

Chapter 7 – Child Harm

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7.1 Introduction

Definitions

For the purposes of this chapter:

Chief Executive

means the Chief Executive, Department of Child Safety, Seniors and Disability Services (CSSD).

Child Safety Services

means Child Safety Services, CSSD.

Significant child harm

equates to a child in need of care and protection by the CSSD.

Serious concerns for a child's wellbeing

are those concerns that do not amount to 'significant child harm' requiring the CSSD intervention but a member earnestly and sincerely requires a community-based support agency having contact with a family to offer support to address the serious concerns identified.

Wellbeing

means a good or satisfactory condition of existence.

Child Abuse and Sexual Crime Group, Crime and Intelligence Command

Information on Child Abuse and Sexual Crime Group's (CASCg):

- (i) role and functions;
- (ii) specialist response, support and expertise in child harm investigation; and
- (iii) engagement in regional investigations,

can be obtained on the CASCg Service Intranet page.

Principles for the administration of the Child Protection Act

The purpose of the *Child Protection Act* (CPA) is to provide for the protection of children. The main principle for its administration is that the safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount (see s. 5A: 'Paramount principle' of the CPA).

The CPA introduces concepts of relevance to police, which include:

- (i) dealing with children at risk of harm;
- (ii) temporary assessment orders;
- (iii) court assessment orders;
- (iv) the SCAN system; and
- (v) giving information and confidentiality.

Child harm should be investigated by CPIU, CIB or CASCg officers.

Investigations into allegations of harm or risk of harm to a child should be undertaken as far as practicable and consistent with this Manual.

Reporting to Department of Child Safety, Seniors and Disability Services

In accordance with Chapter 5A: 'Service delivery coordination and information sharing' of the CPA, officers are required to report relevant information including information regarding significant harm to a child to the Chief Executive.

Relevant information can be reported to the CSSD through:

- (i) a regional intake service;
- (ii) the Child Safety Service Centre; or
- (iii) the Child Safety After Hours Service Centre,

(see SMCD).

7.2 Child abuse coordination

The Detective Superintendent, Operations Commander, Child Abuse and Sexual Crime Group (CASCg) holds the additional positions of:

- (i) QPS Child Safety Director; and
- (ii) State Coordinator, CPIU.

The Manager, CASCG's role, relating to the protection of children, is to:

- (i) provide assistance to the Commissioner or delegate in gathering and determining whether information is 'investigative information' in accordance with s. 305: 'Police commissioner may decide that information about a person is investigative information' of the *Working with Children (Risk Management and Screening) Act*;
- (ii) monitor and support the provision of access to appropriate training in child protection and youth justice and information disclosure for relevant staff; and
- (iii) assist in the development of quality training materials to assist members of the Service in dealing with child protection and youth justice matters and make recommendations to the Assistant Commissioner, People Capability Command where appropriate.

The QPS Child Safety Director's role is to:

- (i) develop, implement and coordinate the Service's delivery of strategic child protection and youth justice objectives;
- (ii) ensure Service operations effectively contribute to an integrated child protection system across government, including support for Aboriginal and Torres Strait Islander children and families;
- (iii) prepare and provide authoritative high-level policy/operational advice and support to the Minister and Commissioner on strategic child protection and youth justice issues and projects as well as legal and legislative matters with child protection or youth justice implications;
- (iv) lead the development of appropriate programs, policies and practices that meet the needs of children and young people who have been harmed or are at risk of harm;
- (v) provide support to the Commissioner's role on the Child Safety Coordinating Committee chaired by the Department of the Premier and Cabinet;
- (vi) represent the Service in negotiations with:
 - (a) Child Safety Services;
 - (b) the Treasury and Premier's Departments; and
 - (c) other departments as required,to ensure consistency across agencies in implementing agency-based actions;
- (vii) represent the Service at meetings of the Child Protection Reform Leaders Group;
- (viii) on request, attempt to resolve conflict which may arise out of suspected child abuse and neglect (SCAN) team meetings between the police representative and officers of other government departments or agencies where local attempts to resolve conflict are not appropriate or have failed;
- (ix) monitor compliance with the policies and procedures relating to child deaths (see s. 8.5.8: 'Deaths of children' of this Manual);
- (x) monitor, analyse, evaluate and be responsible for coordinating the response for the mandatory annual reporting on child protection services delivered by the Service; and
- (xi) develop appropriate mechanisms to raise awareness within the Service of its responsibilities for child safety and youth justice.

The State Coordinator, CPIU role is to:

- (i) coordinate Service personnel performing duties as SCAN team representatives;
- (ii) maintain an over-viewing role of all CPIU and SCAN team operations throughout the State;
- (iii) maintain an ongoing review of policies and procedures across all service areas in relation to child safety and youth justice matters, including the operations of CPIU and SCAN teams and make appropriate recommendations to inform planning, policy and operations; and
- (iv) lead and influence Service operational changes required, including the establishment of governance arrangements and dedicated CPIU and SCAN teams throughout the State.

Each detective inspector within CASCG holds the position of Deputy State Coordinator, CPIU. A Deputy State Coordinator, CPIU is responsible in assisting the State Coordinator, CPIU in discharging the roles of that position.

District officers retain responsibility for the supervision of CPIU and SCAN representatives within their district.

7.3 Investigating child harm

7.3.1 Initial action for reports of child harm

First response officers who attend instances of child harm will be supported by specialist investigators from CPIU or CIB. In the absence of specialist investigators, first response officers may be required to conduct a child harm investigation.

Officers should consider the wellbeing of children at every job they attend. A child may or may not be present to form a concern for a child. If concerns are held for the child's safety or wellbeing, officers are to apply the Child Harm Referral Process flowchart available on the Child Abuse and Sexual Crime Group (CASCG) website.

An officer who determines there are serious concerns for the child's wellbeing (see 'Definitions' in s. 7.1: 'Introduction' of this chapter) are to submit a 'Child Harm Report' [0520] occurrence in QPRIME including the information contained in subsection 'Additional child harm reporting responsibilities' of this section.

The investigation of criminal allegations of child harm

The fundamental role of the Service in the child protection system, through the CPIU, is the investigation of criminal offences committed against children. Generally, child harm criminal investigations fall into the broad categories of:

- (i) sexual abuse;
- (ii) physical abuse; and
- (iii) serious neglect where there is a suspected criminal offence.

For a list of criminal offences constituting child harm, see Appendix 7.1: 'Schedule of relevant offences' of this chapter.

Where no CPIU office is available locally, the local CIB is to assume responsibility for the investigation. Where there is no CIB office, first response officers are to commence the investigation with specialist assistance provided remotely until investigators attend.

Children at immediate risk of harm

ORDER

Officers who identify or receive information a child is at immediate risk of harm are to investigate and take action in accordance with s. 7.4.1: 'Children at immediate risk of harm' of this chapter.

Role of other agencies in relation to child harm

The Service is committed to working collaboratively with Government and non-government organisations which have the responsibility and expertise in the provision of child protection and support services outside the ambit of the Service's primary criminal investigation responsibility.

Where an officer receives information from a member, or from the public, other than a prescribed entity (see s. 159M: 'Definitions for part' of the *Child Protection Act* (CPA)), which leads the officer:

- (i) to reasonably suspect a child:
 - (a) has suffered;
 - (b) is suffering; or
 - (c) is at unacceptable risk of suffering significant harm,

and may not have a parent willing and able to protect the child from the harm, the Service will report the child to Child Safety Services; or

- (ii) to have serious concerns for the child's wellbeing (see 'Definitions' in s. 7.1: 'Introduction' of this chapter) the Service will refer the child to Family and Child Connect.

In both instances, the officer will commence the referral process by submitting a 'Child Harm Report' [0520] occurrence in QPRIME including the information contained in subsection 'Additional child harm reporting responsibilities' of this section.

The Service as a mandatory reporter of significant child harm

ORDER

The following OIC are responsible for making mandatory reports on behalf of the Service in accordance with s. 13E: 'Mandatory reporting by persons engaged in particular work' of the CPA, where a reasonable suspicion a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse and may not have a parent willing and able to protect the child from the harm:

- (i) the OIC of a suspected child abuse and neglect (SCAN) team which reviews a reported Child Harm Report [0520] occurrence;
- (ii) the OIC of the CPIU responsible for investigating a child harm criminal complaint;

(iii) where a CPIU does not exist, the OIC of the local CIB responsible for investigating the child harm criminal complaint; or

(iv) where a CPIU and a CIB does not exist, the OIC of the station responsible for investigating the child harm criminal complaint.

Criminal investigations of child harm

ORDER

The officer who receives a report of child harm, where a criminal offence has been committed against a child (see Appendix 7.1 of this chapter), is to ensure a QPRIME occurrence is furnished and immediately notify the shift supervisor of the report.

The shift supervisor is to ensure allegations of child harm are, where possible, investigated in accordance with s. 7.3.3: 'Responsibility for investigating criminal allegations of child harm' of this chapter.

Where a report of child harm alleging a criminal offence is received by the Service, shift supervisors or DDOs are to ensure the CPIU, CIB or CASCG are immediately advised of the allegations (see s. 7.3.3 of this chapter).

The officer receiving the complaint of child harm alleging a criminal offence is:

- (i) to advise the informant not to discuss the allegations with the child; and
- (ii) not to allow any other person to discuss the allegations with the child,

until the arrival of the investigating officers. This should occur irrespective of the time occurring between the informant becoming aware of the allegations and the notification of police.

An officer receiving a complaint of child harm alleging a criminal offence should consider the requirements of s. 93A: 'Statement made before proceeding by child or intellectually impaired person' of the *Evidence Act*. Statements in this format should be undertaken in accordance with the Interviewing Children And Recording Evidence (ICARE) interviewing model (available on the CASCG, Child Protection and Investigation Unit 'Resources' Service Intranet page).

The ICARE interviewing model encompasses an electronically recorded free narrative of the witnesses' recall of the event. The initial information obtained from a child is critical in the prosecution process. In instances of child abuse, sexual assault or where the witness suffers an intellectual disability, the matter is to be referred to the OIC of the district CPIU for their consideration, advice and where appropriate, the appointment of a suitably qualified officer to undertake an ICARE interview.

Officers should record and include the following details in the QPRIME occurrence when taking a report of child harm alleging a criminal offence:

- (i) the time, date and place the information was received;
- (ii) the name, address and telephone number of the informant;
- (iii) the names, addresses, dates of birth and telephone numbers of the child, the child's parents and any siblings if known;
- (iv) the relationship between the child and the alleged offender;
- (v) the details of the nature of the complaint;
- (vi) the school the child attends and the present location of the child;
- (vii) the details of any preliminary complaint and the wording of such a complaint in the first person;
- (viii) any other background information including any other residents in the household/place;
- (ix) the details of any relevant the Child Safety Services involvement including Child Safety and Disability Services orders concerning the child;
- (x) whether the child identifies as being of Aboriginal or Torres Strait Islander origin; and
- (xi) the details of any witness to any preliminary complaint (see s. 4A of the *Criminal Law (Sexual Offences) Act*).

Additional child harm reporting responsibilities

Where a criminal offence is reported to the Service, which also involves child harm, where appropriate, the reporting officer is to include a Child Harm Report [0520] occurrence into the 'Incident/Count' stats tab of the QPRIME occurrence. The Child Harm Report [0520] occurrence information is multi-classed to the criminal offence occurrence.

A criminal offence occurrence classified multi-classed with a Child Harm Report [0520] occurrence should contain the following information in the child harm template:

- (i) is there a parent willing and able to protect the child (if no explain why);
- (ii) what is the significant harm or your serious concerns for the child's wellbeing;
- (iii) what are your observations of the child, siblings, parents and/or residence;

- (iv) factors you believe are impacting the family environment (physical health, mental/emotional health/child development and wellbeing, household relationships, household resources & basic care);
- (v) social factors impacting on the family (alcohol and drug use, social/community support network/unemployment/finances);
- (vi) child's current educational institution (school, grade/day care etc.);
- (vii) previous relevant interactions with the family by the Service;
- (viii) previous referrals to support agencies or Child Safety Services;
- (ix) are the family currently receiving support (if yes, describe); and
- (x) any other relevant information (including what action responding officers have taken).

Non-criminal child harm report

Where an officer becomes aware of or receives information from a member of the public, other than a prescribed entity (see s. 159M of the CPA), leading the officer to have serious concerns for the wellbeing of a child, the officer is to, where:

- (i) the concern does not relate to an allegation of a criminal offence (see Appendix 7.1 of this chapter) take appropriate action under the circumstances to address or mitigate risk of harm to the child; and
- (ii) if the reporting officer still has serious concerns for the wellbeing of a child despite taking actions to address or mitigate these serious concerns,

the officer is to create a Child Harm Report [0520] QPRIME occurrence and complete the child harm template (see subsection 'Additional child harm reporting responsibilities' of this section).

Protection of unborn children

In accordance with s. 21A: 'Unborn children' of the CPA, where the Chief Executive, reasonably suspects the unborn child may be in need of protection after the child is born, the Chief Executive is to take appropriate action to protect the child, for example:

- (i) assessing whether the child will need protection after birth; or
- (ii) offering help and support to the pregnant woman.

When an officer reasonably suspects an unborn child may be in need of protection after birth, the officer is to create a Child Harm Report [0520] occurrence and complete the child harm template (see subsection 'Additional child harm reporting responsibilities' of this section).

Additional information may include:

- (i) the names, addresses, dates of birth and telephone numbers of the unborn child's parents and any siblings, if known;
- (ii) the due date, or an estimate of the due date, of the child's birth; and
- (iii) the grounds for, and the circumstances which lead to, the officer reasonably suspecting the unborn child may be in need of protection after the child is born.

In appropriate cases, officers are to amend the Child Harm Report [0520] occurrence to indicate the date and details of the person notified at Child Safety Services, and the referral to the SCAN team (see s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this Manual).

7.3.2 Responsibility for reviewing child harm reports

POLICY

A crime manager who receives a Child Harm Report [0520] occurrence is to assign a task to the officer in charge of the local SCAN unit. Where a SCAN unit does not exist, the occurrence is to be assigned to the officer in charge of the district child protection and investigation unit (CPIU) for attention.

The officer in charge of the unit receiving the task is to select an officer, subject to local reporting arrangements of at least the rank of detective sergeant or where a detective sergeant is not available, a senior or experienced officer with sufficient child protection investigation experience, to review the Child Harm Report [0520] occurrence, and in the instance of a Child Harm Report [0520] occurrence:

- (i) relating to a criminal allegation:
 - (a) update the QPRIME occurrence with any additional information known to the officer, that the officer believes may assist the Department of Child Safety, Youth and Women who may subsequently review the occurrence; and
 - (b) liaise with the officer in charge of the relevant CPIU or criminal investigation branch (CIB) who will assume responsibility for the investigation of the criminal offence; or

(ii) that does not relate to a criminal complaint:

- (a) update the QPRIME occurrence with any additional information known to the officer, that the officer believes may assist the community-based intake referral agency or Department of Child Safety, Youth and Women who may subsequently review the occurrence;
- (b) liaise with the officer in charge of the relevant CPIU or the CIB; and
- (c) where the reviewing officer believes that other policing actions are necessary regarding the Child Harm Report [0520] occurrence, ensure the matter is referred back to the officer in charge of the reporting officer for further action.

In either case (i.e. for a Child Harm Report [0520] occurrence whether it relates to a criminal allegation or not), where:

- (i) the reviewing officer believes serious concerns for the wellbeing of a child exist, refer the matter directly to the relevant family and child connect agency who may subsequently review the occurrence containing Child Harm Report [0520];
- (ii) no family and child connect agency exists, indicate this on the occurrence containing the Child Harm Report [0520];
- (iii) the reviewing officer believes a child has suffered significant harm or is at risk of significant harm, report the matter directly to the Department of Child Safety, Youth and Women in accordance with mandatory and non-mandatory reporting requirements under the *Child Protection Act* who may subsequently review the Child Harm Report [0520] occurrence; and
- (iv) where the reviewing officer believes that the Child Harm Report [0520] occurrence does not require referral or report to a family and child connect agency or Department of Child Safety, Youth and Women, the officer is to indicate this on the occurrence.

7.3.3 Responsibility for investigating criminal allegations of child harm

POLICY

Unless valid reasons exist, the responsibility for the investigation of an allegation of a criminal offence against a child rests with, where a child protection and investigation unit:

- (i) is established in a district, an officer from that unit; or
- (ii) does not exist, an officer from the local criminal investigation branch.

See s. 2.7.3: 'Child Abuse and Sexual Crime Group' of this Manual.

7.3.4 Initial inquiries by officer investigating the report

PROCEDURE

An officer who has been detailed to investigate an allegation of a criminal offence against a child should:

- (i) check QPRIME for any criminal history or domestic violence entries where sufficient particulars of individuals are provided;
- (ii) liaise with the nearest child protection investigation unit (CPIU), criminal investigation branch (CIB) or the Child Abuse and Sexual Crime Group where appropriate;
- (iii) conduct a check of the 'Integrated Client Management System' to obtain particulars of any previous notifications; (see s. 7.3.6: 'Checks of the Integrated Client Management System (ICMS)' of this chapter)
- (iv) in cases where the investigating officer knows or suspects that the child is a child 'in need of protection', notify the manager of the nearest Child Safety Service Centre of the Department of Child Safety, Youth and Women, or an officer nominated by the manager of the area office, for the purpose of planning the most appropriate way of undertaking a joint investigation. In emergency situations, Child Safety After Hours Service Centre, Brisbane, may be contacted (see SMCD);
- (v) record all liaison with and responses from officers from the Department of Child Safety, Youth and Women regarding their involvement during a joint investigation in the relevant criminal offence occurrence or Child Harm Report [0520] occurrence;
- (vi) determine the urgency attached to the investigation of the complaint. Urgency may be determined by considering such matters as the:
 - (a) level of immediate risk to the child;
 - (b) potential for loss or destruction of evidence;
 - (c) application of the provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act*;

- (d) likelihood of an offence re-occurring without intervention exposing the child to further risk, which may include the failure to protect by the non-abusing parent;
- (e) relationship of the child to the offender;
- (f) age and developmental level of the child;
- (g) seriousness of the harm; or
- (h) in cases where the injury to the child is suspected to be Infant Abusive Head Trauma, officers should conduct inquiries in accordance with s. 7.5: 'Infant Abusive Head Trauma' of this chapter.

See Chapter 2: 'Investigative Process' of this Manual for process applicable to conducting investigation.

Telling parents about allegations and outcome of investigation

ORDER

In accordance with s. 15: 'Child's parents and long-term guardians to be told about allegation of harm and outcome of investigation' of the *Child Protection Act*, officers investigating an allegation of harm, or risk of harm, to a child, or assessing the child's need of protection because of the allegation are to give details of the alleged harm or risk of harm to at least one of the child's parents.

Additionally, as soon as practicable after completing the investigation, the officer is to:

- (i) tell at least one of the child's parents about the outcome of the investigation; and
- (ii) if asked by the parent, give the information in writing to the parent.

However, if the officer reasonably believes:

- (i) someone may be charged with a criminal offence for the harm to the child and the officer's compliance with this order may jeopardise an investigation into the offence; or
- (ii) compliance with this order may expose the child to harm;

the officer need only comply with this order to the extent the officer considers is reasonable and appropriate in the particular circumstances.

7.3.5 Assessment of circumstances of child harm by investigating officer

POLICY

The safety of children is of paramount importance. Consistent with the s. 5A: 'Paramount principle' of the *Child Protection Act*, officers are to ensure that their actions are directed at the safety and well-being of children, particularly those who are the victims of serious criminal offences. Children who are the victims of serious criminal offences, should not be returned to an environment where the investigating officer believes harm is likely to reoccur. Investigators are to work with officers from Child Safety Services to coordinate a response where a child should not be returned to an environment which presents a risk of offending or significant harm. For a list of offences that may constitute harm to a child, see Appendix 7.1: 'Schedule of relevant offences' of this chapter.

PROCEDURE

When an officer has completed an interview with a child where a parent is not present, the officer should:

- (i) return the child to a parent where the officer is satisfied that recurrence of the behaviour under investigation would be unlikely, or the child's version of events would not be likely to be influenced; or
- (ii) where a school based interview has been conducted with the child, leave the child in the care of the school where the officer is satisfied that a recurrence of the behaviour under investigation would be unlikely, or the child's version of events are not likely to be influenced, if the child returns home after school. Police are not to remove a child from school for the purpose of an interview or medical examination unless s. 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act* applies or a Temporary Assessment Order has been issued by a court.

7.3.6 Checks of the Integrated Client Management System (ICMS)

POLICY

Where an officer has been detailed to investigate an allegation of a criminal offence against a child, an inquiry is to be made with Child Safety Services for them to access the Integrated Client Management System (ICMS), (a Department of Child Safety, Youth and Women computer system which records relevant child protection information) to determine if there has been any prior involvement with the child by Child Safety Services.

PROCEDURE

Officers are authorised to request a search of information stored on the ICMS by:

- (i) completing a 'ICMS Request' form within the relevant QPRIME occurrence. Ensure that urgent requests are marked accordingly; and

(ii) faxing or e-mailing (preferred method) the completed request:

- (a) during business hours to Child Safety Services Data Management Services section (see SMCD); or
- (b) after hours to Child Safety After Hours Service Centre by telephone on the police only line (see SMCD).

For ICMS checks relating to the deaths of children see s. 8.5.8: 'Deaths of children' of this Manual.

7.3.7 Reports of suspected harm where other legal proceedings have been initiated

POLICY

Where a report that a child is being or has been harmed is received officers should investigate that report irrespective of any proceedings before the family court or any other jurisdiction.

7.3.8 Allegations of child harm where child is subject of family law proceedings

PROCEDURE

Where allegations of harm alleging a criminal offence has been committed against a child are made by or on behalf of a child who is the subject of a family court order, in addition to conducting an investigation into the allegations of harm, the officer responsible for the investigation should:

- (i) recommend to a non-offending parent that legal advice should be sought with a view to advising the family court of the allegations and obtaining any variations to existing family court orders which the non-offending parent considers necessary; and
- (ii) advise a non-offending parent in whose favour a residence order has been made to seek legal advice as to the possibility of denying contact to the allegedly offending parent if reasonable grounds for concern about the health or safety of the child if placed with that parent exist.

Where a parent refuses or declines to return a child to another parent in accordance with a residence order, police have no authority to return the child to the parent in whose favour the residence order was made without a recovery order issued by the family court. (These orders are normally directed to and held by the Australian Federal Police, see s. 11.13: 'Family Law Act' of this Manual.)

Prior to executing a recovery order, officers should sight the order and take note of the conditions and requirements endorsed on the order.

7.3.9 Finalisation of a report of harm to a child (QPRIME occurrence to be concluded)

POLICY

In all cases where an investigation into a criminal allegation of harm to a child has been completed, the investigating officer is responsible for the finalisation of the associated QPRIME occurrence or submission of a QPRIME occurrence if not already done.

Where a case has been discussed at the suspected child abuse and neglect (SCAN) team meeting, this information should be included in the general report section of the QPRIME occurrence report (see Appendix 7.2: 'Sample wording for QPRIME occurrence' of this chapter).

7.3.10 Section 229B: 'Maintaining a sexual relationship with a child' of the Criminal Code

Section 229B(6): 'Maintaining a sexual relationship with a child' of the Criminal Code provides that an adult cannot be prosecuted for an offence under that section without a Crown Law officer's consent.

Guideline 14(i): 'Section 229B Maintaining an unlawful sexual relationship with a child' of the Director of Public Prosecutions (State) Guidelines provides the circumstances where a Crown Law officer will not give consent to prosecute an offence under s. 229B(6) of the Criminal Code.

Consent will not be given where:

- (i) the sexual contact is confined to isolated episodes; or
- (ii) the period of offending is brief and can be adequately particularised by discrete counts on the indictment.

Officers proposing to commence a prosecution for an offence against s. 229B of the Criminal Code should submit a full brief of evidence with a covering report through their chain of command to the Director, QPS Legal Services, Legal Division.

The Director, QPS Legal Services should consider all the available evidence relating to the alleged offence and, where appropriate, refer the matter to the Director of Public Prosecutions (State) with a request for the consent of a Crown Law officer in accordance with s. 229B(6) of the Criminal Code to prosecute the offence. This request should be forwarded through the Executive Director, Legal Division.

7.3.11 Considerations when a child victim does not wish to make a formal complaint

POLICY

When an officer is investigating an offence of alleged criminal harm against a child, and it is apparent that the child is indicating an unwillingness to give evidence in court, the investigating officer should:

- (i) ensure the police investigation, court and witness support processes are explained to the child victim in an age appropriate manner;
- (ii) where possible, electronically record the conversation (this conversation is not to form any part of any statement obtained under provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act*);
- (iii) if the conversation is not electronically recorded, record details of any conversation in the officer's official police notebook;
- (iv) ensure the relevant QPRIME occurrence is updated in accordance with s. 1.11: 'QPRIME – Policelink entered occurrences' of this Manual;
- (v) assess the child's ability to make an informed decision throughout the investigation, considering the child's age, maturity and any other relevant factors;
- (vi) ensure, where possible, that an appropriate support person is present for the child. In determining who is an appropriate support person, consider:
 - (a) the wishes of the child;
 - (b) the relationship of the support person to the child (see s. 7.6.1: 'Persons to be present for an interview with a child who is a victim or witness' of this chapter);
 - (c) whether the support person is in a position of authority to the child;
 - (d) the support person's involvement in the alleged offence(s); and
 - (e) the relationship of the support person to the alleged offender(s); and
- (vii) consider the sufficiency of the evidence and the public interest tests and take appropriate action in accordance with ss. 3.4.2: 'The decision to institute proceedings' and 3.4.4: 'Withdrawal of charges' of this Manual.

For the definition of harm, see s. 9: 'What is harm' of the *Child Protection Act*.

7.4 Children in need of protection

A 'child in need of protection' is defined in s. 10: 'Who is a child in need of protection' of the *Child Protection Act*.

7.4.1 Children at immediate risk of harm

Section 16: 'Contact with child at immediate risk of harm' of the *Child Protection Act* allows police to enter, search and remain at a place in circumstances where a police officer is investigating an allegation of harm or risk of harm to a child and the officer has been denied contact with the child or cannot reasonably gain entry to the place where the officer reasonably believes the child is in and the officer reasonably suspects the child is at immediate risk of harm or is likely to leave or be taken from a place and suffer harm if the officer does not take immediate action.

Similarly s. 17: 'Contact with children in school, education and care service premises, family day care etc.' of the *Child Protection Act* allows a police officer to have contact with a child for as long as the officer considers reasonably necessary to investigate an allegation of harm or risk of harm to a child under certain circumstances (see s. 7.6.4: 'Interviews at schools or places where child care is provided' of this chapter).

Section 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act* empowers a police officer to take a child into the custody of the chief executive, if the officer is investigating an allegation of harm, or risk of harm to the child, and the officer reasonably believes the child is at risk of harm if the officer does not immediately take the child into custody.

To take a child into custody, an officer may enter the place where the officer reasonably believes the child is, search the place to find the child, and remain in the place for as long as the officer reasonably considers is necessary to find the child (see s. 18(3) of the *Child Protection Act*).

ORDER

Once an officer takes a child into the Chief Executive's custody, the officer is to:

- (i) apply for a temporary assessment order for the child (see s. 18(5) of the *Child Protection Act*) as soon as practicable; and

(ii) in compliance with s. 20: 'Officer's obligations on taking child into custody' of the *Child Protection Act*, as soon as reasonably practicable:

(a) take reasonable steps to tell at least one of the child's parents:

- that the child has been taken into custody; and
- the reasons for the action.

The officer is not required to tell the child's parents in whose care the child has been placed.

Additionally, the officer is only required to give reasons for taking the child into custody to the extent the officer considers is reasonable and appropriate in particular circumstances, if the officer reasonably believes:

- someone may be charged with a criminal offence for harm to the child and the officer's provision of reasons may jeopardise an investigation into the offence; or
- providing details of the reasons for the action may expose the child to harm; and
- when the Chief Executive's custody ends under s. 18(7) of the *Child Protection Act*;

(b) tell the child, subject to s. 195: 'Compliance with provisions about explaining and giving documents' of the *Child Protection Act*, about his or her being taken into the Chief Executive's custody; and

(c) tell the Chief Executive the child has been taken into the Chief Executive's custody and where the child has been taken, by advising the local Child Safety Service Centre of the Department of Child Safety, Youth and Women, or Child Safety After Hours Service Centre after hours (see SMCD).

Officers who take a child into the custody of the Chief Executive are to discuss the placement of the child with officers from Child Safety Services as soon as practicable after taking the child into custody and comply with all reasonable recommendations made by such officers.

When the provisions of ss. 16 or 17 of the *Child Protection Act* are used, the officer concerned is required to record full details about the exercise of the powers and other actions taken, ensure that these details are recorded in the 'Child/Young Person Report' in the QPRIME occurrence.

PROCEDURE

The 'Child/Young Person Report' in the QPRIME occurrence is to contain the words 'Child Protection Act', and the section under which the powers were exercised. Details should be listed in the narrative tab of the QPRIME occurrence.

Details include:

- (i) any name and aliases of the child;
- (ii) name and date of birth of the parent(s) of the child;
- (iii) any existing family law, domestic violence or child protection orders;
- (iv) name and date of birth of the alleged offender, and the relationship of the alleged offender to the child;
- (v) what powers were exercised, such as searching the place to find the child;
- (vi) action taken, and/or to be taken in relation to the matter; and
- (vii) any reference numbers, e.g. QPRIME occurrence number.

7.4.2 Moving a child to a safe place

In accordance with s. 21: 'Moving child to safe place' of the *Child Protection Act*, where an officer reasonably believes a child who is under twelve years is at risk of harm, but does not consider it necessary to take the child into the Chief Executive's custody to ensure the child's protection, and:

- (i) a parent or other member of the child's family is not present at the place where the child is; and
- (ii) after reasonable inquiries, the officer cannot contact a parent or other member of the child's family,

the officer may, with the help that is reasonable in the circumstances, move the child to a safe place and make arrangements for the child's care at the place.

ORDER

A watch-house is not to be used as a safe place for children who are moved under the provisions of s. 21 of the *Child Protection Act*.

PROCEDURE

To establish the location of the safe place where the child is to be taken, officers are to contact the local Child Safety Service Centre of the Department of Child Safety, Youth and Women, or Child Safety After Hours Service Centre after hours (see SMCD), and take the child to the nominated place.

POLICY

As soon as practicable after moving the child to a safe place, the officer is to:

- (i) take reasonable steps to tell at least one of the child's parents or a family member of the child's whereabouts; and
- (ii) tell the Chief Executive the child has been moved to a safe place and where the child has been moved, by advising the local Child Safety Service Centre of the Department of Child Safety, Youth and Women, or Child Safety After Hours Service Centre after hours (see s. 21(3) of the *Child Protection Act*).

7.4.3 Assessment orders

Temporary assessment orders

A temporary assessment order under Chapter 2, Part 2: 'Temporary assessment orders' of the *Child Protection Act* authorises necessary investigative activities to assess whether a child is a child in need of protection, if the consent of a parent of the child has not been obtained or it is not practicable to take steps to obtain the parent's consent. A temporary assessment order remains in force for a period of up to three days as ordered by a magistrate unless it is extended in accordance with the provisions of s. 34: 'Extension of temporary assessment orders' of the *Child Protection Act*.

POLICY

Officers should only make applications for temporary assessment orders where the provisions of s. 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act* have been invoked and the police officer has taken the child into the Chief Executive's custody. When the officer does not reasonably believe that a child is likely to suffer from harm if the officer does not immediately take the child into custody, the matter of harm or risk of harm to the child is to be referred to the local area office of Child Safety Services for investigation and appropriate action.

Applications for extensions or variations of temporary assessment orders should only be made by officers where the original application for the relevant temporary assessment order was made by police.

When officers are required to make applications for temporary assessment orders pursuant to s. 18 of the *Child Protection Act*, they are to consult and liaise with officers from the local Child Safety Service Centre of the Department of Child Safety, Youth and Women or Child Safety After Hours Service Centre (after hours) prior to making such applications.

PROCEDURE

When making an application to a childrens court for a temporary assessment order, officers are to complete a Form 1: 'Application for a Temporary Assessment Order' available in QPRIME and on QPS Forms Select), selecting appropriate provisions for the order sought. Orders are to be linked to the relevant child in the QPRIME occurrence.

The completed Form 1 is to be filed with the Registrar of the appropriate childrens court, who will fix a time and place for hearing the application and endorse the form accordingly.

All evidence in support of an application of a temporary assessment order should be presented to the childrens court hearing the application. The childrens court is not bound by the rules of evidence (see s. 105: 'Evidence' of the *Child Protection Act*). Generally, the sworn application would be sufficient for a childrens court magistrate to hear and determine the application. However, in contested matters, the applicant police officer should provide an affidavit containing the facts of the application and any affidavits from witnesses such as neighbours, relatives, welfare officers, medical practitioners and others.

Where the applicant for a temporary assessment order is a police officer, a police prosecutor is to appear and represent the applicant.

ORDER

Once a temporary assessment order has been made for a child, the applicant police officer is to:

- (i) give copies of the application and order to the Chief Executive by providing such copies to the local Child Safety Service Centre of the Department of Child Safety, Youth and Women, or through Child Safety After Hours Service Centre outside of office hours (see SMCD);
- (ii) give a copy of the order to at least one of the child's parents and explain the terms and effect of the order (see s. 32: 'Explanation of temporary assessment orders' of the *Child Protection Act*); and
- (iii) tell the child about the order, to the extent that the police officer reasonably considers is appropriate in the circumstances having regard to the child's age or ability to understand the matter (see s. 195(5) of the *Child Protection Act*).

POLICY

Generally, when a temporary assessment order is made, officers from Child Safety Services should undertake the investigation to assess whether the child in respect to whom the order was made is in need of protection, and any application for an extension or variation of the temporary assessment order.

However, police officers may in appropriate cases assist by making applications for an extension or variation of a temporary assessment order, for example, in localities, where following the making of the temporary assessment order, it is not possible for officers from Child Safety Services to attend and make the required application.

Court assessment orders

A court assessment order authorises necessary investigative activities to assess whether a child is a child in need of protection if:

- (i) the consent of a parent of the child has not been obtained or it is not practicable to take steps to obtain the parent's consent; and
- (ii) more than three days is necessary to complete the investigation and assessment.

A court assessment order is made in accordance with Chapter 2, Part 3: 'Court assessment orders' of the *Child Protection Act*.

POLICY

Generally, applications for court assessment orders should be made by officers from Child Safety Services.

However, police officers may in appropriate cases assist by making applications for court assessment orders, for example, in localities, where following the making of the temporary assessment order, it is not possible for officers from Child Safety Services to attend and make the required application.

Applications for extensions or variations of court assessment orders can only be made by authorised officers (not police officers) under the *Child Protection Act*.

PROCEDURE

When making an application to a childrens court for a court assessment order, officers are to complete a Form 5: 'Application for a Court Assessment Order' (available in QPRIME and on QPS Forms Select) selecting appropriate provisions for the order sought. Orders are to be linked to the relevant child in the QPRIME occurrence (see QPRIME Users Guide).

The completed Form 5 is to be filed with the Registrar of the appropriate childrens court, who will fix a time and place for hearing the application and endorse the form accordingly.

All evidence in support of an application of a court assessment order should be presented to the childrens court hearing the application. The childrens court is not bound by the rules of evidence (see s. 105: 'Evidence' of the *Child Protection Act*). Generally, the sworn application would be sufficient for a childrens court magistrate to hear and determine the application. However, in contested matters, the applicant police officer should provide an affidavit containing the facts of the application and any affidavits from witnesses such as neighbours, relatives, welfare officers, medical practitioners and others.

Where the applicant for a court assessment order is a police officer, a police prosecutor is to appear and represent the applicant.

ORDER

Once an application for a court assessment order has been filed, the applicant police officer is to:

- (i) give a copy of the application for a court assessment order to the Chief Executive, by providing such copies to the Child Safety Service Centre of the Department of Child Safety, Youth and Women, or through Child Safety After Hours Service Centre outside of office hours (see SMCD);
- (ii) personally serve a copy of it on each of the child's parents. The copy of the application is to state when and where the application is to be heard, and that the application may be heard and decided even though the parent does not appear in court; and
- (iii) tell the child, subject of the application, about the application, to the extent that the police officer reasonably considers is appropriate in the circumstances having regard to the child's age or ability to understand the matter (see s. 195(5) of the *Child Protection Act*).

When officers intend to enter a place under authority of a temporary assessment order or a court assessment order, they are to comply with the provisions of ss. 31: 'Order – procedure before entry' and 45: 'Provisions of court assessment order' of the *Child Protection Act* respectively.

Child protection orders

POLICY

The *Child Protection Act* does not allow police officers to make applications for child protection orders, and therefore the responsibility for such applications rests solely with officers from Child Safety Services.

7.4.4 Warrant for apprehension of a child under the Child Protection Act

Chapter 6, Part 3: 'Warrant for apprehension of child' of the *Child Protection Act* (CPA) provides for applications and issuing of warrants and special warrants by a magistrate for the apprehension of a child who under an order has been

placed into the custody or guardianship of the Chief Executive or a child who has been unlawfully removed from a person's custody or guardianship.

Generally, authorised officers appointed under the CPA should make applications under this part for issue of a warrant for the apprehension of a child.

Where required, officers should assist in the execution of any such warrants (see Chapter 1, Part 3, Division 2: 'Helping public officials' of the PPRA).

Members receiving information that a child who is the subject of a child protection warrant may be located interstate are to pass this information on to the Detective Inspector of the Child Abuse and Sexual Crime Unit, who has been appointed as the Interstate Child Protection Warrant Liaison Officer (ICPWLO) as soon as possible. The ICPWLO will liaise directly with interstate counterparts with a view to having the warrant enforced in accordance with the Interstate Child Protection Warrants Protocol and the *Service and Execution of Process Act* (Cwlth). The member who provided the initial advice to ICPWLO is responsible for ensuring the original warrant and associated documentation is given to the ICPWLO as soon as practicable thereafter.

Members receiving requests for assistance from an interstate government agency or law enforcement agency to enforce an interstate equivalent of a child protection warrant are to refer such requests to the ICPWLO. The ICPWLO is responsible for ensuring the child who is the subject of the interstate warrant is entered in QPRIME as a person of interest. The ICPWLO should create a QPRIME 'Order – other agency' flag indicating that the child is the subject of a child protection warrant and that the ICPWLO is to be advised of the child's location immediately.

Officers who are detailed to finalise interstate child protection warrants are to provide advice of any developments in the investigation to the ICPWLO.

When contact with the ICPWLO is required officers are to comply with the instructions contained in s. 2.7.2: 'Notifying Crime and Intelligence Command' of this Manual.

7.4.5 Forty-eight hour care and treatment order (Public Health Act)

In accordance with s. 197: 'Designated medical officer may make care and treatment order for child' of the *Public Health Act*, a designated medical officer may order that the child be held at the health service facility for forty-eight hours if the officer becomes aware that a child at a health service facility has been harmed or is at risk of harm and the child is likely to leave or be taken from the facility and suffer harm if immediate action is not taken. Section 201: 'Designated medical officer may extend care and treatment order' of the *Public Health Act* provides that the designated medical officer may extend the care and treatment order, but for not more than ninety-six hours from the time the original order was first made.

POLICY

Officers may make use of these provisions where there is a need to have a child medically examined as part of a child harm investigation and the parents have not co-operated in the investigative process. Officers should note that the section does not give police the authority to take the child to the health service facility, however s. 18(6): 'Child at immediate risk may be taken into custody' of the *Child Protection Act* provides that an officer may arrange a medical examination of, or for medical treatment for the child.

Once a child is at a health service facility, officers should request that a designated medical officer order that the child be held at the facility for forty-eight hours. The hospital emergency department maintains the necessary forms.

Once the care and treatment order has been made, the officer conducting the investigation into the alleged harm is responsible for providing the medical staff at the hospital with as detailed a case history as possible to enable medical staff to determine what medical examinations are appropriate.

Breach of forty-eight hour care and treatment order

PROCEDURE

Should a child under a current care and treatment order leave or be removed from the health facility without the permission of the designated medical officer, officers should consider taking the child into the custody of the Chief Executive under the provisions of s. 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act*. Under the provisions of s. 18(6), officers may also arrange for a medical examination of the child.

Where a child, the subject of a care and treatment order, leaves or has been removed from the hospital, the order continues to be in force until the expiration of the period ordered by the designated medical officer.

7.4.6 Consultation with Chief Executive before prosecution

Section 169: 'Consultation with chief executive before prosecution' of the *Child Protection Act* applies to an offence against:

- (i) s. 162: 'Offence to remove child from carer' or s. 164: 'Offence to remove child from custody or guardianship' of the *Child Protection Act* relating to the unlawful removal or keeping of child in another state; or
- (ii) s. 163: 'Offence to remove child from carer – order made in another State' or s. 165: 'Offence to remove child from custody or guardianship – order made in another State' of the *Child Protection Act*.

ORDER

Before commencing a proceeding against a person for any of the offences to which s. 169 of the *Child Protection Act* apply, officers are to consult with the Chief Executive. However if a proceeding against a person is commenced by way of arrest and the officer believes, in the circumstances, it is reasonably necessary to arrest the person without first consulting with the Chief Executive and no consultation occurs prior to the starting of the proceeding, the officer is to notify the Chief Executive as soon as practicable after the arrest.

The Chief Executive may be consulted or notified by contacting the manager, Child Safety Service Centre, Department of Child Safety, Youth and Women, or through Child Safety After Hours Service Centre outside of office hours (see SMCD).

7.4.7 Seizure of evidence

Under Chapter 6, Part 4, ss. 176 to 181: 'General powers of authorised officers and police officers' of the *Child Protection Act*, where a police officer enters a place:

- (i) whilst performing a function or exercising a power under Chapter 2: 'Protection of children' of the *Child Protection Act*; or
- (ii) under a warrant of apprehension issued under s. 172: 'Issue of warrant' of the *Child Protection Act*,

the officer may seize a thing at the place if the officer reasonably believes:

- (i) the thing:
 - (a) may be received in evidence in a proceeding on an application for an order for the child; or
 - (b) is evidence of an offence in relation to the child or the child's unlawful removal from custody or guardianship; and
- (ii) the seizure is necessary to prevent the thing being:
 - (a) hidden, lost or destroyed; or
 - (b) used to commit, continue or repeat the offence.

These provisions also provide for procedure after seizing a thing, forfeiture and dealing with forfeited things.

POLICY

When officers seize things under the provisions of the *Child Protection Act* they are to comply with the specific provisions dealing with procedure, forfeiture and dealing with forfeited things of the *Child Protection Act* and comply with the provisions of Chapter 4: 'Property' of this Manual as applicable.

7.4.8 Concerns with Child Safety Services response

Child Safety Services procedure requires departmental staff to provide the Service's Suspected Child Abuse and Neglect Team (SCAN) representative with details of the outcome (and rationale) for matters referred to regional intake services by the Service. Where the Service's SCAN team representative or child protection investigation unit officer require further information regarding the outcome or has concerns about the quality of the decision by regional intake, they may raise the concerns with the team leader of the regional intake service where the decision was made. If after speaking with the team leader the Service SCAN team representative or child protection investigation unit officer believe a multi-agency response is required, a request for an information coordination meeting is to be made by the Service SCAN team representative in accordance with s. 7.10: 'Suspected Child Abuse and Neglect Team system' of this chapter and the 'Information Coordination Meetings (ICM) and Suspected Child Abuse and Neglect (SCAN) Team System Manual' available on the Child Abuse and Sexual Crime Group web page on the Service Intranet.

In relation to general concerns regarding decision making by Child Safety Services or the actions of individual child safety officers, all attempts should be made to resolve the issue at the local level. Investigating officers should first raise any issues or concerns with their officer in charge, and if supported by the officer in charge, contact:

- (i) the team leader of the relevant Regional Intake Service or Child Safety Service Centre; or
- (ii) if not satisfied with the responses from the team leader of the relevant Regional Intake Service or Child Safety Service Centre, the manager of that Regional Intake Service or Child Safety Service Centre; and
- (iii) if not satisfied with the response of the manager of the Regional Intake Service or Child Safety Service Centre, the Client Complaints officer in the relevant Department of Child Safety, Youth and Women regional office.

Matters may also be referred through the Child Safety Director to a senior officer within the Department of Child Safety, Youth and Women, in accordance with the Information Coordination Meetings (ICM) and Suspected Child Abuse and Neglect (SCAN) Team System Manual available on the Child Abuse and Sexual Crime Group web page on the Service Intranet.

7.4.9 Joint investigations

Definition

For the purposes of this section:

Joint investigation

means the investigation of a child protection matter by an officer of the Service in company with an officer of the Child Safety Services (CSS).

The purpose of a joint investigation is to:

- (i) minimise the number of interviews conducted with children and young people;
- (ii) provide a timely and comprehensive investigative process, which minimises delay and promotes information exchange between the relevant agencies;
- (iii) conduct interviews in an environment that is focussed on the child or young person and promotes their participation;
- (iv) assess the individual needs of children, young people and families;
- (v) ensure timely access to relevant support services throughout the investigation process;
- (vi) use protective intervention to ensure the safety of children and young people;
- (vii) support the non-offending parent or carer;
- (viii) identify and where appropriate prosecute offenders; and
- (ix) enhance the standard of briefs of evidence.

Joint investigation criteria

For a child protection matter to be considered for joint investigation:

- (i) it must contain an allegation of a criminal offence committed against a child requiring investigation by a member of the Service; and
- (ii) it must contain a suspicion of child harm that has met the threshold for statutory involvement of CSS; and
- (iii) both the Service and CSS are required to actively investigate the matter.

Roles and responsibilities

Where it is identified that a child protection matter meets the joint investigation criteria set out above the investigating officer is to ensure that contact is made with CSS and consultation with the relevant CSS officer occurs with respect to agency priorities, agency actions, roles and responsibilities.

Where a matter meets the criteria for joint investigation and either agency is not able to investigate in company with the other agency, the matter is not a joint investigation. In such circumstances the investigating officer is required to record the reasons for not conducting a joint investigation within the relevant QPRIME entry.

Investigating reports of suspected child harm

Officers jointly investigating a reports of child harm are to do so in accordance with the provisions contained in ss. 7.3.1: 'Initial action for reports of child harm' and 7.6: 'Interview with a child' of this chapter.

Referral to a suspected child abuse and neglect (SCAN) team

Where an investigating officer is involved in a joint investigation and is giving consideration to a SCAN team referral, the investigating officer is to refer to s. 7.10: 'Suspected child abuse and neglect (SCAN) team System' and in particular the provisions of s. 7.10.2: 'Suspected child abuse and neglect (SCAN) team referral' of this chapter as it relates to the agency responsible for the submission of a Form 1: 'Request for Multi-Agency Meeting'.

7.4.10 Child welfare checks

POLICY

Members routinely receive requests for checks to be undertaken to assess the wellbeing of a child. Prior to attending such requests, members are to make a determination as to the lawfulness of any such inquiries.

In determining the appropriate response, officers are to consider whether the information received meets the following criteria:

- (i) is a criminal offence alleged to have been committed against the child; and
- (ii) the child is a child in need of protection under the *Child Protection Act (CPA)*?

Where these circumstances exist, the matter is to be referred to a shift supervisor, district duty officer or child protection and investigation unit (CPIU) officer for assessment and determination as to the appropriate response (see Flowchart

7.1: 'QPS Welfare checks' available on the Child Abuse and Sexual Crime Group, Child Protection and Investigation Unit 'Resources' webpage on the Service Intranet).

In the absence of these circumstances, officers have no lawful authority to undertake inquiries regarding the wellbeing of a child regardless of the notifier's intentions or interest.

Officers are to subject all information to scrutiny to ensure the veracity of the request. Consideration is to be given to the following:

- (i) nature of the allegations;
- (ii) a notifier's capacity to have knowledge of the allegations;
- (iii) any motive or advantage that the notifier may have or receive; and
- (iv) previous requests as recorded in QPRIME/CAD.

Where after consideration of all information a determination is made that checks will not be undertaken, a record of this decision should be recorded in QCAD for later reference.

Assistance to Child Safety Services

Where the request is as a result of a child safety officer's concern for their officers' safety whilst performing a function in accordance with the CPA, a job request is to be generated with the local communications centre for officers to assist child safety officers within mutually agreed time frames.

7.5 Infant abusive head trauma

POLICY

When conducting an investigation into possible infant abusive head trauma, the investigating officer is to:

- (i) interview the parents/caregivers of the injured infant at the earliest opportunity with a view to obtaining their versions of how the infant came to be injured. Where possible these interviews should be conducted separately and prior to the release of any medical information. Officers should consider conducting a video re-enactment of the events where appropriate;
- (ii) document the injuries as they are known to the attending physician, keeping in mind that they will almost certainly be awaiting the results of further tests or examinations, and may only be able to provide an interim opinion;
- (iii) ascertain what the attending physician believes was the mechanism for the injuries sustained (i.e. if they are indicating that the child has been shaken, establish why they have reached this opinion). It should be noted that the key issue is whether the injuries have been inflicted;
- (iv) discuss the further tests or examinations which are going to be conducted;
- (v) document carefully the version obtained by medical staff from the infant's parent/s or caregiver/s. Medical staff should be asked to record any conversations had with the parent/s or caregiver/s in the infant's medical file and reminded that this information may later be required in statement form;
- (vi) speak with the attending physician about evidence to show the presence of retinal haemorrhaging. This may involve the taking of retinal slides or the use of more sophisticated imaging equipment in certain larger hospitals. Such evidence if obtainable may be shown to an ophthalmological expert at a later date, who will be in a position to comment on the infant's condition even without seeing him or her in person; and
- (vii) determine the infant's prognosis and if the child is not expected to recover the following steps need to be arranged prior to death:
 - (a) any blood taken from the infant must be retained for later analysis as post mortem blood is not suitable (hospitals have been known to destroy blood samples in these circumstances, so it is important to intervene to ensure that this is not the case);
 - (b) obtaining further evidence (such as skin cultures, spinal taps and urine samples); and
 - (c) the investigating officer needs to make contact with the pathologist prior to death to discuss all of these issues.

Officers investigating deaths of children or sudden unexplained deaths of infants, see ss. 8.5.8: 'Deaths of children' and 8.5.9: 'Sudden unexplained deaths of infants' of this Manual.

7.6 Interview with a child

Prior to commencing an investigation into an alleged offence, officers intending to use information obtained under one of the circumstances outlined in s. 187(1)(a): 'Confidentiality of information obtained by persons involved in

administration of Act' of the *Child Protection Act* (CPA), should only use the information for the investigation or for a proceeding for the offence after consulting with:

- (i) Child Safety Services; or
- (ii) the suspected child abuse and neglect (SCAN) team member (if the information was obtained from a SCAN team member); or
- (iii) the prescribed entity (if the information was obtained from a prescribed entity),

to determine if the proposed use of the information would be in the best interests of the child involved (see s. 188A: 'Police use of confidential information' of the CPA).

However, s. 188A of the CPA does not apply to an alleged offence committed against a child, or where an officer must use the information immediately in the performance of a function. For consultation requirements regarding an offence committed against a child, see s. 7.3.4: 'Initial inquiries by officer investigating the report' of this chapter.

7.6.1 Persons to be present for an interview with a person with an impairment of the mind or a child who is a victim or witness

Definitions

For the purpose of this section:

Affected child

means as defined in s. 21AC: 'Definitions for div 4A' of the *Evidence Act* (EA).

Special witness

means as defined in s. 21A: 'Evidence of special witnesses' of the EA.

For information on evidence given by an affected child in a proceeding for a relevant offence refer to s. 3.10.6: 'Special witnesses' of this Manual.

Where officers are intending to interview a child or person with an impairment of the mind, who is the victim or suspected victim of an offence, or is a witness to an offence, which may reveal matters to be investigated by Child Safety Services, officers should consider conducting a joint interview with an officer from Child Safety Services (see Flowchart 7.2: 'Person present for an interview' available on the CIC Information Hub on the Service Intranet).

Whenever practicable, a child should be interviewed in the company of a corroborating officer. Wherever possible, a support person should not be present in the interview room. If this is unavoidable, the interviewer should, before the commencement of the interview, ensure the support person understands:

- (i) they will be a witness in any subsequent proceeding and will be required to supply a statement;
- (ii) they will have to sit behind or out of view of the child;
- (iii) they will not be able to talk to, touch or prompt the child at any time either verbally or non-verbally;
- (iv) they will not be able to answer questions or provide information in response to any of the discussions, unless directly asked;
- (v) where any disclosure made by the child may be of an explicit or sexual nature, they should prepare themselves for such material or exclude themselves from the interview prior to the commencement; and
- (vii) if they disrupt the interview in any manner it will be suspended, and they will be excluded from the interview.

People who cannot act as a support person include:

- (i) any person to whom the child or person with an impairment of the mind has disclosed relevant information to;
- (ii) a child (including older siblings);
- (iii) any person who may place undue influence or pressure on the child i.e. school principal, parent, carer; and
- (iv) any person who may be a witness in the matter to which the interview relates.

When an officer is to interview a child who is the victim, a suspected victim of a crime or a witness who is likely to be classed as an 'affected child' or a special witness in a proceeding, that officer should ensure:

- (i) the interview is conducted in such a manner so as to reduce the amount of trauma to the child;
- (ii) there is a limited number of people present during the interview; and
- (iii) when the child requests that persons other than investigators be excluded from the interview, the wishes of the child be respected where possible.

7.6.2 Preparation for an interview with a child

Where an officer is investigating an alleged offence, the officer intending to interview a child should make every effort to notify the child's parent prior to any interview and subject to the requirements of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA) and if requested, allow them to be present for any interview. However, parents should be encouraged not to be present during the interview as the presence of a parent has the potential to adversely affect the child's willingness to disclose information.

Where the parent may be the offender, or is suspected of being party to the alleged offence or the parent is likely to compromise the gathering of the evidence of the child, an officer should refer to ss. 7.3.4: 'Initial inquiries conducted by officer investigating report' and 7.6.4: 'Interviews at schools or places where child care is provided' of this chapter. In relation to harm to a child occurring inside the child's home there may be additional requirements which are dealt with under ss. 7.3.5: 'Assessment of circumstances of child harm by investigating officer' and 7.3.11: 'Considerations when a child victim does not wish to make a formal complaint' of this chapter.

When an officer is preparing to conduct an interview with a child witness or a child victim, the following guidelines for the interview apply:

(i) arrange a venue which is appropriate to give effect to the provisions of s. 93A of the EA. The venue should be free from any interruption and be as non-threatening an environment as possible for the child (for the conduct of interviews at a school see s. 7.6.4 of this chapter);

(ii) officers interviewing a child should ensure a minimum number of persons are present for the interview. It is difficult for a child to disclose details of an offence or harm, particularly sexual harm, in front of a group of strangers.

Persons recommended to be present are:

(a) the investigating officer;

(b) a corroborating officer; or

(c) a representative from Child Safety Services if the child is in need of protection (see s. 7.4: 'Children in need of protection' of this chapter); and

(d) the child;

(iii) if the child is an indigenous child, make contact with the independent Aboriginal or Torres Strait Islander entity (see s. 6: 'Who is an independent Aboriginal or Torres Strait Islander entity' of the CPA) for that child before conducting any interview. If this is not practicable because a person is not available or urgent action is required to protect the child, the officer is to make contact with the independent Aboriginal or Torres Strait Islander entity as soon as practicable after making the decision;

(iv) obtain information relating to the purpose of the interview including the circumstances in which disclosures had been made by the child and/or the circumstances existing that caused the notifier to report their concerns about harm or risk of harm to that child i.e. unusual incidents or recent behavioural changes;

(v) obtain background information in relation to the child and the child's surroundings including but not limited to:

(a) information about the:

- age and developmental levels;
- linguistic abilities and communication skills;
- culture or religion;
- personality and temperament; and
- attention span;

(b) the child's family and community:

- information about family circumstances i.e. separated families, extended families and the relationship of the child to each family member;
- information about previous child protection, criminal history or domestic violence history from both Department of Child Safety, Youth and Women and QPRIME; and
- how people communicate in the child's community and protocols for discussing certain topics i.e. possible gender issues;

(c) the educational and social network of the child:

- information about the child's performance and attendance at school as well as information on education or relationship problems;

- if possible, information about the child's social networking including involvement in clubs or community groups;
 - information about the child's interactions with adults in a position of authority; and
 - any significant legal or medical issues including medication and/or disabilities or conditions that may affect the child's functioning or ability to recall information; and.
- (d) any other specific information about the child (e.g. interests, achievements, recent innocuous events involving the child) which may assist in structuring the rapport building phase of the interview;
- (vi) adequate consideration should be given to any hypothesis or alternate explanations that may account for the concerns raised or individuals involved; and
- (vii) the roles of the persons present during an interview should be clearly negotiated prior to the commencement of the interview. Discussions should include, but not be limited to:
- (a) clarifying the role that each person present will play during the interview i.e. who will lead the interview, corroborator, note taker;
 - (b) interview techniques to be employed during the interview i.e. use of silence;
 - (c) possible offences and elements that need to be covered during the interview; and
 - (d) appropriate assist signals to use to indicate a change in roles or if an area of questioning has been left out or not sufficiently explored (see the Suspected Child Abuse and Neglect (SCAN) Team Participant Manual).

Where a large number of interviews are to be conducted under the provisions of s. 93A of the EA over consecutive days by the same officers, issues of quality, compliance to the Interviewing Children and Recording Evidence (ICARE) model and officer welfare should be addressed.

In such situations, investigators should consider using a pool of ICARE trained investigators, including those from outside the district or region, and rotate these investigators throughout the interview process, to minimise investigator fatigue and to maintain the integrity of all ICARE interviews.

(See Flowchart 7.3: 'Preparation for an interview with a child or person with an impairment of the mind' available on the Child Abuse and Sexual Crime Group webpage of the Service Intranet).

7.6.3 Procedures for interviewing a child

Whenever practicable, where a child is to be interviewed and is:

- (i) under 16 years; or
- (ii) a special witness (see s. 21A: 'Evidence of special witnesses' of the *Evidence Act* (EA)),

the interviewing officer should:

- (i) follow the ICARE interviewing model (see also the Operational Assistance Kit (OAK) Interviewing children and recording evidence guide on the Service Intranet) where the matter is a:
 - (a) summary offence;
 - (b) regulatory offence; or
 - (c) indictable offence:
 - which can be dealt with summarily (see ss. 552A: 'Charges of indictable offences that must be heard and decided summarily on prosecution election', 552B: 'Charges of indictable offences that must be heard and decided summarily unless defendant elects for a jury trial' and 552BA: 'Charges of indictable offences that must be heard and decided summarily' of the CC); and
 - are not offences within Chapter 22: 'Offences against morality' of the CC;
- (ii) where the matter relates to all other indictable offences, have completed the Interview Children and Recording Evidence (ICARE) course and is to follow the ICARE interviewing model; and
- (iii) consider the use of a Queensland Intermediary Scheme (QIS) member to assist during the interview process for witnesses with communication difficulties.

ICARE interviewing model

The ICARE interviewing model encompasses an electronically recorded free narrative of the witnesses' recall of the event and should be followed at all times (see Flowchart 7.6: 'Interviewing a child' available on the [CIC Information Hub - All Resources](#) Service Intranet page).

The officer conducting the interview should comply with the ICARE interviewing model when conducting an interview in accordance with this section.

Intermediary

The QIS is an initiative of the DJAG, implementing recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (see Division 4C: 'Intermediaries' of Part 2: 'Witnesses' of the EA). An intermediary is a professional with qualifications in speech pathology, psychology, occupational therapy, or social work. The intermediary will assess the child witness to provide advice on how best to communicate and obtain evidence. The intermediary will not assess the competency or capacity of the witness (see DPP Guideline 7: Competency of a child witness' of the Director of Public Prosecutions Guidelines).

An intermediary can undertake an assessment of the witness' communication needs and/or attend a police interview, ensuring a witness understands the police officer's questions and witness' answers are understood by police, help police to communicate with a witness or assist a witness to review a written statement. These processes may be done remotely if required.

The intermediary is impartial, does not act as a support person for the witness and must not be left alone with the witness at any time. The use of an intermediary does not excuse officers from the duty of properly preparing their witnesses before court (see s. 7.13: 'Preparation of child witnesses for court' of this Manual) and providing referrals to support organisations.

Eligible witness

Any adult or child prosecution witness in a child sexual offence (see s. 207A: 'Definitions for this chapter' of the CC) matter is eligible for an intermediary if they:

- (i) are under 16 years old;
- (ii) have an impairment of the mind; or
- (iii) have difficulty communicating.

Intermediaries are not available to defendants or those accused of committing a crime.

Requesting an intermediary

The request for an intermediary is made through the QIS online portal (hosted by Registry of Births, Deaths and Marriages) with the requesting officer providing:

- (i) confirmation that the request is for a witness in a child sexual offence investigation;
- (ii) QPRIME occurrence number;
- (iii) mandatory offender details;
- (iv) mandatory witness details, including QPRIME SPI number;
- (v) witness communication needs (e.g. age, intellectual impairment, language or speech disorder);
- (vi) associated persons (name and descriptor e.g. preliminary complaint witness);
- (vii) details of carer (if applicable);
- (viii) time and date the intermediary is required; and
- (ix) name and contact details of the requesting officer.

QIS staff will assign an intermediary to the matter and the intermediary will contact the requesting officer.

Interactions between a witness and an intermediary should be electronically recorded and are disclosable in a court of law. The intermediary must not be left alone with the witness at any time. The work of an intermediary is confidential however it is not privileged and does not fall within the sexual assault counselling privilege.

At the completion of the interview, the requesting officer will be asked to verify the intermediary's attendance and number of hours worked via the QIS online portal. Further details, including manuals and processes are contained on the QIS webpage.

7.6.4 Interviews at schools or places where child care is provided

For the purpose of this section:

Carer

means parent or long-term guardian.

Relevant place

includes schools, education facilities, child care centres, family day care centres or any other place where a child receives education and care whether regulated or unregulated.

The Service recognises the principal is in charge of a school and of its students whilst at school and in the case of other relevant places, the person in charge of a relevant place exercises the same responsibilities. A principal or person in

charge has a responsibility to children in their care and may deny police involvement with a child at the relevant place unless officers are exercising a power authorised under a relevant Act.

Officers should seek consent in the first instance to conduct an interview with a child. Consent does not negate mandatory reporting requirements. Authority to enter a school or relevant place to investigate child harm is provided under s. 17: 'Contact with children in school, education and care service premises, child care centre, family day care etc.' of the *Child Protection Act (CPA)*.

For children suspected of committing offences, or who are assisting in the investigation of an offence see s. 2.5.8: 'Entering school premises' of this Manual.

Children who are victims of offences or harm should not be interviewed (see s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act*) at a relevant place unless:

- (i) a delay in conducting the interview may result in the contamination or loss of evidence;
- (ii) the child may be at further risk of harm; or
- (iii) a carer or family member is responsible for the offence.

Where a suspected offender is the carer of the child, officers are not required to notify the carer prior to the interview. The carer should be notified as soon as reasonably practicable after the interview unless doing so will jeopardise the investigation of a criminal offence. The officer is to explain this to the principal or person in charge of the relevant place.

In cases where the suspected offender may be an employee or regularly at the relevant place for some other reason, the interview should be conducted at another location.

ORDER

When the provisions of s. 17 of the CPA are used, the officer concerned is required to:

- (i) notify the principal or person in charge of the relevant place of the intention to exercise the power before exercising the power;
- (ii) as soon as practicable after contact with the child, tell at least one of the child's carers of the contact with the child and the reasons for the contact, unless the officer reasonably believes this may jeopardise an investigation into the offence or may expose the child to harm; and
- (iii) at the first reasonable opportunity, record the exercise of the powers and action taken in the relevant QPRIME occurrence. Enforcement actions under the CPA is to be recorded in the Child/young person report.

Prior to conducting an interview at a relevant place, officers should:

- (i) consider whether a joint interview with an officer from Child Safety Services should be conducted (see s. 7.4.9: 'Joint investigations' of this chapter);
- (ii) provide sufficient additional information regarding the allegations to the principal or person in charge to enable the person to account for any possible subsequent acting out behaviour exhibited by the child. The principal or person in charge is to be asked to maintain confidentiality;
- (iii) ensure an appropriate person is present during the interview (see s. 7.6.1: 'Persons to be present for an interview with a child who is a victim or witness' of this chapter); and
- (iv) request the principal to provide a neutral setting for the interview where the child feels most at ease. Principals may offer their office, but this venue may have implications for:
 - (a) the child; and
 - (b) for the information obtained (could be argued using the principal's office compelled the child to answer questions in a certain manner),

and an alternative venue should be sought.

If a principal or person in charge of a relevant place denies access to a child suspected of being the victim of harm or at risk of harm, the officer is to obtain the assistance of an officer from the CPIU or shift supervisor/DDO who are to explain to the principal or person in charge of the relevant place, action may be taken under:

- (i) s. 16: 'Contact with child at immediate risk of harm'; or
- (ii) s. 18: 'Child at immediate risk may be taken into custody',

of the CPA (see Chapter 2, Part 2: 'Temporary assessment orders' of the CPA for a temporary assessment order and s. 7.4.3: 'Assessment orders' of this chapter).

If access is still denied, inquiries should be conducted with the next higher authority of the relevant place before further action is commenced under the CPA.

Removal of the child from the school should only occur:

- (i) with the consent of the parent; or

(ii) by virtue of an Act or an order made by a justice or a magistrate.

7.6.5 Recording of evidence of a child witness

Recording of statements under s. 93A of the Evidence Act

An officer interviewing a child witness or person with an impairment of the mind under s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA) should be aware of the conditions described in that section and should, as a first preference, use video and audio facilities to record that statement where practicable.

Before commencing any interview, officers should personally check the equipment they will be using during the interview to ensure that it is in working order, including any audio equipment.

Officers should ensure cameras used for visual recordings adequately capture all the persons involved in the interview. The child witness or person with an impairment of the mind should be able to be seen clearly in the screen. Where this is not the case, the interview should not commence or be suspended to rearrange the interview setting to ensure these essential images are captured.

Officers in charge of stations and establishments who have recording equipment under their control that is used to obtain statements under s. 93A of the EA are to ensure such equipment is tested monthly (see s. 3.7: 'Testing of equipment used to obtain statements under s. 93A of the Evidence Act' of the DERIE Manual).

Recording statements of persons who do not fall under s. 93A of the Evidence Act

Video and audio equipment to record statements from victims of crime, who do not fall within the provisions of s. 93A of the EA, should be used if the investigating officer considers recording the information would be beneficial to the investigation. Where video and audio equipment are used to record statements from victims of crime, the investigating officer should still prepare a typed statement for presentation to a court.

7.6.6 Releasing and copying video and audio recordings of an affected child

Audio recordings

Officers should ensure the privacy rights of victims and witnesses are protected. Information contained on audio recordings that relates to an affected child can include, but is not limited to an audio recording of:

- (i) a pretext conversation between an affected child and a suspect;
- (ii) a conversation between an affected child and a suspect, recorded under the provisions of the *Invasion of Privacy Act*; and
- (iii) an interview conducted under s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA) with an affected child.

ORDER

Where a statement is obtained from a child under s. 93A of the EA for a relevant proceeding, an extra copy of the audio recorded statement is to be included with the brief of evidence. This copy is to be provided by the police prosecutor responsible for the matter to the defendant or lawyer acting for the defendant in accordance with s. 590AH: 'Disclosure that must always be made' of the CC (see s. 3.14.4: 'Mandatory disclosure' of this Manual).

Where a request is made by a manager from Child Safety Services (CSS) for an audio copy of an interview with a child, a copy of the interview may be provided to CSS free of charge (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM). The audio copy of an interview with a child remains the property of the Service.

An officer supplying a copy of an audio recording to CSS is to advise the person to whom they supply the recording, that any third-party request to obtain a copy or gain access to the audio recording is to be referred back to the Service.

Members are not to supply a copy of a recording of an interview/statement of an affected child to other government or non-government agencies without the consent of the OIC, Child Abuse and Sexual Crime Group, a district officer or an officer of the rank of superintendent.

Video recordings

ORDER

When a video recording is made of a statement by an affected child under s. 93A of the EA for a relevant proceeding, officers are not to give an original or copy of the video recording of the affected child's statement to the defendant or lawyer acting for the defendant.

Any request to obtain a copy or view the video recording of an affected child's statement for a relevant proceeding is to be referred to the prosecutor responsible for the matter (see s. 3.14.6: 'Disclosure of sensitive evidence in a relevant proceeding' of this Manual).

Where an arresting officer receives advice from the prosecutor responsible for the matter that the video recording of the statement made under s. 93A of the EA does not constitute 'sensitive evidence' (see s. 590AF: 'Meaning of sensitive evidence' of the CC) officers are to make appropriate arrangements for a copy of the video recording to be made.

An arresting officer who is requested to copy a video recording of a statement should forward the copy to the police prosecutor for disclosure to the defendant or lawyer or acting for the defendant in accordance with s. 590AH of the CC. (See Flowchart 7.5: 'Releasing and Copying video and audio recording of an affected child' available on the Child Abuse and Sexual Crime Group, Child Protection and Investigation Unit 'Resources' Service Intranet page).

7.6.7 Releasing and copying images of an affected child

Officers in possession of evidence relating to an affected child should be aware such evidence may be deemed 'sensitive evidence' by the prosecution as provided by s. 590AF: 'Meaning of sensitive evidence' of the CC.

Examples of sensitive evidence may include:

- (i) a computer hard drive containing obscene or indecent images;
- (ii) a photo of a naked rape victim taken to preserve evidence of the victim's condition at a particular time; and
- (iii) any indecent or obscene images in the form of photographs, video recordings, of the affected child.

For information on the disclosure of 'sensitive evidence' in a relevant proceeding see s. 3.14.6: 'Disclosure of sensitive evidence in a relevant proceeding' of this Manual.

ORDER

Where any image of a child that may be 'sensitive evidence' is in the possession of police, officers are to ensure the image, whether it be a video recording or otherwise is not copied unless:

- (i) ordered by a court under s. 590AO(5): 'Limit on disclosure of sensitive evidence' of the CC; or
- (ii) for a legitimate purpose connected with a proceeding as authorised under s. 590AX: 'Unauthorised copying of sensitive evidence' of the CC.

Where officers receive a request from a defendant or lawyer acting for a defendant to view 'sensitive evidence' that relates to a relevant proceeding, officers are to refer such request to the prosecutor responsible for the matter (see s. 3.14.6 of this Manual).

7.6.8 Video and audio recordings no longer required by a court

The officer responsible for the investigation of a complaint of child sexual harm should make arrangements to recover the master video recording and any copy or edited version of the master video or audio recordings relating to a statement/interview of an affected child at the finalisation of each proceedings at which the video or audio recordings are produced in evidence.

ORDER

The police prosecutor who is prosecuting a matter of alleged child harm is to make an application to the court at the conclusion of the proceedings for the return of any video and audio recordings relating to an affected child, to the custody of the investigating officer. Where the matter is before a higher court the investigating officer is to request the Crown prosecutor to seek an order from the presiding judge in this regard.

7.6.9 Child cannot be compelled to give evidence

Officers should be mindful that a child under twelve years of age cannot give evidence of harm to substantiate an application for an order made under the *Child Protection Act* (CPA). Where possible, corroboration should be sought (see s. 112: 'Child can not be compelled to give evidence' of the CPA).

7.7 Medical examination of children

POLICY

Where a child is the subject of alleged harm, and it is likely that a medical examination of the child may result in further evidence being made available, the officer conducting the investigation should make every effort to have the child medically examined as soon as reasonably practical. Provided that the officer considers that a medical examination is necessary, there is no requirement for the officer to personally interview the child prior to the medical examination.

As the Service has to meet the cost associated with any such medical examination, approval is required from the officer in charge of the station or establishment prior to obtaining a medical examination.

Such examination should include photographs where necessary (see Chapter 2: 'Investigative Process' of this Manual).

Where appropriate, the medical examination should be conducted by a paediatrician or the clinical forensic medical officer. The local or family doctor should only be used for a medical examination when:

- (i) a paediatrician or forensic medical officer is not available; or
- (ii) the child insists on using the local or family doctor.

Where a parent/guardian refuses permission for a medical examination or photographs of a child, and the investigating officer believes there is an urgent need for such procedures, the officer should consider lodging an application for a temporary assessment order under s. 25: 'Making of application for order' of the *Child Protection Act*.

7.7.1 Forensic sexual assault investigation kits

To assist in obtaining the necessary evidence for subsequent production to a court, the Service provides forensic sexual assault investigation kits. These kits are available for males, females and children, and contain all the necessary instructions to the medical practitioner conducting the examination, together with all the syringes, storage vessels, slides and swabs necessary to obtain the required forensic material for subsequent examination. The kits are available through the Child Abuse and Sexual Crime Group, Crime and Intelligence Command and are for use in the medical examination of victims and offenders.

An officer requiring a medical practitioner to examine a victim or offender in relation to an offence of a sexual nature, should provide the medical practitioner with the appropriate forensic sexual assault investigation kit.

ORDER

At the conclusion of the examination, the investigating officer is to take possession of any forensic sexual assault investigation kit used which may subsequently become an exhibit. Medical practitioners may retain the protocol book if they wish. Officers attending medical examinations are to ensure that a copy of each page of the protocol book is removed by the medical practitioner and given to the investigating officer.

It is desirable to have a person of the same gender as the child present at a medical examination. There is no legal requirement for an officer to be present during the medical examination. Generally, a nurse, health worker or other support person will be present during the medical examination to assist with the examination and support of the child. A child or their parent may request an officer to be present. When this occurs, the officer is to be of the same gender as the child. The person who is present for the medical examination may be later required to give evidence to a court and the person should be informed of this obligation prior to the examination.

The medical examination of a child should occur at the first available opportunity. Authority for a medical examination and authority to release the forensic sexual assault investigation kit to the Service may be obtained by the investigating officer in the following manner:

- (i) consent in writing from the parent (note: the forensic sexual assault investigation kit has provision in its protocol book to be completed by the medical practitioner for the parent to provide consent in writing);
- (ii) the authority of s. 18(6): 'Child at immediate risk may be taken into custody' of the *Child Protection Act*, a temporary assessment order or a court assessment order;
- (iii) the child has been detained under the provisions of s. 197: 'Designated medical officer may make care and treatment order for child' of the *Public Health Act* for a period not exceeding forty-eight hours; or
- (iv) the child is of such an age that the child can comprehend the nature of the medical examination and exercise discretion to provide informed consent for a medical examination. The age where a child can exercise discretion will vary with the level of development of the particular child.

See also Chapter 17, Part 5, ss. 475 to 494: 'DNA procedures' and Chapter 18, ss. 537 to 548: 'Blood and urine testing of persons suspected of committing sexual or other serious assault offences' of the PPRA, and s. 2.23: 'Forensic procedures' of this Manual.

7.8 Allegations of physical/sexual harm committed against a child which may amount to corrupt conduct by Government employees

Definitions

For the purposes of this section:

Government employee

means a person employed, including contractors employed on a full-time basis, within a Government organisation.

Government organisation

means a 'unit of public administration' as defined in s. 20: 'Meaning of unit of public administration' of the *Crime and Corruption Act*.

When an officer receives a complaint of a physical or sexual harm committed against a child which may amount to corrupt conduct (see s. 15: 'Meaning of corrupt conduct' of the *Crime and Corruption Act*) by a Government employee, the officer should notify the Crime and Corruption Commission in accordance with this section.

Having made the notification, the officer should liaise with staff from the Crime and Corruption Commission to ensure an investigation is commenced immediately. These matters should be finalised as soon as possible.

ORDER

When a complaint of a physical or sexual harm committed against a child which may amount to corrupt conduct by a member of the Service, in accordance with s. 6A.1 'Duty concerning misconduct and other grounds for disciplinary action' and Part 7 'Discipline process for officers' of the PSAA, the officer receiving the information is to, as soon as practicable:

- (i) notify a regional duty officer or patrol group inspector;
- (ii) submit a QP 0466: 'Complaint against a member of the Police Service' (available from the ESC webpage on the Service Intranet).

7.8.1 Responsibility for investigating reports of physical/sexual harm committed against a child which may amount to corrupt conduct involving Government employees

Reports which involve allegations of physical or sexual harm against a child, that may amount to corrupt conduct by a Government employee should be investigated by an experienced officer from the:

- (i) child protection and investigation unit where the report was received;
- (ii) where a child protection and investigation unit does not exist, the local criminal investigation branch where the report was received.

Where the allegation may amount to corrupt conduct, if substantiated, officers should notify their OIC and the Crime and Corruption Commission (CCC). Officers may only undertake an investigation into the allegations with the consent of the CCC.

When an officer receives a complaint of alleged child harm, the officer should notify the CCC by telephone to clarify if the allegation is of a nature that may amount to corrupt conduct.

If advice is received that the matter may amount to corrupt conduct, officers are to email a formal report in the form prescribed in Appendix 7.3: 'Sample wording for report concerning Government employee' of this chapter to the CCC (see SMCD). When there is or appears to be some delay in receiving advice from the CCC to commence an investigation, the investigating officer should notify their OIC who should attempt to resolve the delay in the most expeditious manner.

Investigation

Where a report of physical/sexual child harm against a child is received, an investigation should be conducted in accordance with s. 7.3: 'Investigating child harm' of this chapter and every effort should be made to immediately interview the child victim in accordance with s. 7.6: 'Interview with a child or person with impairment of the mind' of this chapter.

Various records may exist within Government organisations which may assist police in their investigations. Investigators should inquire with the particular organisation to ascertain the information sharing policies.

If there is any doubt concerning the obtaining of documents or records from the Government organisation, the investigator should;

- (i) obtain a search warrant under the provisions of the PPRA; or
- (ii) obtain a subpoena to produce the documents to a court; or
- (iii) if the records relate to the personal information of the child, obtain permission from the child or child's parents to seek the records.

Generally, officers should, if documents are taken possession of, provide a photocopy of those documents to the Government organisation to assist in the day to day running of the organisation.

Finalisation of the investigation

At the conclusion of an investigation of alleged physical/sexual harm by a Government employee, the investigating officer should either:

- (i) initiate court action where an offence has been established; or
- (ii) where there is insufficient evidence to initiate court action, or court action has been finalised,

furnish a report outlining the circumstances of the investigation and forward that report through the OIC of the region to the CCC. The report is to be forwarded within 14 days of completion of the investigation or the court action. A copy of all statements and synopses of any electronic interviews should be attached to the report.

Information sharing during the investigation

During the course of an investigation, and in the process of accessing information from a Government organisation's records, it will be necessary to disclose certain information to various officers of the organisation. In particular, it will often be necessary to provide some details to the Government organisation's employees, such as managers or guidance officers, verbally so that information required by the investigation may be identified and provided. However, any other information should only be disclosed in accordance with s. 1.9: 'Release of information' of this Manual.

The Government organisation may request information pertaining to a criminal investigation concerning Government employee for disciplinary purposes. See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

It should also be noted that the CCC liaison officers may gain access to documents relating to investigations which are held by the CCC.

If prosecution is commenced against a Government employee, the investigating officer is to provide that information in the summary of facts of the relevant court brief (QP9). It is the prosecutor's responsibility to notify certain agencies of the results of prosecutions (see s. 3.4: 'General prosecution policy' of this Manual).

7.9 Information exchange

Chapter 5A: 'Service delivery coordination and information sharing' of the *Child Protection Act* provides for:

- (i) information sharing (see Part 4) between particular prescribed entities and the Chief Executive;
- (ii) the release of health information or information relevant to coronial investigations (see Part 5); and
- (iii) the protection from liability and interaction with other laws' (see Part 6).

7.9.1 Relevant information exchange

The Commissioner is a prescribed entity (see s. 159M: 'Definitions for part' of the *Child Protection Act* (CPA)) and may give to and receive from any other service provider (see s. 159M of the CPA) relevant information under ss. 159MA to 159MD of the CPA. The Commissioner has delegated the power to all officers (see Delegation D 33.3).

The Chief Executive or an authorised officer may, under s. 159N: 'Information requirement made by chief executive or authorised officer' of the CPA ask the Commissioner for particular relevant information in the possession or control of the Service. If asked, the Commissioner must comply with the request. The Commissioner has delegated this power to officers in designated positions (see Delegation D 33.4).

Under s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act* (PSAA) the Commissioner may, in writing, authorise disclosure of information that is in the possession of the Service. The Commissioner has delegated this power to stated particular positions (see Delegation D 15.46).

See also Flow Chart 7.4: 'Information exchange decision making' available on the Child Abuse and Sexual Crime Group, Child Protection and Investigation Unit 'Resources' Service Intranet page.

Officers may in accordance with ss. 159MA to 159MD of the CPA and Delegation D 33.3:

- (i) provide relevant information to service providers; and
- (ii) obtain information from any prescribed entity, including information relating to the assessment of a case by Child Safety Services.

If the Chief Executive or an authorised officer requests particular relevant information in the possession or control of the Service, officers delegated under Delegation D 33.4 are to comply with the request, unless the provisions of s. 159N(2) or (3) of the CPA apply.

Members who receive a written request for particular relevant information under s. 159N of the CPA are to refer the request to a delegated officer.

A member described in Delegation D 15.46 may authorise an officer in writing to disclose information in the possession of the Service under s. 10.2 of the PSAA. The officer authorised is to comply with any conditions imposed by the written authority.

7.9.2 Confidential Information from a health services designated person

In accordance with s. 159O: 'Release of information by a health services designated person' of the *Child Protection Act* (CPA), a health services designated person may give an officer confidential information if the information is relevant to the protection or welfare of a child. This includes the giving of information, before a child is born, that is relevant to the protection or welfare of the child after the child is born.

Officers who require confidential information from a health services designated person are to request the information from that person. If the designated person refuses to provide the requested information, and officers believe the release

of the requested information would be in compliance with the CPA; the local Queensland Health, child protection liaison officer should be requested to assist with the inquiry.

7.9.3 Information from Chief Executive to police officer investigating or reporting a child death under the Coroners Act

If the death of a child is being investigated under the *Coroners Act*, the Chief Executive, Department of Child Safety, Youth and Women (DCSYW) may give information about the matters stated in s. 159P: 'Release of information for reporting or investigating a death under the Coroners Act' of the *Child Protection Act* (CPA) to the following:

- (i) a police officer investigating the death;
- (ii) a coroner investigating the death; or
- (iii) a police officer helping a coroner investigate the death.

POLICY

Officers investigating, or helping the coroner investigate, the death of a child under the *Coroners Act*, who require information, or additional information about the matters stated in s. 159P(2)(a), (b) and (c) of the CPA, are to request from the Chief Executive DCSYW information held by that Department on the deceased child. This process is to be instituted at the earliest time following the death of a child in compliance with the procedures contained in s. 8.5.8: 'Deaths of children' of this Manual.

Officers who receive information under s. 159P of the CPA are to comply with s. 159P(3) of the CPA with respect to the use or disclosure of the information provided.

7.9.4 Information from Chief Executive to police officer conducting a criminal investigation into a child death

When police are undertaking a criminal investigation into the death of a child, the Commissioner can request information, including notifier details, from the Chief Executive, Department of Child Safety, Youth and Women (DCSYW) by written notice. The Chief Executive DCSYW is to provide information about the child to assist police in conducting a criminal investigation (s. 188E: 'Chief executive must give police commissioner information about deceased child' of the *Child Protection Act*). Officers are to ensure any information received under s. 188E is maintained securely and not distributed to unauthorised persons.

7.9.5 Confidentiality and liability (information disclosure)

POLICY

Officers are to be conversant with provisions of the *Child Protection Act* (CPA) which relate to confidentiality and liability, in particular:

- (i) Chapter 6, Part 6: 'Confidentiality and disclosure' of the CPA creates offences for disclosure of unauthorised information;
- (ii) s. 159Q: 'Protection from liability for giving information' of the CPA provides for protection from civil or criminal liability or liability under an administrative process, for a person who gives information in compliance with Chapter 6, if acting honestly under the Act; and
- (iii) s. 197: 'Protection from liability for officials' of the CPA provides that a police officer does not incur civil liability for an act done, or omission made, honestly and without negligence under the Act.

ORDER

Officers are to ensure that information is only disclosed when authorised by the CPA.

7.10 Suspected child abuse and neglect (SCAN) team system

Chapter 5A, Part 3: 'The SCAN system' of the *Child Protection Act*, establishes the Suspected Child Abuse and Neglect (SCAN) team system, purpose, membership and core members and the responsibilities of its core members. The Commissioner is a core member of the SCAN team system.

The purpose of the SCAN team system is to enable a coordinated, multi-agency response to children where statutory intervention is required to assess and meet their protection needs. This is achieved by:

- (i) timely information sharing between SCAN team core members;
- (ii) planning and coordination of actions to assess and respond to the protection needs of children who have experienced harm or risk of harm; and
- (iii) holistic and culturally responsive assessments of children's protection needs.

Information about SCAN team processes and practices is contained in the 'Information Coordination Meetings (ICM) and Suspected Child Abuse and Neglect (SCAN) Team System Manual' on the Child Abuse and Sexual Crime Group page on the Service Intranet.

7.10.1 Suspected child abuse and neglect (SCAN) teams

SCAN teams are the foundation of the SCAN system. The Service is a core member of the SCAN system as provided by s. 159K: 'Members' of the *Child Protection Act* (CPA), and is to provide a representative at every SCAN team meeting. In addition to the Service, SCAN team core membership includes:

- (i) Queensland Department of Child Safety, Youth and Women (lead agency);
- (ii) Queensland Health; and
- (iii) Queensland Department of Education.

Other professionals may be invited as 'invited stakeholders'.

Where a matter meets the threshold for a notification and the mandatory criteria for a SCAN team referral, a representative from any of the SCAN team core member agencies intending to refer a matter to SCAN is to progress the referral through their agency's SCAN team core member representative. Matters that have not been through the Child Safety Services intake process with a notification recorded cannot be referred to the SCAN team, unless the child is subject to ongoing intervention through a support service case, intervention with parental agreement or a child protection order.

The frequency of SCAN team meetings is determined by SCAN team representatives and is agreed upon in response to operational needs. If a referral requires urgent attention by a SCAN team, an emergency meeting may be called.

A designated Service SCAN team representative is to attend each team meeting. If the designated representative is not available, a suitably qualified proxy is to be nominated, (see s. 7.10.3: 'Responsibilities of the Service representative on the SCAN team' of this chapter).

7.10.2 Suspected child abuse and neglect (SCAN) team referral

Service criteria for a SCAN team referral

The criteria for a SCAN team referral is based on s. 10: 'Who is a child in need of protection' of the *Child Protection Act* (CPA) and requires:

- (i) a child who has suffered harm, is suffering harm or is at unacceptable risk of suffering harm. See s. 9: 'What is harm' of the CPA; and
- (ii) concern that the child does not have a parent able and willing to protect the child from the harm; and
- (iii) a SCAN team core member believes coordination of multi-agency actions and/or expert advice from more than one core member representative is required to effectively assess and respond to the protection needs of the child.

(See Flowchart 7.10: 'SCAN team process flow chart' on the Child Abuse and Sexual Crime Group, Child Protection and Investigation Unit 'Resources' Service Intranet page).

Each SCAN team referral is to meet one of the following criteria:

- (i) Notification – the matter has been assessed and screened in by Child Safety as a notification and the investigation and assessment has not been finalised;
- (ii) On-going intervention – Child Safety is responsible for ongoing intervention with the child through a support service case, intervention with parental agreement or a Child Protection Order;
- (iii) Missing child – a child in care has been reported as missing to the police; or
- (iv) Child Concern Report (CCR) consult – a matter has been recorded as a CCR by Child Safety and, following a discussion with the Child Safety senior team leader, a core member representative is seeking a multi-agency discussion.

Child Concern Report (CCR) consult referral process

Prior to making a SCAN team referral for a CCR consult, the Service is to confirm:

- (i) the matter has been assessed by Child Safety as a CCR;
- (ii) the Service SCAN team representative has contacted the approving Child Safety RIS senior team leader for further discussion regarding the decision, rationale and follow up actions; and
- (iii) the matter remains a CCR and the Service SCAN team representative seeks a multi-agency discussion.

SCAN team referral process

The identity of the person who provided the initial information to the Service (the 'notifier') is not to be disclosed on the Form 1: 'Request for Multi-Agency Meeting' (in QPRIME) or to any person outside of the SCAN team, (see s. 7.9.5: 'Confidentiality and liability (information disclosure)' of this chapter and s. 186: 'Confidentiality of notifiers of harm or risk of harm' of the CPA.)

When an officer is investigating a complaint of alleged harm to a child, and the complaint meets the SCAN team referral criteria (see 'Service criteria for SCAN team referral' of this section) the officer investigating:

- (i) is not responsible for the submission of the Form 1: 'SCAN team referral' where the Service is conducting a joint investigation with officers from Child Safety Services, here Child Safety Services will submit the Form 1. Officers are to provide any further information on a Form 2: 'SCAN Team Information';
- (ii) may be responsible for the submission of the Form 1 where the Service is conducting a joint investigation with another agency. Officers are to consult with the agency to determine who will submit the form;
- (iii) is not to rely on other agencies for the submission of Service information to the SCAN team. During joint investigations, officers are to provide Service information on a separate Form 1 or Form 2 for submission;
- (iv) is to include all relevant information on the Form 1, including:
 - (a) details of a relevant offender;
 - (b) child's exposure to domestic violence;
 - (c) relevant risk factors;
 - (d) details on the child of the impact of the alleged harm; and
 - (e) actions taken by a parent to protect the child from harm.
- (v) is to record only factual information on the Form 1. Pursuant to the *Right to Information Act* and the *Information Privacy Act*, members of the public may be granted access to that document; and,
- (vi) within three days of determining that the referral criteria has been met, officers are to complete a Form 1 or Form 2.

An officer is to continue investigations into the alleged harm to the child without waiting for the case to be considered by the SCAN team. Officers are to consult with Child Safety Services for planning the most appropriate way of conducting the investigation in accordance with the provisions of s. 248B: 'Consultation about investigations and prosecutions' of the CPA.

Following referrals to the SCAN team, officers are to carry out all investigations required by the SCAN team. All subsequent information is to be forwarded to the Service SCAN team representative on a Form 2.

All SCAN team review forms are to be forwarded to the Service SCAN team representative no later than three working days prior to the next scheduled SCAN team meeting.

7.10.3 Responsibilities of the Service representative on the suspected child abuse and neglect (SCAN) team

The Service is to be represented at SCAN team meetings by a nominated SCAN team representative. When the nominated representative is not available, they are to be replaced by a suitable proxy who has the knowledge and experience to appropriately represent the Service, and sufficient authority to commit Service resources to agreed recommendations.

A Service representative on the SCAN team is responsible for:

- (i) providing advice, support and consultancy to members to facilitate the effective functioning of the SCAN system;
- (ii) assessing the quality of SCAN team referrals from officers to ensure that all elements of the referral criteria have been met. Prior to forwarding the Form 1 to the local SCAN team coordinator, be satisfied that the case will benefit from multi-agency consideration;
- (iii) forwarding the referral form to the local SCAN team coordinator within five working days of receipt;
- (iv) representing the Service at SCAN team meetings;
- (v) providing relevant advice and assistance to SCAN team members in relation to Service policy and procedures;
- (vi) actively participating in initial case assessment and development of case management recommendations for implementation within the SCAN system;
- (vii) providing relevant knowledge and advice about child protection investigations;
- (viii) where necessary, making recommendations to commence proceedings;

(ix) updating the relevant QPRIME occurrence following each SCAN team meeting with at least the following information:

- (a) the name of the SCAN team;
- (b) the date of the SCAN team meeting;
- (c) any recommendations; and
- (d) any outcomes of the meeting.

(x) providing feedback to investigating officers about outcomes as soon as practicable after the close of a SCAN team meeting;

(xi) requesting Service resources to support SCAN team recommendations as required;

(xii) ensuring that any recommendations relevant to the Service made by the SCAN team are implemented where recommendations are consistent with legislative provisions, SCAN inter-agency agreements and Service policy;

(xiii) participating in the implementation and monitoring of SCAN team recommendations; and

(xiv) participating in inter-departmental development and delivery of SCAN system training and information relating.

In addition to their primary SCAN team responsibilities, Service SCAN representatives are also responsible for:

(i) providing advice, support and consultancy to the regional officer or their delegate attending the Regional Child, Youth and Family Committee to assist in the effective functioning of the regional child protection committee;

(ii) consulting, liaising, supporting and assisting OICs of the CPIU within their SCAN area of operation to assist in the effective functioning of the Unit;

(iii) providing timely advice to the Detective Inspector, Child Abuse and Sexual Crime Group, Crime and Intelligence Command of strategic issues affecting the Service's role in the SCAN team system; and

(iv) conducting reviews of Child Harm Referral Reports making referrals to appropriate government and non-government agencies and taking other actions deemed necessary including those relevant to the SCAN team system.

7.10.4 Escalation process for suspected child abuse and neglect (SCAN) team

If, after discussion, the SCAN team core member representatives are unable to reach consensus on a recommendation, the issues are to be recorded in the SCAN team minutes. Where necessary, an escalation process is initiated to ensure timely outcomes.

The escalation process can only proceed when there is clear disagreement by SCAN team core member representatives regarding the coordination of multi-agency actions to assess and respond.

This does not include disagreement in relation to an action that is the core business of another SCAN team core member agency. These issues will be addressed outside the SCAN team forum in accordance with the relevant agency's complaint protocols.

If the SCAN team cannot reach agreement the SCAN team coordinator will provide a copy of a Form 2: 'SCAN team information form' (purpose escalation) containing details of the meeting and escalation to all SCAN team core member representatives with a request to provide a summary of each agency's assessment of the protection needs of the child and proposed response actions, and any other relevant information, within two days of the meeting.

On receiving the Form 2, the Service SCAN team representative is to:

(i) consult with the Detective Inspector, Child Abuse and Sexual Crime Group, Crime and Intelligence Command regarding their assessment and response;

(ii) if supported by the Detective Inspector, enter the assessment details in the relevant section of the Form 2 (purpose escalation);

(iii) forward the Form 2 (purpose escalation) to the SCAN team coordinator within three business days; and

(iv) update QPRIME.

The SCAN team coordinator will collate each agency's response into a Form 2. A copy of the Form 2 is to be forwarded to each SCAN team representative for ratification.

On receipt of the Form 2 the Service SCAN team representative is to provide the form to the Detective Inspector for consideration and review of the recommendations.

The Detective Inspector is to:

(i) determine the multi-agency actions required based on the information provided in the Form 2;

(ii) uphold, amend or withdraw the original recommendation(s) as necessary; and

- (iii) ensure the Form 2 is updated and returned to the Service team representative.

The QPS SCAN team representative is then to provide the amended or approved Form 2 to the SCAN team coordinator for tabling at the next SCAN team meeting for review and action by the SCAN team.

While the matter is being resolved, investigating officers are to, in consultation with their OIC, continue to carry out their statutory responsibilities to ensure the ongoing protection of the child.

7.10.5 Departing from suspected child abuse and neglect (SCAN) team recommendations

Where the SCAN team has made a recommendation and the officer tasked with the implementation of the recommendation has departed from, or is considering departing from the recommendation, the officer is to obtain approval from their OIC. Where the OIC:

- (i) does not approve the departure, implement the original SCAN team recommendation; or
- (ii) the departure is approved, or departure has already occurred, immediately provide information, including the rationale for the decision, and any possible impacts of the departure to the relevant service SCAN team representative by completing a Form 2 and updating QPRIME.

The SCAN team representative is to forward all information relating to departures to the SCAN team coordinator for discussion at the next SCAN team meeting. Consideration is to be given to requesting an emergency SCAN team meeting.

If the SCAN team agree to the departure/considered departure, the agreement, together with the new recommendation, will be recorded in the meeting minutes. However, if the SCAN team do not approve the departure/proposed departure an escalation process will commence (refer to s. 7.10.4: 'Escalation process for suspected child abuse and neglect (SCAN) teams' of this chapter).

While the matter is being resolved, investigating officers will, in consultation with their OIC, continue to carry out their statutory responsibilities to ensure the ongoing protection of the child.

7.10.6 Ownership of suspected child abuse and neglect (SCAN) team documents

PROCEDURE

All core SCAN team members retain copies of the SCAN meeting minutes. All requests for access to SCAN team minutes are to be made to the local SCAN team representative. All Service reports and documents tabled at a SCAN team meeting by an officer remain the property of the Commissioner.

7.11 Suspected child exploitation material

The Service is required to investigate complaints which involve suspected child exploitation material.

ORDER

Officers who receive information relating to child exploitation material and suspected child abuse imagery whether digital or within films, publications, computer games or other formats are to submit a QPRIME occurrence for the matter.

When investigating offences in relation to obscene publications and exhibitions or the production, distribution, sale and possession of child exploitation material, officers should use the offence provisions in s. 228, and ss. 228A-228D of the CC.

See Chapter 2: 'Investigative Process' and Chapter 7: 'Child Harm' of this Manual.

7.11.1 Online child exploitation

The internet and social media facilitates offenders to use electronic media to commit child exploitation offences.

Responsibility for investigating online child exploitation

Unless valid reasons exist, the responsibility for the investigation of online child exploitation complaints rests with, where CPIU:

- (i) is established in a district, an officer from that unit;
- (ii) does not exist, an officer from the local CIB;
- (iii) where:
 - (a) the suspect is identified as residing outside Queensland; or
 - (b) specialist assistance is required of the Crime and Intelligence Command (CIC),

inquiries should be conducted with the Operations Leader, Argos, Child Safety and Sexual Crime Group (CS&SCG) CIC to determine the level of engagement (see 'Engagement of Child Safety and Sexual Crime Group')

of s. 2.7.3: 'Child Safety and Sexual Crime Group' and s. 2.7.1: 'Role of Crime and Intelligence Command upon engagement in investigations' of this Manual);

(iv) where the investigation has been received from another Australian or international law enforcement agency, the Operations Leader, Argos will assess and determine the responsibility for the investigation.

Argos is the designated specialist unit responsible for online child exploitation investigations. All information received should be recorded even if:

(i) the parent or child do not wish to proceed with a complaint. A QPRIME occurrence should be submitted in this instance; or

(ii) there is insufficient information to complete a QPRIME occurrence. An intelligence submission should be completed and submitted through the local intelligence unit.

PROCEDURE

Where a member:

(i) receives information concerning online child exploitation offences, the member is to create a QPRIME occurrence; or

(ii) becomes aware of information relating to online child exploitation, the member is to record an intelligence submission,

and notify Argos by QPRIME task.

When an officer detects or suspects an offence relating to online child exploitation, the officer should investigate the complaint in accordance with Chapter 2: 'Investigative Process' of this Manual. The officer should determine the urgency for response based on risk posed to children and/or the application of any approved risk assessment tools used by Argos (see the Argos, CS&SCG web page of the Service Intranet).

If a criminal offence has been committed, whether the suspect is a Queensland resident or not, a QPRIME occurrence should be completed and assigned for investigation as per this section. Where it is determined the suspect resides outside Queensland the investigating officer is to notify Argos by a QPRIME notification task.

The eSafety Commissioner is the federal agency responsible for investigating complaints about prohibited and potentially prohibited online material. If prohibited online content in Australia is identified, or child exploitation material (CEM) hosted in another country is identified, the eSafety Commissioner should be notified via online reporting (see SMCD).

Investigators requiring electronic evidence from social media providers should refer to s. 7.4.5: 'Requesting information from social media providers' of the MSM.

Workplace health and safety consideration for CEM investigations

ORDER

Pursuant to s. 1.4.5: 'Responsibilities of officers in charge of stations or establishments' of this Manual, the OIC of officers tasked to investigate CEM offences is responsible for the welfare, health and safety of their staff. OICs must be aware of their obligations under the *Work Health and Safety Act (WHS Act)*.

Investigating officers are also to consider their obligations as 'workers' under the WHSA to themselves and others in the workplace.

Officers undertaking CEM investigations are to comply with the provisions of Appendix 7.4: 'Guidelines for conducting child exploitation material investigations' of this chapter with regards to instructions designed to manage officer exposure to CEM.

7.11.2 Child exploitation victim identification

Significant numbers of digital images and videos identified as child exploitation material are seized during investigations.

Officers have an obligation to inspect seized digital images and videos in an attempt to identify child victims suspected of being subjected to exploitation. The victim identification role forms a vital part of the investigation process and commences with the investigator and their observations and actions in dealing with child exploitation material (CEM). The victim identification role is separate to an investigator categorising material for submission in the prosecution process.

The Argos, Victim Identification Unit, Child Abuse and Sexual Crime Group, CIC is responsible for coordinating and providing assistance in the identification of victims of online child abuse. The unit also contributes towards the national database solution for seized digital CEM.

Responsibility for investigations to attempt to identify child victims

Investigations established to attempt to identify a child at risk of ongoing exploitation should remain with the relevant CPIU unless it is established the child does not reside in Queensland.

Where:

- (i) it is identified that a child victim is outside of Queensland; or
- (ii) an investigation requires specialist support relating to the identification of a child at risk,

consideration should be given to engagement with the Manager, Argos Victim Identification Unit.

PROCEDURE

Investigating officers should:

- (i) notify Argos through a QPRIME 'For your information' task;
- (ii) process seized digital CEM in accordance with s. 2.6.10: 'Electronic evidence examination' of this Manual; and
- (iii) thoroughly analyse for possible evidence which may assist with identifying child victims.

To gain assistance in the identification of victims of child exploitation, the member should notify Argos through a QPRIME task.

Where a child is identified as a victim, the member is to notify the Victim Identification Unit, Argos through a QPRIME task for consideration of images/videos being uploaded to the International Child Sexual Exploitation (ICSE) database for cross referencing with global law enforcement agencies for investigative purposes.

Release of victim images

Public assistance or media releases to identifying victim children should not include re-victimisation of the child unless an urgent need exists. The safety and welfare of the child should always remain the primary consideration.

Officers should be aware of the provisions of s. 189: 'Prohibition of publication of information leading to the identity of children' of the *Child Protection Act* which requires the Chief Executive's written approval prior to publishing information that identifies, or is likely to lead to the identification, of a child in certain circumstances.

Officers should also be aware of the provisions of s. 10: 'When other publication of complainant's or defendant's identity is prohibited' and s. 11: 'Authorised purposes' of the *Criminal Law (Sexual Offences) Act*.

If it is decided as a last resort that a child's image is to be released to the media for public assistance in identifying a victim of child exploitation, officers are to comply with the provisions of Appendix 7.4: 'Guidelines for conducting Child Exploitation Material investigations' of this chapter.

7.11.3 Other on-line exploitation activities

Not all activities which occur online will involve a criminal aspect, but may be reported to the Service, generally by the relevant child's parents. Where inappropriate behaviour occurs, which does not constitute a criminal offence, the person should be offered a referral to a suitable support provider (see s. 6.3.14: 'Police Referrals' of this Manual), which may include support services and policies within the child's school.

Unless valid reasons exist, the responsibility for investigating other online exploitation activities, identified as serious criminal offending rests with, where a CPIU:

- (i) is established in a district, an officer from that unit; or
- (ii) if a CPIU does not exist, an officer from the local CIB.

Cyber-bullying

Bullying and cyberbullying is a social and public health issue which particularly impacts upon the safety of children and young people. Cyberbullying is the systematic abuse of power through unjustified and repeated acts of aggressive behaviour intended to inflict harm using electronic communication as a means to carry out the bullying.

Reducing bullying and cyberbullying requires a community-wide approach, including government, parents, carers, young people, children, schools, community groups, and in some instances, police. The Service supports a social and public health approach to address bullying and cyberbullying among children and young people.

The vast majority of the actions which constitute cyberbullying is inappropriate behaviour between children and is adequately dealt with by parents or the schools without police intervention. Schools deal with issues of bullying by using a range of implemented intervention methods according to their individual policies.

If officers are contacted regarding cyberbullying they should reiterate that reducing cyberbullying among children and young people is fundamentally about respectful and positive relationships. Officers may refer the caller to anti-cyberbullying resources, such as the Queensland Government Bullying and Cyberbullying information page or the Queensland Youth eHub.

Officers contacted about cyberbullying should be mindful of their obligations under the Charter of Victims' Rights in relation to acting with fairness, reasonable compassion, courtesy, respect and dignity in their professional duties.

In some circumstances it may be appropriate for officers to investigate if an offence has occurred. Officers should appropriately investigate and prosecute serious cyberbullying complaints under either State or Commonwealth legislation. Investigative action is to be taken in accordance with the circumstances and through the application of the guiding principles outlined in the YJA, the CC and the ODPP, Director's Guidelines (DPP Guidelines).

Sexting and intimate images

Sexting is the act of taking sexually explicit images or videos and distributing this material to friends or other people via mobile telephones and other communication methods. In most circumstances, sexting between adults is not a criminal offence. However, if an intimate image is distributed without the consent of the subject in a way that would cause the subject person distress reasonably arising in all the circumstances, then it is an offence. It is also an offence to make a threat, to either the subject of the image or another person, to distribute an intimate image or prohibited visual recording when the distribution of the image would cause distress reasonably arising in all of the circumstances.

In circumstances involving young people of similar age, sexting or engaging in consenting sexual experimentation, officers should adopt an alternative approach focused on prevention and education through relevant campaigns, such as the Service 'Your selfie: Keep it to yourself' campaign.

A criminal investigation should be undertaken by officers where a child or young person has:

- (i) menaced, harassed, or coerced a child to provide a sexual image; or
- (ii) otherwise acted without the consent of the other person in relation to sexting, including the deliberate forwarding of indecent images or videos to others without consent,

(refer to the Sexting flowchart on the Child Abuse and Sexual Crime Group, Child Protection and Investigation Unit 'Resources' Service Intranet page).

Considerations for investigations include:

- (i) whether the child is a willing or knowing participant;
- (ii) whether the interaction is between people of disparate ages and mental capacity (e.g. adult and child);
- (iii) the nature of the relationship between the involved parties; and
- (iv) the context in which the sharing occurred.

Investigative action is to be taken in accordance with the circumstances and through the application of the guiding principles outlined in the YJA, the CC and the DPP Guidelines.

In instances involving persons distributing child exploitation material, officers should consider which charges are most appropriate in the circumstances.

In all instances, officers should:

- (i) consider whether or not the distributed material may be of interest to the Victim Identification Unit, Argos;
- (ii) consider obtaining a copy of the distributed material for upload to the ICSE database with sufficient detail for the imagery to be flagged as known/identified. The Victim Identification Unit, Argos, will facilitate the upload of material to ICSE;
- (iii) obtain consent to delete images from a device; and
- (iv) consider a referral through Police Referrals if appropriate.

Where images have been uploaded to a website, the child should be advised of options to approach the Office of the eSafety Commissioner to request removal of the images.

7.12 Impact statements

POLICY

It is recognised that victims of crime often experience trauma as a result of offences committed upon them or their property. The extent of this trauma is often required by the sentencing judge or magistrate to assist in determining penalty.

An officer should advise victims of crime to engage in counselling whenever possible. Further information is provided in Guideline 23: 'Victims' of the Director of Public Prosecutions Guidelines.

ORDER

In view of the expense associated with an impact statement if obtained privately, officers are to obtain permission from the officer in charge of the region or command prior to seeking any private professional assessment.

POLICY

Where the prosecutor considers an impact statement will be required for presentation to the presiding justice during the sentencing of the offender, the statement should be compiled by professional people who have assessed the victim and have determined the impact of the offence on the victim. Impact statements do not usually form part of the police brief of evidence.

If an impact statement is required, the officer conducting the investigation should:

- (i) arrange for the child victim to be referred to counselling as soon as possible. While the counsellor may later be required to provide a report for a court, the primary reason for entering the child into counselling is to assist the child to overcome the trauma of the particular incident(s); and
- (ii) advise the person conducting the counselling that a report may be required at a later time from the person providing advice as to the impact of the offence on the child. The counsellor should also be advised to keep precise notes.

When an officer believes that an impact statement may be required for court purposes, the officer should liaise with:

- (i) the police prosecutor, initially to determine if there is a likelihood an impact statement will be required; and
- (ii) a Child Safety Services officer who may be able to provide additional advice in respect of the counselling needs of the child.

When an impact statement is required to assist the court in determining the impact of a crime upon a person, that statement may be obtained by an officer:

- (i) requesting a counsellor to provide an impact statement as an adjunct to the counselling process; or
- (ii) engaging a suitably qualified person specifically to prepare an impact statement for court purposes.

Where an impact statement is required, the investigating officer should make initial arrangements with a government employee (e.g. psychiatrist or psychologist attached to a local hospital).

In circumstances where it is not possible for such assessment to be made by a government employee, and the impact statement is required by the Office of the Director of Public Prosecutions (State), arrangements should be made by the investigating officer for that office to pay for such assessment. However, the Office of the Director of Public Prosecutions (State) should not be contacted until after the committal proceedings, as that office will have no knowledge of the events and will not make a commitment until the brief has been viewed by counsel appointed by that office.

Any voucher which is completed after authority has been obtained from the Office of the Director of Public Prosecutions (State) should be made out to the Department of Justice and Attorney-General indicating the name of the victim, the name of the offender and the name of the person from the Office of the Director of Public Prosecutions (State) who authorised the expenditure.

7.13 Preparation of child witnesses for court

Officers are to refer to s. 7.6.9: 'Child cannot be compelled to give evidence' of this chapter where proceedings are commenced for an application of an order under the *Child Protection Act*.

Use of Protect All Children Today (PACT) to assist child witnesses

When children are to be witnesses in any matter before a court, the investigating officer is to prepare those witnesses for court. The Protect All Children Today (PACT) organisation is a community based not-for-profit organisation that assists police officers with the support of child witnesses be they a complainant, preliminary complainant, or witness. Officers are to refer all child witnesses to PACT to ensure children receive appropriate support throughout the court proceeding.

The use of PACT does not excuse officers from preparing their witnesses before court. Where such organisations are used, this preparation may be done in conjunction with the organisation.

A PACT referral should be submitted for all child witnesses, not just complainants. A child witness is a witness under the age of 18 years. There is no need for child witnesses to be deemed an affected child witness or special witness before a referral is submitted.

PACT does not provide support for:

- (i) child offenders giving evidence unless the child is a co-offender and their matter has been finalised and they are giving evidence as a witness; or
- (ii) adults who have an intellectual impairment, even if they have been declared a special witness.

Protect All Children today (PACT) referrals

PROCEDURE

A PACT referral should be submitted as soon as an offender is arrested or served with a notice to appear or complaint and summons. This will ensure that the child witness support volunteer has enough time to develop a rapport with the child. Where a PACT referral was not submitted when proceedings commenced, the referral is to be submitted when the matter is first listed for a committal mention or a committal hearing.

An officer submitting a PACT referral is to:

- (i) check that all details within QPRIME, including the child witness' details, are correct and updated as necessary prior to submitting the PACT referral;
- (ii) complete a PACT referral through the 'Occ events/reports' tab of the subject child in the relevant QPRIME occurrence. In addition to the information imported in the PACT referral, officers are to ensure the referral includes information regarding the child's:
 - (a) date of birth;
 - (b) ethnicity;
 - (c) witness status;
 - (d) address;
 - (e) parents' or carers' details and contact number;
 - (f) offender details; and
 - (g) court details (using the second page). Wherever possible, information about the investigation should not be included in the PACT referral, to avoid allegations of the child witness support volunteer coaching the child witness;
- (iii) assign a QPRIME task to the PACT Liaison Unit Organisation Unit [3307]; and,
- (iv) after obtaining the consent of the child's parent/guardian, checking the relevant box on the referral form to allow information sharing between PACT, ODPP, and the Service.

(See the PACT webpage for an example of a completed PACT referral and further information about PACT).

Multiple child witnesses and parents/guardians may be listed on the same form. Only one referral form is required per defendant.

Where there are multiple offenders, a separate referral is to be made for each offender in the event court matters are separated (for example, three child witnesses and two offenders will require two referrals).

Referrals are not to be submitted directly to PACT. Where the QPRIME form is unavailable, a QP 0376: 'PACT police referral' is to be completed and uploaded on to the QPRIME occurrence against the child witness.

Where a matter is finalised or withdrawn, advice is to be provided to PACT and the families as a matter of priority to avoid any possible embarrassment should the child witness support volunteer continue to contact the family.

7.14 Child Protection Offender Registry

A National child offender reporting scheme exists, supported by corresponding legislation in each state and territory. The Queensland component of the scheme was established by the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A). Child sex offenders, and other defined categories of serious offenders against children, are required to keep police informed of their whereabouts and other personal details for a period of time after they are released into the community. Its purpose is to:

- (i) reduce the likelihood that offenders will reoffend; and
- (ii) assist the investigation and prosecution of any future offences they may commit.

The scheme is supported on a national level by the National Child Offender System. Management of the scheme in Queensland is the responsibility of the Child Protection Offender Registry (CPOR), Child Abuse and Sexual Crime Group (CASCG), CIC. This is supported at district level by district CPOR investigators and at a local level by case investigators.

The role and function of CPOR and the information in relation to the National child offender reporting scheme is published on the CASCG webpage of the Service Intranet.

Child Protection Register

The Child Protection Register is established under s. 68: 'Child protection register' of the CP(OROPO)A and includes information from various sources as well as personal details reported by the reportable offender (reportable offender is defined below in this section).

The CPOR is responsible for:

- (i) maintaining the Child Protection Register; and
- (ii) creating a QPRIME 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence in relation to the reportable offender.

ORDER

Only members authorised by the Commissioner are to access information contained in the Child Protection Register (see Delegation D 51.1). Personal information is to only be disclosed in circumstances authorised by the Commissioner (see Delegation D 51.2) or as otherwise required under another Act (see s. 70: 'Confidentiality' of the CP(OROPO)A).

Information contained in the register is strictly confidential and is only to be used for child protection and law enforcement purposes (see the 'Commissioner's Guidelines' under s. 69(2): 'Access to the register restricted' of the CP(OROPO)A, published on the CASCg webpage of the Service Intranet).

In accordance with s. 73: 'Reportable offender's rights in relation to register' of the CP(OROPO)A, the Commissioner must:

- (i) give the reportable offender a copy of all the reportable information relating to the offender held in the register if asked to do so by the reportable offender; and
- (ii) not give the offender information held in the register that may identify a child the offender had reportable contact, other than:
 - (a) the first initial of the child's first and last names; and
 - (b) the date of the reportable contact.

Requests of this type are to be directed to the Detective Senior Sergeant, CPOR, CASCg.

Reportable offender defined

A **reportable offender** is a person who is:

- (i) sentenced for a reportable offence regardless of when the offence was committed or the person was convicted;
- (ii) sentenced for an offence for which a court has made a declaration (if a court convicts a person of an offence other than a reportable offence, the court may also declare it is satisfied the facts and circumstances surrounding the offence constitute elements of a reportable offence);
- (iii) an existing reportable offender (see s. 6: 'Existing reportable offender defined' of the CP(OROPO)A);
- (iv) a corresponding reportable offender (see s. 7: 'Corresponding reportable offender and corresponding reportable offence defined' of the CP(OROPO)A);
- (v) subject to an offender reporting order;
- (vi) subject to an offender prohibition order;
- (vii) the respondent for a registered corresponding order; or
- (viii) a post-DPSOA (*Dangerous Prisoners (Sexual Offenders) Act*) reportable offender (see s. 7A: 'Post-DPSOA reportable offender defined' of the CP(OROPO)A).

See s. 5: 'Reportable offender defined' of the CP(OROPO)A.

There are legislated exceptions for when a person sentenced for a reportable offence is not a reportable offender (see s. 5(2)&(3) of the CP(OROPO)A) and when a person stops being a reportable offender (see s. 8: 'When a person stops being a reportable offender' of the CP(OROPO)A).

Police Powers and Responsibilities Act

The PPRA provides specific powers to officers enforcing the provisions of the CP(OROPO)A, namely:

- (i) a general power to enter a place under s. 21(1)(e): 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA to detain a person under s. 60: 'Power of detention to enable notice to be given' of the CP(OROPO)A (see subsection 'Power of detention to give notice of reporting obligations' of s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter);
- (ii) a limited power to enter a premises where a reportable offender generally resides under s. 21A: 'Power to enter residence of reportable offender' of the PPRA at any time to:
 - (a) verify the offender's personal details reported under the CP(OROPO)A; or
 - (b) demand production of and carry out a device inspection under s. 21B: 'Power to demand production of and inspect digital devices in possession of reportable offender' of the PPRA (however, this section contains restrictions – see ss. 21B(1) and (3) of the PPRA).

For the purpose of this power of entry, a premises for a reportable offender, does not include a part of the premises used exclusively by a person other than the reportable offender, without the consent of that occupier. Officers do not have the power to search the reportable offender or the premises unless the circumstances justify another search provision under the PPRA; and

(iii) a power to require a person to state their name and address and provide evidence of the correctness of the information under s. 40: 'Person may be required to state name and address' of the PPRA. The CP(OROPO)A is a prescribed Act pursuant to s. 41(g): 'Prescribed circumstances for requiring name and address' of the PPRA.

Where an officer uses any of the powers provided under the PPRA, the officer is to comply with the relevant safeguards under the Act.

When an officer enters the premises where a reportable offender generally resides under s. 21A of the PPRA, the officer is to:

- (i) submit a QPRIME location search report; and
- (ii) forward a QPRIME 'For your information' task to State Intelligence Child Protection Offender Registry [3391].

7.14.1 Child protection

Pursuant to s. 3(1A): 'Purposes of this Act' of the CP(OROPO)A, the primary purpose of Queensland's participation in the offender registration scheme is:

- (i) to provide for the protection of the lives of children and their sexual safety; and
- (ii) to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of the offender's whereabouts and other personal details for a period of time after the offender's release into the community:
 - (a) to reduce the likelihood that the offender will reoffend; and
 - (b) to facilitate the investigation and prosecution of any future offences that the offender may commit.

ORDER

Where an officer becomes aware, or has developed a reasonable belief, that a child is exposed to a risk of harm because of contact with, or, exposure to, a reportable offender, the officer is to commence an investigation in accordance with s. 7.3: 'Investigating child harm' of this chapter.

Where an officer commences an investigation in relation to a risk of harm to a child by a reportable offender, the officer is to notify the:

- (i) OIC of the local CPIU;
- (ii) senior district Child Protection Offender Registry (CPOR) investigator; and
- (iii) Detective Senior Sergeant, CPOR.

The information is to be reviewed by the OIC of a CPIU or CPOR investigator.

When a reportable offender engages in concerning conduct that an officer reasonably believes poses an unacceptable risk to the lives or sexual safety of children, the CPOR investigator is to conduct an investigation and where appropriate make application for an offender prohibition order in accordance with s. 7.15: 'Child Protection (Offender Reporting and Offender Prohibition Order) Act' of this chapter.

Child referral

Where the investigation identifies the child is at immediate risk of harm, consideration should be given for the child to be taken into custody under s. 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act* (see also s. 7.4: 'Children in need of protection' of this chapter).

Where a child is taken into custody or in circumstances where a child is at risk of harm but the risk is not immediate, the relevant information about the person's contact with the child, criminal history and offending behaviour may be released to the Chief Executive, Department of Child Safety, Seniors and Disability Services (CSSDS), by the:

- (i) OIC of the relevant CPIU; or
- (ii) senior district CPOR investigator.

Notifications are to be made to the Chief Executive, CSSDS in accordance with s. 7.9: 'Information exchange' of this chapter. (See Delegation D 51.2).

The Chief Executive, CSSDS is not to be advised of the person's status as a reportable offender unless relevant to assessing the safety concerns of a child.

7.14.2 Roles and responsibilities

Responsibilities of Child Abuse and Sexual Crime Group

The Detective Superintendent, Child Abuse and Sexual Crime Group (CASC) is:

- (i) responsible for the efficiency and effectiveness of the relevant policies, implementation delivery and strategic engagement with Government;
- (ii) the owner of the relevant policies and is accountable for the administration of the register;
- (iii) to monitor and support the provision of access to appropriate training in relation to the CP(OROPO)A and the Commissioner's guidelines on access to the Child Protection Register and disclosure of information held in the Child Protection Register for relevant staff; and
- (iv) to assist in the development of training materials to assist members of the Service in dealing with the provisions of the CP(OROPO)A and make recommendations where appropriate.

The Detective Inspector, CPOR is responsible for:

- (i) the development of policies, strategic direction and engagement with regions;
- (ii) administration of the register in accordance with the CP(OROPO)A;
- (iii) administration of CPOR; and
- (iv) administration of CPOR capability supporting district CPOR investigators.

The Detective Senior Sergeant, State Registrar, CPOR is responsible for:

- (i) the maintenance and coordination of the register of reportable offenders;
- (ii) providing advice on managing interagency information sharing in compliance with legislative requirements;
- (iii) administering the access and disclosure of relevant information to the National Child Offender System (NCOS) database on behalf of the Service;
- (iv) ensuring only appropriate information is shared between agencies;
- (v) ensuring the integrity and privacy of information is protected;
- (vi) ensuring the disclosure of information is limited in accordance with the Commissioner's guidelines;
- (vii) providing advice on managing interagency information sharing in compliance with legislative requirements;
- (viii) encouraging the exchange of information between agencies engaged in the management of reportable offenders for law enforcement purposes, judicial process or administration of the CP(OROPO)A;
- (ix) ensure that all reportable offenders as defined under the CP(OROPO)A are given a QP 0572: 'Initial Reporting Obligation Notice'; and
- (x) liaise with other entities i.e. Chief Executive, Corrective Services or Chief Executive, Department of Child Safety, Seniors and Disability Services (CSSDS) to provide relevant information and ensure the notice is given.

The Detective Senior Sergeant, Regional Operations, CPOR is responsible for:

- (i) the management of reportable offenders in accordance with compliance management guidelines;
- (ii) the effective coordination and dissemination of information between the registry and district investigators;
- (iii) providing support to district investigators to ensure:
 - (a) the management of reportable offenders occurs in accordance with compliance management guidelines;
 - (b) pro-active operations are conducted on reportable offenders; and
 - (c) an application for an offender prohibition order under s. 13C: 'Making prohibition order' of the CP(OROPO)A is made where a reportable offender engages in concerning behaviours and the reportable offender:
 - poses an unacceptable risk to the lives or sexual safety of children; and
 - the making of the order will reduce the risk;
- (iv) ensuring offences against the CP(OROPO)A are identified and disseminated appropriately for investigation; and
- (v) identifying and implementing investigative strategies to locate reportable offenders whose whereabouts are unknown.

Members of CPOR are responsible for:

- (i) reviewing the relevant criminal history of offenders and applying the legislation for relevant offences committed in Queensland and offences committed in a foreign jurisdiction (i.e. jurisdictions other than Queensland, including jurisdictions outside Australia) for the purpose of identifying who is a reportable offender in Queensland;

- (ii) activating a share for reportable offenders who reside and/or work in more than one district or state;
- (iii) transfers of reportable offenders within Queensland and with other Australian jurisdictions;
- (iv) maintaining the NCOS database;
- (v) providing information to Queensland Corrective Services and the CSSDS as directed by the Detective Senior Sergeant, State Registrar CPOR; and
- (vi) receiving and processing reports from reportable offenders through a call centre and electronic reporting.

Responsibilities within districts

OIC of regions are to ensure:

- (i) district CPOR investigators are able to fulfil their duties under the subsection 'senior district CPOR investigators' of this section;
- (ii) other officers are identified to perform the duties and responsibilities of the senior district CPOR investigator in the absence of the appointed person; and
- (iii) that sufficient numbers of officers complete the approved course of training and are appointed as case investigators in order to properly support the Australian Child Protection Offender Reporting scheme.

Senior district CPOR investigators are responsible for:

- (i) allocating case investigators for all reportable offenders within the local district;
- (ii) ensuring offences against the CP(OROPO)A are appropriately investigated; and
- (iii) being actively involved in the management of high and very high risk offenders within the district.

Case investigators are appointed at the discretion of the region in consultation with the district CPOR investigators. Case investigators are responsible for:

- (i) the management of reportable offenders allocated to them;
- (ii) ensuring notifications are made to CSSDS where it is identified a reportable offender has contact with a child and the child may be at risk; and
- (iii) verifying and corroborating information provided by reportable offenders by methods including attending an address to verify if the reportable offender resides at the premises, obtaining supporting documents (e.g. copies of rental agreements, vehicle registration documents, telephone contracts), photographing tattoos or any other action required to verify reported details.

Case investigators can include any officer assigned a reportable offender to conduct an investigation in relation to compliance activity guidelines or any other investigation.

Responsibilities of intelligence officers

Local intelligence officers who receive a CPOR relevant intelligence submission in QPRIME, are to forward the intelligence submission to the 'State Intelligence Child Protection Offender Registry' [3391].

State Intelligence, CPOR are to review the information and update the NCOS database.

7.14.3 Offender reporting orders

An offender reporting order is an order that a person comply with reporting obligations imposed on the reportable offender under the CP(OROPO)A, see s. 12A: 'Offender reporting order defined' of the CP(OROPO)A.

If the court is satisfied, on the balance of probabilities, that:

- (i) a person poses a risk to the lives or sexual safety of a child, or of children generally; or
- (ii) for a person convicted of a child abduction offence, the context in which the offence was committed was not familial and an order is appropriate in the circumstances.

The court may make an offending reporting order:

- (i) upon conviction recorded and sentence imposed, other than a prescribed offence, see s. 12B: 'Making offender reporting order—conviction for offence other than prescribed offence' CP(OROPO)A; or
- (ii) if the court makes a forensic order in relation to the person, see s. 12C: 'Making offender reporting order—forensic order' CP(OROPO)A.

In making an order under ss. 12B or 12C of the CP(OROPO)A, the court must consider the matters outlined in s. 12D: 'Matters Court must consider before making offender reporting order' of the CP(OROPO)A.

The court may make an offender reporting order on its own initiative or on the application by the prosecution see s. 12E: 'Court may act on own initiative or application' of the CP(OROPO)A.

The prosecution may make an application under s. 12E(1)(b) of the CP(OROPO)A at any time within six months after the day the court:

- (i) imposes the sentence for the offence; or
- (ii) makes the forensic order.

Offender reporting order application on conviction

When:

- (i) an officer commences a proceeding against an offender for an offence committed against a child which is not a schedule 1 offence under the CP(OROPO)A; or
- (ii) a court makes a forensic order,

and the officer is of a reasonable belief that the person charged poses a risk to the lives or sexual safety of one or more children, or of children generally the officer is to:

- (i) make a submission to the prosecutor to make application to the court for an offender reporting order on conviction;
- (ii) complete a:
 - (a) Form 009: Application – ‘CPOR – Application for an offender reporting order’; and
 - (b) Form 059: Order – ‘Offender reporting order’; and
 - (c) supporting affidavit; and
 - (d) QP 0572: ‘Initial reporting obligation notice’;
- (iii) where there is additional information relevant to the court making a decision in relation to the application, the officer is to provide all relevant additional information to the prosecution prior to the matter being heard at court; and
- (iv) submit the application in QPRIME,

(see s. 13.30: ‘Starting a civil proceeding’ of this Manual).

Offender reporting application following sentencing

In accordance with s. 12E: ‘Court may act on own initiative or application’ of the CP(OROPO)A, the prosecution may make application for an offender reporting order within six months of a person being sentenced for an offence or making of the forensic order.

An application for an offender reporting order is to be made in accordance with s. 13.30: ‘Starting a civil proceeding’ of this Manual, using a:

- (i) Form 009: ‘CPOR – Application for an offender reporting order’; and
- (ii) Form 059: ‘Order – Offender reporting order’; and
- (iii) supporting affidavit; and
- (iv) QP 0572: ‘Initial Reporting Obligation Notice’.

Court notification of reportable offender

Section 55: ‘Courts to provide sentencing information to police commissioner’ of the CP(OROPO)A requires a court to provide details of any order or sentence to the Detective Senior Sergeant, State Registrar CPOR, Child Abuse & Sexual Crime Group, CIC as soon as practicable after the court:

- (i) makes any order or imposes any sentence that has the effect of making a person a reportable offender;
- (ii) imposes any sentence on a person for a reportable offence; or
- (iii) makes any order in relation to a reportable offender that has the effect of removing the offender from the ambit of the CP(OROPO)A.

7.14.4 Reporting obligations

In accordance with Part 4: ‘Reporting obligations’ of the CP(OROPO)A, a reportable offender is required to make:

- (i) an initial report (see s. 7.14.5: ‘Giving written notice and taking the initial report’ of this chapter);
 - (ii) periodic reports;
 - (iii) a report of changes to personal details; and
 - (iv) a report of intended travel outside of Queensland,
- (see s. 7.14.10: ‘Ongoing reporting obligations’ of this chapter),

to the Commissioner.

The authority to receive details required to be reported to the Commissioner has been delegated to:

- (i) all police officers; and
- (ii) approved persons attached to the Child Protection Offender Registry (CPOR),

(see Delegation D 51.14).

Identifying reportable offenders not in QPRIME as a reportable offender

ORDER

The identification of a reportable offender is primarily the responsibility of the CPOR. Where an officer becomes aware of a person who meets the criteria of a reportable offender, but is not identified in QPRIME as a reportable offender through a reportable offender flag, the officer is to:

- (i) submit a QPRIME intelligence report outlining the relevant criminal history and any other relevant information known; and
- (ii) create a 'follow up' task and assign to the CPOR organisational unit [3083].

7.14.5 Giving written notice and taking the initial report

Notice to be given to reportable offender

In accordance with s. 54: 'Initial notice to be given to reportable offender' of the CP(OROPO)A, as soon as reasonably practicable after an event outlined in s. 54(2) of the CP(OROPO)A occurs, a reportable offender must be given a written notice of their reporting obligations and the consequences if the offender fails to comply with those obligations. The reportable offender is to be given a QP 1226: 'Reporting obligation notice'.

Where a reportable offender is required to be given a QP 1226 by the Commissioner, the Detective Senior Sergeant State Registrar, CPOR is to ensure:

- (i) a 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence is created;
- (ii) a 'document service' task is created and assigned within the relevant district; and
- (iii) a 'Document Service Required' flag is added to the person entry in QPRIME.

The Commissioner has delegated the authority to give a QP 1226 to all officers (see Delegation D 51.15).

If an officer has contact with a person the officer believes is a reportable offender, who has not yet completed an initial report and is required to be given a QP 1226 and a QPRIME document service task has not been created by CPOR, the officer is to:

- (i) contact CPOR and confirm that the person is a reportable offender under the CP(OROPO)A; and
- (ii) request a document service task be created.

Reporting Obligations Notice

In accordance with s. 54A: 'Reporting obligations notice' of the CP(OROPO)A, as soon as practicable, after an event happens as outlined in s. 54(2) 'Initial notice to be given to reportable offender' of the CP(OROPO)A in relation to a reportable offender. The Commissioner must give the offender written notice (reporting obligation notice and also an initial reporting obligations notice) about:

- (i) the offenders reporting obligations; and
- (ii) the consequences that may arise if the offender fails to comply with the obligations.

An initial reporting obligations notice (QP 0572) must state:

- (i) the police station or other place where the offender is required to make the offender's initial report;
- (ii) the ways in which the offender is required to, or may, make a periodic report; and
- (iii) if the notice states that the offender must make a periodic report in person—the police station or other place where the offender is required to make the report.

The Commissioner may give a reportable offender further notice about the offenders reporting obligations at any other time as outlined in s. 54A of the CP(OROPO)A. The Commissioner may also vary the reportable offenders periodic reporting frequency as outlined in s. 7.14.10: 'Ongoing reporting obligations' of this chapter.

A reporting obligations notice applies to a reportable offender until:

- (i) the offenders reporting ends; or
- (ii) the Commissioner gives the offender another reporting obligations notice under s. 54A of the CP(OROPO)A.

A Police officer is authorised to give a reporting obligations notice on behalf of the Commissioner.

(See Delegation D 51.5).

Initial report

A reportable offender is required to make an initial report of their personal details to the Commissioner (see Schedule 2: 'Personal details for reportable offenders' of the CP(OROPO)A). The initial report must be made in person and can only be taken by an officer (see Delegation D 51.14).

In accordance with s. 14: 'When reportable offender must make initial report' of the CP(OROPO)A, a reportable offender is to provide an initial report in person to an officer:

- (i) at the time the reportable offender is given a QP 0572: 'Initial reporting obligation notice'; or
- (ii) where it is not reasonably practical for the reportable offender to make the report at the time of service, within seven days of the date of service; or
- (iii) if the reportable offender has not received a QP 0572 from the Commissioner, the report must be made within the time period specified in Schedule 3: 'When reportable offender must make initial report' of the CP(OROPO)A.

Officers who are tasked to give a QP 0572 to a reportable offender are to:

- (i) give the notice as soon as practicable and within seven days unless the reportable offender is unable to be located;
- (ii) require the reportable offender to supply their name and address and, where practicable, evidence of the correctness of the information in accordance with s. 40: 'Person may be required to state name and address' of the PPRA;
- (iii) Utilise a BWC to electronically record the delivery and explanation of the QP 0572 and any reply the reportable offender may provide. The recording is to be categorised as an 'Evidential' recording in accordance with 'BWC categorisation' and stored as per 'Handling and storage of BWC recordings' of s. 4.4: 'Body worn cameras' the DERIE Manual;
- (iv) give a copy of the QP 0572 to the reportable offender;
- (v) request the reportable offender to sign the acknowledgement section on the front page and each page of the original copy of the QP 0572 given;
- (vi) if the reportable offender refuses to sign the QP 0572, the officer is to endorse the acknowledgement section to that effect;
- (vii) take the initial report from the reportable offender at the time of service (see s. 7.14.11: 'How reports are to be made by a reportable offender' of this chapter), unless it is not reasonably practicable for the reportable offender to make the initial report at that time;
- (viii) where an initial report can't be taken immediately, arrange for the initial report to be taken within seven days of the service of the QP 0572; and
- (ix) complete the QPRIME task in accordance with the instructions attached to the task.

After serving a QP 0572 on a reportable offender, the officer is to:

- (i) complete the police endorsement on the original copy of the QP 0572;
- (ii) scan the acknowledged, endorsed original copy of the QP 0572 into the reportable offender's 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence. The original document is then to be sent to the Detective Senior Sergeant, State Registrar CPOR by despatch for filing; and
- (iii) expire any QPRIME 'Document Service Required' flag after the QP 0572 is given to the person.

An officer receiving the initial report from the reportable offender is to:

- (i) conduct suitable inquiries to verify the information reported (see s. 1.6.11: 'Updating operational information in QPRIME' of this Manual);
- (ii) complete a QP 0573: 'Initial report' web-form (available on the CPOR webpage on the Service Intranet) to record the details reported by the reportable offender in the initial report; and
- (iii) provide the reportable offender with a receipt acknowledging the initial report made along with a copy or the information reported (see s. 28: 'Receipt of information be acknowledged' of the CP(OROPO)A).

Power of detention to give notice of reporting obligations

Section 60: 'Power of detention to enable notice to be given' of the CP(OROPO)A provides that this section applies if there are reasonable grounds to suspect that:

- (i) a person is a reportable offender; and
- (ii) the person has not been given notice, or is otherwise unaware, of their reporting obligations,

the person may be:

- (i) detained for as long as is reasonably necessary:
 - (a) to enable a decision to be made about:
 - whether or not the person is a reportable offender; or
 - if the person is a reportable offender, whether or not the person has been given notice, or is aware, of their reporting obligations; or
 - (b) to enable the person to be given notice of those obligations if the person is not aware of them; and
- (ii) transported to the nearest station to give the notice of their reporting obligations.

ORDER

When detaining a reportable offender under s. 60 of the CP(OROPO)A, the detaining officer is to:

- (i) tell the person why the person is being detained;
- (ii) tell the person that the detention is authorised under the CP(OROPO)A;
- (iii) tell the person they will be released immediately after the reasons for the detention are satisfied;
- (iv) ensure the person is not detained for a period that is longer than is reasonably necessary to enable the purpose of the detention to be satisfied;
- (v) ensure the person is not detained only because the person has refused to sign an acknowledgment that the person has been given notice of their reporting obligations;
- (vi) release the person immediately after the purpose of the detention is satisfied; and
- (vii) create a custody report in QPRIME detailing the details of detention.

Power of entry to give notice

Under s. 21(1)(e): 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA, the power of entry is provided to detain a person under another Act.

If force is required to gain entry to a premises in order to give the notice to a reportable offender, officers are to comply with the provision of s. 635: 'Use of force likely to cause damage to enter places' and s. 636: 'Police officer to give notice of damage' of the PPRA (see s. 2.8: 'Entry, search and seizure' of this Manual).

Where notice of reporting obligations cannot be given

Where a QP 0572 cannot be given because the reportable offender cannot be located, the officer attempting service is to:

- (i) outline the actions undertaken to effect service and the results of any inquiries conducted including any intelligence checks in the occurrence inquiry log of the reportable offender's 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence; and
- (ii) reassign the document service task relating to the service of the notice to the CPOR Org Unit [3083].

7.14.6 Applications for review

Section 74: 'Review about entry on register' of the CP(OROPO)A, provides that if a person has been given a QP 0572: 'Initial Reporting Obligation Notice' and the person believes:

- (i) they have been placed on the register in error; or
- (ii) an error has been made in the length of reporting,

the person may apply in writing to the Commissioner for a review within 28 days of receipt of the QP 0572 by submitting a QP 1064: 'Application for review about entry on register' (available on CPOR webpage on the QPS Internet).

When a reportable offender wishes to apply for a review about their entry on the register, the person should be directed to:

- (i) complete an application using a QP 1064; and
- (ii) submit the QP 1064 via email to CPOR@police.qld.gov.au

Upon receiving a written application for a review about entry on the register, the Detective Senior Sergeant, State Registrar CPOR is to conduct the review on behalf of the Commissioner (see Delegation D 51.10).

ORDER

Upon completing the review, the Detective Senior Sergeant, State Registrar CPOR is to ensure if the:

- (i) person has been placed on the register in error, all personal details are removed from the register and all copies of documents, fingerprints, DNA and photographs are destroyed; and

(ii) length of a person's reporting period is changed, and the entry is corrected on the register.

7.14.7 Application for name change

Section 74A: 'Change of name of reportable offender' of the CP(OROPO)A provides a reportable offender must receive the written permission of the Commissioner prior to changing, or applying to change, their name under the *Births, Deaths and Marriages Registration Act*, or under a law of a foreign jurisdiction.

Upon receiving a written or verbal application for change of name, members are to direct the reportable offender to:

- (i) complete an application using a QP 1063: 'CPOR – Application for change of name' (available on the CPOR webpage on the QPS Internet); and
- (ii) submit the QP 1063 via email to CPOR@police.qld.gov.au.

The Commissioner has delegated the authority to approve a reportable offender's name change to the Detective Superintendent, CASC (see Delegation D 51.32).

The Detective Senior Sergeant, State Registrar, CPOR will review the application and forward the report to the Detective Superintendent, CASC, to make the decision in accordance with s. 74A(3): 'Change of name of reportable offender' of the CP(OROPO)A.

7.14.8 Suspension of reporting

Reportable offenders reporting obligations may be suspended:

- (i) where they are subject to the requirements of a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act*;
- (ii) in accordance with s. 34: 'Suspension and extension of reporting obligations' of the CP(OROPO)A, when a reportable offender:
 - (a) is outside of Queensland; or
 - (b) is in Government detention;
- (iii) where the reportable offender is granted an exemption order under Part 4, Division 6: 'Supreme Court may exempt particular reportable offenders' of the CP(OROPO)A; and
- (iv) where a suspension is granted under Part 4, Division 10: 'Police commissioner may suspend reporting obligations for particular reportable offenders' of the CP(OROPO)A, by the Commissioner either:
 - (a) upon application of the reportable offender; or
 - (b) on the Commissioner's own initiative,in circumstances where:
 - (a) the reportable offender committed the relevant scheduled offence as a child under 18 years of age, (see Schedule 1: 'Meaning of commonly used words and expressions' of the *Acts Interpretation Act*); or
 - (b) the reportable offender has a significant impairment (see Schedule 5: 'Dictionary' of the CP(OROPO)A).

The Commissioner has delegated the authority to approve the suspension of reporting obligations (see Delegation D 51.5).

When a case investigator reasonably believes a reportable offender should have their reporting obligations suspended under Part 4, Division 10 of the CP(OROPO)A, the member is to:

- (i) complete an application using a QP 1062: 'CPOR – Application for suspension of reporting' (available on the CPOR webpage on the QPS Corporate Internet); and
- (ii) submit the QP 1062 via email to CPOR@police.qld.gov.au.

Where a reportable offender, or a person acting on behalf of a reportable offender wishes to apply to have their reporting obligations suspended under Part 4, Division 10 of the CP(OROPO)A, the reportable offender should be directed to:

- (i) complete an application using a QP 1062: 'CPOR – Application for suspension of reporting' (available on the CPOR webpage on the QPS Internet); and
- (ii) submit the QP 1062 via email to CPOR@police.qld.gov.au.

The Detective Senior Sergeant, State Registrar CPOR, is to assess the application for suspension and may obtain any information required to make a decision about the application.

Upon making a decision the relevant officer is to:

- (i) either grant or refuse the application; or
- (ii) give the reportable offender written notice as soon as reasonably practicable.

Internal review

Section 67H: 'Application for internal review' of the CP(OROPO)A provides a reportable offender may apply to the Commissioner for an internal review of a decision made under Part 4A, Division 2 of the CP(OROPO)A. The application is to be made:

- (i) within 28 days of the reportable offender receiving written notice of the decision; and
- (ii) in writing and must state the grounds on which the review is sought.

If the application for an internal review refers to a review of a decision to place on the register information that a person is a reportable offender who has been convicted of a device inspection offence, the application may only be made on the following grounds:

- (i) the device inspection offence the reportable offender has been convicted of is a relevant offence (for relevant offence definition refer s. 67H of the CP(OROPO)A and s. 21B(5): 'Power to demand production of and inspect digital devices in possession of reportable offender' of the PPRA); and
- (ii) a decision that the person committed the offence using an electronic communication network or digital device has been made in error.

When a reportable offender wishes to apply for a review about the decision, the person should be directed to:

- (i) complete a QP 1062: 'CPOR – Application for suspension of reporting' (available on the CPOR webpage on the QPS Internet); and
- (ii) submit the QP 1062 via email to CPOR@police.qld.gov.au.

The Commissioner has delegated the authority to conduct an internal review to the Detective Inspector, CPOR (see Delegation D 51.5), who is to conduct the review in accordance with s. 67I: 'Internal review' of the CP(OROPO)A.

ORDER

Upon a decision being made by the officer conducting the internal review, the officer is to give the reportable offender written notice of the outcome within ten days in accordance with s. 67I of the CP(OROPO)A.

Revocation of suspension

Section 67F: 'Revocation of suspension' of the CP(OROPO)A provides, that at any time the Commissioner may revoke the suspension of reporting obligations made under Division 10 of the CP(OROPO)A, if the Commissioner believes on reasonable grounds:

- (i) the reportable offender poses or may pose a risk to the lives or sexual safety of children; or
- (ii) if a suspension is granted because a reportable offender has a cognitive or physical impairment, whereby the impairment no longer is a significant impairment.

The Commissioner has delegated the authority to revoke the suspension of reporting obligations to an officer within CPOR of the same rank as the person who made the original decision to suspend the reporting obligations (see Delegation D 51.5) who is to ensure the reportable offender is given written notice as soon as reasonably practicable, to enable the revocation to commence.

Suspension following arrest

Where:

- (i) an officer commences a proceeding against a reportable offender, who is being held in custody; or
- (ii) a CPOR investigator becomes aware a reportable offender is, or has been, held in government detention and the detention has not been recorded in National Child Offender System,

the officer is to send a QPRIME follow-up task to CPOR Org Unit [3083] including all relevant details.

7.14.9 Extension of reporting

Reportable offenders reporting obligations may be extended:

- (i) under s. 34(1)(a): 'Suspension and extension of reporting obligations' of the CP(OROPO)A, when a reportable offender is in government detention, including if the detention was in a foreign jurisdiction;
- (ii) under s. 39B: 'Extended reporting period for reportable offender on parole' of the CP(OROPO)A, when a reportable offender is still on parole in relation to a reportable offence; or

When it comes to the attention of a case investigator that a reportable offender:

- (i) has spent time in government detention; or
- (ii) is on parole for a reportable offence,

which is not recorded on the National Child Offender System (NCOS) database, the case investigator is to:

- (i) create a QPRIME intelligence submission outlining the information; and
- (ii) assign the submission to the Child Protection Offender Registry (CPOR) Org unit [3083].

The CPOR is to:

- (i) action the task; and
- (ii) add any suspensions to the NCOS database.

Reportable offender subject to an order under the Child Protection (Offender Reporting and Offender Prohibition Order) Act

Where a person who is not reporting under the CP(OROPO)A becomes subject to an offender prohibition order, they are taken to be a reportable offender in accordance s. 39E: 'Reportable offenders subject to offender prohibition order' of the CP(OROPO)A. The offender prohibition order is taken to be an offender reporting order. The offender must continue to comply with reporting obligations until the offender prohibition order has expired.

A reportable offender who is reporting under the CP(OROPO)A remains a reportable offender until:

- (i) the offender prohibition order has expired; or
- (ii) the length of reporting has ended,

whichever is the later.

When an application is made for an offender prohibition order, the case investigator is to advise the CPOR of the application made and whether the order was granted or refused (see s. 7.15: 'Child Protection (Offender Reporting and Offender Prohibition Order) Act' of this chapter).

7.14.10 Ongoing reporting obligations

Periodic report

In accordance with s. 19: 'When periodic reports must be made' of the CP(OROPO)A, reportable offenders are required to make periodic reports:

- (i) in February, May, August and November; or
- (ii) more frequently as required by the Commissioner.

Where there is a reasonable belief a reportable offender should report more frequently to protect the lives or sexual safety of children, in accordance with s. 19(2) of the CP(OROPO)A, the Commissioner may vary the reportable offender's periodic reporting frequency. The power to require a reportable offender to make more frequent periodic reports has been delegated to Detective Senior Sergeant, Child Protection Offender Registry (CPOR) (see Delegation D 51.5).

In determining the basis for increased periodic reporting, officers should consider:

- (i) whether the reportable offender has a fixed place of abode;
- (ii) if there is information which leads to a suspicion that the reportable offender may reoffend; and
- (iii) any other information relevant to make a determination.

Where an officer managing a reportable offender is reasonably satisfied a more frequent reporting regime is required, the officer is to:

- (i) complete a QP 1225: 'Application for reporting obligations notice'; and
- (ii) submit the QP 1225 to the Detective Senior Sergeant, CPOR thought the relevant reportable offender's QPRIME occurrence, with a 'Follow-up' QPRIME task to the CPOR Org unit [3083].

The Detective Senior Sergeant, CPOR is to:

- (i) make a determination in relation to more frequent reporting; and
- (ii) ensure the reportable offender is given a reporting obligations notice stating when the offender is required to make periodic reports.

The notice remains in force until the reporting period ends or the reporting frequency is varied.

Reporting changes in personal details

In accordance with s. 19A: 'Reporting change in personal details' of the CP(OROPO)A, reportable offenders are required to notify the Commissioner within a set period, normally within seven days, of changes in their personal details.

Where reportable contact with a child occurs (see s. 9A: 'Reportable contact defined' of the CP(OROPO)A), the offender is required to report the contact to the Commissioner within twenty-four hours of the contact occurring.

In accordance with s. 19B: 'Requirement to report each change in premises or locality at which offender stays or can be found' of the CP(OROPO)A the Commissioner may require the reportable offender to report changes in personal details outlined in s. 19B(3) of the CP(OROPO)A, if the Commissioner is reasonably satisfied that doing so is necessary to protect lives or sexual safety of children (see Delegation D 51.5).

The Commissioner imposes this requirement by giving the reportable offender a QP 0572: 'Initial Reporting Obligation Notice'. The reportable offender is to then report each change in the premises where the offender stays, or locality where the offender can generally be found during each period of three or more consecutive days in which:

- (i) the offender does not stay at the premises where the offender generally resides; or
- (ii) the offender does not generally reside at any premises and within twenty-four hours after the change happens.

Travel advice

A reportable offender must report prescribed details as outlined in:

- (i) s. 20 'Intended absence from Queensland to be reported' of the CP(OROPO)A;
- (ii) s. 21 'Change of travel plans while out of Queensland to be given' of the CP(OROPO)A;
- (iii) s. 22 'Reportable offender to report return to Queensland or decision not to leave' of the CP(OROPO)A; and
- (iv) s. 23 'Report of recurring absences from Queensland' of the CP(OROPO)A.

Where a reportable offender is intending to travel internationally, the Commissioner, as soon as reasonably practicable after receiving a report under ss. 20, 21 or 22 of the CP(OROPO)A, of the reportable offenders intentions, must ensure that a copy of the report is given to the:

- (i) Commissioner of the Australian Border Force;
- (ii) Secretary of the Department of Home Affairs; and
- (iii) Commissioner of the Australian Federal Police.

In accordance with s. 24: 'Information about international travel to be given to Commonwealth agencies' of the CP(OROPO)A (see Delegation D 51.9).

7.14.11 How reports are to be made by a reportable offender

A reportable offender is required to comply with reporting obligations outlined in the CP(OROPO)A. In accordance with ss. 25: 'Initial report must be made in person', s. 26: 'How other reports must be made' and if applicable, s. 26A: 'Reportable Offender with disability may be assisted to make report' of the CP(OROPO)A.

Pursuant to s. 25(1) of the CP(OROPO)A, a reportable offender must make their initial report in person and at a police station or other place stated for making the report (see s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter).

A reportable offender is to make all other reports as directed by written notice or as otherwise allowed under a regulation (see s. 26 of the CP(OROPO)A and Delegation D 51.15).

The Commissioner will give the reportable offender written notice of any change to where a report is made (see Delegation 51.15)

Where a reportable offender attends a station or establishment to make a report, other than an initial report (e.g. a periodic report or a change to their personal details), the person should be directed to make the report by:

- (i) submitting the report through the 'On-line Registered Persons Report' on the QPS Internet; or
- (ii) telephoning the Child Protection Offender Registry (CPOR) call-centre.

Where a reportable offender attends a station to make an initial report or another report they have been directed to make in person under Part 4: 'Reporting Obligations' of the CP(OROPO)A, a CPOR case investigator should take the report wherever practicable (see s. 7.14.5 of this chapter).

Where a case investigator is unable to take the report from the reportable offender, members are to ensure that another officer (see Delegation D 51.14) takes the report.

When taking a report from a reportable offender, officers should:

- (i) ascertain whether the station is a place that the reportable offender may report by asking the reportable offender to present their copy of any authorisation or by contacting the case investigator for the reportable offender, the local CPOR investigator or CPOR;
- (ii) only take the report between 8am to 4pm on a business day, or another time approved by the Commissioner given to the offender by written notice (see s. 9: 'When reports must be made' of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation);
- (iii) use a BWC to electronically record the report in accordance with s. 4.4: 'Body worn cameras' of the DERIE;

(iv) ensure that the reportable offender or, another person authorised to report on behalf of the reportable offender, can make the report out of the hearing of other members of the public;

(v) ensure that a support person of the reportable offender's choosing is permitted to accompany the reportable offender while completing the report if requested by the reportable offender;

(vi) where practicable, arrange for an adult support person to be present when an officer or other person receiving the report is aware the reportable offender has a vulnerability, disability or cultural need due to:

- (a) their age, gender or cultural background; and
- (b) any disability the person has;

(vii) if it is not practicable for the reporting offender with a vulnerability, disability or cultural need to be accompanied by an adult support person of the person's own choice, the officer or person receiving the report is to arrange, if practicable, for an adult support person to be present when the person is making the report;

(viii) in cases where the officer reasonably suspects the reportable offender is unable, because of inadequate knowledge of the English language or a physical disability, to speak with reasonable fluency in English, arrange for the services of an interpreter in accordance with s. 6.3.7: 'Interpreters' of this Manual and delay the completing of the report until the interpreter can interpret the report;

(ix) in cases where the services of an interpreter or support person are required, ensure that the interpreter or support person signs a QP 0576: 'CPOR – Undertaking by an interpreter or support person not to disclose information'. Where telephone interpreter services are used, the form is to be sent electronically to the interpreter. If the interpreter or support person is not willing to sign the form, or is unable to return the signed form electronically, arrange for the services of another interpreter or support person (see s. 27(5): 'Right to privacy and support when reporting' of the CP(OROPO)A);

(x) require the reportable offender to produce their driver licence (if any) for inspection or another form of identification or other document specified under s. 11: 'Form of identification to be presented with report made in person—Act, s 29(1)(a)(i) and (b)' of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation (CP(OROP)R) for the purpose of establishing the person's identity;

(xi) if an authorised person makes a report on behalf of a reportable offender under s. 29: 'Additional matters to be given' of the CP(OROPO)A, require the person to produce their driver licence (if any) for inspection or another form of identification or other document specified by s. 11 of the CP(OROPO)R for the purpose of establishing the person's identity;

(xii) scan the identification documents of the reportable offender;

(xiii) if a digital camera is available, photograph the reportable offender's face, scars, tattoos and other distinguishing features without requiring the reportable offender to expose the reportable offender's genitals, or the anal area of the offender's buttocks. (see s. 31: 'Power to take photographs' of the CP(OROPO)A);

(xiv) if the officer requires the reportable offender to expose their breasts to enable that part of the body to be photographed, officers are to comply with s. 31A: 'Safeguards for certain photographs' of the CP(OROPO)A.

The officer:

(a) must not require the offender to remove more clothing than necessary to take the photograph;

(b) if reasonably practicable is:

- not to take the photograph in the presence, or be seen by, someone who is not required; and
- be of the same gender as the offender; and

(c) prior to taking the photograph, is to explain the photographing process, and give reasonable opportunity for the offender to express their preference about the gender of the person taking the photograph.

The reportable offender's gender preference request must be accommodated, unless:

- on reasonable grounds the officer believes it's for an improper purpose; or
- it is not reasonably practicable to accommodate the preference;

see s. 16.10.1: 'General requirements concerning searches of persons' of this Manual for clarification on improper purpose and not reasonably practicable.

Section 31(2): 'Power to take photographs' of the CP(OROPO)A does not provide power for an officer to require the offender to expose their genitals, anal area or buttocks.

(xv) complete an 'Initial report' onto the National Child Offender System (NCOS) or a QP 0573: 'Initial report' web-form (available on the CPOR webpage on the Service Intranet) to take the initial report of the reportable offender;

(xvi) when taking an initial report, check the QPRIME person record of the reportable offender and determine whether a DNA sample is required to be obtained in accordance with s. 40A: 'Allowing DNA sample to be taken' of the CP(OROPO)A (see s. 7.14.15: 'DNA sample' of this chapter);

(xvii) advise the Detective Senior Sergeant, CPOR when a DNA sample has been taken in accordance with s. 40A of the CP(OROPO)A and update the National Child Offender System (NCOS);

(xviii) update NCOS or complete an 'online report' (available on the CPOR webpage on the QPS Internet) for any other reports that the reportable offender is directed to make in person;

(xix) if requested, print the QP 0577: 'Acknowledgement of the making of a report and record of agreement', sign it and give it to the reportable offender acknowledging the information reported under s. 28: 'Receipt of information to be acknowledged' of the CP(OROPO)A, available on QPS Forms Select; and

(xx) forward any hardcopy of documentation, and any photographs of the reportable offender to the Child Protection Offender Registry in accordance with the Information Management Manual.

Reporting by remote reportable offenders

Section 33: 'Reporting by remote offenders' of the CP(OROPO)A provides that a reportable offender who resides more than 100 kilometres from the nearest police station, or the place stated in a reporting obligations notice given to the offender may be exempted from the time limits for making an initial or any other reports the remote reportable offender is directed to make in person if authorised by the Commissioner (see Delegation D 51.4) prior to the expiry of the relevant time limit.

Where approval is granted to make the report at a later time:

(i) the delegated officer must provide the reportable offender with a:

(a) unique reference number relating to the report;

(b) QP 0578: 'Reporting by remote offenders – Record of Agreement'; and

(c) negotiated appointment time for the reportable offender to attend a police station to provide an initial report or any other reports the remote reportable offender is directed to make in person in compliance with the CP(OROPO)A;

(ii) the reportable offender must provide all the information, by telephone or other means, which would be required at an:

(a) initial report; or

(b) any other reports the remote reportable offender is directed to make in person (see s. 7.14.10: 'Ongoing reporting obligations' of this chapter),

at the time of contacting, or being contacted by, the delegated officer to make a suitable appointment time to make a report at a police station or establishment.

ORDER

When the remote reportable offender attends a station to make their initial report or any other reports the remote reportable offender is directed to make in person at the agreed appointment time, the delegated officer is to take the report in compliance with (i)-(xix) of this section.

7.14.12 When a reportable offender is a protected witness

The OIC, Witness Protection Unit of the Crime and Corruption Commission and the Detective Senior Sergeant, State Registrar CPOR, CIC are to ensure that station or establishment instructions are developed and maintained to ensure the proper transfer of documentation and management of reportable offenders on a Witness Protection Program in accordance with Part 4: 'Reporting obligations', Division 9: 'Modified reporting procedures for protected witnesses' of the CP(OPOPO)A.

7.14.13 Police officer not reasonably satisfied of reportable offender's identity

Where a reportable offender makes a report in person to an officer under Part 4: 'Reporting Obligations' of the CP(OROPO)A, the officer may take, or cause a person authorised by the officer to take, the person's fingerprints under s. 30: 'Power to take fingerprints' of the CP(OROPO)A.

However, if an officer is not satisfied about the person's identity, before taking the person's fingerprints, the officer is to check QPRIME including any photograph(s) in QPRIME.

If it is necessary to take the person's fingerprints, the officer is to:

(i) take the report as outlined in s. 7.14.11: 'How reports are to be made by a reportable offender' of this chapter as if the person is the reportable offender;

(ii) obtain a fingerprint form (either wet print or LiveScan method) with the reportable offender's details from QPRIME (see s. 2.26.5: 'Fingerprinting' of this Manual);

- (iii) take the person's fingerprints only (not palm prints or handwriting);
- (iv) create a QPRIME occurrence for the suspected offence against s. 67FD: 'False or misleading information' of the CP(OROPO)A;
- (v) enter the QPRIME occurrence number in the relevant field of the fingerprint form; and
- (vi) submit the fingerprint form as outlined in s. 2.26.5 of this Manual with a covering report indicating that the fingerprints were taken under s. 30 of the CP(OROPO)A.

Where the fingerprints of a person have been taken under these circumstances, the OIC, Fingerprint Bureau is to ensure the:

- (i) officer's report of the QPRIME occurrence is modified to indicate the result of the fingerprint comparison; and
- (ii) fingerprints are kept in accordance with s. 32: 'Retention of material for law enforcement, crime prevention or child protection' of the CP(OROPO)A.

If the fingerprint comparison showed that the person was the reportable offender, the investigating officer is to update the QPRIME occurrence in accordance with 'No offence committed' in s. 1.11.6: 'Follow up investigations' of this Manual.

If the fingerprint comparison showed that the person was not the reportable offender, the investigating officer is to ensure that an investigation for:

- (i) an offence under s. 67FD of the CP(OROPO)A in relation to the person who represented himself or herself as being the reportable offender is continued; and
- (ii) an offence of s. 50: 'Failure to comply with reporting obligations' of the CP(OROPO)A in relation to the reportable offender is commenced.

If the person refuses to supply their fingerprints, the officer is to consider whether the authority under s. 615: 'Power to use force against individuals – police officers' of the PPRA to take the fingerprints should be exercised. Where the officer believes it would be inappropriate or unsafe to attempt to use force to take the fingerprints, the officer is to inform the person that the report will not be taken and consequently the reportable offender's reporting obligations will not be fulfilled.

If a case investigator takes the fingerprints, the officer is to update the reportable offender's Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 occurrence [3016].

Officers are to note that the power to fingerprint under s. 30 of the CP(OROPO)A only relates to a person who represents himself or herself as being the reportable offender and does not extend to those instances where a person is authorised to report on behalf of a reportable offender pursuant to s. 26: 'How other reports must be made' of the CP(OROPO)A.

7.14.14 Investigation of offences against the Child Protection (Offender Reporting and Offender Prohibition) Act

Five offences can be committed by a reportable offender under the CP(OROPO)A:

- (i) s. 50: 'Failure to comply with reporting obligation' provides a reportable offender must comply with the offender's reporting obligations, unless the offender has a reasonable excuse;
- (ii) s. 67FA: 'Failing to comply with offender prohibition order' provides an offender prohibition order must not contravene the offender prohibition order, unless the respondent has a reasonable excuse;
- (iii) s. 67FC: 'Access information for digital devices' provides if an authorised officer suspects, on reasonable grounds, that a reportable offender has committed an indictable offence against the CP(OROPO)A, the reportable offender must comply with an authorised police officers requirement, unless the reportable offender has a reasonable excuse;
- (iv) s. 67FD: 'False or misleading information' provides a person must not give information under the CP(OROPO)A that the person knows is false or misleading in any material particular; and
- (v) s. 74A(2): 'Change of name of reportable offender' provides a reportable offender must not change their name, or apply to change their name, without the written approval of the Commissioner.

Offences under ss. 50, 67FA, 67FC and s. 67FD of the CP(OROPO)A are crimes and interviews are to be conducted in compliance with the requirements for indictable offences (see the DERIE Manual).

Prosecution

In accordance with s. 67FF: 'No time limit for prosecutions' of the CP(OROPO)A, there is no time limit for commencing a proceeding under the Act.

Section 77: 'Evidentiary provisions' of the CP(OROPO)A provides a statement by the prosecution about information in the Child Protection Register or where a defendant failed to provide information is evidence of the stated matters.

Where a proceeding was commenced prior to 22 September 2014, in accordance with s. 87: 'Evidence certificates for existing proceedings' of the CP(OROPO)A will require an evidence certificate, which will be issued by the Child Protection Offender Registry (CPOR).

When an evidence certificate is required, the officer requiring the certificate is to send a QPRIME task to the CPOR Org Unit [3083].

The Detective Senior Sergeant, CPOR is to ensure an evidence certificate is issued (see Delegation D 51.12).

7.14.15 DNA sample

A reportable offender is to comply with a QP 0991: 'CPOR – DNA sample notice' given to the reportable offender see s. 40A: 'Allowing DNA sample to be taken' of the CP(OROPO)A to:

- (i) attend a stated police station at a stated time; and
- (ii) allow a DNA sampler to take a DNA sample for analysis,

if a DNA sample or the results of a DNA analysis is not currently kept under the PPRA.

The authority to give a QP 0991 on behalf of the Commissioner has been delegated to any police officer (see Delegation D 51.8).

The reportable offender does not have to provide the DNA sample in accordance with s. 40A of the CP(OROPO)A if a DNA sample or the results of a DNA sample from the offender are currently kept under the PPRA.

When a DNA sample or the results of a DNA analysis is not currently kept under the PPRA in relation to a reportable offender, DNA is to be obtained as soon as practicable from the reportable offender by issuing a QP 0991.

Where a reportable offender fails to provide a DNA sample in accordance with s. 40A of the CP(OROPO)A, the investigating officer is to:

- (i) investigate the matter and where appropriate commence a proceeding for an offence against s. 50: 'Failure to comply with reporting obligations' of the CP(OROPO)A; and
- (ii) where a proceeding has been commenced in accordance with s. 50 of the CP(OROPO)A, obtain a DNA sample under s. 481: 'Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.' of the PPRA.

See also ss. 2.25.3: 'Obtaining DNA from reportable offenders', 2.5: 'Investigation' and 3.5: 'Commencing proceedings' of this Manual.

7.14.16 Finalisation of reporting

Upon finalisation of the reporting period under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A), the:

- (i) senior district Child Protection Offender Registry investigator is to:
 - (a) advise the reportable offender of the cessation of their reporting requirements; and
 - (b) finalise the reportable offender's QPRIME 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' occurrence [3016]; and
- (ii) Child Protection Offender Registry is to:
 - (a) remove the 'Reportable Offender' and 'Miscellaneous id' flags from the person's QPRIME record; and
 - (b) finalise the reportable offender's record on the National Child Offender System (NCOS).

7.14.17 Digital devices and device inspections

Digital devices

Section 21A: 'Power to enter residence of reportable offender' of the PPRA provides the power for an officer, at any time, to enter the premises where the reportable generally resides:

- (i) to verify the offender's personal details reported by the offender under the CP(OROPO)A; or
- (ii) to carry out an inspection under s. 21B: 'Power to demand production of and inspect digital devices in possession of reportable offender' of the PPRA.

Premises, for a reportable offender, does not include a part of the premises used exclusively by a person other than the offender.

Section 21B of the PPRA provides the power to inspect a digital device in the possession of a reportable offender if:

- (i) in the last three months the reportable offender has been:
 - (a) released from government detention; or

- (b) sentenced to a supervision order; or
- (ii) the reportable offender has been convicted of a device inspection offence; or
- (iii) a device inspection order is made for the reportable offender under s. 21C: 'Magistrate may make device inspection order for reportable offender' of the PPRA.

Officers are reminded there is no general authority under this provision to search premises or a person, or to seize evidence.

For the purposes of subsection (i) only one device inspection should be conducted within the three-month period unless information or intelligence is obtained which warrants a further inspection to be conducted. Where a reportable offender is under a supervision order, officers should first consult with the supervising authority.

For the purposes of subsection (ii) an inspection may not be carried out in relation to a reportable offender unless the offender has been given a written notice that they have been convicted of a device inspection offence under s. 68(4): 'Child Protection register' of the CP(OROPO)A, or if at least four inspections have been carried out in the previous 12 months in relation to the offender. Therefore, there is a limit of four device inspections for a reportable offender within any 12 month period. Subsequent to the initial device inspection, and prior to a further inspection, consider:

- (i) the reason for conducting a further inspection within a 12 month period; and
- (ii) the time and result of any previous device inspection.

For the purposes of subsection (iii) an application to a magistrate for a device inspection order for a reportable offender can be made if circumstances mentioned in s. 21B(1)(a) and (b) of the PPRA do not apply.

The magistrate may make the device inspection order if satisfied there is an elevated risk that the reportable offender will engage in conduct that may constitute a reportable offence against, or in relation to, a child or children (see s. 21C(3) of the PPRA).

Prior to conducting a device inspection officers (other than a district CPOR investigator) should consult with:

- (i) the Child Protection Offender Registry (CPOR); or
- (ii) a district CPOR investigator.

Device inspections

ORDER

If a device inspection is conducted or an application for a device inspection order is made, the inspecting officer is to:

- (i) create a 'Device Inspection' occurrence in QPRIME;
- (ii) link the device inspection occurrence to the reportable offender's [3016] occurrence; and
- (iii) ensure the use of Service approved forensic software.

Device inspection orders

For device inspection orders see s. 21C of the PPRA.

Applying for a device inspection order

Applications for device inspection orders are to be made before a magistrate by completing QP 1060: 'Application for device inspection' and QP 1061: 'Device inspection order' forms.

Conducting a device inspection

Officers intending to conduct a device inspection are to:

- (i) as far as reasonably possible familiarise themselves with the place where the device inspection will be conducted;
- (ii) conduct a briefing of all officers and persons who are to assist in the device inspection. This briefing should outline:
 - (a) all non-confidential information as far as is known in relation to the place;
 - (b) any specific powers or conditions applicable to the device inspection;
 - (c) the purpose of the device inspection;
 - (d) the person or persons thought to be resident or otherwise in the place;
 - (e) the possibility of a dangerous situation arising; and
 - (f) anything else relevant to the purpose of the device inspection, reportable offender management or the safety of the officer and persons assisting in the device inspection; and
- (iii) advise the officers' immediate supervisors prior to executing the device inspection.

In conducting the device inspection officers are to:

- (i) explain the purpose of the inspection to the reportable offender;
 - (a) outlining that police have the power to enter the residence of a reportable offender under s. 21A of the PPRA; and
 - (b) the power to demand production of and inspection of all digital devices under s. 21B of the PPRA; and
 - (c) if the inspection is conducted under s. 21C of the PPRA provide a copy of the device inspection order QP 1060 to the reportable offender;
- (ii) warn the offender that it is an offence to contravene requirement to produce a digital device under s. 21D: 'Offence to contravene requirement to produce digital device' of the PPRA;
- (iii) if concerning behaviours place the reportable offender at risk of re-entering an offending cycle are identified, refer the offender to an appropriate support service (if available);
- (iv) where concerning conduct is identified as a result of the device inspection consider an application for an Offender Prohibition Order under s. 13A: 'Application' of the CP(OROPO)A.

ORDER

Upon completing device inspection, the inspecting officer is to:

- (i) not seize a digital device or any other property unless the provisions of ss. 160: 'Search to prevent loss of evidence', 161: 'Post-search approval', and 196: 'Power to seize evidence generally' of the PPRA apply;
- (ii) if evidence of an indictable offence is located, advise the suspect of the evidence located and either:
 - (a) secure the scene and apply for a search warrant under s. 150: 'Search warrant application' of the PPRA;
 - or
 - (b) conduct an immediate search to prevent loss of evidence under s. 160 of the PPRA.

Access information for digital devices

The CP(OROPO)A provides authority for an authorised police officer to require a reportable offender to provide access information for digital devices when it is suspected the offender has committed an indictable offence against the reporting CP(OROPO)A.

ORDER

When a requirement is made under s. 67FC: 'Access information for digital devices' of the CP(OROPO)A, an application for a post search approval order is to be made (see s. 2.8.7: 'Emergent searches of places to prevent loss of evidence' of this Manual).

Section 67FC of the CP(OROPO)A is only applicable when it is suspected a reportable offender has committed one of the following offences under the CP(OROPO)A:

- (i) s. 50: 'Failure to comply with reporting obligations';
- (ii) s. 67FD: 'False or misleading information'; or
- (iii) s. 67FA: 'Failing to comply with offender prohibition order'.

A reportable offender does not commit an offence unless a magistrate makes a post search approval order under the PPRA.

7.15 Child Protection (Offender Reporting and Offender Prohibition Order) Act

Section 13A: 'Application' of the CP(OROPO)A aims to provide protection to children by allowing magistrate courts to make a Child Protection Offender Prohibition Order.

A child protection offender prohibition order can be made against certain previously convicted child sex offenders to prohibit them from engaging in specified lawful conduct. The court must be satisfied the child sex offender has recently engaged in concerning conduct which poses an unacceptable risk to the lives or sexual safety of children in the community and making the order will reduce this risk. The concerning conduct need not amount to a criminal offence.

On the making of a prohibition order, the respondent:

- (i) must comply with the conditions of the prohibition order; and
- (ii) becomes a reportable offender under the CP(OROPO)A (see s. 7.14: 'Child Protection Offender Registry' of this chapter) for the life of the child protection offender prohibition order (i.e. 5 years for an adult respondent or 2 years for a child respondent).

Definitions

Definitions of terms referred to in this section are contained within s. 13A and Schedule 5: 'Dictionary' of the CP(OROPO)A, and s. 36: 'Meaning of commonly used words and expressions' of the *Acts Interpretation Act*.

Concerning conduct

means an act or omission, or a course of conduct, the nature or pattern of which poses a risk to the lives or sexual safety of one or more children, or of children generally, and may include the following:

- (a) conduct that constitutes an offence;
- (b) conduct that is a single act or omission.

Examples:

- (i) loitering at or near a park fitted with playground equipment regularly used by children;
- (ii) seeking employment or volunteer work that will involve the employee coming into contact with the children, including, for example, door to door sales or collecting;
- (iii) residing near a school;
- (iv) living in a household with children under 16 years.

Relevant sexual offender

means a following person who is not subject to a supervision order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act* or a forensic order:

- (i) a person who is a reportable offender;
- (ii) a person who would be a reportable offender if the person's sentence for a reportable offence had not ended before the commencement of the CP(OROPO)A (see s. 5: 'Reportable offender defined' of the CP(OROPO)A); or
- (iii) a person who would be a reportable offender if all of the reporting periods for the person had not ended, as mentioned in s. 8(d): 'When a person stops being a reportable offender' of the CP(OROPO)A.

Delegation

The CP(OROPO)A provides the Commissioner with specific powers and functions. The Commissioner has delegated these powers and functions to any officer who may exercise the powers and functions pursuant to Service policy and procedures relating to the CP(OROPO)A (see Delegation D 113.1).

7.15.1 Initial action after concerning conduct of relevant sexual offender is identified

Where a relevant sexual offender who has recently engaged in concerning conduct is identified by police, the officer to whom the concerning conduct is reported is to:

- (i) check QPRIME with a view of determining whether a temporary prohibition order, a prohibition order or registered corresponding prohibition order is currently in effect against the relevant sexual offender;
- (ii) ascertain whether the concerning conduct amounts to:
 - (a) a criminal offence; or
 - (b) the first concerning act for an offence of stalking;
- (iii) where the concerning conduct amounts to a criminal offence or would go towards proving an offence of stalking (i.e. first not protracted concerning act):
 - (a) ensure a Policelink entered occurrence is recorded in QPRIME in accordance with s. 1.11.1: 'Policelink entered occurrences' of this Manual; and
 - (b) if appropriate, commence proceedings in accordance with s. 3.4.2: 'The decision to institute proceedings' and s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual;
- (iv) if a temporary prohibition order, prohibition order or registered corresponding prohibition order is not currently in effect, consider whether an application for a temporary prohibition order is necessary (if s. 13I: 'Applying for temporary order' of the CP(OROPO)A applies, see s. 7.15.2: 'Temporary prohibition order' of this chapter and, where appropriate, s. 7.4: 'Children in need of protection' of this chapter);
- (v) if a temporary prohibition order is in effect but its conditions do not prohibit the recent concerning conduct and s. 13I(1) of the CP(OROPO)A applies, consider whether an application to vary the temporary prohibition order is necessary (see s. 7.15.17: 'Applying for variation or revocation of an offender prohibition order' of this chapter); and

(vi) ensure an 'Offender Prohibition Application – Offences against Children' [0532] occurrence is recorded on QPRIME.

The 'Offender Prohibition Application – Offences against Children' [0532] occurrence will be tasked to the relevant district crime manager by Policelink for review. If appropriate, the district CPOR investigator will assign the occurrence to a case officer for investigation and to make an application, if suitable (see s. 7.15.5: 'Responsibilities of district National Child Offender System investigator' of this chapter).

(Note – In many cases, the respondent will already be a reportable offender under the CP(OROPO)A before the temporary offender prohibition order was made. As such, the respondent will already have a case officer responsible for managing their reporting conditions. This same case officer is to be assigned the task of investigating, preparing and progressing the application for the offender prohibition order where possible.)

However, where a 'Temporary Offender Prohibition Application – Offences against Children' [0533] occurrence is created in accordance with 'Applying for a temporary prohibition order' in s. 7.15.2: 'Temporary prohibition order' of this chapter, the occurrence will be assigned to the relevant district crime manager by Policelink for review.

7.15.2 Temporary prohibition order

An application for a temporary prohibition order may be made against a person if the applicant officer believes on reasonable grounds:

- (i) that the person:
 - (a) is a relevant sexual offender; and
 - (b) recently engaged in concerning conduct after the commencement of the CP(OROPO)A; and
- (ii) the making of a temporary order for the person is necessary to prevent the immediate risk of the respondent engaging in conduct posing a risk to the lives or sexual safety of children; and
- (iii) the making of the order will reduce the risk.

(Example – it is brought to the attention of police that a relevant sexual offender is living in a house next to a school and a police officer reasonably believes a temporary order is required to ensure the relevant sexual offender moves away from that residence in order to protect the lives or sexual safety of children at that school.)

See s. 13I: 'Applying for temporary order' of the CP(OROPO)A.

Where the provisions of s. 13I(1) of the CP(OROPO)A apply, the officer to whom the concerning conduct is reported is, in addition to the requirements of s. 7.15.1: 'Initial action after concerning conduct of relevant sexual offender is identified' of this chapter, to:

- (i) make an application for a temporary prohibition order in accordance with this section; and
- (ii) if the relevant sexual offender is a prisoner under the *Corrective Services Act*, see s. 7.15.8: 'Action where relevant sexual offender is a prisoner' of this chapter.

Applying for a temporary prohibition order

Where s. 13I(1) of the CP(OROPO)A applies, the applicant officer is to:

- (i) create a 'Temporary Offender Prohibition Application – Offences against Children' [0533] occurrence on QPRIME (This occurrence is to be linked to the relevant 'Offender Prohibition Application – Offences against Children' [0532] occurrence);
- (ii) complete a:
 - (a) Form 002: 'CPOR – Appearance Notice';
 - (b) Form 004: 'Application for a Temporary (offender prohibition) order';
 - (c) Form 005: 'Notice to Respondent Application for a Temporary (Offender Prohibition) Order'; and
 - (d) QP 0041A: 'Notice of intention to allege previous convictions',

within the QPRIME occurrence;

(iii) attach a copy of the respondent's criminal history to the application documentation (Note – for the purpose of an application for a temporary protection order, the respondent's criminal history of convictions obtained from QPRIME will be sufficient to show the person is a reportable offender. However, for subsequent applications for prohibition orders, see the definition of 'criminal history' in Schedule 5: 'Dictionary' of the CP(OROPO)A;

(iv) prepare an applicant officer's statement and any other relevant witness statements within the QPRIME occurrence and attach it/them to the application documentation (Note – the applicant officer's statement is to include the reasons why the things mentioned in s. 13I(1) of the CP(OROPO)A are reasonably believed and, if the respondent has not been given notice of the application, the reasons why it is necessary to make the order without notice being given to the respondent in the particular circumstances of the case);

- (v) liaise, where possible, with the OIC of the relevant CPIU with a view to determining the wording of conditions that should be sought to be imposed in the temporary prohibition order (see also s. 13L: 'Conduct that may be prohibited' of the CP(OROPO)A);
- (vi) prepare Form 059: 'Order - Temporary [Child Protection (OPO) Act 2008]' for issuance by the court and attach it to the application documentation;
- (vii) if practicable, serve copies of each of the completed forms mentioned in paragraph (ii) on the respondent (where the respondent is a child, see also the subsection 'Service of documents on a child respondent' in s. 7.15.13: 'Starting proceeding for a prohibition order' and s. 7.15.14: 'Notice to Chief Executive' of this chapter);
- (viii) where the above mentioned documents have been served, complete endorsement of service on copies of the served documents and attach the endorsed copies to the application documentation;
- (ix) where possible, liaise with the relevant police prosecution corps with a view of obtaining representation in the making of the application to a magistrate;
- (x) file the application and a copy of the appearance notice with the registrar of the relevant court; or
- (xi) where the local magistrates court is not being convened, make an application to a magistrate. (Note – s. 13I(4) of the CP(OROPO)A provides that ss. 800, 801 and 802 of the PPRa apply to the application for the temporary prohibition order. Where an application is to be made by telephone or similar facility, refer to the subsection titled: 'Use of Police Powers and Responsibilities Act to obtain warrants, orders etc., by telephone or similar facility' of s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this Manual); and
- (xii) if an application will be made in a magistrates court against a child respondent (i.e. a person under 18 years), forward a copy of the application documents (i.e. the Form 002: 'Appearance Notice' and Form 004: 'Application for a Temporary (offender prohibition) order') to the relevant youth justice service centre for that court district.

7.15.3 Action upon the issuance of a temporary prohibition order

Upon the issuance of a temporary prohibition order, the officer who made or presented the application (i.e. the applicant officer, or where the matter was presented by a prosecutor, the prosecutor) is to ensure the order is attached to the relevant 'Temporary Offender Prohibition Application – Offences against Children' [0533] QPRIME occurrence.

The applicant officer is to ensure:

- (i) a copy of the temporary prohibition order and the associated documentation is served on the respondent as soon as practicable in accordance with the subsection titled: 'Service of a temporary prohibition order and associated documentation' of this section;
- (ii) an 'Offender Prohibition Application – Offences against Children' [0532] QPRIME occurrence is created;
- (iii) a 'Case officer' work request task is assigned to the OIC of the relevant CPIU for reassigning to a case officer to ensure an application for a prohibition order is made. (The due date for this task is to be set fourteen days before the return date as fixed by the magistrate under s. 13J(5): 'Temporary order made by magistrate' of CP(OROPO)A); and
- (iv) where the order is made against a child respondent, forward a copy of the order to the relevant youth justice service centre for that court district to ensure that any program requirements imposed by the Department of Child Safety, Seniors and Disability Services (CSSDS) are not at odds with the order.

If the magistrate or court decides not to make a temporary order, see s. 7.15.22: 'Disqualification order' of this chapter.

Service of a temporary prohibition order and associated documentation

The officer responsible for serving the temporary prohibition order is to:

- (i) complete a QP 0572: 'Initial Reporting Obligation Notice' in accordance with the procedures contained within 'Notice to be given to reportable offender' of s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter;
- (ii) where the temporary prohibition order has been issued in the respondent's absence, complete a QP 0800: 'Notice to Respondent (Corresponding Provisions)'; and
- (iii) personally serve:
 - (a) a copy of the temporary offender prohibition order;
 - (b) the QP 0572; and
 - (c) if the order was made in the respondent's absence, a QP 0800,on the respondent as soon as is practicable.

The officer who personally serves the documents on the respondent is to:

- (i) explain the conditions of the order to the respondent;

- (ii) endorse the temporary prohibition order as to service;
- (iii) comply with the 'Instructions for Service of Initial Reporting Obligation Notice';
- (iv) ensure an image of the endorsed copies of the documents served are scanned into the relevant QPRIME occurrence; and
- (v) ensure the original endorsed copies of the remaining documents are forwarded to the Detective Senior Sergeant, State Registrar CPOR for recording on the National Child Offender System.

If the respondent is unable to be personally served with the documents, because, for example, the respondent cannot be located, the officer responsible for serving the documents is to ensure a BOLO flag is created in QPRIME for the respondent and a notification task is assigned to the case officer responsible for investigating, preparing and progressing the prohibition order application.

Where a respondent is later located, officers are to refer to subsection 'Power of detention to give Initial Reporting Obligation Notice' of s. 7.14.5 of this chapter. This opportunity is also to be used to serve the temporary offender prohibition order.

Upon being assigned a 'Case officer' work request task for a 'Offender Prohibition Application – Offences against Children' [0532] occurrence, the assigned case officer is to investigate the concerning conduct and prepare, and seek approval to make an application for a prohibition order in accordance with ss. 7.15.10: 'Preparation of application for prohibition order' and 7.15.11: 'Approval to start proceedings for a prohibition order' of this chapter.

7.15.4 Application for extension of a temporary prohibition order

The court may, on application or on its own initiative, extend the temporary order for not more than 28 days, or a longer period to which the respondent consents if:

- (i) a temporary order is in force for the respondent to an application for a prohibition order;
- (ii) the court adjourns the application; and
- (iii) the temporary order will end before the application is decided.

The temporary order may be extended in the respondent's absence if the court is satisfied application documents for the final order were served on the respondent under s. 13B(3): 'How proceeding for prohibition order is started' of the CP(OROPO)A.

Applications to extend a temporary prohibition order are to be made by the process described in s. 13.30: 'Starting a civil proceeding' of this Manual.

If the application documents have been served, copies of the application documents, endorsed as to service, should be filed with the registrar of the relevant magistrates court prior to an application to extend the temporary prohibition order.

Action upon the extension of a temporary prohibition order

Upon the extension of a temporary prohibition order, the officer who made or presented the application (i.e. the applicant officer, or where the matter was presented by a prosecutor, the prosecutor) is to ensure the order is attached to the relevant 'Temporary Offender Prohibition Application – Offences against Children' [0533] occurrence on QPRIME.

The applicant officer is responsible for ensuring the extended temporary prohibition order is personally served on the respondent.

Service of an extended temporary prohibition order

If the respondent has not previously been served with a copy of the original temporary prohibition order, the officer who personally serves an extended temporary prohibition order is to comply with this subsection and 'Service of a temporary prohibition order and associated documentation' in s. 7.15.3: 'Action upon issuance of a temporary prohibition order' of this chapter.

The officer who personally serves an extended temporary prohibition order on the respondent is to:

- (i) ensure a copy of the extended temporary prohibition order is personally served on the respondent as soon as practicable;
- (ii) endorse the extended prohibition order as to service;
- (iii) forward the original extended temporary prohibition order, endorsed as to service, to the Detective Senior Sergeant, State Registrar CPOR for filing; and
- (iv) where the order is made against a child respondent, as soon as practicable after starting the proceedings, give a copy of the application documents to the chief executive (child safety), if the prohibition order is likely to result in the child respondent needing to change their place of residence, and to a parent of the child respondent, if a parent is able to be found after taking reasonable steps (see s. 13B: 'How proceedings for prohibition order is started' of the CP(OROPO)A).

7.15.5 Responsibilities of district National Child Offender System investigator

The district CPOR investigator is to review 'Offender Prohibition Application – Offences against Children' [0532] occurrences in accordance with s. 7.15.1: 'Initial action after concerning conduct of relevant sexual offender is identified' of this chapter, and:

- (i) if the relevant sexual offender is:
 - (a) a reportable offender, assign a work request task to the relevant CPOR case officer requiring an investigation into whether an application for a prohibition order can be supported; or
 - (b) not a reportable offender, identify an appropriate relevant CPOR case officer and assign a work request task requiring an investigation into whether an application for a prohibition order can be supported; and
- (ii) in either case, assign a notification task to the initiating officer and OIC of the relevant CPIU advising action taken.

The district CPOR investigator is to pass any advice received from the OIC of the relevant CPIU about information holdings at the Child Protection Offender Registry onto the relevant case officer.

7.15.6 Responsibilities of Detective Senior Sergeant, State Registrar CPOR upon creation of an offender prohibition order occurrence

The Detective Senior Sergeant, State Registrar CPOR is automatically notified of the creation of all 'Offender Prohibition Application – Offences against Children' [0532] occurrences and 'Temporary Offender Prohibition Application – Offences against Children' [0533] occurrences.

After the creation of an 'Offender Prohibition Application – Offences against Children' [0532] occurrence or a 'Temporary Offender Prohibition Application – Offences against Children' [0533] occurrence, the Detective Senior Sergeant, State Registrar CPOR is to:

- (i) check holdings of the Child Protection Offender Registry for information that:
 - (a) may assist in the application for the relevant order; and/or
 - (b) if an application for a temporary order has not been started, indicate an application for a temporary prohibition order should be made as a matter of urgency; and
- (ii) notify the relevant district CPOR investigator accordingly.

7.15.7 Investigation to determine whether application for prohibition order can be supported

An officer who is assigned a 'case officer' work request task for 'Offender Prohibition Application – Offences against Children' [0532] QPRIME occurrence is to:

- (i) fully investigate the relevant sexual offender's alleged concerning conduct;
- (ii) identify witnesses to the alleged concerning conduct and ensure statements are recorded in the QPRIME occurrence;
- (iii) if necessary, interview child witnesses under the provisions of s. 93A: 'Statement made before proceeding by child or intellectually impaired person' of the *Evidence Act* (see s. 7.6: 'Interview with a child' of this chapter);
- (iv) seek corroborating evidence to support or negate witness versions, e.g. CCTV footage, fingerprints, DNA, etc., as appropriate;
- (v) consider whether a request for surveillance may help prove the relevant sexual offender's course of conduct;
- (vi) interview the relevant sexual offender about the alleged concerning conduct (Note – while the provisions of Chapter 15, Part 3: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences' of the PPRA may not apply to the interview, officers are to apply these safeguards and responsibilities and make associated enforcement act register entries in QPRIME to ensure procedural fairness as far as possible.);
- (vii) check with the Corrective Service Investigation Unit, CIC to establish whether the relevant sexual offender is a prisoner under the definition of the *Corrective Services Act*. If the relevant sexual offender is a prisoner, see s. 7.15.8: 'Action where relevant sexual offender is a prisoner' of this chapter;
- (viii) consider whether a direction to another government entity may be required under s. 74D: 'Giving information to police commissioner' of the CP(OROPO)A (see Delegation D 51.18) (if a direction under s. 67FA: 'Failing to comply with offender prohibition order' of CP(OROPO)A is required, see s. 7.15.9: 'Section 74D (Giving information to police commissioner)' of this chapter); and
- (ix) prepare an application for an offender prohibition order in accordance with s. 7.15.10: 'Preparation of application for prohibition order' of this chapter.

7.15.8 Action where relevant sexual offender is a prisoner

If the relevant sexual offender is a prisoner under the *Corrective Services Act*, inquiries are to be conducted with the General Manager, Probation and Parole, Queensland Corrective Service (QCS) (see SMCD) with a view of determining whether alternative measures can be taken by QCS in the management of the prisoner to reduce the risk posed by the relevant sexual offender to the lives and sexual safety of children (e.g. taken back into custody for parole breach, additional conditions imposed on the prisoner's parole, etc.).

Such action by QCS alone does not dispense with the need for an application for an offender prohibition order. For example, a prisoner on parole may be taken back into custody to serve the remainder of their period of imprisonment, however, it is likely the prisoner will be released again under a range of rehabilitation programs before a prohibition order would expire (i.e. 5 years for an adult respondent, 2 years for a child respondent). Officers are to be mindful of this point when instructing the court as to how the making of a prohibition order will reduce the risk posed by the relevant sexual offender to the lives and sexual safety of children.

See also s. 3.4.30: 'Supply of information to Parole Board Queensland' of this Manual.

7.15.9 Section 74D (Giving information to police commissioner)

Some government entities may hold information which may assist an application for a prohibition order. For example, if the concerning conduct is that the relevant sexual offender resides next door to a primary school, the Residential Tenancies Authority may be able to provide proof, in the form of a copy of a rental bond agreement, that the relevant sexual offender resides at the address in question.

Section 74D: 'Giving information to police commissioner' of the CP(OROPO)A and Delegation D 113.1 provide an authority for an officer to direct a government entity to give an investigator certain information, (also see Delegation D 51.18).

Officers are to first conduct inquiries with relevant government entities with a view of determining whether a direction under s. 74D of the CP(OROPO)A is necessary and whether such a direction will yield information of assistance from the government entity before arranging for a direction to be made. This may not be possible with some government entities, who may require a search warrant, subpoena or other compelling document before providing any information. For more information regarding different government entities' requirements, see Chapter 7: 'Obtaining information from external bodies' of the MSM.

Where it is believed a direction under s. 74D of the CP(OROPO)A will help decide whether an application for a prohibition order is to be made, the relevant case officer is to:

- (i) prepare a letter to the chief executive of the relevant government entity containing a direction to give the case officer any information:
 - (a) held by the government entity; and
 - (b) relevant to an assessment of whether the respondent for the proposed prohibition order poses an unacceptable risk of committing a reportable offence against a child; and
- (ii) attach the letter to the 'Offender Prohibition Application – Offences against Children' [0532] occurrence in QPRIME before sending or serving the letter.

When preparing the letter, officers are to be mindful that the relevant government entity is unlikely to be aware of the nature of the investigation and may not know what type of information will be relevant to an assessment of whether the relevant sexual offender poses an unacceptable risk of committing a reportable offence against the child. Explanation of the nature of the information sought from government entity should help achieve better results.

7.15.10 Preparation of application for prohibition order

In preparing an application, applicant officers are to ensure all information which is admissible and relevant to the issue is included with the application to be presented as well as evidence which might be considered advantageous to the defence case.

Applications for Prohibition Orders are managed within the courts and in accordance with the Uniform Civil Procedure Rules (UCPR).

The application is to consist of:

- (i) a completed Form 001: 'Application for an Offender Prohibition Order' in the 'Offender Prohibition Application – Offences against Children' [0532] occurrence (for prohibition order conditions, see 'Prohibition order conditions' in this section);
- (ii) a copy of the respondent's criminal history (note – for the purposes of the CP(OROPO)A, the respondent's criminal history includes the things described in s. 13D(1): 'Matters court must consider before making prohibition order' of the CP(OROPO)A);

(iii) for each reportable offence the respondent has been convicted of, a copy of the verdict and judgements record or sentencing remarks for the purpose of establishing the conviction or the reportable offence and the offence particulars;

(iv) an applicant officer's affidavit, which is to include the grounds that caused the reasonable belief that the respondent is a relevant sexual offender who has engaged in concerning conduct. Also, if the respondent has not been given notice of the application, the affidavit is to include the reasons why it is necessary to make the order without notice being given to the respondent in the particular circumstances of the case;

(v) a completed Form 47: 'Certificate of exhibit' outlining all exhibits to be referred to in the proceeding including documents proving the respondent is a relevant sexual offender (see s. 13.30: 'Starting a civil proceeding' of this Manual regarding exhibits, see also s. 435: 'Exhibits' of the UCPR);

(vi) all affidavits taken from every witness, including affidavits of a tied or negative nature;

(vii) where required, the written report of an appropriately qualified expert to confirm that a child witness under the age of eight years of age is competent to give evidence (see Guideline 7: 'Competency of a child witness' of the Director of Public Prosecutions (State) Guidelines);

(viii) a completed QP 0323: 'List/availability of witnesses (including police officers)' (available in QPRIME);

(ix) if a prohibition order or temporary prohibition order has previously been made against the respondent, a copy of such order made against the respondent and a copy of the application for that order; and

(x) a draft Form 059: 'Order – Offender Prohibition' document prepared for the issuance of the magistrate.

Prohibition order conditions

Section 13F: 'Conduct that may be prohibited' of the CP(OROPO)A provides that an order may prohibit particular conduct by the respondent. Section 13F of the CP(OROPO)A provides examples of conditions that may be made in the order.

Section 13FA: 'Conduct that may be required' of the CP(OROPO)A provides that a prohibition order may require a respondent to do a certain thing. This section also provides examples of conditions that may be required by the order.

The conditions sought in an application for a prohibition order or temporary prohibition order will be different for each application as each respondent will pose different risks to the safety or wellbeing of 1 or more children, or of children generally.

The case officer is to:

(i) ensure that there is a nexus between the concerning behaviour and the condition that is sought;

(ii) liaise with the OIC of the relevant CPIU to ensure the conditions sought will effectively reduce the risk the respondent's conduct poses to the safety or wellbeing of one or more children, or of children generally; and

(iii) consider whether non-compliance with the conditions can be proven at a later time. For example, a condition which prescribes the distance a respondent must not approach a specified place or type of place are to be preferred to a condition that prohibits a respondent from being 'in the vicinity' of a stated place or type of place.

Applications involving several respondents

Where multiple respondents have been involved in the same or substantially the same concerning conduct, the applications are to be collated and presented to the court for hearing together.

The OIC of the relevant CPIU is to coordinate this where applicant case officers are located in different regions.

The additional costs of presenting multiple applications in one location are to be borne by CIC.

7.15.11 Approval to start proceeding for a prohibition order

Officers intending to start a proceeding for a prohibition order are to first obtain approval from the OIC of the relevant CPIU.

The following procedure is to be followed to obtain this approval.

The applicant officer is to submit the completed application to a brief checker in QPRIME.

Upon being satisfied no further re-work on the application is required, the brief checker is to then submit the application in QPRIME to the applicant officer.

The OIC of the relevant CPIU will then examine the application and either:

(i) return the application for re-work with recommendations on how the application may be improved; or

(ii) approve the start of proceedings for a prohibition order.

Upon approving the application, the OIC of the relevant CPIU will, ordinarily, submit the application to the relevant prosecution corps for attention. Alternatively, for more complex or significant applications, a legal officer from Legal

Division may be required to advocate the application in court (see s. 7.15.12: 'Legal officer representation' of this chapter).

In either case, the OIC of the relevant CPIU will also assign a notification task to the applicant officer and the district CPOR investigator advising the approval has been granted and which prosecuting authority has been detailed the responsibility of advocating the application.

7.15.12 Legal officer representation

For more complex or significant applications, the OIC of the relevant CPIU unit may request that a legal officer appear before the magistrates court to make the application.

Such requests are to be made in accordance with the following procedure:

- (i) the OIC of the relevant CPIU should submit a hard copy of the application and its supporting annexure and covering report requesting approval of the request to the Deputy Commissioner, Specialist Operations for referral to Legal Division;
- (ii) the relevant legal officer is to ensure any decisions, orders or modifications made by the court are communicated and provided to the OIC of the relevant CPIU where any of the following has resulted:
 - (a) a prohibition order, temporary prohibition order, registration of a corresponding prohibition order;
 - (b) a variation or revocation of a prohibition order; or
 - (c) the withdrawal or dismissal of a prohibition order, temporary prohibition order or corresponding prohibition order or an application for such an order; and
- (iii) upon notification and receipt of such advice and/or documentation, the OIC of the relevant CPIU is to ensure QPRIME is updated accordingly.

7.15.13 Starting proceeding for a prohibition order

After the OIC of the relevant CPIU has approved the application, the applicant officer may start a proceeding against a respondent under s. 13A(1): 'Application' of the CP(OROPO)A by issuing a Form 2: 'Appearance Notice' (see s. 13B(1): 'How a proceeding for an order is started' of the CP(OROPO)A).

The completed Form 2 is to be saved in the relevant 'Offender Prohibition Application – Offences against Children' [0532] occurrence.

Officers applying for a prohibition order are to:

- (i) select an appropriate court having jurisdiction over the matter and ascertain a mention date suitable to the court. Wherever practicable, the date stated in an appearance notice for the respondent to appear before the court should not exceed twenty-one days after the notice is served;
- (ii) confer, if time permits with the relevant prosecution corps or legal officer, as appropriate, who is to present the matter and confirm that the mention date is suitable;
- (iii) fully and accurately complete the details required to be inserted in the appearance notice Form 2; and
- (iv) if the application will be made against a child respondent, as soon as practicable after starting the proceedings, give a copy of the application documents to the Chief Executive (Child Safety) if the prohibitions order is likely to result in the child respondent needing to change their place of residence, and to a parent of the child respondent if a parent is able to be found after taking reasonable steps (see s. 13B: 'How proceedings for a prohibition order is started' of the CP(OROPO)A).

Service of documents on the respondent

The applicant officer is to ensure the following documents are served personally on the respondent:

- (i) a copy of the application documents (i.e. the Form 1 (see s. 7.15.10: 'Preparation of application for prohibition order' of this chapter), Form 2 and all affidavits relied upon); and
- (ii) a completed QP 0041A: 'Notice of intention to allege previous convictions' (available in QPRIME).

When serving the application documents personally on the respondent, the serving officer is to explain the contents of the Form 2 to the respondent in language likely to be understood by the respondent, having regard, for example to the respondent's age and cultural, educational and social background.

If the documents cannot be served personally on the respondent despite reasonable attempts being made, see s. 7.15.16: 'Applying to the court for authorisation of substituted service' of this chapter.

The QP 0041A is to detail every conviction made against the respondent, not just those convictions that will be relied upon to prove the respondent is a relevant sexual offender (see s. 13D(f): 'Matters court must consider before making prohibition order' of the CP(OROPO)A and s. 47: 'What is sufficient description of offence' of the *Justices Act*).

The officer serving the application documents and QP 0041A is to endorse a copy of each document served and ensure the endorsed copies are given to the applicant officer who will file the endorsed copies with the registrar of the court.

Service of documents on a child respondent

ORDER

The officer serving the application documents and QP 0041A personally on a child respondent under the CP(OROPO)A is to:

- (i) serve the documents as discreetly as possible; and
- (ii) not serve the documents on the child respondent at or in the vicinity of their place of employment or school, unless there is no other place where the document may reasonably be served on the child respondent.

Where a proceeding against a child respondent has been started for a temporary offender prohibition order or an offender prohibition order, the applicant officer is to ensure that a copy of the application and a copy of the appearance notice (the application documents) are served on a parent of the child respondent, if the serving officer is able to find a parent of the child respondent after making reasonable attempts (see s. 13B(4)(b): 'How proceeding for prohibition order is started' of the CP(OROPO)A).

A copy of the application documents served on a parent of a child respondent should be endorsed as to service. An example of a completed 'Affidavit of Service' is shown in Appendix 13.12: 'Example of completed affidavit of service' of this Manual. The endorsed copy is to be retained with the application file and the document attached to the relevant QPRIME occurrence.

7.15.14 Notice to Chief Executive

Where a proceeding against a child respondent has been started for a temporary offender prohibition order or an offender prohibition order and the order sought is likely to result in the child respondent needing to change his or her place of residence (i.e. because the conditions that will be sought in the order will not allow the child respondent to continue living in their current residence), the applicant officer is to:

- (i) prepare a letter under the hand of the relevant assistant commissioner to the Chief Executive advising that:
 - (a) a proceeding for an offender prohibition order has been commenced against the child respondent and the order sought is likely to result in the child respondent needing to change his or her place of residence; and
 - (b) a copy of the application documents is enclosed;
- (ii) attach a copy of the application documents (i.e. the appearance notice and the application) and the draft letter to a covering report submitted for the attention and issuance of the relevant assistant commissioner through the normal chain of command; and
- (iii) update the relevant QPRIME occurrence.

(See s. 13B(4)(a): 'How proceeding for prohibition order is started' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*.)

7.15.15 Lodging application documents with the court

As soon as practicable after starting the proceeding, and before the time the respondent is required to appear at a place before a court under the appearance notice, the applicant officer is to ensure copies of the:

- (i) Form 1: 'Application for an Offender Prohibition Order';
- (ii) Form 2: 'Appearance Notice'; and
- (iii) QP 0041A: 'Notice of intention to allege previous convictions',

with completed endorsements showing copies have been served on the respondent and, in the case of a child respondent:

- (i) a parent of the child, if a parent was able to be located after making reasonable attempts; and
- (ii) the Chief Executive, if the order sought is likely to result in the child respondent need to change his or her place of residence,

are filed with the registrar of the relevant court.

(See s. 13B(2): 'How proceeding for prohibition order is started' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*.)

7.15.16 Applying to the court for authorisation of substituted service

A record is to be made of every attempt to serve the application documents and notice of intention to allege previous convictions document personally on the respondent in the QPRIME occurrence.

However if, despite reasonable attempts being made, the documents are unable to be served personally on the respondent, in accordance with s. 13ZL(5): 'Service of documents' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* the applicant officer may apply to the court for authorisation of substituted service.

Such applications are to be made by the process described in s. 13.30: 'Starting a civil proceeding' of this Manual.

7.15.17 Applying for variation or revocation of an offender prohibition order

Section 13Q: 'Varying or revoking offender prohibition order' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* allows officers to make applications to the court for the variation or revocation of an offender prohibition order.

Such applications are to be made by the process described in s. 13.30: 'Starting a civil proceeding' of this Manual.

7.15.18 Action on the issuance or variation of a prohibition order or registration of a corresponding prohibition order

Where any of the following has resulted:

- (i) the issuance of a prohibition order;
- (ii) registration of a corresponding prohibition order (see also s. 7.15.21: 'Registration of a corresponding prohibition order' of this chapter); or
- (iii) a variation or revocation of a prohibition order,

the officer who made or presented the application (i.e. the applicant officer, or where the matter was presented by a prosecutor, the prosecutor) is to ensure the order is attached to the relevant QPRIME occurrence.

The applicant officer is to ensure:

- (i) a copy of the relevant order and associated documentation is personally served on the respondent in accordance with s. 7.15.19: 'Service of prohibition order' of this chapter; and
- (ii) if the matter relates to the registration of a corresponding prohibition order against a child respondent, as soon as practicable after receiving a copy of the registered corresponding order, a copy of the order is given to:
 - (a) the Chief Executive, if the order is likely to result in the respondent needing to change their place of residence;
 - (b) a parent of the child respondent, if a parent of the child respondent is able to be found after making reasonable attempts; and
 - (c) the relevant youth justice service for that court district.

The original order is to be forwarded to the Detective Senior Sergeant, State Registrar CPOR for filing.

7.15.19 Service of prohibition order

The officer responsible for serving the prohibition order and associated documentation is to:

- (i) where the respondent is not a current reportable offender, complete a QP 0572: 'Initial reporting obligation notice' in accordance with the procedures contained within 'Notice to be given to reportable offender' of s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter;
- (ii) where the prohibition order has been issued in the respondent's absence, complete a QP 0800: 'Notice to Respondent (Corresponding Provisions)'; and
- (iii) personally serve:
 - (a) a copy of the offender prohibition order;
 - (b) the QP 0572, if applicable; and
 - (c) if the order was made in the respondent's absence, a QP 0800, on the respondent as soon as is practicable.

The officer who personally serves the above documents on the respondent is to:

- (i) explain the conditions of the order to the respondent;
- (ii) endorse the service of the order by completing an affidavit of service (Form 46) and lodge at the issuing court;
- (iii) comply with the 'Instructions for Service of Initial reporting obligations notice';
- (iv) ensure a copy of the documents served is attached to the relevant QPRIME occurrence; and
- (v) ensure the original endorsed copies of the remaining documents are forwarded to the Detective Senior Sergeant, State Registrar CPOR for recording on the National Child Offender System.

If the respondent is unable to be personally served with the documents, because, for example, the respondent cannot be located, the officer responsible for serving the documents is to ensure:

- (i) a BOLO flag is created in QPRIME for the respondent; and
- (ii) a notification task is assigned to the case officer.

Where a respondent is later located, officers locating the respondent are to:

- (i) detain the respondent (see 'Power of detention to give notice of reporting obligations' in s. 7.14.5 of this chapter); and
- (ii) personally serve the respondent with the documents outlined in this section; and
- (iii) expire the relevant BOLO flag in QPRIME; and
- (iv) send a notification task to the case officer advising of service.

7.15.20 Breach of order or conditions

Officers are to approach a breach of a prohibition order in the same manner as investigating any other criminal offence in accordance with this chapter.

Officers should take action for an offence against s. 67FA: 'Failing to comply with an offender prohibition order' of the CP(OROPO)A in accordance with ss. 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual.

See ss. 67FB: 'Reasonable excuse defence for contravening offender prohibition order' and 77D: 'Proof of knowledge of order conditions' of the CP(OROPO)A for an explanation of whether the respondent had 'knowledge' of the prohibition order or registered corresponding prohibition order.

7.15.21 Registration of a corresponding prohibition order

Under s. 13Y: 'Application for registration of a corresponding order in Queensland' of the CP(OROPO)A an officer may apply to the registrar of a magistrates court for the registration of an order made under a law of a another jurisdiction, including a jurisdiction outside of Australia, that closely corresponds to an offender prohibition order (a **corresponding prohibition order**).

The Detective Senior Sergeant, State Registrar CPOR is to develop station or establishment instructions to identify reportable offenders who:

- (i) are a respondent for a corresponding prohibition order; and
- (ii) move into Queensland.

Where a reportable offender who is a respondent for a corresponding prohibition order is identified, the Detective Senior Sergeant, State Registrar CPOR is to consider whether an application for the registration of a corresponding prohibition order to the registrar of a magistrates court is required. In some cases, the reportable offender may already be the subject of an offender prohibition order and registration of the corresponding order would serve no purpose.

Where it is determined that an application for the registration of a corresponding order is to be made, the Detective Senior Sergeant, State Registrar CPOR is to:

- (i) ensure an 'Offender Prohibition Application – Offences against Children' [0532] occurrence is recorded in QPRIME; and
- (ii) assign a 'case officer' work request task to the relevant district CPOR investigator for reassigning to a case officer.

The officer who is assigned this work request task becomes the case officer and is responsible for ensuring an application to register the corresponding order in Queensland is made to the registrar of the relevant magistrates court.

Where it is believed registration of the corresponding order would be effective in Queensland without adaptation or modification, the case officer is to:

- (i) obtain a certified copy of the corresponding order from the originating jurisdiction;
- (ii) complete a Form 6: 'Application for the Registration of a Corresponding Order'; and
- (iii) make application directly to the registrar of the relevant magistrates court.

Ordinarily, the registrar will register the corresponding order. Where the registrar registers the corresponding prohibition order, see s. 7.15.18: 'Action on the issuance or variation of a prohibition order or registration of a corresponding prohibition order' of this chapter.

However, the registrar must refer the corresponding order to the court if:

- (i) the case officer asks the registrar to refer the corresponding order to the court because it is believed that the order would not be effective in Queensland without adaptation or modification; or

(ii) the registrar believes it is necessary to refer the corresponding order to the court for adaptation or modification for its effective operation in Queensland.

Variation of corresponding prohibition order

Where the registrar refers the corresponding order to court, the case officer is to:

- (i) complete a Form 3: 'Appearance Notice (Corresponding Order)';
- (ii) ensure the respondent is served with a copy of the Form 3 and Form 6 (the application documents);
- (iii) endorse a copy of the application documents as to service and:
 - (a) attach the endorsed copies to the relevant QPRIME occurrence;
 - (b) retain the original endorsed copies with the application file; and
 - (c) file the endorsed copies with the registrar of the relevant magistrates court;
- (iv) in the case of a child respondent, send a copy of the application documents to the relevant youth justice service centre for that court district;
- (v) attach a copy of the respondent's criminal history (note – for the purposes of the CP(OROPO)A, the respondent's criminal history includes the things described in s. 13D: 'Matters court must consider before making prohibition order' of the CP(OROPO)A) to the application;
- (vi) attach a copy of the Court Brief (QP9) to the application (or, for matters determined in another jurisdiction, its equivalent in the other jurisdiction) for each reportable offence the respondent has been convicted of, or charged with, and if one exists, a copy of a full brief of evidence prepared for the purpose of proving the respondent committed a reportable offence;
- (vii) prepare an applicant officer's statement outlining the grounds on which it is believed that court should make the corresponding order effective in Queensland, and if appropriate, the grounds on which it is believed that the order needs to be adapted or modified for it to be effective in Queensland;
- (viii) if practicable, liaise with the relevant prosecution corps; and
- (ix) make the application to the court.

Where the court varies the order, see s. 7.15.18 of this chapter.

See also Part 3A, Division 2: 'Corresponding orders' of the CP(OROPO)A.

7.15.22 Disqualification order

If:

- (i) a magistrate hearing an application for a temporary order (the relevant application) for a person decides not to make the temporary order; or
- (ii) a court hearing an application for an offender prohibition order (also the relevant application) for a person:
 - (a) has not made a final order for the person; and
 - (b) decides not to make a temporary order for the person under s. 13K: 'Temporary order made by court' of the CP(OROPO)A,

the magistrate or court must consider whether to make an order (**disqualification order**) in relation to the person stating that the person may not hold a positive notice, or apply for a prescribed notice, under the *Working with Children (Risk Management and Screening) Act* (see s. 13T: 'Making disqualification order instead of temporary order' of the CP(OROPO)A).

Where a magistrate or court has issued a disqualification order, the officer presenting the relevant application (i.e. the applicant officer, or if the matter was presented by a prosecutor, the prosecutor) is to attach the disqualification order to the relevant QPRIME occurrence.

The applicant officer is to:

- (i) if the disqualification order was made in the respondent's absence, ensure a 'Document service' work request task is assigned to the station or establishment of the applicant officer to ensure a copy of the disqualification order is served on the respondent;
- (ii) send the original disqualification order to the **Detective Senior Sergeant, State Registrar CPOR**; and
- (iii) if the respondent was present in court when the order was made, send a copy of the disqualification order to the Chief Executive (Employment Screening), Blue Card Services, Department of Justice and Attorney General (DJAG) (see **SMCD**).

The officer who served the disqualification order on the respondent is to:

- (i) endorse the document as to service;
- (ii) attach the endorsed copy of the disqualification order as to service to the relevant QPRIME occurrence, if the disqualification order was issued when an:
 - (a) application for a temporary order was being made, the order is to be attached to the 'Temporary Offender Prohibition Application – Offences against Children' [0533] occurrence; or
 - (b) offender prohibition order was being applied for, the order is to be attached to the 'Offender Prohibition Application – Offences against Children' [0532] occurrence);
- (iii) forward the original endorsed copy to the Child Protection Offender Registry; and
- (iv) send a copy of the disqualification order to the Chief Executive (Employment Screening), Blue Card Services, DJAG.

See also s. 39: 'Service of documents' of the *Acts Interpretation Act*.

7.15.23 Disclosure of information

Disclosing information to prescribed entities under s. 74E of the Child Protection (Offender Reporting and Offender Prohibition Order) Act

Officers identifying a need to disclose a respondent's name and date of birth, the term of the order and conduct of a respondent that is prohibited by an order to government and other entities are to advise the Detective Senior Sergeant, State Registrar CPOR, outlining the reasons why it may be necessary to provide this information to one or more of these departments.

If it is deemed necessary the Detective Senior Sergeant, State Registrar CPOR may release the information to the relevant chief executive(s).

In providing this information, the Detective Senior Sergeant, State Registrar CPOR may provide anything else that is considered to be reasonably necessary to allow the departments to identify the respondent to ensure the safety of a child or children in that department's care or the safety of the respondent (e.g. a photograph of the respondent, intelligence).

The Detective Senior Sergeant, State Registrar CPOR is to ensure, where information has been provided to one of these departments about an order and the order is later varied or revoked, notice (orally or in writing) of the variation or revocation of the order is given to the relevant chief executive(s).

See s. 74E: 'Police commissioner may give information to government and other entities' of the CP(OROPO)A.

Request from the Department of Child Safety, Seniors and Disability Services under s. 74G of the CP(OROPO)A

Officers receiving requests from the Department of Child Safety, Seniors and Disability Services (CSSDS) under s. 74G: 'Chief executive (communities) to be given information about child respondent' of the CP(OROPO)A are to submit a report recommending the request be referred to the Detective Senior Sergeant, State Registrar CPOR.

Disclosing information to parent of child respondent or child protected by order under s. 74I of the CP(OROPO)A

Officers identifying a need to disclose information under s. 74I: 'Police commissioner may give information about order to other particular persons' of the CP(OROPO)A are to submit a report outlining the reasons the information should be disclosed to their district CPOR investigator.

If the district CPOR investigator reasonably considers the disclosure is necessary and appropriate to reduce a risk to the lives or sexual safety of one or more children, or of children generally, he or she may authorise another officer to give information about an offender prohibition order or registered corresponding order to any of the following:

- (i) if the respondent is a child respondent – a parent of the child respondent; and/or
- (ii) a parent or guardian of any child protected by the order.

7.16 Blue card management

A valid blue card is required by a person who operates a business or is employed (paid, volunteer or student) in providing services or activities which are regulated by the *Working with Children (Risk Management and Screening) Act* (WWC(RMS)A). As part of the 'No Card, No Start' law, a person must have a valid blue card prior to commencing this work. Blue Card Services (BCS), DJAG is responsible for determining a person's eligibility to be issued a blue card.

The Service is responsible for the investigation and prosecution of offences under the WWC(RMS)A which may either be identified by police or referred for investigation by BCS, DJAG.

The Blue Card Operations Leader (BCOL) (see SMCD), Child Abuse and Sexual Crime Group, CIC is the contact person for officers conducting operational inquiries in relation to blue card matters.

Officers investigating offences involving child victims should conduct relevant inquiries to determine whether the suspect/offender is a holder of a valid blue card.

Officers can also make inquiries to determine whether a person conducting home-based care (including foster or kinship care, family day-care and stand-alone care) is a holder of a blue card by searching a name, address or organisation in the Blue Card Home-Based Care Register located on the QPS intranet under Child Harm Information.

Officers wishing to obtain information relating to a person's blue card status are to contact the BCOL. Officers who have access to a person's blue card number and expiry date, can check if a blue card is valid by using the online validation tool located on the Queensland Government Website.

When investigating blue card offences, the powers of entry, search and seizure of the PPRA are to be utilised.

ORDER

Members are not to provide advice concerning a person's eligibility to make an application for a blue card or provide advice on whether an activity is child regulated employment or not. All inquiries are to be referred to BCS, DJAG.

7.16.1 Information sharing with Blue Card Services

Information concerning blue card holders and applicants is provided by Blue Card Services (BCS), DJAG to the Service for criminal history screening and monitoring changes. The Commissioner must supply relevant information concerning a blue card applicant to BCS (see Chapter 8, Part 6, Division 2: 'Obtaining information from the police commissioner' of the *Working with Children (Risk Management and Screening) Act* (WWC(RMS)A)). The Manager, Police Information Centre is the delegated authority to provide criminal history information only (see Delegation D 6.1).

The Blue Card Operations Leader (BCOL) also monitors QPRIME for any changes concerning alleged serious and disqualifying offences for applicants and holders of blue cards on a daily basis, and when a blue card applicant or holder is nominated as a suspect in such offences, advises the investigating unit by entering a task on the relevant QPRIME occurrence (see Schedules 2: 'Current serious offences', 4: 'Current disqualifying offences', 6: 'Offences that may form basis of investigative information' and 6A: 'Repealed or expired offences that may form basis of investigative information' of the WWC(RMS)A).

In accordance with s. 305: 'Police commissioner may decide that information about a person is investigative information' of the WWC(RMS)A, the BCOL will conduct an assessment of all offences which are listed in Schedule 6: 'Offences that may form basis of investigative information' of the WWC(RMS)A to determine if the investigation falls within the definition of investigative information. Where the BCOL determines it is:

- (i) not investigative information, a task will be entered into the QPRIME occurrence;
- (ii) possible investigative information, consultation will be conducted with the investigator or senior investigator in that district to establish whether the elements of s. 305 of the WWC(RMS)A can be satisfied; or
- (iii) investigative information, a detailed report from the investigator including all available evidence will be obtained and approval sought for the release of the investigative information to BCS.

The release of information, other than police information as defined under the WWC(RMS)A, is to be considered in accordance with s. 10.2: 'Authorisation of disclosure' of the PSAA and s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

7.16.2 Blue Card offence investigations

Referrals from Blue Card Services

Blue Card Services (BCS) will refer matters for investigation and prosecution of offences under the *Working with Children (Risk Management and Screening) Act* (WWC(RMS)A) only when BCS have not been able to obtain compliance.

BCS will provide referrals to the Blue Card Operations Leader (BCOL) who will undertake a review of the referral to ensure sufficient information to commence an investigation has been provided and then enter the details of the alleged breach into QPRIME for detailing for investigation.

The BCOL will:

- (i) monitor the progress of the investigation;
- (ii) provide advice and guidance;
- (iii) arrange for statements and evidence from BCS to be provided for court purposes; and
- (iv) report back to BCS on the result of the investigation.

Referrals to Blue Card Services

Where an officer identifies a breach of the WWC(RMS)A, they are to:

- (i) contact the BCOL who will:

- (a) liaise with BCS; and
 - (b) provide guidance and advice if required; and
- (ii) create a 'Blue Card offences' [1642] QPRIME occurrence.

7.16.3 Power to demand production of blue card

Section 789A: 'Power to demand production of working with children card' of the PPRA authorises an officer who reasonably suspects a person is the holder of an employment-screening document (blue card) issued by DJAG and:

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

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

Requirement to give blue card by arresting officer

An officer who knows or reasonably suspects a person is a person to which s. 789A(1) of the PPRA applies, is to give the person a requirement to immediately give the blue card to the officer.

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

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

An officer who is given a person's blue card after a requirement under s. 789A(2) of the PPRA is made, is to:

- (i) issue a QPB 32A: 'Field Property Receipt' or if practicable, a QP 0760: 'QPRIME Property Receipt' from the relevant QPRIME occurrence for the seizure of the item;
- (ii) create a 'Seized property [1645]' occurrence in QPRIME;
- (iii) record the following information in the occurrence summary field of the QPRIME occurrence:
 - (a) that a requirement for blue card was made under s. 789A of the PPRA;
 - (b) date on which the requirement was made;
 - (c) the date on which the officer was given the blue card;
 - (d) if applicable, the QPB 32A number and date of issue; and
 - (e) the date the blue card was forwarded to the Blue Card Operations Leader (BCOL), CIC and the means by which it was forwarded; and
- (iv) ensure the blue card is forwarded with a brief covering report stating why the document was taken and the QPRIME occurrence number to the (BCOL), Child Abuse and Sexual Crime Group, CIC.

The member assigned duties as the (BCOL) is to give the blue card to the Chief Executive (Employment Screening), DJAG and is to arrange for an appropriate receipt to be issued and forwarded to the officer who seized the document.

Officers receiving the receipt from the Blue Card Services, DJAG are to save the receipt in the relevant QPRIME occurrence as an external document. The hardcopy receipt should be retained at the officer's station or establishment.

When is a person charged with a serious or disqualifying offence

For the purposes of this section, a person is charged with a serious or disqualifying offence when a charge for a serious or disqualifying offence is preferred by way of charge on arrest, notice to appear served under the PPRA, complaint and summons served under the *Justices Act*, charge by a court under s. 42(1A): 'Commencement of proceedings' of the *Justices Act*, or another provision of an Act, or an indictment.

Appendix 7.1 Schedule of relevant offences

(s. 7.3.5)

Please Note: This schedule is provided for reference only.

This is not an exhaustive list and is merely a sample of possible offences for consideration.

Category of abuse	Name of offence and Criminal Code section number	Relevant definitions and comments
Physical	Common assault, s. 335	See s. 245: 'Definition of assault' of the CC.
Physical	Assaults occasioning bodily harm, s. 339	'Bodily harm' means any bodily injury which interferes with health or comfort, see s. 1: 'Definitions' of the CC.
Physical	Grievous bodily harm, s. 320	See s. 1: 'Definitions' of the CC.
Physical	Poisoning and wounding, ss. 322, 323	This offence is committed if a person— (a) unlawfully wounds another; or (b) unlawfully, and with intent to injure or annoy any person, causes any poison or other noxious thing to be administered to, or taken by, any person. The word 'wound' is not defined in the Criminal Code, but it is accepted that it bears its ordinary or common law meaning, which requires that the 'true' skin must be penetrated or broken.
Physical	Female genital mutilation, s. 323A	See definition in s. 323A: 'Female genital mutilation' of the CC.
Physical	Kidnapping, s. 354	See s. 354(2): 'Kidnapping' of the CC.
Physical	Deprivation of liberty, s. 355	See s. 355: 'Deprivation of liberty' of the CC.
Physical	Torture, s. 320A	See definition in s. 320A: 'Torture' of the CC.
Physical	Murder, s. 302	See s. 302: 'Definition of murder' of the CC.
Physical	Manslaughter, s. 303	This offence is committed if a person unlawfully kills another person under such circumstances as not to constitute murder.
Physical	Killing unborn child, s. 313	See s. 313: 'Killing unborn child' of the CC. For the meaning of 'grievous bodily harm', see s. 1: 'Definitions' of the CC.
Physical	Concealing the birth of children, s. 314	See s. 314: 'Concealing the birth of children' of the CC.
Neglect	Failure to supply necessities, s. 324	See s. 324: 'Failing to supply necessities' of the CC.
Neglect	Endangering life of children by exposure, s. 326	See s. 326: 'Endangering children by exposure' of the CC.
Neglect	Cruelty to children under 16, s. 364	See definition in s. 364: 'Cruelty to children under 16' of the CC.
Neglect	Negligent acts causing harm, s. 328	See s. 1 'Definitions' of the CC for the definition of 'Bodily harm'.
Sexual	Engaging in penile intercourse with child under 16, s. 215	See s. 215: 'Engaging in penile intercourse with child under 16' of the CC. For meaning see s. 6: 'Meaning of engage in penile intercourse' of the CC
Sexual	Repeated sexual conduct with a child, s. 229B	See s. 229B: 'Repeated sexual conduct with a child' of the CC.

Category of abuse	Name of offence and Criminal Code section number	Relevant definitions and comments
Sexual	Rape, s. 349	See ss. 6: 'Meaning of engage in penile intercourse' and 349: 'Rape' of the CC. Note that, for the purposes of this offence, a child under the age of 12 years is incapable of giving consent.
Sexual	Sexual assaults, s. 352	See s. 352: 'Sexual assaults' of the CC. Note that the CC does not define the word 'indecent'. Current case law says: <ul style="list-style-type: none"> • the word should be construed according to its ordinary and popular meaning • indecency must always be judged in the light of time, place and circumstance; • indecency is that which offends against currently accepted standards of decency; and • it is necessary that the assault have a sexual connotation either from the part of the body assaulted or the part of the body used by the offender. Intentional touching of a female's breast would amount to indecent assault (see R v BAS [2005] QCA 097).
Sexual	Indecent treatment of children under 16, s. 210	See s. 210: 'Indecent treatment of children under 16' of the CC.
Sexual	Procuring prostitution, s. 229G	See ss. 229E: 'Meaning of prostitution' and 229G: 'Procuring engagement in prostitution' of the CC.
Sexual	Permitting young person to be at place used for prostitution, s. 229L	See s. 229L: 'Permitting young person etc. to be at place used for prostitution' of the CC.
Sexual	Incest, s. 222	See s. 222: 'Incest' of the CC. Note it is immaterial that the act or attempted act of penile intercourse happened with the consent of either person (s. 222(3)).
Sexual	Involving child in making child exploitation material, s. 228A	See ss. 207A: 'Definitions for this chapter', 228A: 'Involving child in making child exploitation material' and 229B: Making child exploitation material' of the CC.

Appendix 7.2 Sample wording for QPRIME occurrence

(s. 7.3.9)

Where a prosecution is not commenced the following wording on the QPRIME occurrence may be appropriate:

On the *(date)* a complaint was received from the child *(name of the child)* that *(physical, sexual, emotional harm/interference)* had taken place. The basis of the complaint is that *(outline the circumstances)*. The offence has been occurring for a period of *(mention any time frames)*. The child has been formally interviewed and details obtained. The child was/was not medically examined at *(name location and medical practitioner of the child)*.

The injuries included *(specify injuries)*. *(Specify if sexual harm, penetration was/was not consistent with the alleged manner of assault)*. The injuries were/were not photographed at *(location)* by *(identity of photographer)*.

On *(date)* the suspect was interviewed at *(location)* and the allegations were/were not denied. Investigations did not reveal prima facie evidence against the suspect. On *(date)* the matter was discussed at *(name of SCAN team)* and due to lack of evidence a decision was made not to commence any prosecution. All relevant persons have been advised of the outcome of the investigation.

Appendix 7.3 Sample wording for report concerning Government employee

(s. 7.8.1)

TO: [rank], [district name] District
FROM: [rank] [name], [unit] Child Protection and Investigation Unit
SUBJECT: COMPLAINT AGAINST GOVERNMENT EMPLOYEE

On [date] the following complaint was received regarding a Government employee in relation to alleged [type of harm] harm.

[Name of alleged offender]

[Address of alleged offender]

[Date and place of birth of alleged offender]

[Complainant's name]

[Complainant's address]

[Date and place of birth]

[Nature of allegation]

On [date] Mr/s [name] of the Crime and Corruption Commission was advised of the existence of this complaint. This matter is to be investigated by the Police Service by [rank][name] of [unit].

The Queensland Department of Education Crime and Corruption Commission liaison officer Mr/s [name] has been advised on [date] (*use only if the complaint relates to an employee from the Department of Education*).

A copy of this document has been forwarded to the Crime and Corruption Commission.

[name]

[rank]

Appendix 7.4 Guidelines for conducting child exploitation material investigations

Introduction

Officers conducting investigations involving child exploitation material (CEM) may be exposed to a variety of risks including exposure to traumatic material, high exposure rates, emotional connection to victims, and psychological injury. Exposure to CEM is recognised as a workplace health risk and every measure is to be taken to ensure the health and wellbeing of officers is maintained.

Adoption of safe work practices in compliance with the *Work Health and Safety Act* (WHS Act) will assist to alleviate and minimise these risks. It is important to note that the WHSA also places an obligation on employees to act in a manner that reduces the risk of harm to themselves and others in the workplace.

Whenever it is necessary to view CEM, the following guidelines and procedures should be adopted in addition to any station/establishment instructions relating to viewing CEM. Wherever practical, variance from the instructions and reasons for variance should be recorded by the responsible officer in an appropriate place such as daily activity logs, official police diary or QPRIME.

General health and wellbeing considerations

The WHSA contains general health and wellbeing advice and should be read in conjunction with this section.

Self-care within the workplace is supported and the Service has developed considerable resources to assist all officers to address any health and wellbeing issues.

During an investigation involving the viewing of CEM, individuals may be exposed to material causing them to experience strong emotional and physical reactions which have the potential to interfere with their health and wellbeing. Under such circumstances the affected officer is to take appropriate action to ensure their health and wellbeing and is to notify their supervisor and/or a senior psychologist. Upon receiving a notification, the supervisor or senior psychologist is to ensure appropriate intervention and assistance is provided to the affected officer.

All investigators who receive an investigation involving CEM should have previously participated in psychological testing and be approved to conduct CEM investigations. If an officer has not completed psychological assessment or approved to conduct CEM investigations, a supervisor should reassign the investigation to an officer who has fulfilled those requirements.

CEM viewing

Section 2.3.6: 'Inspection of official police diaries and notebooks' of the MSM outlines the requirements of officers issued with an official police diary or notebook to record details of their duties and places visited in the course of their duties. All officers exposed to CEM are to record in their official diaries specific information pertaining to any viewing of this material.

An entry of this nature should include:

- (i) date and time of viewing;
- (ii) time spent viewing;
- (iii) QPRIME or investigative reference number;
- (iv) any issues encountered while viewing material; and
- (v) reason for the viewing.

Recording of the above details should occur in the first instance in an investigations management and control (IMAC) Daily Performance Log where the specific activity of 'CEM categorisation' has been created. An entry should also be made in an official police diary or notebook, with brief particulars only (for example: CEM categorisation. QP2100123456, refer Cairns CPIU log / IMAC entry).

In addition to the requirements under s. 2.3.6 of the MSM, supervisors are to inspect IMAC Daily Performance Logs, diaries and notebooks monthly and review information recorded regarding the viewing of CEM.

Viewing CEM should be conducted in an appropriate and secure environment to reduce the inadvertent exposure to third parties. For example, viewing of CEM should be conducted in a CPIU office using a computer which is not easily viewed by third parties entering the office.

Investigators should only view CEM in the course of their duties and, unless required otherwise, not anywhere outside of a police station or establishment. Circumstances may exist where an officer may need to review CEM material to assist in matters proceeding through the court process, such as a prosecution or defence review. This can only occur at the ODPP, Commonwealth Department of Public Prosecutions, local courthouse, local prosecutions office, or police station. If viewing CEM at an external location, the investigator responsible must:

- (i) retain possession of the CEM at all times;
- (ii) remain present while the CEM is being viewed;

(iii) record the viewing details in an official police diary or notebook including date, time, material viewed, and persons viewing; and

(iv) ensure that no copies of the material are made including by taking photos or making digital copies.

Child Exploitation Material Investigation Package

The CEM Investigation package was implemented following recommendations from the Queensland Sentencing Advisory Council (QSAC) report into the classification of child exploitation material for sentencing purposes. The investigation package has been designed to deliver a consistent evidence package for CEM investigations.

The new investigation package focuses on the role of the offender in relation to the CEM and the risk posed to the community. It outlines factors such as:

- (i) the offender's interest in CEM, highlighted by the time period over which the offender has collected the material;
- (ii) number of hours a day spent viewing CEM;
- (iii) evidence of distribution or networking;
- (iv) use of encryption or anonymizing software; and
- (v) the offender's connection with the children in the images.

The package also addresses ongoing concerns around the timely provision of evidence to the courts by providing a prima facie case at an early stage through a field triage report, potentially averting the need for a comprehensive forensic examination and allowing for early pleas of guilty.

Officers conducting CEM investigations are to refer to the CEM Investigation package available on the Argos SharePoint site on the Service Intranet.

Law Enforcement Against Child Exploitation (LACE) and categorisation

Members conducting CEM investigations are to send a QPRIME request to the Electronic Evidence Unit (EEU) in accordance with s. 2.6.10: 'Electronic Evidence Examination' of this Manual, by completing a QP 0127B: 'Request to examine computer evidence' (available in QPRIME) and sending a QPRIME task to request the seized electronic media be uploaded to LACE for categorisation. Investigators can use LACE to categorise seized material if they have been trained or supervised by a trained officer. If training in LACE is specifically sought, requesting officers are to contact the Operations Leader, Argos, Child Abuse and Sexual Crime Group.

The Service has adopted the Interpol Baseline 4 category system in keeping with international standards of categorisation which outlines:

Interpol Baseline 4 Category System

	Category	LACE Category	Guide
Illegal	1	CEM - Interpol Baseline	<p>Must depict pre-pubescent child under 13years of age, and</p> <p>Must be a real child and must show:</p> <ul style="list-style-type: none"> • sexual activity involving a child; or • clear focus on either genitals or anus; or
	2	CEM - Any other CEM	<p>Any other CEM that meets the Qld and Commonwealth Legislative Description and is not Category 1. Includes:</p> <ul style="list-style-type: none"> • Animated and written CEM; • Can include Commonwealth Child Abuse Material (CAM) (under age of 18).
Legal	3	Related Investigative Interest - Non-illegal but connected	<p>Non-illegal related child material.</p> <ul style="list-style-type: none"> • Believed to form part of a series containing CEM; • Of investigative interest.
	4	Ignorable	<p>Anything else:</p> <ul style="list-style-type: none"> • Adult Pornography; • Windows artefacts; • Etc.

See the Argos SharePoint site on the Service Intranet for Interpol Baseline instructions.

Threshold and onus on victim identification

As outlined in the QSAC guidelines, a categorisation threshold has been introduced to minimise the exposure to investigators of viewing CEM.

In addition to the pre-categorised material generated through the categorisation software LACE, investigators are to categorise:

- (i) an additional 1000 CEM images at least one megabyte in size and spending no more than two four-hour sessions unless exceptional circumstances exist; and
- (ii) 50 CEM video files filtered to at least 30 seconds in duration and spending no more than one four-hour session unless exceptional circumstances exist.

This does not apply to high risk investigations where an offender is suspected of being a contact offender. In this case, investigators are expected to exceed the categorisation threshold limits to ensure all victim related material is identified. As outlined in s. 7.11.2: 'Child exploitation victim identification' of this chapter, it is imperative that victims of child exploitation are recognised throughout investigations and all possible attempts are made to identify them. In the event that an offender is producing material the Victim Identification Unit, Argos is to be notified and provided the relevant QPRIME reference.

Release of victim images to media

Public assistance or media releases to identify victim children should not include re-victimisation of the child unless an urgent need exists. Section 189: 'Prohibition of publication of information leading to the identity of children' of the *Child Protection Act* states information that identifies a child should not be published without the Chief Executive's written approval.

Consideration should also be given to s. 10: 'When other publication of complainant's or defendant's identity is prohibited' and s. 11: 'Authorised purposes' of the *Criminal Law (Sexual Offences) Act*.

If it is decided as a last resort that a child's image is to be released to the media for public assistance in identifying a victim of child exploitation, the OIC, Argos or the operations leaders, Argos should be consulted for advice prior to any release to ensure any request for public assistance is in accordance with national protocols.

Account takeovers

Account takeovers can be conducted by any officer within the Service with the consent of a victim or offender and using the approved form available by contacting Argos, Child Abuse and Sexual Crime Group. Assuming the identify of a victim or offender can only be conducted by a member of Argos who is an approved law enforcement participant (LEP) and conducting investigations under an approved controlled operation.