vii) is to give a copy of the Form 27 to the defendant;
- (viii) is to upload the order into the relevant QPRIME Custody Report (Full) entry and make a notation in the relevant Detention Log;
- (ix) complete and distribute if relevant a:
- (a) Form 7: 'Undertaking as to bail'; and
 - (b) Form 8: 'Notice to defendant and surety or sureties of undertaking as to bail',
- (available in QPRIME) as appropriate (see also 'Cash bail' of this section); and
- (x) at the first reasonable opportunity after an order is made, is to send to the relevant court registry a copy of any document or form made under this section.

16.20.3 Court ordered bail

Bail conditions imposed by court

Where a defendant has bail conditions imposed by a magistrate or justice, the police prosecutor is to:

- (i) create a 'Bail conditions flag' in the person's QPRIME Person Entry;
- (ii) advise the OIC of the station or establishment where the defendant resides, works or is otherwise known to frequent of the relevant bail conditions by sending a 'Bail notification task' which includes:
 - (a) name, address and date of birth of defendant;
 - (b) nature of offence(s) for which bail conditions are imposed;
 - (c) details of any reporting conditions imposed;
 - (d) details of other bail conditions such as:
 - curfew;
 - no contact with witnesses;
 - surrender passport and/or
 - conditions related to licenced premises;
 - (e) when bail conditions are to commence;
 - (f) when the defendant is to next appear in court on the related offence(s); and
 - (g) details of the investigating officer; and
- (iii) where a bail condition relates to a licenced premise, send a 'for your information' task to the local liquor unit or the officer responsible for coordination of liquor incidents (where appointed).

Where an OIC of a station or establishment of the area where a defendant resides is notified of a special bail condition under s. 11(3) of the BA, they are to ensure:

- (a) the defendant is to be photographed (see s. 13.7.7: 'Imaged orders' of this Manual); and
- (b) the Banning Order/Notice/Bail Conditions (Liquor) Report is to be added as an external report in QPRIME (see 'Banning Provisions' of the QPRIME User Guide).

Sureties

Where documents ordering a grant of bail with a surety or sureties are produced outside normal court hours, the watch-house manager is to contact:

- (i) a justice employed by the Department of Justice and Attorney-General (DJAG) at the nearest magistrates court if 'out of hours' contact arrangements exist; or

(ii) alternatively, any justice of the peace (magistrates court) or (qualified), willing to receive the Form 11: 'Affidavit of justification' from the surety. Where an appropriate justice of the peace cannot be located, the defendant remains in custody until normal court hours when the DJAG justice can be accessed.

The watch-house manager:

(i) may assist the justice (if requested) to properly complete the Form 11 and other documents relevant to the sureties and releasing the defendant;

(ii) is to ensure that copies of the:

(a) Form 11;

(b) remand warrant; and

(c) undertakings (Form 7: 'Undertaking as to bail' and Form 8: 'Notice to defendant and surety or sureties of undertaking as to bail' (available in QPRIME),

made by the surety or sureties and defendant, are forwarded to the clerk of the court where the charge on which the defendant has been granted bail is remanded or adjourned; and

(iii) attach a copy of the Form 11 to the QPRIME Custody Report (Full) entry and add a notation in the relevant Detention Log.

Withdrawal of surety

Officers should ensure they are aware of their obligations in relation to assisting a surety for a defendant. For further information see:

(i) s. 367(3)(b): 'Arrest of person granted bail' of the PPRA; and

(ii) s. 24: 'Apprehension of defendant by surety' of the BA.

Where a surety provides their wishes to be relieved of their obligations in writing to an officer, a copy is to be added as an attachment to the relevant QPRIME Custody Report (Full) entry and a notation made in the relevant Detention Log.

Enlargement, variation or revocation of bail conditions by court

Where a defendant has bail conditions enlarged, varied or revoked by a court the police prosecutor is to ensure the OIC of the station or establishment where the defendant:

(i) is required to report; or

(ii) resides, works or is otherwise known to frequent, where applicable,

is advised of:

(i) any reporting or other bail conditions that are enlarged by updating the 'Bail conditions flag' expiry date;

(ii) any variation to reporting or other bail conditions by expiring the previous 'Bail conditions flag', creating a new 'Bail conditions flag' and sending a new 'Bail notification task';

(iii) any reporting or other bail conditions that are revoked by expiring the previous 'Bail conditions flag' and sending a new 'Bail notification task' advising of the revocation; and

(iv) the next court appearance date for the defendant on the related offences by updating the 'Bail conditions flag' expiry date.

Bail where ordered by a superior court

Where bail is granted by a superior court, the watch-house manager where the prisoner is held is to (provided the prisoner is not under another legal restraint):

(i) have the prisoner enter an appropriate undertaking;

(ii) then release that prisoner from custody on production of a sealed copy of the order of the superior court regarding the grant of bail; and

(iii) attach a copy of the order as an attachment to the QPRIME Custody Report (Full) entry and make a notation in the relevant Detention Log.

Court ordered bail condition to wear a tracking device

As a condition of bail, a court may order a defendant to wear an electronic tracking device while released on bail. The court may impose any other conditions considered necessary to facilitate the operation of the tracking device (see s. 16.24: 'Electronic Monitoring (Bail)' of this chapter).

16.20.4 Breach of bail conditions

Officers who arrest a person for breaching bail conditions under s. 367: 'Arrest of person granted bail' of the PPRA are to be taken before the court and dealt with in accordance with s. 29A: 'Procedure in respect of defendants arrested

under s. 21(7) or the Police Powers and Responsibilities Act 2000' of the BA. For matters related to a child refer to s. 16.17.7: 'Children breaching bail conditions' of this chapter.

Upon arrival at a watch-house, the arresting officer should:

(i) comply with:

(a) s. 16.4.1: 'Responsibilities of arresting officers'; and

(b) s. 16.9.2: 'Responsibilities of arresting officer when lodging a prisoner in a watch-house',

of this chapter; and

(ii) complete a QP 0727: 'Notice of exercise of power' of the PPRA (available in QPRIME) and include a statement of facts outlining the alleged breach of bail conditions, under the heading 'details of alleged breach' on the form.

Copies of the QP 0727 are to be:

(i) given to the arrested adult;

(ii) provided to the court; and

(iii) provided to the appropriate police prosecution corps.

16.20.5 Electronic bail compliance, monitoring and recording

An OIC of a station or establishment is to ensure all information relevant to a defendant's personal details, bail undertaking and bail conditions within their area of responsibility are correctly entered on the Service Bail App as soon as reasonably practicable. Defendant's bail information should be reviewed at least daily, and updates managed accordingly.

Where a defendant's bail information has been entered on the Service Bail App, the OIC of the relevant station or establishment is to ensure the efficient and effective management of a defendant's bail. This includes monitoring and recording the defendant's compliance with their bail undertaking and conditions.

Members are to refer to the procedures outlined on the Bail App webpage on the Service intranet for instructions on recording a defendant's bail information on the Service Bail App.

16.21 Administration of a watch-house

The provisions of s. 639: 'Control of persons in watch-houses' and s. 640: 'Transfer of persons in watch-houses' of the PPRA allow watch-house managers to take necessary steps for the efficient and effective management of watch-houses. This includes issues such as prisoner safety and watch-house security.

ORDER

The officer in charge of the watch-house is responsible for the efficient and effective management of a watch-house. This includes the development of appropriate systems for the safety of people in the watch-house, health care of prisoners and watch-house members, security of prisoners and their property and staff performance.

POLICY

The commissioned officer responsible for a watch-house is to ensure that the systems mentioned in the above order are in place.

16.21.1 Responsibilities of watch-house managers at change of shifts

POLICY

A watch-house manager is to be responsible for the security and care of the prisoner as soon as that prisoner is accepted into custody at the watch-house.

A watch-house manager, on commencing duty and immediately prior to terminating duty, is to assess each prisoner.

PROCEDURE

The watch-house manager is to record details of:

(i) a prisoner's need for medical treatment;

(ii) the need to isolate a prisoner; or

(iii) any increase in the frequency of prisoner inspections;

in the relevant QPRIME Custody Report (Full) entry.

ORDER

A watch-house manager, when terminating duty, is to brief the watch-house manager commencing duty of the number of prisoners held, any special occurrence during the preceding shift or special requirements for any following shifts, including prisoners to be bailed and any prisoner requiring special attention or supervision.

PROCEDURE

The watch-house manager terminating duty and the watch-house manager commencing duty are to physically inspect prisoners and cells at change of shifts and note the outcome in the relevant QPRIME Custody Report (Full) Detention Log and/or Watch-house Inspection Register as appropriate.

A watch-house manager is to ensure that:

- (i) the prisoner inspection officer has access to the cells when performing inspection duties;
- (ii) watch-house and cell keys are readily accessible, subject to security requirements, to watch-house staff in the event of an
- (iii) watch-house and cell keys are handed to the relief staff.

16.21.2 Watch-house maintenance

ORDER

A watch-house manager is to inspect the watch-house at the commencement of duty and take appropriate action to remove likely sources of injury to any person, and prevent avenues of escape for prisoners.

PROCEDURE

Where an injury or escape may result from a defect in a cell the watch-house manager is to:

- (i) ensure that emergency repairs are effected; or
- (ii) avoid using the cell or part of the watch-house affected; or
- (iii) move prisoners to another watch-house where other alternatives are not reasonable or practicable; and
- (iv) notify the officer in charge of the watch-house and record the advice given or action taken in the relevant QPRIME Custody Report (Full) Detention Log and/or Watch-house Inspection Register as appropriate.

Action to be taken would depend on the:

- (i) availability of alternatives; and
- (ii) danger that a defect presents to the security of prisoners and the safety of all persons.

ORDER

An officer in charge of a watch-house is to ensure that a watch-house is maintained in a serviceable and clean condition.

Where any building defects are identified the officer in charge of the watch-house is to:

- (i) submit a report itemising the defects to the commissioned officer responsible for the watch-house as soon as possible; and
- (ii) report to the commissioned officer responsible for the watch-house every four weeks on the progress of rectification of the reported defects until the repairs have been satisfactorily completed.

The commissioned officer responsible for the watch-house is to:

- (i) take all necessary action to have any reported defects rectified; and
- (ii) maintain a separate file regarding maintenance of the watch-house.

The officer in charge of the watch-house is to ensure, as far as practicable, that items capable of causing harm to any person are inaccessible to prisoners.

The officer in charge of the watch-house is to ensure that the first aid kit and resuscitation equipment are properly maintained, and located in a position accessible to watch-house staff but inaccessible to prisoners.

PROCEDURE

The officer in charge of the watch-house is to check the first aid kit and resuscitation equipment held at the watch-house each month and restock the first aid equipment as necessary.

16.21.3 Watch-house training

Prior to, or immediately after commencing watchhouse duties, officers are to complete the current Service-approved online learning products (OLPs) on the State Custody Unit SharePoint page managed through the Ignite learning management system. Officers are encouraged to further their professional development by completing additional watch-house related training materials, such as 5Mile videos and OLPs beyond the mandatory requirements.

Newly appointed watch-house officers are required to be paired with a mentor who possesses at least 12 months of experience in watch-house operations. This mentorship aims to provide ongoing training and ensure the completion of necessary workplace assessments. All training and assessments conducted during the mentorship period are to be documented and uploaded to Ignite or DAP system as appropriate.

The watch-house manager is responsible for conducting annual audits to verify training compliance for all permanent and temporary staff, ensuring that all personnel meet the required training standards for their roles.

All officers, including watch-house officers and police liaison officers (PLOs), assigned to perform duties in a watch-house, must receive comprehensive instructions and training specific to their assigned duties prior to commencing their roles in the watch-house.

The OIC of a watch-house is to ensure that officers and PLOs are:

- (i) aware of the responsibilities and duties assigned to them;
- (ii) capable of performing the duties assigned in the watch-house; and
- (iii) compliant with all mandatory training,

before these officers or PLOs are assigned to undertake watch-house duties (see s. 1.4.10: 'Role and function of police liaison officers' of this Manual).

ORDER

All officers including watch-house officers are to comply with s. 14.3.10: 'Operational Skills and Tactics (OST) training' of this Manual.

The OIC of a watch-house is to ensure all officers are first aid and CPR qualified and are trained in the use of first aid and resuscitation equipment provided at the watch-house. This qualification is to remain current whilst performing duties within a watch-house.

The OIC of a watch-house is to ensure that all staff are trained yearly in food handling and safety.

16.21.4 Emergency plans for the evacuation of all persons from a watch-house

ORDER

The officer in charge of a watch-house is to develop station/establishment instructions for evacuation of the watch-house, action to be taken as a result of the escape or attempted escape of a prisoner from the watch-house, and medical evacuation of a prisoner from the watch-house.

PROCEDURE

The officer in charge of a watch-house is to:

- (i) ensure instructions are in written form and included in this Manual as Station/establishment instructions;
- (ii) ensure that members are familiar with their role in the procedures;
- (iii) conduct a debriefing of officers involved in incidents to identify and address any deficiencies;
- (iv) provide a copy of Station/establishment instructions to the officer in charge of the region; and
- (v) ensure that a review of the Station/establishment instructions is undertaken annually and that the instructions are amended where necessary.

For the purpose of evaluating the adequacy of the Station/establishment instructions and the training of staff, the officer in charge of a watch-house is to arrange at least every twelve months for a practice drill, of the:

- (i) evacuation of the watch-house;
- (ii) action to be taken when the escape or attempted escape of a prisoner from the watch-house takes place; and
- (iii) medical evacuation of a prisoner from the watch-house.

16.21.5 QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register entries

ORDER

Police officers and watch-house officers are to make only official entries in any QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register. They are also not to erase an entry (or use correction fluid on any paper register or record) in any QPRIME Custody Report, QPRIME Custody Report (Full), QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' or the Watch-house Inspection Register.

PROCEDURE

When corrections are necessary, entries are to be corrected by:

- (i) ruling a line neatly through the original entry so that it remains legible;
- (ii) entering the correct notation above or below the ruled line; and
- (iii) initialling and recording the name of the officer making the correction next to the corrected entry; or
- (iv) making a new entry in the relevant QPRIME Custody Report or Custody Report (Full).

ORDER

The receiving officer is to make relevant entries in the QPRIME Custody Report or Custody Report (Full) when lodging prisoners into the watch-house.

POLICY

The receiving officer is to ensure that the following details are completed in the relevant entry in the QPRIME Custody Report, QPRIME Custody Report (Full) or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' when the information is available:

- (i) date and time offender charged;
- (ii) reason for detention;
- (iii) location of the court in which the prisoner is to appear;
- (iv) surname, given name/s, date of birth, address and sex of the prisoner;
- (v) code, date, and place of the offence;
- (vi) statute and section to which the charge refers;
- (vii) arresting officer's name, rank and station;
- (viii) full wording of the charge(s);
- (ix) if charged conjointly refer to the other prisoner's custody number;
- (x) a full and accurate description of the prisoner's property (including medication in the prisoners possession), the name(s) of the officer who received the property and returned the property;
- (xi) in a domestic violence detention case, the reason for detention;
- (xii) cell number in which the prisoner is to be held;
- (xiii) meals supplied to the prisoner;
- (xiv) 'yes' or 'no' responses as given by the prisoner;
- (xv) record the DNA number or barcode sticker (where the prisoner has provided a DNA sample);
- (xvi) a record of the name, address, telephone number and relationship to the prisoner of the next of kin or contact person;
- (xvii) the signature (electronic or otherwise) of the arresting officer or person delegated the responsibility, verifying the entries as a correct record of the prisoner's property and the prisoner's responses to the health questions. Where a person, other than the arresting officer is signing verification, the arresting officer's details are to be included in the relevant QPRIME Custody Report (Full) entry;
- (xviii) a record of the date, time and any reason for notification where the next of kin or contact person was notified in relation to the prisoner;
- (xix) a record of the receiving officer's observations of the prisoner's health/condition;
- (xx) any other relevant comments regarding the apparent health/condition of the prisoner if applicable;
- (xxi) a digital still or other photograph of the prisoner;
- (xxii) the signature (electronic or otherwise) of the prisoner on return of the prisoner's property on release from the watch-house;
- (xxiii) the date and time released including bail conditions; and
- (xxiv) the court results.

ORDER

The receiving officer is to ensure that where prisoner's details are not available during the lodging process, a record of the time and reason the information was not included is made against the relevant QPRIME Custody Report or Custody Report (Full) entry.

16.21.6 Updating operational information in QPRIME

The provisions of ss. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor', 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' and 16.23: 'Deaths in police custody' of this Manual are to be considered in conjunction with this section.

POLICY

Watch-house managers are to ensure that the provisions of s. 1.6.11: 'Updating operational information in QPRIME' of this Manual are complied with for prisoners at their watch-house.

16.21.7 Prisoners registered on the opioid treatment program or on prescribed opioid medication

Opioid medication including: methadone syrup and buprenorphine (or Subutex); may be supplied to a person detained at a watch-house who is prescribed opioid medication (see Queensland Opioid Treatment Program on the Queensland Health website).

The supply of opioid medication to a person detained at a watch-house recognises the importance of this substance in dealing with illicit drug addiction and thereby aims to:

- (i) minimise the risk of harm to the person, had the person otherwise ceased participation in the program;
- (ii) maintain the safety of other prisoners and visitors to watch-houses from a person on the program who would otherwise be forced to withdraw from the program; and
- (iii) ensure the safety of watch-house personnel who may be required to deal with a person detained at a watch-house who may suffer by forced withdrawal from the program.

Officers and watch-house officers are to seek medical advice for a person detained at a watch-house who appears to be suffering from the use of or withdrawal from alcohol or other drugs. See s. 16.13.1: 'Assessment of prisoners' of this chapter.

ORDER

Opioid medication is only to be supplied to a person detained at a watch-house who is prescribed opioid medication by a doctor (refer s. 16.13.4: 'Provision of medication' of this chapter if this is the case).

Storage of S8 medication

Opioid medication is not to be kept at a watch-house unless stored in a receptacle which must comply with s. 197: 'S8 safe must comply with standard' of the Medicines and Poisons (Medicines) Regulations (MP(M)R). The standard: 'Secure storage of S8 medicines' is available from the Queensland Health website. If in doubt about which storage option applies advice should be sought from the local public health unit (a list of the units is available by searching the Queensland Health website).

If these storage provisions cannot be complied with arrangements are to be made for supply of the appropriate dose of opioid medication on a daily basis to the person detained at the watch-house.

Procedure for supply of S8 medication

Before supplying opioid medication to a person detained at a watch-house, the watch-house manager is to confirm the person is prescribed the relevant medication.

Inquiries are to be made with the relevant prescriber or clinic to confirm the claims of the person, including strength in milligrams and frequency of the dose of opioid medication which has been prescribed. Before initially:

- (i) taking possession of opioid medication for; or
- (ii) allowing an authorised person to administer opioid medication to,

a person in custody.

The watch-house manager is to confirm that the person in custody is the person prescribed the opioid treatment.

Once confirmed arrangements are to be made for the person in custody to be examined by a government medical officer or other doctor if necessary, or alternatively a registered nurse, opioid treatment prescriber, clinic staff or pharmacist to obtain medical advice about the persons receiving the opioid treatment. Following approval, arrangements are to be made for doses of opioid medication to be supplied to the watch-house for that person.

The opioid treatment prescriber or clinic must make arrangements for the person's opioid dose to be conveyed to the watch-house by either a pharmacist or clinic staff. Where operational circumstances permit, it may be appropriate to transport persons detained in watch-houses, who are on the program, to the person's supplier (see s. 640: 'Transfer of persons in watch-houses' of the PPRA and ss. 10.5: 'Escort of persons in custody', 16.12.1: 'Segregation of prisoners' and 16.12.2: 'Transfer of prisoners' of this Manual).

Only the prescriber or clinic can issue an instruction for opioid medication to be supplied through a designated pharmacy to the person. Where a person detained at a watch-house claims to be registered with a prescriber or clinic which the

watch-house does not deal with, that prescriber or clinic is to be contacted. The watch-house manager is to request that the prescriber or clinic continue to supply opioid medication for the person while detained in the watch-house.

If suitable arrangements are able to be made the pharmacy nominated by the prescriber or clinic is to be the opioid medication supplier for that person. If suitable arrangements cannot be made, the watch-house manager is to request the assistance of the prescriber or clinic to transfer the person's registration to another prescriber or clinic, which is able to supply opioid medication to the watch-house for the person. This is an internal procedure within Queensland Health and is solely dependent upon cooperation between the two suppliers. If either organisation refuses to take part in this process the person cannot participate in the program while detained in the watch-house.

Where a person detained at a watch-house is registered on an interstate opioid treatment program, inquiries are to be made with the organisation normally supplying opioid medication to the person. The procedure outlined above is to be followed to attempt to have the person registered on the program in Queensland. In these circumstances the interstate person is to be registered in Queensland at a public clinic. If this is unable to be done the person cannot participate in the program while detained in the watch-house.

If there is any concern that a person claiming to be on the program may be intoxicated or affected from alcohol or other drugs (e.g. slurring of speech, drowsiness), administration of opioid medication is to be withheld until medical advice has been obtained (see ss. 16.13: 'Health of prisoners' and 16.14: 'Call-out procedure for Government Medical Officers' of this chapter).

Not more than two daily doses of opioid medication, for a person detained in a watch-house, may be stored in the watch-house at a time. This medication is only to be stored in circumstances where the opioid treatment prescriber or pharmacist cannot attend and administer the dose such as on a Sunday or a public holiday.

Transfer and release of prisoners

Where the person is transferred to another watch-house, or a correctional centre which has an opioid treatment program, any unused doses of opioid medication are to be transferred with the property of the person. (See the above policy regarding storage of opioid medication in watch-houses.) Additionally, a copy of both the person's photograph and description of the person, as provided by the prescriber, are to accompany the person to the other watch-house or correctional centre.

The relevant QPRIME Custody Report (Full) Detention Log and/or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' must be noted and signed (electronically or otherwise) by the officer discharging the person to show that unused doses of opioid medication have left the original watch-house.

No prisoners are to be released from custody with unused doses of opioid medication in their property. All unused doses are to be returned to the supplier and the relevant QPRIME Custody Report (Full) Detention Log noted accordingly. (This does not apply to situations where prisoners come into custody with take-away doses of opioid medications in their property. These doses are to be returned to the prisoner unless for some lawful reason, other action is to be taken.)

Watch-house managers are to advise the prescriber or clinic when a person is discharged from a watch-house or released from custody.

A person in custody who is on the program and is to be transferred to a correctional centre is to have their dose of opioid medication administered whilst still in watch-house custody if it is supplied to the watch-house prior to their transfer. Watch-house managers are to advise the correctional centre receiving a person into custody who is on the program so that the program may be continued, or where appropriate alternative treatment, can be arranged.

A person released from custody after consuming their dose of opioid medication is to be released into the custody of a person or organisation able to care for the welfare of that person. The situation of a person consuming their dose of opioid medication and then being released may arise where a person is released due to satisfaction of warrants or securing bail conditions. Normally the person satisfying the warrants or securing bail conditions would be appropriate to care for the welfare of that person.

A person on the program who is released from custody is to be advised to report to their prescriber or clinic after being released from custody.

ORDER

When a person in custody is transferred to another watch-house, or a correctional centre which has an opioid treatment program, and unused doses of opioid medication are transferred with the property of the person, the person is not to have physical possession of opioid medication.

Persons authorised to supply opioid treatment

Opioid medication may be supplied to a person detained at a watch-house, who is registered in the program, by an authorised person. The following persons are authorised to supply opioid treatment under the provisions s. 54: 'Authorisation of prescribed classes of persons' of the *Medicines and Poisons Act (MPA)* and s. 13: 'Approved persons—Act, s 54' of the MP(M)R:

- (i) doctors;
- (ii) pharmacists;

- (iii) registered nurses, whose registration with the Queensland Nursing Council is current at the relevant time; and
- (iv) watch-house managers, or persons performing the duties of watch-house managers (see ss. 34: 'Offence to buy or possess S4 or S8 medicines or hazardous poisons' and 51: 'Agents and carers supplying or administering medicines' of the MPA).

A watch-house manager, or person performing the duties of a watch-house manager, may supply opioid treatment to a person detained at a watch-house only if a person authorised in subsections (i) to (iii) above is not available.

Administration of Opioid Medication

If an authorised person (see subsections (i) to (iv) above) supplies opioid medication to a person detained at a watch-house, a police officer or watch-house officer is to be present as an observer when that other person supplies opioid medication to the person.

When opioid medication is consumed by a person detained in a watch-house the:

- (i) person consuming;
- (ii) person administering; and
- (iii) police officer or watch-house officer observing;

are to note the relevant QPRIME Custody Report (Full) Detention Log and/or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' appropriate. If any person refuses to sign (electronically or otherwise) the register, no further opioid medication is to be supplied to that person. Any additional supplies of opioid medication held at the watch-house for the person are to be returned to the supplier and the relevant QPRIME Custody Report (Full) Detention Log and/or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' noted accordingly. The person is to be monitored for reactions caused by ceasing the supply of opioid medications. See s. 16.13: 'Health of prisoners and persons in custody' of this chapter.

Police officers or watch-house officers present when a person is supplied with opioid medications are to ensure, before receiving their dose of opioid medication, the person:

- (i) has their sleeves, where appropriate, rolled up;
- (ii) is holding nothing in their hands;
- (iii) has open clothing around the neck to ensure no plastic bags or similar items or containers are being secreted; and
- (iv) has no absorbent material (e.g. foam from mattress) secreted in the mouth;

A person who has been supplied a single treatment dose of opioid medication is to be kept in isolation, if practicable for a period of ten minutes, until the:

- (i) person consumes the complete dose of opioid medication;
- (ii) person has a drink of water and speaks after consuming the complete dose of opioid medication; and
- (iii) police officer or watch-house officer present as an observer is, or in the case of a watch-house manager supplying opioid medication both officers are, satisfied none of the dose of opioid medication has been secreted on the person of the person detained in the watch-house.

Note: Different opioid medications have different dosage methods, ensure the correct dosage method is used for each particular medication.

The supply of opioid treatment to a person detained at a watch-house is to be recorded in accordance with the provisions of s. 16.13.4: 'Provision of medication' of this chapter. After the supply of opioid medications, the person is to be closely monitored for signs of side effects or other reactions such as sedation or nausea. Medical treatment is to be sought if necessary in accordance with the provisions of s. 16.13.2: 'Prisoner's medical condition' of this chapter.

Caution is to be exercised when other medications are prescribed for persons on opioid treatment programs as other medications can interact and cause reactions. Ensure the government medical officer or other doctor is aware the person in custody is in such a program and what opioid medication they are administered before other medications are prescribed.

When taking opioid medications, reactions can arise if persons in custody develop other conditions such as head injuries, abdominal complaints. Seek medical advice in accordance with the provisions of s. 16.13.2: 'Prisoner's medical condition' of this chapter, if necessary.

16.21.8 Personal duress alarms in watch-houses

Where personal duress alarms are provided for use in watch-houses, police officers and watch-house officers performing duty in these watch-houses are to use these alarms in accordance with the station/establishment instructions.

Station/establishment instructions relating to personal duress alarms are to take into account such issues as:

- (i) use of alarms, including, procedures and training;
- (ii) response to alarms, including procedures and training;
- (iii) maintenance and servicing of alarms;
- (iv) testing of alarms, including use and response;
- (v) wearing of alarms, including when, and how;
- (vi) storage of alarms when not in use; and
- (vii) monitoring of alarms.

16.21.9 Communication with and by prisoners

POLICY

This section does not apply to persons detained under a Commonwealth preventative detention order under Chapter 5, Part 5.3, Division 105: 'Preventative detention orders' of the *Criminal Code Act (Cwlth)* and/or a State preventative detention order under the *Terrorism (Preventative Detention) Act*. For communication with and by persons detained on preventative detention orders see s. 17.3.26: 'Terrorist emergency' of this Manual.

In addition to the provisions of s. 1: 'Recording of interviews and other matters' of the Digital Electronic Recording of Interviews and Evidence Manual, the watch-house manager is to, subject to operational and/or security needs of the watch-house, and where appropriate with the consent of the prisoner:

- (i) permit a prisoner reasonable access to a telephone to contact a solicitor, medical practitioner, a friend or a relative as soon as practicable (see also s. 16.4.5: 'Arrest of persons who have others in their care' of this chapter). Where a prisoner is permitted to use a telephone the officer in charge of the watch-house is to ensure that:
 - (a) a member dials the number requested to attempt to verify that the person being called by the prisoner is the person the prisoner wished to call, that person wishes to speak with the prisoner and that no orders or prohibitions exist in regards to the prisoner contacting that person e.g. domestic violence order; and
 - (b) a record of the number of telephone calls made by the prisoner is recorded against the relevant QPRIME Custody Report (Full) Detention Log entry;
- (ii) permit a prisoner to be examined by a private medical practitioner on the request of that prisoner where practicable (the cost of the examination is the responsibility of the prisoner). See also s. 16.12.10: 'Requests by prisoners or legal representatives for attendance of doctor at watch-house' of this chapter;
- (iii) permit parents, guardians or an officer from the Department of Communities to visit youth prisoners;
- (iv) permit a prisoner to consult a legal representative of that prisoner's choice on request;
- (v) permit a prisoner to communicate with a legal representative or medical practitioner in private while having due regard to security (see s. 16.12.10: 'Requests by prisoners or legal representatives for attendance of doctor at watch-house' of this chapter);
- (vi) allow a legal representative to be present with a client during the time when the client is being charged, fingerprinted and photographed, and when consideration is being given to the question of bail;
- (vii) afford a prisoner, arrested in pursuance of the provisions of the *Migration Act (Cwlth)*, all reasonable facilities for the making of a statutory declaration under the *Migration Act (Cwlth)*;
- (viii) permit consular officers to visit an imprisoned foreign national, unless the national concerned expressly opposes that action (see s. 16.7: 'Foreign nationals' of this Manual);
- (ix) permit consular officers to converse and correspond with, as well as arrange for legal representation of foreign nationals, unless the person concerned expressly opposes that action;
- (x) provide a prisoner, who wishes to make a complaint under the *Ombudsman Act (Cwlth)* with facilities for preparing the complaint and for enclosing the complaint in a sealed envelope and forward such envelope without undue delay to the Commonwealth Ombudsman;
- (xi) permit members of the clergy to visit a prisoner or a number of prisoners (in circumstances where a member of the clergy wishes to address a number of prisoners, a watch-house exercise yard may be used where appropriate);
- (xii) permit any other person who has an interest in the health or welfare of a prisoner, to visit that prisoner, subject to that prisoner's consent; and
- (xiii) if requested allow a prisoner to have assistance from a police officer or support person of the same gender in relation to matters of personal hygiene.

ORDER

Where access to the watch-house is granted, the watch-house manager is to record particulars of the visit, including the identity of the visitor, and record the reason for the visit against the entry relating to the prisoner on the QPRIME Custody Report (Full) Detention Log.

POLICY

Where access to a watch-house is not granted, the watch-house manager is to:

- (i) verbally explain the reason for denial to the person requesting access; and
- (ii) record against the entry relating to the prisoner on the relevant QPRIME Custody Report (Full) Detention Log the:
 - (a) reason that access to the watch-house at that time is denied; and
 - (b) identity of the visitor, if known.

See ss. 16.8.6: 'Inquiries as to the location of a person suspected of being in custody' of this Manual and s. 3.21: 'Legal representatives at interviews' of the Digital Electronic Recording of Interviews and Evidence Manual.

16.21.10 Aboriginal and Torres Strait Islander Legal Service seeking information and interviews

POLICY

The watch-house manager is to:

- (i) upon receiving an inquiry from a representative of the Aboriginal and Torres Strait Islander Legal Service, advise that representative of the names of all Aboriginal and Torres Strait Islander persons in custody;
- (ii) fully cooperate with members of the legal profession and representatives of the Aboriginal and Torres Strait Islander Legal Service, wishing to interview any Aboriginal or Torres Strait Islander person in custody; and
- (iii) upon a request by an Aboriginal or Torres Strait Islander prisoner for a representative of the Aboriginal and Torres Strait Islander Legal Service to be advised, make contact and provide facilities for the visiting and interviewing by such representatives.

See s. 16.8.7: 'Notification to the Aboriginal and Torres Strait Islander Legal Service' and s. 16.21.9: 'Communication with and by prisoners' of this Manual.

16.21.11 Arrangements for prisoners to attend court including a change of clothes, shaving and showering

POLICY

Watch-house managers are to allow a prisoner in custody, prior to an appearance in court, a change of clothing supplied by a legal representative, family members or friends, provided the clothing is supplied at a reasonable time prior to the prisoner's court appearance.

Wherever possible, watch-house staff are to ensure that prisoners who are required to attend court are given preferential access to shower facilities if available prior to attending court.

Watch-house managers are to allow a prisoner appearing for trial or sentence in the District or Supreme Court, to shave if the prisoner requests within a reasonable time prior to their court appearance. All prisoners are to be supervised and other safety precautions taken whilst shaving. Appropriate supervision of the prisoner and all other safety precautions are to be based on the individual circumstances in the watch-house and level of risk the prisoner poses whilst in custody. Prisoners may be considered to be an unacceptable risk and not allowed to shave when their present behaviour and demeanour includes:

- (i) attempts or threats of suicide or self-harm;
- (ii) violence or threats of violence;
- (iii) attempts of concealing contraband while in custody; and
- (iv) attempts or threats of escape.

ORDER

Watch-house managers are not to permit any article of any description to be received by a prisoner unless the watch-house manager, other police officer or watch-house officer delegated by the watch-house manager, has carefully examined the item to ascertain that nothing of a dangerous or otherwise undesirable nature is associated with it.

POLICY

Watch-house managers, other police officers or watch-house officers delegated by the watch-house manager, are to carefully examine all articles of any description before any such articles are passed to a prisoner.

Police officers or watch-house officers who locate an item of a dangerous or otherwise undesirable nature are to advise the watch-house manager immediately. If appropriate the item is to be seized for further inquiries regarding any offences

which may have been committed. Property seized is to be dealt with as required by s. 622: 'Receipt for seized property' of the PPRA.

16.21.12 Meals for prisoners

ORDER

The watch-house manager is to provide prisoners with three main meals and two snacks per day.

This is regardless of whether prisoners obtain food from an alternate source, e.g. food purchased from a prisoner's own funds as outlined at paragraph (ii) in the following procedure.

The watch-house manager is to:

- (i) ensure that meals supplied to prisoners are wholesome and varied, including the provision of snacks between meals;
- (ii) purchase, at their discretion, additional food for a prisoner, on request, out of money taken from the prisoner's property and record the details against the relevant QPRIME Custody Report (Full) Detention Log entry and have the prisoner countersign the entry (electronically or otherwise);
- (iii) ensure that alcohol or alcohol-based products are not supplied to any prisoner, unless prescribed by a medical practitioner; and
- (iv) ensure all watch-house staff complete all compulsory watch-house training (see s. 16.21.3: 'Watch-house training' of this chapter).

16.21.13 Deleted

16.21.14 Tendering for the supply of meals for prisoners

PROCEDURE

The officer in charge of a watch-house is to seek tenders, in June of each year, from local residents for the supply of meals to prisoners for the following financial year.

The watch-house manager or other member of the Service may supply the prisoners' meals if tenders supplied exceed the cost of meals as provided for in the Police Award – State or where no tender is submitted.

16.21.15 Sanitation and exercise

PROCEDURE

The watch-house manager is to:

- (i) ensure that reasonable necessities are provided for prisoners including sufficient blankets, food and drinking water, as well as access to toilets and showers;
- (ii) ensure that all linen, towels, blankets and mattresses provided are clean;
- (iii) ensure that all materials used by unclean prisoners or prisoners suspected of being infected by contagious diseases are laundered after use;
- (iv) where practicable, allow a prisoner one hour of exercise daily under supervision; and
- (v) supply soap, toilet paper, towels, and sanitary napkins to prisoners, where necessary.

16.21.16 Prisoners performing tasks in watch-houses

POLICY

The watch-house manager may allow prisoners who volunteer their services, to perform menial tasks such as serving meals, washing dishes, airing bedding and cleaning, provided that those tasks are not dangerous, inhumane, demeaning or of such a nature as to appear punitive.

PROCEDURE

The watch-house manager, in selecting a prisoner to perform tasks, is to take into account the:

- (i) adequacy of supervision;
- (ii) security;
- (iii) need to maintain segregation of prisoners where required;
- (iv) number, nature and severity of the charges against the prisoner;
- (v) criminal history of the prisoner;
- (vi) prior knowledge, if any, of the prisoner;

- (vii) demeanour of the prisoner; and
- (viii) assessment of the likelihood of the prisoner inflicting self-injury or injury to others.

16.21.17 Assistance provided to other agencies

POLICY

Subject to operational requirements, members are to assist with the custody of prisoners who are the responsibility of other agencies, as far as practicable.

PROCEDURE

Where Australian Federal Police officers or officers from any other government department are unable to attend court to take into custody offenders who have been sentenced, the watch-house manager is to:

- (i) render all appropriate assistance;
- (ii) take the prisoner into custody in terms of the court order; and
- (iii) make arrangements for the removal of the prisoner by Australian Federal Police officers or other appropriate officers as soon as possible.

The watch-house manager is to contact the agency concerned as soon as possible and arrange for the prisoner to be delivered into the custody of the appropriate agency.

16.21.18 Expenses for deportees

PROCEDURE

The officer in charge of a watch-house is to forward a list of the prohibited non-citizens and deportees held in the watch-house to the regional finance officer. The list is to include the:

- (i) name and date of birth of the prisoner;
- (ii) previous residential address of the prisoner;
- (iii) name and rank of the officer who lodged the prisoner in the watch-house;
- (iv) date and time the prisoner was lodged at the watch-house;
- (v) date and time the prisoner was transferred from the watch-house;
- (vi) location of the person into whose custody the prisoner was transferred;
- (vii) status of the prisoner or the reason the prisoner was detained; and
- (viii) details of expenses incurred as a result of the detention of the prisoner.

16.21.19 Use of watch-houses for private accommodation prohibited

POLICY

Watch-house managers are to ensure that persons, other than persons in lawful custody, are not permitted to be accommodated in any watch-house.

16.21.20 Prisoner breastfeeding child in watch-house

POLICY

Prisoner requests to breastfeed their child in a watch-house generally should not be granted. However, OIC of watch-houses may allow a prisoner to breastfeed an infant in a watch-house in exceptional circumstances (e.g. premature/ill infant). Consideration should also be given to other relevant issues before making this determination (i.e. the increased risk of contraband being brought into the watch-house, availability of female watch-house staff to supervise the prisoner, the increased risk to the health and safety of the child in a watch-house environment, the availability of a suitable area, etc.).

Should circumstances allow, officers may advise the prisoner that they may arrange for a friend or family member to deliver a breast pump and suitable receptacles to the watch-house.

Allowing breast milk to be stored at a watch-house until a friend or family member can collect it is at the discretion of the OIC of the relevant watch-house and will depend upon the availability of an appropriate refrigerated storage space. The alternative is to require the friend or family member to attend the watch-house while the prisoner is using a breast pump and collect the breast milk directly.

Prisoners should not be electronically monitored/video recorded while they are breastfeeding or using a breast pump.

Additionally, whether a prisoner has breastfeeding responsibilities may be a relevant factor when making a determination as to bail pursuant to s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this chapter. (See also s. 16(2)(b): 'Refusal of bail generally' of the *Bail Act*.)

16.21.21 Watch-house officers

Watch-house officers are staff members under s. 2.5(1)(b)(ii) of the *Police Service Administration Act*. Watch-house officers are able to exercise certain powers and functions pursuant to Chapter 21, Part 1, Division 2: 'Watch-house officer's functions and powers', ss. 641-659 of the PPRA. Even though under this section, watch-house officers have some of the same functions and powers as police officers, they are not police officers.

POLICY

All the powers and functions conferred on watch-house officers by the PPRA are subject to any directions of the Commissioner or the relevant watch-house manager. As such, all watch-house officers must comply with all Service policy and procedures and all station/establishment instructions issued by the relevant watch-house manager relevant to their functions and duties.

Watch-house officers are to be conversant with and comply with all the powers and functions conferred on them by the PPRA.

Section 649: 'Watch-house officer may search person in custody at watch-house' of the PPRA allows watch-house officers to search and re-search a person to whom Chapter 16: 'Search powers for persons in custody' ss. 442-444 of the PPRA applies if the person is in custody at a watch-house. Watch-house officers may also seize items found during the search that may provide evidence of the commission of an offence and take and retain while the person is in custody:

- (i) anything that may endanger anyone's safety, including the person's safety; or
- (ii) anything that may be used for an escape; or
- (iii) anything else the watch-house officer reasonably considers is to be kept in safe custody while the person is in custody.

Section 16.10: 'Search of persons' and Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter are to be complied with by watch-house officers when exercising these powers.

Section 650: 'Watch-house officer may take identifying particulars of a person in a watch-house' of the PPRA allows a provision of Chapter 8A that authorises a police officer to take identifying particulars of a person, generally or in the following circumstances, is taken also to authorise a watch-house officer to take the identifying particulars of a person in those circumstances:

- (i) the person is in custody at a watch-house; or
- (ii) the person reports to the watch-house to enable a police officer to take the person's identifying particulars under an identifying particulars notice or an order of a court.

Any provisions of the PPRA that apply to a police officer who is taking identifying particulars, apply to a watch-house officer in the same way. Sections 2.45.5: 'Other identifying particulars (excluding voiceprints)', 2.45.7: 'Fingerprinting' and 2.45.8: 'Photographing offenders' of this Manual are also to be complied with by watch-house officers when exercising these powers.

Section 651: 'Commissioner may authorise watch-house officer to take DNA samples of person at watch-house' of the PPRA allows watch-house officers if authorised to take DNA samples from persons in custody and persons who report to the watch-house to have their DNA samples taken under a DNA sample notice or an order of the court.

Sections 2.25.9: 'Mouth swab request and direction', 2.25.10: 'DNA hair sample request and direction' and 2.25.12: 'Transit of DNA samples' of this Manual are to be complied with by watch-house officers when exercising these powers.

Section 652: 'Power to use force against individual at watch-house' and 653: 'Power to use force—transfer etc. of person in custody to or from court cell or other place' of the PPRA allows watch-house officers to use reasonably necessary force to exercise their powers and prevent escape from lawful custody.

Section 14.3: 'Use of Force' of this Manual is to be complied with by watch-house officers when exercising these powers.

Section 657: 'Making entries in registers' of the PPRA requires watch-house officers to make entries of enforcement acts in the relevant register.

Sections 2.1.2: 'Registers required to be kept' and 16.8.1: 'Introduction' of this Manual are to be complied with where relevant by watch-house officers.

Sections 653: 'Power to use force—transfer etc. of person in custody to or from court cell or other place' and 659: 'Custody continues while person in custody is being transferred or escorted by watch-house officer' of the PPRA allows watch-house officers (at the direction of the watch-house manager) to transfer persons in custody from a watch-house in certain circumstances.

Service policy reflects the use of these legislative powers, in particular the power to use force as provided for in s. 653 of the PPRA. Watch-house officers are only to transfer persons in custody from a watch-house:

- (i) to or from a court cell; and
- (ii) in medical emergencies, to or from a place other than a watch-house to receive health care, i.e. detention centre or corrective services facility. Health care means medical, dental, optical or other health related treatment.

Watch-house officers may perform functions of the receiving officer. The receiving officer is responsible for processing an arrested or detained person and completing most administrative tasks. Watch-house officers may perform all duties for processing prisoners except those duties where legislation or policy requires performance by a prescribed police officer or watch-house manager.

Assistance to police officers from watch-house officers

Section 615: 'Power to use force against individuals' of the PPRA makes it lawful for a police officer exercising powers under that or any other Act against an individual, and anyone helping the police officer, to use reasonably necessary force for exercising the powers.

Police officers who require assistance in exercising powers in relation to prisoners, where a watch-house officer would be acting outside their powers and functions conferred under the PPRA, are to formally request a watch-house officer to assist them in those duties. Such a request may be made of a watch-house officer where there is no other reasonably practicable assistance available from a police officer.

16.22 Cell visitors scheme

The objectives of a cell visitors scheme are to:

- (i) assist with the observation of prisoners and to facilitate communication between prisoners and watch-house staff;
- (ii) offer company, support and counselling to the prisoners;
- (iii) prevent any attempt at self-inflicted injury;
- (iv) identify symptoms suggesting the need for medical attention; and
- (v) provide information about and refer support services to prisoners.

POLICY

A cell visitors scheme is seen as a desirable complement to careful prisoner supervision in order to meet the needs of prisoners.

The officer in charge of a watch-house is to encourage the implementation of a cell visitors scheme.

Frequent visitors to watch-houses, which may include clergy, Murri Watch, Diversionary Centre workers etc. are to be given the opportunity to make an application on the form QP 0602: 'Authorised Cell Visitor Application' found in QPS Forms Select.

16.22.1 Authorising cell visitors

PROCEDURE

The officer in charge of the watch-house is to, using discretion:

- (i) arrange for the prospective cell visitor to complete the 'Authorised Cell Visitor Application' form;
- (ii) arrange for the commissioned officer responsible for the watch-house to consider authorisation of cell visitors, after the vetting of applicants;
- (iii) wherever security needs dictate, supply authorised cell visitors with photographic identification to be worn within police establishments;
- (iv) recommend to the commissioned officer in charge of the watch-house, the revocation of the authorisation previously granted to any cell visitor where such circumstances warrant;
- (v) file copies of completed 'Authorised Cell Visitor Application' forms at respective watch-houses (these completed forms are to be made accessible to all staff); and
- (vi) conduct an orientation program for cell visitors.

POLICY

The commissioned officer responsible for a watch-house may authorise persons to be cell visitors and may revoke any such authorisation previously given.

16.22.2 Procedure to be adopted when allowing entry to authorised cell visitors

PROCEDURE

The watch-house manager is to, using discretion:

- (i) request the attendance of authorised cell visitors at any time to assist in the management of prisoners where such assistance may be considered beneficial or necessary;
- (ii) permit authorised cell visitors to visit a watch-house at any reasonable time;

- (iii) arrange for the visitor and the visitor's property to be searched in line with security requirements;
- (iv) ensure that each prisoner has the choice to meet a visitor or not;
- (v) ensure, when the authorised cell visitor is not the same sex as the prisoner, or the prisoner is a youth, that the authorised cell visitor is accompanied by an officer of the same sex as the prisoner;
- (vi) ensure that all visits are recorded and that the visitors sign the Visitor's Register when entering and leaving the watch-house;
- (vii) ensure that the authorised cell visitor has reasonable access to a telephone;
- (viii) where appropriate, discuss the following items with the authorised cell visitor:
 - (a) bail;
 - (b) payment of warrants;
 - (c) advising the relatives of the prisoner; and
 - (d) arranging visits for long term prisoners;
- (ix) ensure that authorised cell visitors do not pass items to prisoners without prior permission; and
- (x) investigate or take action when any matter which may require investigation or action is reported by an authorised cell visitor.

16.23 Deaths in police custody

For the purpose of this section:

Death in police custody

means where a person's death occurs, or upon investigation is found to have occurred:

- (i) in police custody or detention;
- (ii) while the person is attempting to escape from police custody or detention;
- (iii) in the process of that person trying to avoid being put into custody or detention by police (for example a person who dies in a traffic crash while being pursued by police); or
- (iv) due to traumatic injuries which were contributed to or caused by a lack of proper care while the person was in police custody or detention.

The term 'death in police custody' will often include deaths in custody or deaths which happened in the course of or as a result of police operations. Such deaths are defined as reportable deaths in ss. 8(3)(g) and 8(3)(h) of the *Coroners Act*.

Examples of police operations provided in the *Coroners Act* are:

- (i) a police motor vehicle pursuit for the purpose of apprehending a person; or
- (ii) an evacuation.

The term 'death in police custody' does not include a death in the custody of the Australian Federal Police or of Australian Defence Force service police members. For deaths in these circumstances refer to s. 8.5.19: 'Deaths in custody' of this Manual.

16.23.1 Investigation of deaths in police custody

Deaths in police custody are to be investigated by Ethical Standards Command, subject to the Crime and Corruption Commission exercising its power to assume responsibility for the investigation. See s. 8.5.19: 'Deaths in custody' of this Manual.

In addition to the relevant provisions of s. 8.5.19: 'Deaths in custody' of this Manual, the following provisions are to be applied as appropriate to the investigation of deaths in police custody.

16.23.2 Additional first response procedures for deaths in police custody

PROCEDURE

A police officer or watch-house officer who finds a person in custody or in police company, in circumstances that lead that police officer or watch-house officer to believe that the person may be deceased, should:

- (i) call for assistance and render necessary attention to the person;
- (ii) take adequate precautions to limit the chances of prisoners escaping custody (police officers and watch-house officers should be aware that an incident may be a ploy for the prisoner to escape); and

- (iii) attempt resuscitation when finding an apparently deceased prisoner, if appropriate.

When a death in police custody has occurred, first response officers should, in addition to the procedures contained in s. 8.5.19: 'Deaths in custody' of this Manual:

- (i) record and confirm as far as possible:
 - (a) the full name and date of birth of the person;
 - (b) the person's current residential and work telephone numbers and addresses;
 - (c) other information which may assist the investigator in contacting the next of kin of the person; and
 - (d) details of any person who had access to the deceased (e.g. cell visitors, prisoners);
- (ii) record any relevant information including the position of the body if the body must be moved for any reason; and
- (iii) secure all documentation relevant to the particular person.

All deaths in police custody are to be treated as a homicide until otherwise determined.

16.23.3 Additional responsibilities of officers investigating deaths in police custody

PROCEDURE

Investigating officers as part of their investigation should:

- (i) advise the Coroner and government pathologist;
- (ii) treat the death in custody as a homicide until otherwise determined and are not to presume suicide or natural death regardless of whether it may appear likely (see s. 2.6.2: 'Homicide' of this Manual);
- (iii) obtain statements from all witnesses, including police officers and watch-house officers, as soon as practicable after the incident and prior to any debriefing session where practicable, see s. 8.5.19: 'Deaths in custody' of this Manual;
- (iv) include investigations into the general care, treatment and supervision of the deceased immediately before the death in line with Service policy, orders and procedures;
- (v) inquire fully into the circumstances of the arrest or apprehension including any relevant activities of the deceased beforehand;
- (vi) immediately arrange for the next of kin or person previously nominated by the deceased to be notified. Cultural interests of the person being notified should be respected by using the cross cultural liaison officer, if practicable. Where the deceased is an Aboriginal person or Torres Strait Islander and there is a delay or inability to notify the next of kin, efforts to notify the next of kin should be recorded;
- (vii) in circumstances where the deceased is an Aboriginal person or Torres Strait Islander, notification should preferably be assisted by an Aboriginal person or Torres Strait Islander person known to those being notified;
- (viii) if the deceased is an Aboriginal person or Torres Strait Islander, notify the:
 - (a) Officer in Charge, Cultural Engagement Unit, Communications, Culture and Engagement Division; and
 - (b) Aboriginal and Torres Strait Islander Legal Service or other Aboriginal and Torres Strait Islander community organisation with responsibility for the area, as soon as possible, whether or not the relatives have been located;
- (ix) identify and secure potential evidence and exhibits;
- (x) apply to the Coroner to issue a search warrant in respect of any relevant medical records where the deceased was recently treated by a doctor;
- (xi) provide such information as sought by the family of the deceased and/or lawyers representing the family, unless the Coroner directs otherwise, about the progress of the investigation and the preparation of the brief for the inquest (where the deceased is an Aboriginal person or Torres Strait Islander, the local cross cultural liaison officer should be consulted);
- (xii) if requested, make all efforts to allow family members or their representative the opportunity to inspect the scene of the death, subject to police operational and security requirements, bearing in mind the cultural needs of the relatives;
- (xiii) notify the Australian Institute of Criminology, see s. 16.23.5: 'Australian Institute of Criminology and Cultural Engagement Unit to be notified' of this Manual;
- (xiv) ensure that officers involved in the incident are not given access to investigation documents (as defined in Schedule 2 of the *Coroners Act*) without the consent of the Coroner who is investigating the matter (see s. 54 of the *Coroners Act*), subject to s. 438: 'Access to electronic recordings of questioning etc.' of the PPRA and 'Procedural Guidelines' located within Professional Conduct of the Human Resources Policies. See also

'Investigational information – coronial matters' in s. 5.6.9: 'Requests by persons other than victims of crime for investigational information' of the Management Support Manual and 'Investigations against members of the Service' in s. 2.1.2: 'Registers required to be kept' of this Manual;

(xv) provide briefings to the State Coroner and the Assistant Commissioner, Ethical Standards Command concerning the investigation as requested;

(xvi) complete the investigation covering report in accordance with Appendix 16.3: 'Suggested format for reports on deaths in custody or in police company', and the provisions of s. 8.5.19: 'Deaths in custody' of this Manual; and

(xvii) sign the completed investigation file and forward it through the chain of command to the Assistant Commissioner, Ethical Standards Command. See s. 16.23.4: 'Deaths in police custody (Investigation file)'.

See also Chapter 8: 'Coronial Matters' of this Manual, in particular s. 8.4.3: 'Responsibilities of investigating officers'.

16.23.4 Deaths in police custody (investigation file)

In cases of investigations of police related incidents involving a death in police custody, prior to any distribution of the investigation file within the Service, to the State Coroner or to any other external agencies, the completed investigation file is to be overviewed by the Assistant Commissioner, Ethical Standards Command or a senior officer appointed by the Assistant Commissioner, Deputy Commissioner, Specialist Operations or the Commissioner.

The overviewing officer is to ensure that the investigation is complete, investigated to the appropriate standard, and is to comment on the overview and make any necessary and relevant recommendations.

The investigation file, including recommendations by the overviewing officer and/or the Assistant Commissioner, Ethical Standards Command, is to be forwarded direct to the Office of the Deputy Chief Executive, Strategy and Corporate Services for consideration and referral to the Director, QPS Legal Services.

QPS Legal Services, in consultation with the Office of the Deputy Chief Executive, Strategy and Corporate Services, is to consider the investigation file and arrange for its delivery to the State Coroner.

Unless exceptional circumstances exist, a completed investigation report should be submitted to the State Coroner within six months of the date of a death in police custody (see s. 5: 'Time Frames' of the MOU contained in Appendix 16.12 of this chapter).

16.23.5 Australian Institute of Criminology and Cultural Engagement Unit to be notified

The officer responsible for investigating a death in police custody or in police company, or coordinating assistance to Crime and Corruption Commission investigators, should notify, or cause to be notified, the Australian Institute of Criminology (AIC) of the death as soon as practicable. See SMCD for the address of AIC.

Information provided to the AIC is to be on the form 'Australian Institute of Criminology – Deaths in Police Custody and in Related Police Operations 2001' (see Appendix 16.6 of this Manual). Officers are to forward the form via the Assistant Commissioner, Ethical Standards Command directly to the AIC. A copy of the form is to be forwarded for information to the OIC, Cultural Engagement Unit, Communications, Culture and Engagement Division.

16.23.6 Coroner's findings and response to Coroner's findings

ORDER

The officer responsible for the investigation of a death in custody or in police company, on receipt of the Coroner's findings, is to provide a report responding to any relevant issues raised by the Coroner, to the officer in charge of the region, and the OIC, Health, Safety and Wellbeing Division within a reasonable time and in any event, not later than two months of publication of those findings.

The officer in charge of the region is to forward the report to the Commissioner to enable a report reflecting the Service's response to the findings and recommendations, including a report as to whether any action has been taken or is proposed to be taken with respect to any person, to be forwarded to the Minister for Police and the Chief Executive Officer, Department of Justice and Attorney-General, within three calendar months of publication of the findings.

The report is to be consolidated, by the Department of Justice and Attorney-General, with other reports from any other government agency involved to provide a whole-of-government response to the Coroner's findings.

The consolidated report will then be provided by the Department of Justice and Attorney-General to all other parties appearing at the coronial inquest, e.g. Coroner, other government agencies, next of kin, legal services.

16.24 Electronic monitoring (bail)

16.24.1 Court ordered bail condition to wear an electronic monitoring device

A court may impose any bail condition it considers necessary to enable the fitting and operation of an electronic monitoring device (EMD). This may include ordering the defendant to:

- (i) remain in custody until the EMD is properly fitted; or
- (ii) be released but return to the watch-house at a later nominated time and date.

Defendant held in a correctional facility making application for bail

Where a defendant held in a correctional facility makes an application for bail and the court is considering a condition to wear a tracking device, the police prosecutor is to:

- (i) request the court to order the person to attend the nearest 24 hour watch-house to be fitted for EMD; or
- (ii) make application for an adjournment and a production order for the prisoner to appear in person at the relevant court,

(see s. 11(9B) and (9C): 'Conditions of release of bail' of the *Bail Act*).

Bail conditions the court may impose

An EMD electronically monitors a defendant's:

- (i) exclusive (e.g. not to approach an address or named person etc.); or
- (ii) other inclusive (e.g. location at a residential address or curfew conditions),

bail condition imposed by the court (see s. 11 of the *Bail Act*).

16.24.2 Action on granting bail with an electronic monitoring condition

Where a court orders a defendant to be fitted with an electronic monitoring device (EMD) and the defendant:

- (i) is in custody; or
- (ii) attends a watch-house in accordance with a bail condition,

the watch-house manager (see SMD) prior to the termination of shift or as soon as reasonably practicable after a bail order is made is to ensure a QP 1085: 'Electronic monitoring profile request and checklist' (including any inclusion or exclusion zones imposed by the court) is completed.

The completed QP 1085 is to be:

- (i) emailed to the monitoring centre (as detailed in the QP 1085);
- (ii) uploaded to the defendant's QPRIME Custody Report,

and a QPRIME fitting task created for the EMD.

Fitting an electronic monitoring device

When fitting an EMD to a prisoner, a watch-house member is to ensure:

- (i) a device is fitted in accordance with the QP 1088 'Electronic tracking checklist' (see 'EMD Fitting Walkthrough' on the Service Intranet);
- (ii) a QPRIME flag is created;
- (iii) all necessary steps are taken to ensure the device is fully operational and activated;
- (iv) the QP 1088 and bail undertaking (i.e. Form 7) is uploaded to the defendants QPRIME occurrence; and
- (v) they seek approval from the monitoring centre before releasing the prisoner.

Electronic monitoring device fitted in another watch-house

If an EMD is to be fitted in another watch-house, a QPRIME fitting task is to be forwarded to the relevant watch-house.

Non-appearance of defendant to a watch-house

Where a defendant fails to attend a watch-house in compliance with the bail conditions, the watch-house manager is to ensure a Breach of bail report is created in accordance with the QPRIME user guide.

16.24.3 First response officers

**Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.**

16.24.4 Electronic monitoring device alerts

**Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.**

16.24.5 Police communications centre responsibilities when an alert has been generated and imminent risk to another person

**Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.**

16.24.7 Electronic monitoring device removal

**Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.**

16.24.8 Actions on court varied bail

Defendant is not in custody

Where a defendant is not in custody, the prosecutor is to ensure:

- (i) an amended a QP 1085: 'Electronic monitoring profile request and checklist' and varied undertaking is uploaded into the occurrence; and
- (ii) the QP 1085 is emailed to the monitoring centre (as detailed in the QP 1085).

Defendant is in custody

Where a defendant is in custody, the prosecutor is to ensure a verdict and judgement record (VJR) is given to the watch-house manager.

The watch-house manager upon receiving the VJR is to ensure:

- (i) an amended QP 1085 and varied undertaking is uploaded into the occurrence; and
- (ii) the QP1085 is emailed to the monitoring centre (as detailed in the QP 1085).

16.24.9 Actions on electronic monitoring device fault

Where an electronic monitoring device (EMD) or any other associated equipment fails or is suspected of not operating correctly, the defendant is to be directed to a relevant watch-house to have the EMD assessed.

ORDER

Where a defendant reattends a watch-house to have an EMD assessed, the fitting officer is to:

- (i) assess if a fault exists;
- (ii) if appropriate, remove the EMD and/or associated failed equipment;
- (iii) upload a completed QP 1086: 'Electronic monitoring equipment remove/exchange document' into the relevant QPRIME custody report;
- (iv) fit the replacement EMD (see subsection 'Fitting an electronic monitoring device' of this section);
- (v) ensure the monitoring centre has cleared the fault; and
- (vi) email the completed QP 1086 to the monitoring centre (as detailed in the QP 1086).

Defendant to be kept in custody

Where a defendant attends a watch-house due to an EMD failure, the defendant is to be kept in custody until the monitoring centre confirms the EMD is fully operational. Any faulty equipment is to be returned to the monitoring centre.

16.24.10 Officers requiring electronic monitoring data for court or tracking purposes

ORDER

Breaching condition of bail

Officers requesting information for a breach of bail or an offence related to an electronic monitoring device (EMD) (e.g. wilful damage of the EMD) are to forward a request via email to the monitoring centre containing:

- (i) defendant's details;
- (ii) requesting officer's details;
- (iii) the condition of bail breached or similar offence relating to an EMD;
- (iv) a brief summary of facts; and

(v) time and dates of required mapping and report information.

The required information will be returned to the requesting officer via email.

A request for large volume of data

Where there is a request for a large volume of information from the monitoring centre, the requesting officer is to create a request in Evidence.com 'Axon Citizen' as outlined on the Body Worn Cameras 'Axon Citizen' webpage on the Service Intranet.

Secondary information

If the request for information relates to an offence not associated with the bail conditions, and there is no imminent risk of harm to a person or the community, the investigating officer is to:

- (i) make application for a search warrant (see s. 150 of the PPRA); and if granted,
- (ii) forward a scanned copy of the search warrant (ensure 'copy' is clearly marked across the warrant) to the monitoring centre via email emqps@ventia.com; and
- (iii) create a request in Evidence.com 'Axon Citizen' as outlined on the Body Worn Cameras 'Axon Citizen' webpage on the Service Intranet with a list of information requested.

Privacy concern of releasing requested information where imminent risk of harm

A commissioned officer has the authority to release information where there is imminent risk of harm to a person or the community.

All requests relating to a Queensland Corrective Services parolee, should be made via email Intelinfo@corrections.qld.gov.au.

16.24.11 Travel advice from a defendant wearing an electronic monitoring Device

A defendant is to provide written notice at least two working days prior to travelling by aircraft to the OIC of the watch-house where the electronic monitoring device was fitted.

Where travel advice is received from a defendant fitted with an EMD, the OIC of the watch-house is to ensure:

- (i) the monitoring centre is advised via email (see SMCD); and
- (ii) a QPRIME flag is generated and includes the following details:
 - (a) date and times of travel;
 - (b) flight details;
 - (c) carrier and flight details; and
 - (d) return details.

Appendix 16.1 The assessment of persons in police custody

(s. 16.13.1)

There is no expectation that officers can successfully diagnose an individual's medical condition based on observations and basic questioning. The questions and observations as part of the QPRIME risk assessment process are to determine if a reasonable degree of suspicion (see Definitions of this Manual) exists with regard to the health condition of a person in custody.

If during the process of assessment and reassessment a reasonable degree of suspicion does come to exist then a professional healthcare provider must be contacted (see 'Order' in s. 16.13.1: 'Assessment of prisoners' of this Manual).

Healthcare information supplied by a person in custody

If a person in custody states they:

- (i) require medication or treatment, the watch-house officer must;
 - (a) make enquiries with a Forensic Medical Officer (FMO)/Government Medical Officer (GMO), nominated doctor or hospital to confirm the need for the person to have medication or treatment; and
 - (b) obtain appropriate medication or treatment as advised; and
 - (c) determine the time the medication or treatment is next required to be provided; and
 - (d) obtain consent from the prisoner to use Medicare and health care card details; and
 - (e) record the results of these enquiries. This needs to be done in the next convenient opportunity unless advised the medication or treatment needs to be obtained immediately (see s. 16.12.1: 'Segregation of prisoners' of this chapter).
- (ii) are suffering from, or appear through observation to be showing symptoms or behaviours outlined within the checklist of this Appendix, seek professional healthcare advice as soon as practicable;
- (iii) are suffering from an infectious disease, or such disease is thought to exist through observation (see s. 16.12.1: 'Segregation of prisoners' of this chapter);
- (iv) are wearing a medical or prosthetic device, if the device may be broken or used as a weapon consider segregation of the person or consider removing the device whilst in custody. Seek professional healthcare advice before removing;
- (v) are pregnant and have any concerns regarding their condition, seek professional healthcare advice; or
- (vi) have medical reasons for special dietary requirements (such as food allergies) obtain appropriate food to suit the person's requirements.

Drug and alcohol assessment

If a person in custody answers yes to any of the drug and alcohol questions, or exhibits signs or behaviours suggestive of withdrawal, overdose or intoxication, ensure the person is closely observed and monitored as per compliance with the provisions of the subsection titled: 'Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal' in s. 16.13.1: 'Assessment of Prisoners' of this chapter.

If the person in custody states they are on a methadone or subutex programme, refer to s. 16.21.7: 'Prisoners registered on the opioid treatment program or on prescribed opioid medication' of this chapter.

Professional healthcare advice or attention is to be sought as soon as possible if the person in custody states they:

- (i) are suffering from, or appear to be exhibiting the signs and symptoms of drug or alcohol withdrawal as outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;
- (ii) have taken an overdose of drugs, or more than normal dose in the preceding twenty-four hours, even though the person may not show symptoms, signs or behaviours of such overdose affecting them;
- (iii) have consumed drugs in the preceding twenty-four hours, especially opioid (e.g. heroin, morphine), cocaine or other stimulant (e.g. amphetamine, methamphetamine) even though the person may not show symptoms, signs or behaviours of drug consumption; or
- (iv) are pregnant or may be pregnant and any of (i) to (iii) above apply to them.

Suicide/self-harm assessment

If a person in custody answers yes, fails to answer or refuses to answer any questions as to their risk of suicide or self-harm these persons are to be considered at risk for self-harm or suicide.

The more 'yes' answers given, failures to answer or refusal to answer, the higher the risk.

In addition to any relevant courses of action specified above, officers are to ensure such persons are closely observed and monitored with other appropriate action taken according to their level of risk. Refer to the subsection titled: 'Managing risk of suicide and self-harm for all prisoners' in s. 16.13.1: 'Assessment of prisoners' of this chapter.

Checklist: Other factors that may give rise to a reasonable suspicion as to a person in custody's health condition

Conditions, symptoms, behaviours or signs that should give rise to suspicion include:

General:

- (i) Fever, chills and/or sweats; or
- (ii) appears unwell.

Neurology:

- (i) headache;
- (ii) neck pain;
- (iii) weakness or 'pins and needles';
- (iv) inability to move part of their body;
- (v) light headedness/dizziness/vertigo;
- (vi) shaking or trembling uncontrollably or seizure capacity;
- (vii) unintelligible or meaningless speech;
- (viii) hallucinations, paranoia, agitation, confusion or disorientation;
- (ix) persistent or increasing drowsiness;
- (x) reduced or reducing conscious state, unconsciousness;
- (xi) difficulty or inability to wake from sleep; or
- (xii) recent loss of consciousness.

Cardiac:

- (i) chest pain;
- (ii) shortness of breath;
- (iii) palpitations (sensation of rapid heart rate); or
- (iv) light-headedness.

Respiratory:

- (i) shortness of breath;
- (ii) poor response to routine asthma medication;
- (iii) gagging or choking; or
- (iv) coughing up blood.

Gastro:

- (i) abdominal pain;
- (ii) vomiting or nausea;
- (iii) vomiting blood; or
- (iv) diarrhoea.

Gynaecology:

- (i) vaginal bleeding not associated with menstruation;
- (ii) abdominal pain with or without hiccoughing; or
- (iii) back pain.

Trauma:

- (i) actively bleeding cuts or abrasions;
- (ii) broken bones;
- (iii) recent head injury; or

(iv) fall from a height over 2 metres.

Vision:

- (i) loss of vision;
- (ii) eye pain; or
- (iii) possible penetrating injury.

Mental health:

- (i) previous suicide or self-harm attempt;
- (ii) ongoing suicidal tendency; or
- (iii) severe agitation.

Skin:

- (i) unexplained rash.

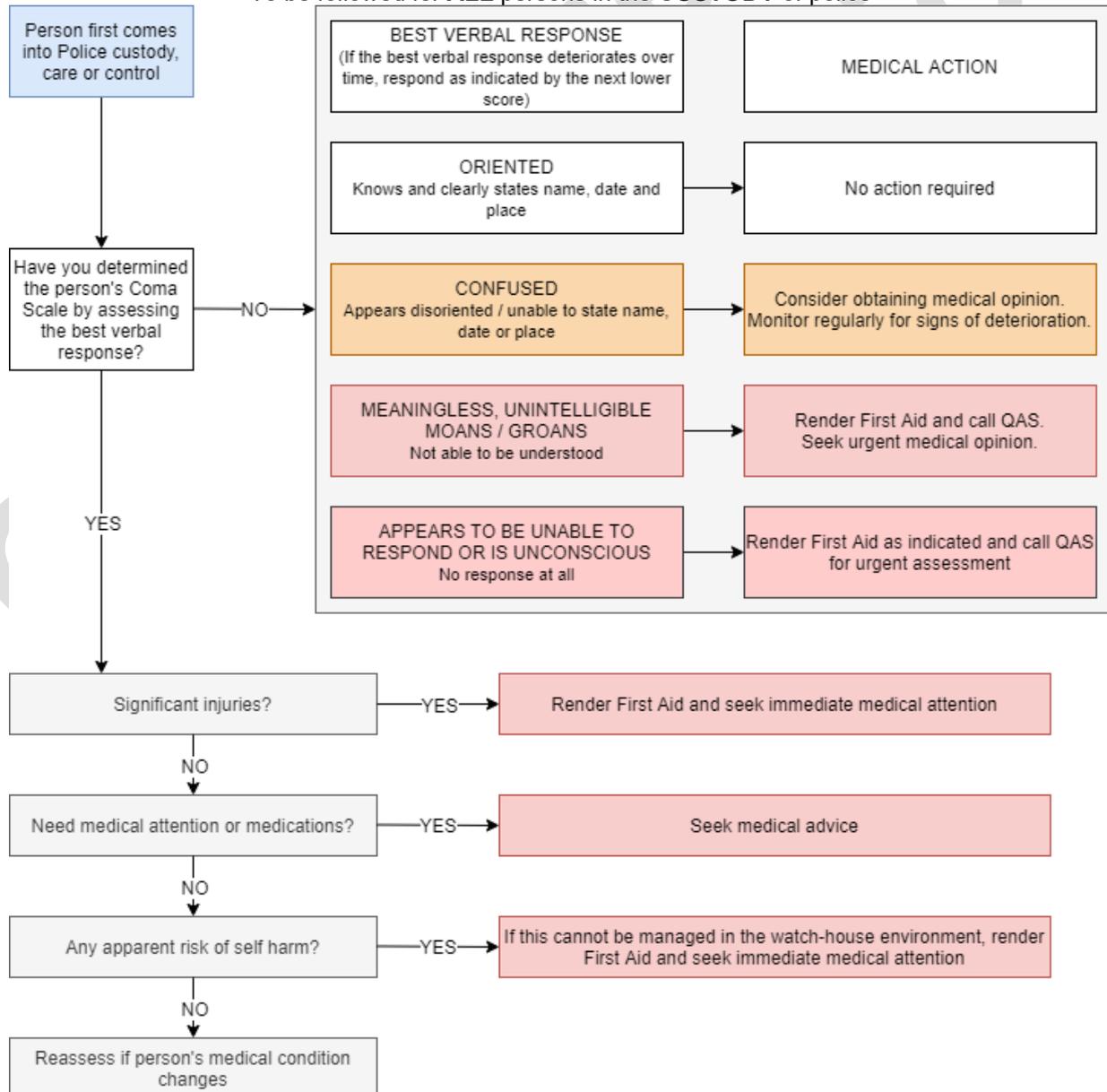
History of:

- (i) recent self-discharge from hospital/health facility; or
- (ii) new medication first taken in the preceding twenty-four hours.

REMEMBER: If a degree of reasonable suspicion exists with regards to the health of a person in custody, then a professional healthcare provider **must** be contacted.

MEDICAL CHECKLIST

To be followed for **ALL** persons in the **CUSTODY** of police



OPM Appendix 16.1: 'The assessment of persons in police custody'

POLICE OFFICERS AND WATCH-HOUSE OFFICERS ARE TO BE AWARE THAT IN SOME CASES OF SEVERE ALCOHOL OR DRUG DEPENDANCY OR INTOXICATION; WITHDRAWAL MAY RESULT IN DEATH IF THE PERSON DOES NOT RECEIVE MEDICAL TREATMENT.

Checklist 2: Health Questionnaire and Observations Checklist (For prisoners in police custody who are to be held in a watch-house)

The health questions and observation checklist for prisoners are available in QPRIME through the Custody Report (Full), Risk Assessment tab. These questions and observations are to be completed for any person who is to be held in custody in a watch-house. Depending upon the responses provided and/or the observations made when completing this checklist, the following actions are to be taken:

Medical condition assessment

If a prisoner or person in custody states they:

- (i) require medication or treatment;
 - (a) make enquiries with a FMO/GMO, nominated doctor or hospital to confirm the need for the person to have medication or treatment;
 - (b) where necessary obtain appropriate medication or treatment;
 - (c) determine the time the medication or treatment is next required to be provided; and
 - (d) record the result of these inquiries.

This is to be done at the next convenient opportunity unless the medication or treatment needs to be obtained immediately. See also s. 16.13.4: 'Provision of medication' of this Manual;

(ii) are suffering from, or appear through observation to be showing symptoms, signs or behaviours outlined within:

- (a) Checklist 3 of this Appendix, seek medical attention or treatment as soon as possible; or
 - (b) Checklist 4 of this Appendix, seek medical advice at the first convenient opportunity;
- (iii) are suffering from an infectious disease, or the signs of such disease are observed, see s. 16.12.1: 'Segregation of prisoners' of this Manual;
- (iv) are wearing a medical or prosthetic device, if the device may be broken or used as a weapon, consider segregation of the person, or consider taking the device off them whilst in custody;
- (v) are pregnant and have any concerns regarding their condition, seek medical advice; or
- (vi) have special dietary requirements or food allergies, obtain appropriate food to suit the person's requirements where possible.

Drug and alcohol assessment

If a prisoner or person in custody answers yes to any of the drug and alcohol questions, or exhibits signs or behaviours suggestive of withdrawal, overdose or intoxication, ensure the person is observed closely and comply with the provisions of the subsection titled: 'Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal' in s. 16.13.1: 'Assessment of prisoners' of this chapter.

If the prisoner or person in custody states they are on a methadone or subutex program, see s. 16.22.7: 'Prisoners registered on the opioid treatment program or on prescribed opioid medication' of this chapter.

Medical advice or attention is to be sought as soon as possible if the person in custody states they:

- (i) are suffering from, or appear to be exhibiting the signs and symptoms of drug or alcohol withdrawal, as outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;
- (ii) are suffering from, or appear to be exhibiting the signs and symptoms of a drug or alcohol overdose, as outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;
- (iii) have taken an overdose of drugs, or more than a normal/usual dose in the last 24 hours, even though the person may not show symptoms, signs or behaviours of such overdose affecting them;
- (iv) have consumed drugs in the last 24 hours, especially opioid, heroin, cocaine, amphetamine or methamphetamine-based drugs, even though the person may not show symptoms, signs or behaviours of drug consumption; or
- (v) are pregnant or may be pregnant.

Suicide/self-harm assessment

If a prisoner or person in custody answers yes, fails, or refuses to answer any questions on their risk of suicide or self-harm, these persons are to be considered at risk of suicide or self-harm. The more yes answers given, failures, or refusals to state, the higher the risk. In addition to any other relevant courses of action specified above, ensure such

persons are observed closely and other appropriate action taken according to their level of risk. See the subsection titled: 'Managing risk of suicide and self-harm for all prisoners' in s. 16.13.1: 'Assessment of prisoners' of this chapter.

Checklist 3: When medical attention or treatment is to be sought (For all prisoners in police custody)

If a person states they are suffering the following conditions or symptoms and/or the following behaviours or signs are observed, medical attention or treatment is to be sought for the person as soon as possible.

Conditions, symptoms, behaviours or signs include:

- (i) unconscious or deteriorating conscious state;
- (ii) difficulty or impossibility to rouse from apparent sleep;
- (iii) persistently or unusually intermittently drowsy/sleepy;
- (iv) only making or able to make meaningless unintelligible groans;
- (v) extreme physical weakness or paralysis;
- (vi) suffering hallucinations, disoriented or confused;
- (vii) shaking and trembling uncontrollably for no apparent reason;
- (viii) having convulsions or seizures;
- (ix) severe paranoia;
- (x) severe chest, abdominal, limb or head pain;
- (xi) persistently vomiting;
- (xii) rapid respiration, laboured breathing, shortness of breath, hyper-ventilation or the fearful gasps of air hunger;
- (xiii) not recovering from an asthma attack (with or without medication) after 10 minutes;
- (xiv) gagging, coughing, or choking lasting more than 4 minutes after OC spray exposure;
- (xv) deep cuts or abrasions, excessive bleeding;
- (xvi) vaginal bleeding in females who are or may be pregnant;
- (xvii) suspected broken bones; or
- (xviii) having suffered a fit or seizure in last 24 hours or is likely to suffer a fit or seizure in custody;

Checklist 4: When medical advice is to be sought (For all prisoners in police custody)

If a person states they are suffering the following conditions or symptoms and/or the following behaviours or signs are observed, medical advice is to be sought for the person at the first convenient opportunity. Where medical advice is not obtained, close observation of the person is to be made until released from police custody to ensure the person's condition does not deteriorate to those signs, symptoms and behaviours contained in Checklist 3.

Conditions, symptoms, behaviours or signs include:

- (i) showing signs of recent self-harm;
- (ii) previous attempts at suicide or self-harm, discussing or threatening suicide or self-harm;
- (iii) severely depressed;
- (iv) vomiting or nausea;
- (v) severe agitation;
- (vi) cold sweats or excessive sweating;
- (vii) light headedness or dizziness;
- (viii) severe irritability;
- (ix) highly emotional behaviour not appropriate to the environment and circumstances;
- (x) severe anxiety;
- (xi) severe aggression;
- (xii) drowsiness;
- (xiii) intense headache;
- (xiv) shallow breathing;
- (xv) minor pain or discomfort;
- (xvi) minor injuries not covered in checklist 1;

- (xvii) needing assistance to stand or walk;
- (xviii) having difficulty making sensible conversation; and
- (xix) having difficulty understanding what is happening (confused).

OPM Issue 102
Public Edition

Appendix 16.2 Rights and responsibilities of children whilst in custody in a watch-house

(s. 16.17.3)

Rights of children

To be informed of your situation in relation to bail, court appearance and transfer to a youth detention centre.

To be provided with the necessities of life, these may include:

- (i) food/water;
- (ii) appropriate clothing;
- (iii) toilet/shower facilities;
- (iv) bedding;
- (v) exercise; and
- (vi) medication and medical treatment where necessary.

Safeguarding of your personal property.

Segregation from the opposite sex and violent child prisoners and in normal circumstances from adult prisoners.

Receive visits by Department of Communities/legal representative whenever practicable.

Receive other visitors and to make and receive phone calls subject to operational and security needs.

Make a complaint if you feel a member of the Service has behaved wrongly or inappropriately.

To be treated with dignity and respect.

Responsibilities of children

To abide by the law and not act in a disruptive or unacceptable manner.

To provide watch-house staff with all relevant information to ensure adequate provision can be made for your medical and dietary requirements and any other vulnerability, disability or cultural needs.

Treat watch-house staff with dignity and respect.

Obey any reasonably necessary directions given by watch-house staff for the good management and control of the watch-house.

Appendix 16.3 Suggested format for reports on deaths in custody or in police company

(s. 8.5.19)

1. Introduction – Investigation by, of into death of–

Full name of deceased.

Date and place of birth.

Usual residential address.

Time and place of death.

Identification process regarding the deceased.

2. Summary of Circumstances – focus on the issues that require special attention as the coroner is reading through the report

3. Principal Investigators – including name, rank and contact numbers

4. Nature of custody or company –

Circumstances of the arrest.

Watch-house or lockup. Charged with offence, on remand, held on warrant, awaiting transfer to prison.

Prison. On remand. If convicted, length of sentence.

Hospital – circumstances of transfer from prison or watch-house. Entries in the relevant QPRIME Custody Report or Custody Report (Full), and by whom?

Police station or establishment where deceased was being questioned.

5. Circumstances surrounding the discovery of body of deceased – If the body of the deceased was discovered by another prisoner or custodian.

Initial observations and actions.

Further action by custodians, superiors advised.

Attendance by ambulance officers, nurse, medical practitioner. First aid, attempts at resuscitation.

Preservation of the scene. Notification of specialist sections.

Doctor pronouncing life extinct.

If prison or security patient's hospital, time and circumstances of attendance by police.

5.1 Death scene Investigation

Examination of body and surroundings by scientific officers.

Preservation of exhibits. Noose, cutting implement, tablets.

Photographs by Photographics or Scenes of Crime officer – of scene and of body 'in situ'.

Removal of body of deceased by ambulance/undertaker to which hospital/morgue.

Identification of deceased by whom? To whom?

5.2 Pathology

Post-mortem examination.

Date and particulars of post-mortem. Conducted by Government Forensic Pathologist, Dr

Name of the police officer who attended the post mortem.

Analysis of specimens. Blood, urine, stomach contents. Any suspicion of drug use?

Preservation of exhibits. Rope noose, tie, socks, belt.

Results of examination. Death registered. Arrangements for funeral, coroner's approval for cremation.

6. General care and treatment of the deceased – Observations of deceased by custodian before death. Written statements obtained from all arresting or detaining officers or custodians, before termination of their shifts unless the process subjects them to unnecessary distress.

6.1 Supervision of the deceased

The watch-house routine – Procedures for accepting prisoners.

Classification of and recording of a prisoner as a person at risk. Supervision enhanced.

Inspections of cells, single-person or multi-person cells.

Meals – Duties of prisoners, trusty prisoners.

Times of lock-up and release, segregation.

Change of shifts, handover procedure, completion of the relevant QPRIME Custody Report or Custody Report (Full). Successor advised of illness, injury, incidents involving prisoners, persons at risk and requiring extra supervision, notations made in the relevant QPRIME Custody Report or Custody Report (Full), Detention Log, Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register.

7. Further inquiries into circumstances of death – Any note left? Signs of preparation to take own life. If weapon used, where was it obtained and hidden? If watch-house prisoner, any signs upon admission to the watch-house, of injury, illness or of having been involved in an altercation?

Statements obtained from custodians are to include details of the assessment made.

Interviews of, and statements obtained from other prisoners, without delay and before release where practicable.

Location of prisoners since released, and statements obtained. Interview of family members, where necessary.

If deceased ill or injured before detention, ascertain movements on the day(s) before custody. Statements from associates, companions, workmates.

8. Medical history – Apply to the Coroner to issue a subpoena for the medical records.

Prison infirmary hospital. Any medication prescribed or taken? Any chronic conditions? Any prior attempts on life? Any medication requested or given during custody? Police or Corrective Services medical records – last entry, and by whom?

Mental state, as ascertained from statements by custodians, fellow prisoners, medical personnel. If prisoner suspected of being a person at risk, what measures were taken to increase security through surveillance and more frequent inspections?

What procedures were followed and what observations were made before eliminating deceased as a possible person at risk?

9. Antecedents of deceased – Personal particulars and description, family, employment.

Criminal history, including photographs and fingerprint classifications where available.

9.1 History as a prisoner – Movements of body of deceased after death. Ambulance centre, hospital, morgue.

9.2 Notification of next of kin and/or Aboriginal and Torres Strait Islander Legal Services – Name and address. Advised how, when and by whom? If necessary, identification of body of deceased.

10. Exhibits – Location availability, arrangements for production at inquest.

11. Was death preventable – indicate whether it is in the view of the investigating officer that any deliberate act or omission, or error of judgement by any person may have contributed to the death.

Conclusions and Recommendations – Medical opinion as to causes.

Self-inflicted injury, taking of own life.

Accident, foul play, negligence, criminal negligence, neglect of duty.

Person(s) charged. Charges of disciplinary action against custodians where recommended.

Appendix 16.4 Deleted

Appendix 16.5 Deleted

OPM Issue 102
Public Edition

Appendix 16.6 Example form: Australian Institute of Criminology

(s. 16.23.5)

CONFIDENTIAL

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

DEATHS IN POLICE CUSTODY AND IN RELATED POLICE OPERATIONS

2006

N.B. Please ensure that this form applies to the current year.

Office use only

Type of Case:

- 1. Institutional or close contact custody, i.e. deaths in institutional settings or in close contact settings, e.g. most raids and shootings by police.
2. Other custody-related police operations, i.e. most sieges and most cases where officers were attempting to detain the person, e.g. pursuits.

PCAT checkbox

Personal Identification:

IDN box

Name of Deceased: Surname: _____

Other Name(s): _____

Gender: Male [checkbox]

Female [checkbox]

GEN checkbox

Ethnic Background: Aboriginal Torres Strait Islander Other

ABL checkbox

Date of Birth: ___/___/19___

AGE box

Location of Death:

Place of death: (name of station, hospital, street address, etc.)

Place of custody prior to death: (if death occurred elsewhere)

Specific environment at time of death: (e.g. alone in single cell, exercise yard, in van en route to court, emergency ward in a hospital, etc.).

GRP

LOC

CUS

ST

ENV

When Death Occurred:

Date of death: ____/____/20____ Time of death (24 hour clock): ____ hrs

(If the precise date and time of death are unknown, give date and time when the person was found dead.)

WEE

DAY

MTH

YR

TIM

Custodial Circumstances:

Legal status: Under sentence: no appeal current

Under sentence: awaiting determination of any appeal (verdict or sentence)

Detained as unfit to plead, not guilty on grounds of insanity

Unconvicted: awaiting court hearing/trial extradition, purging of contempt, etc.

Convicted but awaiting sentence

STA

- Awaiting deportation
- Protective custody (i.e. for drunkenness where not an offence)
- Held for questioning/inquiries
- Unknown
- Other (please specify) e.g. escorting under mental health legislation, a siege or pursuit situation.

Had this person been granted bail? Yes No

If not, why was this person not granted bail, e.g. too intoxicated; seriousness of offence; bail refused by court.

NOB

Full details of most serious offence relating to final period of custody or police operation, e.g. theft from dwelling, importing illegal drugs, assault with weapon.

(Note: In some cases this would be the offence for which the person would most likely have been charged had he or she not died..)

MSO
 CAT

Length of time in custody (where applicable):

SPE
 SCAT

Date and time that the person was taken into custody (24hr clock) hrs _____

PC

___/___/___

UN1

UN2

For sentenced prisoners only, estimated earliest date of release ___/___/20___

LEN

For sentenced prisoners only, length of sentence bestowed by the court

LCAT

Details of Death: _____

Narrative explaining cause and manner of death:

CAU

RESP

NAT

ACC

SHO

DEF

DET

Please indicate below the apparent **general cause of death:**

suicide/self-inflicted

natural causes

accident

homicide

other (please specify) _____

Was the above cause of death determined by a Coroner?

Yes

No

COR

HIV

Please enclose where available (tick if attached):

Coroner's Finding/Report

Post-Mortem Report

SUB

Toxicology Report

Criminal record or criminal history

PRE

Please provide any further relevant details.

Contact person for further information:

Name:	_____
Position	_____
Organisation:	_____
Phone number:	() _____
Date	_____

Enquiries should be directed to:

Mathew Lyneham
National Deaths in Custody Monitoring & Research Program
Australian Institute of Criminology
GPO BOX 2944
CANBERRA ACT 2601
Phone: (02) 6260 9232
Fax: (02) 6260 9201

Appendix 16.7 Deleted

OPM Issue 102
Public Edition

Appendix 16.8 Watch-houses where children are not to be kept in custody overnight

(s. 16.17.5)

Schedule 'A'

Watch-houses where, subject to reasonable operating resources at the time, children are never to be kept in custody overnight:

North Brisbane:

Brisbane City
Petrie
Sandgate
Pine Rivers

South Brisbane:

Cleveland*
Inala
Wynnum*

Northern Region:

Townsville#

Southern Region:

Goodna (not 24 hour)
Ipswich

South Eastern Region:

Beenleigh

Schedule 'B'

Watch-houses where, subject to reasonable operating resources at the time, a child is never to be kept in custody longer than overnight:

Northern Region: Ayr Palm Island**	Southern Region: Toowoomba
Southern Region: Caboolture Redcliffe	South Eastern Region: Coolangatta Southport
Brisbane Region: Dunwich	

* Only to be kept in custody overnight where operational resourcing requirements prevent earlier transportation.

** Flights six a day to Townsville

The provisions of Schedules A or B do not apply to young women remanded in custody as there is no accommodation for young women at the Cleveland Youth Detention Centre.

Appendix 16.9 Guidelines for conducting personal searches

(s. 16.10)

Introduction

Members conducting personal searches may be exposed to a variety of hazards, including hypodermic syringes, body fluids, contaminated materials and violent or aggressive persons. Adoption of safe searching practices will eliminate or reduce the risk of injury or illness by members involved. Additionally, adoption of ethical searching practices will eliminate or reduce the number of complaints made by persons subjected to personal searches.

Whenever it is necessary to conduct a personal search of a person, the following guidelines and procedures generally should be adopted in addition to any station/establishment instructions relating to personal searches which have been implemented at a particular workplace. Wherever practicable, any variance from the guidelines and reasons for variance should be recorded by the responsible officer in an appropriate place such as the Custody Report or Custody Report (Full) of QPRIME, see the QPRIME User Guide or an official police notebook.

With respect to searches other than searches of persons, see s. 2.8.2: 'Search (places)' of this Manual.

General Health and Safety considerations

'First Aid and Infection Control', and 'Management of blood/body fluid exposures and skin penetrations' within Health, Safety and Wellbeing Division contains general health and safety advice for members and should be read in conjunction with these guidelines.

During the conduct of a personal search, the health and safety of police officers, watchhouse officers, other people in the vicinity or involved in the search, and the person to be searched, should be the main concern. Accordingly, prior to a search being conducted, the responsible officer should consider the likelihood of the person to be searched reacting violently or aggressively during the search, or carrying any article that may be used as a weapon or otherwise posing a risk to the health and safety of any person.

Even when circumstances may indicate otherwise, all personal searches should be conducted with the assumption that hazardous objects such as hypodermic syringes, weapons and/or items contaminated with body fluids may be located during the search. Also, the assumption that every person they search may have a communicable disease. However, such assumption is not sufficient justification to conduct an unclothed search of a person, in the absence of any supporting reasons which may indicate an unclothed search is necessary (see the sub-section titled 'General considerations in determining whether to conduct an unclothed search' of s. 16.10.2: 'Unclothed searches of persons' of this chapter).

Except where otherwise provided for in this chapter regarding unclothed searches, personal searches should, wherever practicable, be conducted in the presence of a second police officer or watchhouse officer.

When conducting a personal search, members should use search techniques that remove or significantly reduce the risk to them or others involved in the search from being injured or exposed to contaminated materials.

Consideration should also be given to the nature of the item suspected of being in possession of the person being searched, bearing in mind that:

- (i) small quantities of drugs may be secreted in belts, collars, seams, hat bands etc.; and
- (ii) weapons may be hidden under clothing.

Common hiding places include the shoulder, back, side, inside thigh, ankle and forearm.

Additionally, care should be taken when handling and examining drugs or weapons located. Where there is any doubt, specialists or experts should be called upon to handle or examine such items.

Unless the search must be conducted immediately and gloves are not readily available, any person conducting a personal search should wear latex gloves, regardless of whether the search will require them to touch the clothing or body of the person to be searched. The use of gloves should be explained to the person to be searched prior to the search commencing as a health and safety measure for both themselves and the person conducting the search. Gloves should be put on in the presence of the person to be searched and disposed of safely after each search.

Other general considerations

When available:

- (i) a metal detector should be used at the beginning of every search, but should never be relied upon as being able to detect all relevant items that may contain metal; and
- (ii) tongs or forceps should be used instead of hands to check for and retrieve items from pockets and other recesses in clothing.

Members involved in the search of a person should remain mindful of any sensitivities of the person to be searched, such as those which may be held through cultural, physical, psychological, medical or intellectual characteristics. At no stage before, during or after the search should personal remarks (or sounds or gestures meaning the same) be made about the person's background, body, appearance or presentation (smell, cleanliness etc.).

A female person to be searched should be asked discreetly before the search whether she is menstruating. If she says yes, every reasonable opportunity should be provided for the woman to attend to her personal hygiene needs before the search. A woman should never be asked to remove a tampon for inspection. However, if deemed necessary, a woman should be asked to remove a sanitary napkin. In such a case, a fresh napkin or tampon should be immediately provided.

Procedures for conducting searches

For all searches, officers are to comply with gender safeguards for search of persons, see ss. 16.10.1: 'General requirements concerning searches of persons' of this chapter, and 624A: 'Gender safeguard for searches of persons' of the PPRA.

For all personal searches, the following paragraphs (i)-(xxiii) apply. For unclothed searches, the following paragraphs (xxiv)-(xxx) below also apply.

Pat-down search

The following procedures, where applicable, should be adopted when conducting a pat-down search of a person:

- (i) ask the person if they have any item including needles and/or syringes on their body or in their clothing that may injure a person conducting the search;
- (ii) ask the person to remove jewellery including watches and place the items where they can be seen by the searching police officer or watchhouse officer. Body rings attached to any place other than the face should not be removed in a public area. No force should be used to remove an item connected to the body such as rings unless they would be taken possession of pursuant to section (xix) below. Remove belts and headwear (which does not involve the removal of any clothing that would reveal underwear or expose bare skin normally expected to be covered by underwear);
- (iii) where practicable and considered appropriate, ask the person to remove any prosthetic device/s which may be used as a weapon, or may conceal an item which would normally be seized or taken and retained, and search and/or seize or retain the device. If not seized or required to be taken and retained, prosthetic devices which have been removed should be returned to the person as soon as practicable;
- (iv) ask the person to stand still with arms and legs apart while a metal detector (where available) is waved over the entire body;
- (v) if at any stage of the search it is believed that the person being searched has secreted a dangerous item such as a syringe or a razor blade in a seam of clothing or other place that may injure the searching police officer or watchhouse officer, proceed to an unclothed search of the person in accordance with points (xxiv)-(xxx) below;
- (vi) ask the person to face the charge counter or a wall with:
 - (a) legs at least shoulder width apart and toes pointed out; and
 - (b) arms extended out with hands on the charge counter or against the wall;
- (vii) position yourself slightly to one side at the rear of the person. Where applicable, the second police officer or watchhouse officer present during the search should assist by maintaining control of the person throughout the search (i.e. hold person's arm);
- (viii) pat the person's hair without pulling the hair, or ask the person to run their fingers vigorously through their own hair;
- (ix) starting with one side of the person, visually inspect the person's clothing, this includes looking inside the person's pockets before touching. Carefully check the neck and collar or the neck seams in the person's clothing. Do not place your fingers inside the prisoner's mouth, remembering the prisoner's potential to spit;
- (x) using a grab, squeeze and pat technique (remember the potential for needle stick injury), proceed to search the person from the top to the bottom covering the shoulder and down the arm to the hand, under the armpit and down the front of the trunk of the body, checking pockets, seams and other recesses in the clothing ending at the waistline. If the person is wearing a jacket or coat have him/her remove it for the purpose of the search. For female persons, search over and under the breast;
- (xi) search the person's back in the same manner;
- (xii) ask the person to loosen waistbands, if necessary. Always remove belts, ties and any other article which has the potential for injury;
- (xiii) turn over and visually inspect waistbands prior to patting to detect items secreted in the bands or waistline seams and in belt loops;
- (xiv) search around the person's waist and proceed down the buttocks and legs. Use one hand to search whilst controlling the prisoner with your other hand. When searching the legs pay particular attention to the seams and cuffs;
- (xv) when searching the trunk and legs of a person, do not pass your hands over the person's genital area;

(xvi) lift the person's leg up behind them (to control it so that the person cannot kick) and place the person's shin over your thigh to enable you to control them. Undo the lace and remove the shoe and sock to enable you to inspect under the foot and between the toes. Socks can be removed by placing two fingers in the top of the sock and pulling it downwards, turning it inside out;

(xvii) once one side has been searched position yourself to the other side at the rear of the person and repeat steps (ix) to (xvi) above;

(xviii) if there is no intention to conduct an unclothed search, inspect further removed items in the presence of the person. Ensure socks are turned completely out. Pay special attention to the soles and heels of the persons footwear, which may include the removal of inserts from shoes (use tongs or forceps when available);

(xix) take possession of any item:

(a) considered to be evidence of the commission of an offence; or

(b) found in the possession of a person who should remain in custody and it is considered that:

- the item may be used to facilitate an escape;
- the person intends to use the item to harm themselves or another person, (as an example, such items that could be removed include bras, socks, underwear, shoe laces, hair clips, toothbrushes, dental appliances and bandages.)
- the item may be used to damage property; or
- the item should be kept in safe custody while the person remains in custody (e.g. valuables);

(xx) take care not to damage property and ensure that any property taken possession of is protected and not damaged;

(xxi) permit persons who should remain in custody to retain spectacles where considered necessary (lens can be used as a cutting instrument and wire as a stabbing instrument), having due regard to the safety of that person and other prisoners (this should be recorded in the Custody Report or Custody Report (Full) of QPRIME);

(xxii) consider retention of any clothing which may contain metal or hard material which could be used as a weapon or to cause self-harm if swallowed. As an example, bras which contain underwires. This decision will depend on the perceived risks associated with the person; and

(xxiii) on completion of the search, consider washing hands and any unprotected areas that may have been exposed to the person being searched or their clothing or property.

Unclothed search

Section 16.10.2: 'Unclothed searches of persons' subsections 'Special requirements for searching children and persons with impaired capacity' and 'Video recording of unclothed searches' of this chapter, should be read in conjunction with these guidelines (see also QPS internet website: 'LGBTIQ+ communities' for additional information).

When conducting an unclothed search, no more than two police officers or watchhouse officers should be present unless the person to be search may be violent or may try to escape. If reasonably practicable tell the person to be searched why it is necessary for them to remove their clothing. The search should be conducted as quickly as reasonably practicable.

The following additional procedures to those relating to pat-down searches outlined above should also, where applicable, be adopted:

(xxiv) ask the person to remove all upper clothing and to raise their arms above their head and to turn around. Check armpits;

(xxv) check upper clothing before asking the person to put their upper clothing back on, paying special attention to seams, cuffs and linings. Consider retention of any bras which contain underwires;

(xxvi) ask the person to remove all lower clothing for a visual examination. Have the person lean against a wall with legs apart (police officers or watchhouse officers may require the person being searched to bend forward to enable a visual examination to be made). Have the person turn around;

(xxvii) if considered necessary and where applicable, ask the person to lift (officers conducting the search are not to make physical contact with the genital and anal areas of the person being searched):

(a) their penis and scrotum;

(b) their breasts; and

(c) any large folds of skin;

(xxviii) if considered necessary, and if the person appears to be physically capable of doing so, ask the person to squat. Do not ask the person to 'waddle' or perform any other manoeuvre while squatting;

(xxix) check lower clothing before asking the person to put their lower clothing back on. Pay special attention to seams, cuffs and linings.

(xxx) if considered necessary to seize clothing, the person should be left with or given reasonably appropriate clothing. See s. 630: 'Protecting the dignity of persons during search' of the PPRA.

OPM Issue 102
Public Edition

Appendix 16.10 Drug and alcohol intoxication, overdose and withdrawal

(s. 16.13.1)

Some of the information contained in this appendix is based on the article 'Medical aspects of police custody' by Dr I. Curtis.

Police officers and watch-house officers should be aware when assessing persons that a person who is apparently intoxicated may in fact be displaying symptoms of a more serious injury or condition.

Conditions which may be consistent with, and which are similar to, those symptoms generally associated with intoxication include:

- (i) a head injury (clot or stroke);
- (ii) hypoglycaemia (low blood sugar);
- (iii) hyperglycaemia (uncontrolled diabetes);
- (iv) mixed alcohol and drug overdose;
- (v) low blood pressure from excess treatment of high blood pressure;
- (vi) hypoxia from asthma or respiratory blockage or infection;
- (vii) schizophrenia and manic depression psychosis; and/or
- (viii) abuse of volatile glues, coolants and/or wood alcohols.

Persons who are suffering from drug or alcohol intoxication may display:

- (i) extreme agitation or panic;
- (ii) unusually large or small pupil size that does not change with environmental conditions;
- (iii) impulsive behaviour;
- (iv) rapid rate of speech;
- (v) easily startled and strong reaction to any stimuli (e.g. noises, unexpected movement);
- (vi) delusions;
- (vii) appearing to talk to people who are not present, or to respond to verbal commands that no one else can hear;
- (viii) increased physical strength;
- (ix) aggressive behaviour;
- (x) lack of response to usual 'talk down' communication techniques; and/or
- (xi) behaviour that may escalate, despite appropriate and calming verbal interaction.

Police officers and watch-house officers should be aware that in some cases alcohol or drug intoxication may result in:

- (i) harm to self and others;
- (ii) seizures;
- (iii) psychosis;
- (iv) overheating;
- (v) heart attack;
- (vi) coma; and
- (vii) death; if the person does not receive medical treatment.

Suggestions for preventing disruptive behaviour of a person due to intoxication

When assessing the person:

- (i) introduce yourself;
- (ii) orientate the prisoner and establish rapport;
- (iii) ask specific questions about the presenting illness or injury; and
- (iv) exclude other conditions which may cause the prisoner to behave as if intoxicated.

When talking to the person:

- (i) use the person's name;
- (ii) speak slowly and distinctly;

- (iii) use simple sentences;
- (iv) repeat information if necessary;
- (v) avoid emotional topics and involved discussions;
- (vi) maintain eye contact;
- (vii) explain your actions;
- (viii) adjust your pace to the person's as much as possible;
- (ix) reduce the possibility of accidents;
- (x) approach the person professionally and politely;
- (xi) avoid authoritarian attitudes which often cause anger and make people aggressive (aggression is a common response to a threat to dignity and self-respect); and
- (xii) offer relevant information and explanation.

When instructing the prisoner:

- (i) give clear, unambiguous directions;
- (ii) if necessary, guide them to and from their destination.

Persons suffering from drug or alcohol withdrawal may display:

- (i) anxiety and/or aggression;
- (ii) irritability and/or highly emotional behaviour;
- (iii) insomnia;
- (iv) tremor;
- (v) psychotic behaviour;
- (vi) delirium;
- (vii) hallucinations and/or paranoia;
- (viii) coarse tremor and aimless fiddling; and/or
- (ix) fever, sweating, or rapid weak pulse.

Police officers and watch-house officers should be aware that in some cases severe alcohol or drug withdrawal may result in death if the person does not receive medical treatment.

Persons who are suffering from drug or alcohol overdose may display:

- (i) unusually large or small pupil size that does not change with environmental conditions;
- (ii) hot, flushed and sweaty skin which may indicate a fever;
- (iii) rapid breathing;
- (iv) jerky movements of limbs or shaking;
- (v) pounding heart;
- (vi) chest pain;
- (vii) jaw clenching;
- (viii) intense headache;
- (ix) panic;
- (x) seizures; and/or
- (xi) body stiffness and rigid limbs.

Police officers and watch-house officers should be aware that in some cases alcohol or drug overdose may result in death if the person does not receive medical treatment.

Appendix 16.11 Deleted

See the 'Death or detention of a foreign national in Australia' webpage on the Department of Foreign Affairs and Trade website.

OPM Issue 102
Public Edition

Appendix 16.12 MOU – Coroner reporting timeframe

(s. 16.23.6)

Text of Memorandum of Understanding.

Memorandum of Understanding between
The Commissioner of the Queensland Police Service
And
State Coroner
And
Crime and Misconduct Commission
Investigation of deaths arising from police related incidents

Contents:**Introduction**

1. Recitals.
2. Terms of use in this MOU.

Operative Provisions for the investigation of deaths arising from police related incidents

3. Notification.
4. Call out and scene attendance.
5. Responsibility for investigation.
6. Information exchange and confidentiality.
7. Public comment.
8. Dispute resolution.

Other

9. References
10. Variation and review.

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as the “MOU”) is made on the [First] day of [July] 2008.

BETWEEN

THE COMMISSIONER OF THE QUEENSLAND POLICE SERVICE (hereinafter referred to as the “QPS”)

and

THE STATE CORONER (hereinafter referred to as the “SC”)

and

CRIME AND MISCONDUCT COMMISSION (hereinafter referred to as the “CMC”)

Recitals

- a) In accordance with legislation the Parties have the following responsibilities that may arise in respect of deaths arising from police related incidents:
 - The SC is to receive reports and to investigate and hold inquests into such deaths: *Coroners Act 2003* (the Act);
 - Under section 2.3 of the *Police Service Administration Act 1990* the QPS has certain functions including that of upholding the law, the detection of offenders and bringing offenders to justice;
 - Additionally, the QPS has a duty to assist coroners in the performance of a function or exercise of a power under the *Coroners Act: s. 794 Police Powers and Responsibilities Act*; and
 - Pursuant to the *Crime and Misconduct Act 2001*, the CMC has the primary responsibility to combat and reduce major crime and to continuously improve the integrity of and to reduce the incidence of misconduct in the public sector.

In performance of this function the CMC may assume responsibility to investigate and otherwise deal with, particular incidents of misconduct or suspected misconduct.

- b) This MOU is intended to generally outline agreed cooperation between the Parties for the following purposes:
- i. the implementation of a coordinated response regarding the investigation of deaths arising from police related incidents; and
 - ii. to build upon existing cooperative arrangements between the three Parties in regard to such investigations;
- c) It is not intended that this MOU create any contractual relationship or that it is legally binding on the Parties.
- d) The Guiding Principles of this memorandum will be accountability, transparency, expertise and public confidence.
- e) The Parties agree to act in the spirit of mutual cooperation with each other and agree to provide assistance to each other where reasonably practicable, in achieving the purposes outlined in paragraph a) of the Recitals.
- f) This MOU should be read in conjunction with, and is subject to, the requirements, policies and guidelines of the QPS, State Coroner and CMC and relevant State legislation.

OPERATIVE PROVISIONS:

THE PARTIES TO THIS MOU AGREE AS FOLLOWS

Terms in use in this MOU

- **Death in custody**
s. 10 of the Act
- **Police Related Incidents**
OPM 1.17 definition
- **Public Comment**
Includes: Media comment, media release
- **The Act**
Coroners Act 2003
- **The Parties**
The Commissioner of the Queensland Police Service, the State Coroner and the Crime and Misconduct Commission
- **Officers**
"Police officers" as defined in s. 2.2(2) of the *Police Service Administration Act 1990*
- **SC**
State Coroner
- **QPS**
Queensland Police Service
- **CMC**
Crime and Misconduct Commission
- **ESC**
Ethical Standards Command

Operational Provisions for the Investigation of Police Related Deaths

1. Notification

- The SC will be notified in accordance with the Act.
- The ESC will be notified in all cases.
- The CMC will be notified in all cases.
- A police related death will be treated as a homicide until otherwise determined in accordance with this MOU.

2. Call out / scene attendance

- In all cases QPS personnel called out to attend the scene of death arising from a police related incident will be determined by the Assistant Commissioner, ESC, subject to any specific requirement of the SC and the deployment of these personnel will be arranged pursuant to QPS policy.

- The attendance at the scene, by any person deemed necessary by any of the Parties of this MOU, will be coordinated by the Assistant Commissioner, ESC in consultation with the SC and the CMC.

3. Responsibility for investigation

- In the event of a death arising from a police related incident the incident is to be investigated by the ESC subject to the CMC exercising its power to assume responsibility for the investigation.
- Where a death arising from a police related incident is to be investigated by the QPS the ESC have the following roles:
 - Consult with the SC to determine the appropriate unit within the QPS to conduct the investigation.
 - Appoint an experienced senior officer as the lead investigator to conduct the investigation in accordance with the QPS Operational Procedures Manual.
- The Assistant Commissioner, ESC will in consultation with the SC ensure an appropriately qualified and independent investigator
 - will be responsible for the investigation
 - provide appropriate and frequent briefings to the SC and the Assistant Commissioner, ESC
- Specialist units within the QPS will be utilised in the investigation of police related deaths to ensure that the best expertise available is used.
- In the event of any identified or suspected misconduct from a death arising from a police related incident the reporting and investigation of that conduct will be coordinated by the CMC and the ESC in accordance with existing legislative obligations and protocols.

4. Information Exchange and Confidentiality

- During the investigation of a death arising from a police related incident, dissemination of investigating documents by the investigation unit will be permitted by the SC for the purposes of that investigation. This does not extend to the release of information to officers involved in the incident under investigation.
- The QPS will ensure that officers involved in the incident are not given access to investigation documents (defined in schedule 2 of the Act) without the consent of the coroner who is investigating the matter (s. 54 of the Act) subject to s. 438 of the *Police Powers and Responsibilities Act 2000* and s. 18.2.4.4.7 of the QPS Human Resource Management Manual.
- The SC undertakes to give consideration to the release of certain documents to such officers in the same manner that would normally be given to civilians similarly involved.
- It is agreed that for the purposes of fulfilling their statutory responsibilities the Parties will be provided access to information disclosed during the investigation of police related deaths.
- The parties acknowledge that exchanges of information pursuant to this MOU may involve information that is confidential and or subject to privacy and secrecy laws.

5. Time frames

- The QPS undertakes, subject to exceptional circumstances, to provide a completed investigation report to the SC within six (6) months of the date of death arising from a police related incident.
- The SC undertakes, subject to exceptional circumstances, to conduct an inquest and deliver findings within six (6) months of receiving the completed investigation report from the QPS.

6. Public comment

- Media releases related to a death arising from a police related incident are to be restricted to a brief description of the factual circumstances leading up to the death accompanied by advice that the matter has been reported to the SC and the CMC.
- Prior to the finalisation of the investigation the Parties will consult before any of them makes any public comment about the investigation.

7. Dispute resolution

For any matter in relation to this MOU that may be in dispute, the Parties:

- Agree to result any dispute through negotiation between the nominated representatives of the Parties:
 - QPS – Chief Superintendent, ESC
 - SC – Detective Inspector, Coronial Support Unit
 - CMC – Director, Complaints Services, Office of the Assistant Commissioner, Misconduct.

- Agree that during the time when the Parties attempt to resolve the matter the parties will continue to comply with the MOU.
- The parties acknowledge that if no resolution is reached the State Coroner will make the final determination subject to statutory requirements.

8. References

QPS Operational Procedures Manual (s. 1.17)

Coroners Act 2003 (ss. 5(2), 7, 8, 10, 16, 39, 52, 54)

Police Powers and Responsibilities Act 2000 (ss. 601, 794)

Crime and Misconduct Act 2001.

9. Variation and Review

- a. This MOU may be varied by agreement between the Parties in writing.
- b. The Parties will review this MOU at such intervals as agreed in writing between the parties.

10. Notwithstanding 9(a) the Parties will review this MOU in the event there are any statutory changes affecting its operation.

[Signature]
Robert ATKINSON
Commissioner of the Queensland Police Service
Dated: [26.6.] 2008

[Signature]
Michael Allan BARNES
State Coroner
Dated: [18 June] 2008

[Signature]
Steven Homer LAMBRIDES
Assistant Commissioner Misconduct
Crime and Misconduct Commission
Dated: [18 June] 2008