



# Student Training Resource

<i>Student Name</i>	
<i>Student Number</i>	
<i>Course</i>	<i>CPP30607 - Certificate III in Investigative Services</i>
<i>Course Dates</i>	

*This page is intentionally blank*

## Table of Contents

1. Introduction to Investigative Services .....	5
BSBWOR301B Organise personal work priorities and development .....	13
BSBFLM303C - Contribute to effective workplace relationships .....	27
CPPSEC3001A Maintain workplace safety in the security industry .....	61
CPPSEC3026A Work effectively in the investigative services industry .....	115
CPPSEC3029A Provide quality investigative services to clients.....	153
CPPSEC3027A Develop investigative plan.....	167
FNSMCA304A Locate subjects .....	179
CPPSEC3012A Store and protect information .....	195
CPPSEC3033A Conduct interviews and take statements .....	209
CPPSEC3034A Operate information gathering equipment .....	253
CPPSEC3032A Gather information by factual investigation .....	281
CPPSEC3028A Compile investigative report.....	311
CPPSEC3030A Conduct surveillance.....	343
CPPSEC3031A Organise and operate a surveillance vehicle.....	369
CPPSEC3009A Prepare and present evidence in court .....	385

**“The following work has been reproduced under licence and/or agreement:**

This work is copyrighted. Apart from any use permitted under the Copyright Act 1968, no part may be reproduced by any process without prior written permission from the Security Trainers Association. The Security Trainers Association does not give warranty nor accept any liability in relation to the content of this work.

Any areas for improvement in relation to this or any other piece of Security Trainers Association developed documentation should be documented and communicated so that improvements can be implemented in a timely manner.

**Security Trainers Association**

*This page is intentionally blank*

# 1. Introduction to Investigative Services

## 1.1 Investigative Services

There is a historical association between security protection and private investigation. This area is functionally different from other sectors of the security protection industry in that it is primarily concerned with the acquisition and application of personal information to prevent or minimise loss. This information may be used by a client in a variety of ways, including the immediate safeguarding and protection of persons or property. Key occupational groups in the security services industry include:

- security guards (also known as security officers)
- crowd controllers
- bodyguards
- private investigators
- security technicians
- security monitors and controllers
- security analysts
- business principals and managers
- security consultants and advisors



## 1.2 The Investigator

Any person who makes inquiries to determine the true facts of a situation assumes the role of an investigator. This alone however, will not qualify one to be an investigator. To understand and appreciate the role of the investigator, it is necessary to consider both the definition and the aim of investigation, as a process.

For the purpose of crime investigation (as conducted by the Police), **an investigation may be defined as a search for the truth, in the interests of justice and conducted within the specifications of the law.** This definition also applies to a private investigator because although the roles are different the ethical and legal responsibility is the same. The Police act on behalf of the Crown where a private investigator acts on behalf of the private sector.

**Investigators roles:** Investigators conduct investigations for clients, locate missing persons or property, prepare evidence for court proceedings, and more. Investigators are often involved in matters of insurance, Work Safe, missing persons, matrimonial matters, character enquiries etc. Investigators work within private agencies, commercial and industrial organisations.

## **The legal definition of an investigator:**

In Victoria, the definition of an investigator is found in Section 3 of the *Private Security Act 2004 (Vic)*, it states:

**"Investigator" means any person who on behalf of any other person, is employed or retained-**

- a) to obtain and furnish information as to the personal character or actions of any person or as to the character or nature of the business or occupation of any missing person; or**
- b) to search for missing persons.**

The Dictionary defines the meaning of Investigation as an inquiry into unfamiliar or questionable activities; and, the work of inquiring into something thoroughly and systematically. To work as a Private Investigator, a person must apply for and be approved for a Private Security Individual Operator Licence with the activity of Investigator before being legally allowed to work.

A licensed investigator can also be known in the commercial and private sectors as a private investigator, private detective, PI, private eye, private dick or inquiry agent.

### **1.3 Training and Licensing**

Many people who decide to become private investigators already have experience in a related field such as law enforcement, military, security, and insurance. While experience in these fields can be helpful, it cannot replace education and training.

An open mind, rounded work experience and education, good customer relation skills, common sense and the ability to be flexible and adaptable, are qualities that are always considered 'must have' requirements, when it comes to hiring a potential investigator in the private sector.

Once deemed skilled enough by the experienced investigator, a letter to confirm just that was sent with the application to the licensing authority for approval and the candidate could then legally undertake assignments for remuneration or gain.

Nowadays, to become a licensed investigator in Victoria, a person must successfully complete a course in **CPP30607 Certificate III in Investigative Services**.

Having a license allows an Investigator to practice in one particular state only, however the nature of investigative work can require investigators to work interstate. To perform the task of an Investigator in another state an Investigator will be required to obtain a licence in that particular state. An alternative to obtaining a license in each state is to use another agency in that state.

## Private Security Industry

Victoria Police's Licensing & Regulation Division (LRD) regulates the private security industry and is responsible for:

- Issuing private security licences and registration
- Renewal of private security licences and registration
- Monitoring private security licence and registration holders
- Approval of training
- Accreditation of training organisations.

### 1.4 The main categories of private investigation work

Where does the work come from?

#### **Anti - fraud work:**

Approximately 97% of investigation work comes from the Insurance industry. This is because the general insurance industry in recent years, has estimated their losses through fraud varying from \$0.5 to \$2.0 billion per year! The price of this dishonesty adds approximately \$75 to \$100 to the average insurance policy premium.

Workers Compensation type claims top the list of fraudulent claim forms submitted each year. Approximately 20% of all Workers Compensation claims are meant to be fraudulent - this is the highest fraudulent claims category.

Compulsory Third Party (CTP) insurance and Workers Compensation are very similar *but* there is a huge difference in the monetary sum involved...Workers Compensation fraud = \$500 million, CTP fraud = \$10 million.

Insurance work includes investigating stolen vehicles, work place and traffic accidents, arson and various types of fraud.

Investigations for this type of work include Factual investigations (in Victoria this is referred to as Circumstance investigations) and surveillance (also referred to as an activity review). The names of these types of investigations are fairly self explanatory: Factual investigations establish the facts behind the circumstances of an accident and its subsequent claim, whilst surveillance is usually undertaken covertly or discretely to establish the various activities of a claimant during the course of his daily routine. This is done in order to establish if any exaggeration has been made concerning the stated injuries or restrictions caused as a result of the accident or occurrence.

For factual matters, the investigator usually starts by contacting and interviewing witnesses to the alleged accident, (which is the result of the claim) as well as obtaining documentary and photographic evidence to either support or negate the claim made. Most factual investigators are people persons with good analytical and organizational skills and may have backgrounds in various trades or office/sales environments.

Most surveillance work involves a set period of time (usually 15 to 30 hours) in which the claimant is observed in his natural environment. The surveillance may involve mobile or static techniques from a vehicle or fixed location. Most surveillance investigators can be categorised as loners and have good “street” skills, they are resourceful and confident in the own abilities and can adapt to suit their environment when necessary.

### **Legal work:**

This work may include collecting background and factual work for lawyers in civil and criminal cases. This may include locating and interviewing witnesses or claimants. In some cases investigators will locate and have analysed forensic evidence, such as documents.

### **Commercial inquiry:**

Private businesses are hiring investigators to carry out several different tasks. These may include debugging, (it is illegal to install a bugging device) liability investigation, workplace investigations into theft or harassment and pre - employment/integrity checks. A commercial agent is involved in work such as repossession and debt collection in order to enforce legal contracts.

### **Domestic investigation:**

This involves more personal tasks related to the client and includes, amongst other areas, checking partner fidelity, peace of mind reports, missing person's background checks and business or partnership inquiries.

## **The role of private investigators in law enforcement**

In 2002, T. Prenzler and M. King conducted important, and up until that time, new research in this area on behalf of the Australian Institute of Criminology, Canberra (Prenzler, T. & King, M. 2002, “The Role of Private Investigators and Commercial Agents in Law Enforcement”, *Trends and Issues in Crime and Criminal Justice*, no.234, Australian Institute of Criminology, Canberra.)

This report was the result of interviewing many private investigators throughout the nation in an attempt to gauge the nature of their involvement with law enforcement. Interviewees claimed that they were able to obtain concrete evidence in 70 to 90 per cent of the cases they investigated.

The most pertinent legal and ethical issue faced by private investigators related to breaches of privacy. This included physical trespassing, along with gaining sensitive information about people.

Interviewees reported that tougher licensing and enhanced pre-service training were required to enhance competency and integrity in the industry.



### **Private investigation areas may include:**

- observation or surveillance investigations
- skip tracing and background checks
- take and maintain records and evidence
- seek missing persons and locate witnesses
- take videos or photographs for use as evidence
- in house store and hotel detectives
- gather information for use in legal proceedings
- conduct asset and liability checks
- prepare reports of investigations
- investigate insurance or worker's compensation claims
- take statements from witnesses

### **Specific industry background skills**

Many private investigators specialise in a particular field of expertise. Some firms may deal only in skip tracing, insurance investigations, or in audit investigations. Others may specialise in technical surveillance countermeasures (debugging) and industrial espionage, while others work as Corporate Investigators specialising in corporate matters, including anti-fraud work, the protection of intellectual property, copyright investigations and computer forensics work.

Previous education and or work experience in areas such as criminal justice, specialised police, military or fire brigade investigations, university qualifications in I.T Computers, Engineering, Electronics, Science, Business, Law or Accounting are essential pre-requisites for a private investigator to work in the various specialised corporate investigation areas.

Corporate investigators are usually hired by large companies and may receive formal training from their employers as some form of traineeship. Other corporate investigators become self employed and may have their own small pool of specialised clientele.

### **Specialist investigators may work in areas such as:**

- Accident investigation including at work, public domain and motor vehicle,
- Aviation matters,
- Marine matters,
- Breach of contracts,
- Insurance, employee, and corporate fraud, corporate/industrial espionage,
- Computer investigation,
- Debugging,
- Electronic counter measures and investigations,
- Drug testing,
- Taking expert witness statements,
- Factual inquiries,
- Fire and arson investigation, forensic services,
- Poly graph examination & lie detection,
- Skip tracing,

- Spouse partner activity, stalking matters,
- Undercover operations,
- Witness location,
- Investigate the theft of private or commercial property.

**In summary employers are looking for employees with;**

- a sound character with no criminal convictions
- good communication skills
- good organisational, observational and interviewing skills
- the use of common sense and able to accept responsibility
- a current licence to be an investigator

**Work Conditions**

Private investigators can work indoors, in offices, outdoors at various accident sites (in order to conduct factual investigations) and in vehicles (conducting surveillance or field activities or inquiries) Private investigators often work irregular hours when performing surveillance, when contacting and interviewing people who are not available during normal working hours and when meeting deadlines completing reports or briefs. (they are always urgent!)

Irregular hours mean a private investigator can work early mornings, evenings, weekends, overnights and on public holidays. Investigators can spend time away from home, the family and the office. Investigators may travel locally, to country or remote areas and interstate and may travel by car, van, bus, taxi or plane.

On the other hand there are many investigators that do work relatively normal hours working in an office primarily for insurance or debt collecting companies conducting computer searches and making telephone calls.

While some investigation firms have sophisticated surveillance vans, many investigators simply work from their own private family vehicles while conducting surveillance.



# Organise personal work priorities and development

## BSBWOR301B

*This page is intentionally blank*

# BSBWOR301B Organise personal work priorities and development

## Introduction

This unit describes the performance outcomes, skills and knowledge required to organize own schedules, to monitor and obtain feedback on work performance and to maintain required levels of competence.

Organise personal work priorities and development – BSBWOR301B	
Element	Performance Criteria
1.	<b>Organise and complete own work schedule</b>
1.1	Ensure that <b>work goals and objectives</b> are understood, negotiated and agreed in accordance with <b>organisational requirements</b>
1.2	Assess and prioritise workload to ensure tasks are completed within identified timeframes
1.3	Identify <b>factors affecting the achievement of work objectives</b> and incorporate contingencies into work plans
1.4	Use <b>business technology</b> efficiently and effectively to manage and monitor scheduling and completion of tasks
2.	<b>Monitor own work performance</b>
2.1	Accurately monitor and adjust personal work performance through self-assessment to ensure achievement of tasks
2.2	Ensure that <b>feedback on performance</b> is actively sought and evaluated from colleagues and clients in the context of individual and group requirements
2.3	Routinely identify and report on variations in the quality of service and products in accordance with organisational requirements
2.4	Identify <b>signs of stress</b> and effects on <b>personal wellbeing</b>
2.5	Identify <b>sources of stress</b> and access appropriate <b>supports and resolution strategies</b>

<b>3.</b>	<b>Coordinate personal skill development and learning</b>	
	<b>3.1</b>	Identify personal learning needs and skill gaps using self-assessment and advice from colleagues and clients in relation to role and organisational requirements
	<b>3.2</b>	Identify, prioritise and plan opportunities for undertaking personal skill development activities in liaison with work groups and relevant personnel
	<b>3.3</b>	Access, complete and record <b>professional development opportunities</b> to facilitate continuous learning and career development
	<b>3.4</b>	Incorporate formal and informal feedback into review of further learning needs

### Required Skills and Knowledge

This section describes the skills and knowledge and their level required for this unit

#### Required skills

- Communication skills to give and receive constructive feedback relating to development needs
- Literacy skills to read and understand the organisation's procedures, own work goals and objectives
- Planning skills to organize work priorities and arrangements
- Problem solving skills to solve routine problems
- Self management skills to:
  - comply with policies and procedures
  - consistently evaluate and monitor own performance
  - seek learning opportunities

#### Required knowledge

- Key provisions of relevant legislation from all levels of government that may affect aspects of business operations , such as:
  - Anti discrimination legislation
  - Ethical principles
  - Code of practice
  - Privacy laws
  - Occupational health and safety
- Organisational policies, plans and procedures
- Methods to elicit, analyze and interpret feedback
- Principles and techniques of goal setting , measuring performance , time management and personal assessment
- Competency standards and how to interpret them in relation to self
- Methods to identify and prioritize personal learning needs

## 1. Determine Work Priorities

### 1.2 Assignment Instructions

In order for security person to effectively determine their work priorities, they *must* first look at where the assignment instructions come from. In many cases, work priorities will already be outlined in the 'Standard Operational Procedures' and 'Site Orders'. Verbal instructions from management and site supervisors would also be given as part of the Site Orders. There is a wide variety of information within these documents including:

- instructions from client/management
- assignment objectives and timeframes
- work tasks and procedures
- resources and equipment requirements
- reporting and documentation requirements

The issue a security person faces is one in which he is obliged to conform too many standards, policies and procedures, and legal requirements. Legal obligations should be at the forefront of an Investigator's mind when identifying client and assignment requirements. Investigators are required to review information given in relation to assignment instructions to identify the needs of the client. Sources of information may include:

- operational plans
- assignment terms of reference
- operation manuals
- manufacturer's specifications
- applicable legislation and code of practice

### 1.3 Own Role and Responsibilities

Prior to identifying the needs of the client, security people should identify their own roles and responsibilities. Obviously, an Investigator would have read and understood his or her Security Company's Standard Operational Procedures and will therefore have a very good understanding of what his or her security company expects in terms of performance and responsibility.

To understand what is expected on a site an investigator may have to consult the Site Orders, and then, if there is any doubt or questions as to the performance requirements, an investigator should consult with appropriate person(s) who will be able to provide correct information to the investigator, including:

- supervisors
- management
- colleagues
- clients
- human resource personnel
- training division personnel

## **1.4 Time Wasters**

There are many factors that will cause delays in achieving completion of assigned duties within the designated timeframes, some of which are:

- competing work demands
- technology/equipment breakdowns
- unforeseen incidents
- workplace hazards, risks and controls
- environmental factors (time, weather)
- non-availability of resources and materials
- budget constraints



Some of the factors, which will affect the achievement of assignment instructions, can be accounted for and adjustments made to work priorities, and some cannot. Should an Investigator find that they are in a situation where there may be a delay in achieving assignment instructions, then that Investigator must bring this to the attention of their superior or manager.

As investigators may have to work in theft designated area, they would also have an excellent understanding of the foreseeable delays that may occur. It would therefore be professional for an Investigator, not only to recognise and report a foreseeable delay, but to also present options to management or superiors as to how to best combat such a delay. Sometimes the best people to make such recommendations are the ground level staff who are directly involved in the area in question.

## **1.5 Contingency Plans**

By presenting several options to management, Investigators are simplifying the process of creating a Contingency Plan. A contingency plan is a varied course of action from the original plan that will also achieve the same outcome using a different method. Contingency plans are used to combat factors, which may arise that affect the potential for an assigned task to be completed, or where, by unforeseen circumstances, the assignment instructions would not be able to be completed if it continued with the current course of action.

In making recommendations for a contingency plan, Investigators must consider all factors and use foresight to account for any possible scenario that may arise. Once armed with this information an Investigator should create a new plan to achieve assignment instructions for each possible scenario. This method of accounting for all foreseeable disruptions will allow for quick implementation of a contingency plan by management, with minimal disruption to achieving assignment instructions.

## **1.6 Business Equipment**

There are many forms of business equipment that can be used by Investigators to assist them to achieve assigned task. Business equipment can be used in a variety of scenarios to speed up work processes that will reduce the time an Investigator would be required to spend on a given task. Business equipment can take many forms, some of which are:



- computers and computer applications
- modems
- personal schedulers
- email
- internet / extranet / Intranet
- facsimile machines
- printers
- photocopiers
- scanners



## **2 Set and Meet Own Work Priorities**

### **2.1 Prioritising Work Tasks**

Standard Operational Procedures will already prioritise some tasks for investigators. The tasks that are not previously prioritised will have to be placed in order of importance, taking efficiency into account, and the most important task(s) completed first, then the next most important and so forth, until all assigned tasks have been completed within the designated timeframe.

### **2.2 Guidelines**

- What must be done
- What should be done
- What can be done

Assignment tasks are going to be given to investigators where, on many occasions, some tasks will actually be in competition with each other as to priority. Under these circumstances Investigators will be required to make informed decisions on how best to achieve such tasks. There are a variety of ways to achieve competing work tasks within specified timeframes and objectives.

Investigators must first have an understanding of how best to achieve each work priority. This understanding will be achieved through previous experiences, information from colleagues and supervisors. Once the understanding has been achieved then an Investigator can employ several methods to achieve competing work priorities. Some of the options available are:

- Seek assistance from colleagues to assist with the assigned tasks.
- Discuss the matter with the person issuing the tasks and establish priority.
- Organise with supervisors and colleagues to have allotted time with which to work solely on the work priorities.

It is important to complete work priorities within designated timeframes as failure to do so can have a negative effect on other team members and the company objectives. Failure to complete designated work priorities can have minor negative effects such as increased workload for fellow Investigators, right up to catastrophic effects on safety of personnel and persons under the care of security.

It is therefore imperative that assigned duties are completed within designated timeframes. If an Investigator is unable to achieve completion of duties then they should inform their superiors the moment they become aware that they may not achieve completion, and seek further advice.

## **2.3 Technological Assistance**

As previously discussed, business equipment can be used to assist investigators to achieve assigned work tasks. Further to that, technology can also be used to assist in the performance of duties. There are several examples below of what types of technology are available and how they could possibly impact on the performance of an Investigator.

Computers and various software packages are available which can help reduce the workload of Investigators. There are programs for:

- Rostering
- Writing statements and incident reports
- Prioritising work tasks via preset guidelines.
- Storage of pertinent information e.g.: S.O.P's, client specific information, confidential information re: personal details etc
- Computerized tracking systems

## **2.4 Performance Standards**

A performance management plan (written document covering all tasks put into order of priority) is an excellent way for an Investigator to enhance their personal performance standards and to assess their progress. Should other colleagues be able to perform the duties as listed in the performance management plan, but another Investigator was not, then that Investigator would be able to analyse their work standards and assess shortfalls. This method of checking personal performance standards will allow the Investigator every opportunity for self assessment and will assist colleagues or supervisors in the process.

Investigators should view feedback on performance as education and not criticism. Feedback is an excellent method to check current performance standards and to develop professionally, provided that feedback is sought from the right person(s) who are qualified to give it through knowledge and previous experience. Feedback may be sought from:

- formal/informal performance appraisals
- comments from supervisors, colleagues or clients
- personal, reflective behavior strategies
- workplace assessments

## **2.5 Quality Variations**

Due to the fact that each investigator is an individual, there are going to be times where assignment task requirements are going to be interpreted in different ways depending on the person who is reading them. This individual interpretation is going to create variations in the quality of service to the client.

In order to combat these variations in quality of service, it is the role of all team members to be completely certain of the tasks at hand, and to what level those tasks must be carried out. To achieve uniformity the instructions must be presented in a clear and concise manner to all team members so that the required level of performance is not open to interpretation.

If a situation arises where there is a variation in the quality of service due to interpretation issues, then this matter must be brought to the attention of the person issuing the instructions by the investigator involved who will present the facts. If the matter is not brought to the attention of the instruction issuer then the issue will remain unresolved and leave the investigator open for criticism due to varied levels of performance.

## **2.6 Professional Development**

Investigators should strive to develop themselves wherever possible in a personal and professional manner. Many opportunities exist in this industry to enhance skills, abilities and experience above and beyond the minimum requirement. The fact that Investigators undertake this course shows a commitment to professional development.

Professional development can take many forms and will aid investigators to develop a true career within the industry. Without development, Investigators will continue to remain entry level operatives and be unable to progress the professional ladder. Professional development opportunities may include:

- coaching, mentoring and/or supervision
- formal/informal learning programs
- internal/external training provision
- work experience/exchange opportunities
- personal study
- career planning/development
- performance appraisals
- workplace skills assessment
- quality assurance assessments and recommendations
- recognition of prior learning assessment

## **2.7 Networking**

Networking is a term used to describe the process of building professional relationships amongst peers, superiors and other persons in and out of the workplace. Investigators network on a regular basis as their duties keep them in constant contact with people. It is therefore imperative that investigators learn to develop their communication skills and professional conduct to enhance the image of the Investigator, the company and the client.

The investigators credibility is also enhanced through networking. When they develop professional relationships with superiors, clients and external customers it reflects directly on the investigator. Operating in this manner will earn the investigator respect from persons they deal with and will ultimately build further upon the creditability established at foundation level. Professional networks may include:

- internal or external groups
- peers
- industry associations
- teams
- committees



These professional relationships can then be utilised to mould a working environment of trust, respect and professionalism. The investigators ability to build such relationships with a client can only further solidify the credibility of the company and contract. Without security people operating professionally then the security company may lose the contract to another company that has the ability to develop and maintain professional networks.

## **2.8 Professional Excellence**

The investigations industry is an ever-changing field that grows, develops and changes with time. Some changes occur quickly and others over a period of time. With today's technology changes are happening every day. If investigators do not keep abreast of the changes then they will be left behind the rest of the field in relation to information, and therefore become somewhat obsolete.

If the investigator becomes complacent in recognizing new developments and trends within the industry then they would be at a distinct disadvantage. Society today is constantly changing. There are new rules, regulations and procedures being adopted at an alarming rate, and what may be acceptable procedure today, may be outdated and obsolete tomorrow.

Therefore, investigators must find ways and means of monitoring these issues so that they continue to keep up with current policies and market trends in order to continue on the pathway and provide a high level of service to the client and customer.

## **2.9 Setting Goals**

Settings personal goals are a powerful process for thinking about your ideal future, and for motivating yourself to turn this vision of the future into reality.

The process of setting goals helps you choose where you want to go in life. By knowing precisely what you want to achieve (setting your expectation), you know where you have to concentrate your efforts. You'll also quickly spot the distractions that would otherwise lure you from your course.

More than this, properly-set goals can be incredibly motivating, and as you get into the habit of setting and achieving goals, you'll find that your self-confidence builds fast.

### **Creating SMART Goals**

**S**pecific  
**M**easurable  
**A**ttainable  
**R**ealistic  
**T**imely



**Specific** - A specific goal has a much greater chance of being accomplished than a general goal. To set a specific goal you must answer the six "W" questions:

- Who: Who is involved?
- What: What do I want to accomplish?
- Where: Identify a location.
- When: Establish a time frame.
- Which: Identify requirements and constraints.
- Why: Specific reasons, purpose or benefits of accomplishing the goal.

**Measurable** - Establish concrete criteria for measuring progress toward the attainment of each goal you set. When you measure your progress, you stay on track, reach your target dates, and experience the exhilaration of achievement that spurs you on to continued effort required to reach your goal.

**Attainable** - When you identify goals that are most important to you, you begin to figure out ways you can make them come true. You develop the attitudes, abilities, skills, and financial capacity to reach them. You begin seeing previously overlooked opportunities to bring yourself closer to the achievement of your goals.

**Realistic** - To be realistic, a goal must represent an objective toward which you are both *willing* and *able* to work. A goal can be both high and realistic; you are the only one who can decide just how high your goal should be. But be sure that every goal represents substantial progress. A high goal is frequently easier to reach than a low one because a low goal exerts low motivational force. Some of the hardest jobs you ever accomplished actually seem easy simply because they were a labour of love.

**Timely** - A goal should be grounded within a time frame. With no time frame tied to it there's no sense of urgency. If you want to lose 10 kg, when do you want to lose it by? "Someday" won't work. But if you anchor it within a timeframe, "by May 1st", then you've set your unconscious mind into motion to begin working on the goal.

**3.0** Personal self-development starts with consideration about yourself. Developing your "**Emotional Intelligence**" is a big step forward in self improvement and co-operation with others. Emotional intelligence refers to your ability to condition yourself, and your capacity in using the following personal intelligences to the work place. By bringing these personal skills to the workplace, it provides a good environment for your success.

- Your Self awareness
- Your Self-regulation
- Your Motivation
- Your Empathy
- Your Social skills

### **3.1 Receiving and giving Feedback.**

Feedback relates to your own personal development in the workplace. The purpose of receiving and giving feedback is to improve and maintain good work performance. Without feedback, there can be little self-improvement in your performance. Supervisors and Managers are usually given the job of assessing your performance in the workplace. Giving and receiving positive feedback should encourage and motivate staff to improve on their performance. Giving feedback in a negative way harms good working relationships and makes staff members feel uneasy.

#### **Good Feedback:**

- Is relevant, ie: refer to the work skills, knowledge and behaviour
- Is never personal
- Is "fresh" and related to recent observation
- Is better given by trusted supervisors/managers who have good interpersonal skills (emotional intelligence) and who have a history of staff having confidence in them

- Should describe in detail – any performance issue, or reasons for praise
- Often, feedback is misunderstood by the receiver

**360-degree feedback** is a popular method of applying feedback in the workplace. The boss, managers, and staff anonymously provide a feedback report regarding performance ratings.

**3.2 Feedback from networks:** If you work for yourself, you need to develop some other means to gain appropriate feedback on your performance. Networking with other Investigation professionals, asking them to provide feedback on the job is highly valuable in the quality of services that you deliver.

## **4 Stress in the Workplace**

In this difficult economy you may find it harder than ever to cope with challenges on the job. Both the stress we take with us when we go to work and the stress that awaits us on the job are on the rise – and employers, managers, and workers all feel the added pressure. While some stress is a normal part of life, excessive stress interferes with your productivity and reduces your physical and emotional health, so it's important to find ways to keep it under control. Fortunately, there is a lot that you can do to manage and reduce stress at work.

For workers everywhere, the troubled economy may feel like an emotional roller coaster. Redundancies and budget cuts have become bywords in the workplace, and the result is increased fear, uncertainty, and higher levels of stress. Since job and workplace stress grow in times of economic crisis, it's important to learn new and better ways of coping with the pressure. The ability to manage stress in the workplace can make the difference between success and failure on the job. Your emotions are contagious, and stress has an impact on the quality of your interactions with others. The better you are at managing your own stress, the more you'll positively affect those around you and the less other people's stress will negatively affect you.

### **4.1 You can learn how to manage job stress.**

There are a variety of steps you can take to reduce both your overall stress levels and the stress you find on the job and in the workplace. These include:

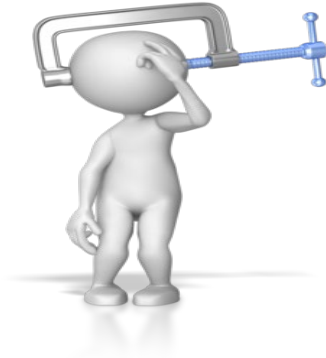
- **Taking responsibility** for improving your physical and emotional well-being.
- **Avoiding pitfalls** by identifying knee jerk habits and negative attitudes that add to the stress you experience at work.
- **Learning better communication skills** to ease and improve your relationships with management and co-workers.
- **Learn to work smarter not harder.**

When people feel overwhelmed, they lose confidence and become irritable or withdrawn, making them less productive and effective and their work less rewarding. If the warning signs of work stress go unattended, they can lead to bigger problems. Beyond interfering with job performance and satisfaction, chronic or intense stress can also lead to physical and emotional health problems.

## 4.2 Signs and symptoms of excessive job and workplace stress

- Feeling anxious, irritable, or depressed
- Apathy, loss of interest in work.
- Problems sleeping
- Fatigue,
- Trouble concentrating
- Muscle tension or headaches
- Stomach problems
- Social withdrawal
- Loss of sex drive
- Using alcohol or drugs to cope

If stress symptoms persist you should see your doctors or local therapist.



*This page is intentionally blank*





# Contribute to effective workplace relationships

## BSBFLM303C

*This page is intentionally blank*

## BSBFLM303C - CONTRIBUTE TO EFFECTIVE WORKPLACE RELATIONSHIPS

### Introduction

In this unit of competency you will learn the skills and knowledge required to gather information and maintain effective workplace relationships and networks, with particular regard to communication and representation.

<b>Contribute to effective workplace relationships – BSBFLM303C</b>		
<b>Element</b>	<b>Performance Criteria</b>	
<b>1.</b>	<b>Seek, receive and communicate information and ideas</b>	
	<b>1.1</b>	Collect information associated with the achievement of work responsibilities from appropriate sources
	<b>1.2</b>	Communicate ideas and information to diverse audiences in an appropriate and sensitive manner
	<b>1.3</b>	Seek contributions from internal and external sources to develop and refine new ideas and approaches in accordance with organisational processes
	<b>1.4</b>	Facilitate consultation processes to allow employees to contribute to issues related to their work, and promptly communicate outcomes of consultation to the work team
	<b>1.5</b>	Promptly deal with and resolve issues raised, or refer them to relevant personnel
<b>2.</b>	<b>Encourage trust and confidence</b>	
	<b>2.1</b>	Treat people with integrity, respect and empathy
	<b>2.2</b>	Encourage effective relationships within the framework of the organisation's social, ethical and business standards
	<b>2.3</b>	Gain and maintain the trust and confidence of colleagues, customers and suppliers through competent performance
	<b>2.4</b>	Adjust interpersonal styles and methods in relation to the organisation's social and cultural environment

<b>3.</b>	<b>Identify and use networks and relationships</b>	
	<b>3.1</b>	Identify and utilise workplace networks to help build relationships
	<b>3.2</b>	Identify and describe the value and benefits of networks and other work relationships for the team and the organisation
<b>4.</b>	<b>Contribute to positive outcomes</b>	
	<b>4.1</b>	Identify difficulties and take action to rectify the situation within own level of responsibility according to organisational and legal requirements
	<b>4.2</b>	Support colleagues in resolving work difficulties
	<b>4.3</b>	Regularly review workplace outcomes and implement improvements in consultation with relevant personnel
	<b>4.4</b>	Identify and resolve poor work performance within own level of responsibility and according to organisational policies
	<b>4.5</b>	Deal constructively with conflict, within the organisation's established processes

## Required Skills and Knowledge

### Required Skills

- ability to relate to people from a range of social, cultural and ethnic backgrounds and physical and mental abilities
- coaching and mentoring skills to provide support to colleagues
- functional literacy skills to access and use workplace information
- relationship management and communication skills to:
  - interpret information from a variety of people
  - respond to unexpected demands from a range of people
  - gain the trust and confidence of colleagues
  - deal with people openly and fairly
  - forge effective relationships with internal and/or external people

### Required Knowledge

Principles and techniques associated with relationship management, including:

- developing trust and confidence
- behaving consistently in work relationships
- identifying the cultural and social environment
- identifying and assessing interpersonal styles
- establishing networks
- identifying and resolving problems
- handling conflict
- managing poor work performance
- monitoring and improving work relationships
- using anti-discrimination/bias strategies and making contributions
- Relevant legislation from all levels of government that may affect business operation, especially in regard to:
- occupational health and safety and environmental issues
  - equal opportunity
  - industrial relations
  - anti-discrimination

## **INTRODUCTION**

In this unit, you will be examining the processes involved with building strong working relationships. A crucial component of having a strong working relationship is building effective relationships with others in your workplace. In an effective working environment you achieve all the goals and objectives that you set. A key component of this is collecting and analysing information and ideas. As an investigator this involves you in ensuring that you involve others in the work that is going on at your workplace. Having poor relationships with your fellow workmates is going to make it extremely difficult to collect information that will allow you to collect the information you need to undertake your job effectively.

Within any company, information flows in many directions, and having an understanding of this flow is crucial to being able to undertake your work as an Investigator.

There are three information flows with any organization. They illustrate the three key types of relationships that you are likely to have with your fellow work members.

### **1. COLLECT, ANALYSE AND COMMUNICATE INFORMATION AND IDEAS**

#### **Information flows in a typical workplace**

##### **1.1 Top Down:**

Information is given to you from managers that are above you in the organisation. Often it will come in the form of Standard Operational Orders or site policy which you must implement. It also includes communication that you give to those that you work with.

##### **1.2 Upward Communication:**

This is information that you will give to your site manager or higher. Often it will include site specific reports such as incident reports, OH&S Reports and other reports that your site manager has asked you to prepare for their consideration. It may also include communication that you may receive from your fellow workmates or staff that you may supervise.

##### **1.3 Sideways Communication:**

This is where you will be communicating with your fellow workmates that are at your same level on the site or within the company.

The flow of information within the site or company is influenced by the type of relationships that you have with others on the site or venue.

You have to consider the types of relationships that you have with others and use the relationships that you have with staff at all levels to improve your communication sources. We will examine sources of information shortly.

## 1. THE BENEFITS OF EFFECTIVE INFORMATION AND COMMUNICATION

### 2.1 Information leads to new ideas

Good information and communication of that information is crucial to supporting ideas for change and innovation that you may have. It allows you to draw on a wide range of opinions and ideas. The wider the range, the more likely it is that you will find an effective means of improving your site or venue.

### 2.2 Information leads to good decision making

Problem solving and decision making are two critical skills that you must possess as an effective supervisor or leader. This process involves you in collecting information about the causes of the problem, attempting to generate several possible options for dealing with the problem, considering the consequences of each option and considering the resource implications of each idea. As you can see, in this process you must communicate with many individuals to obtain the information that you need to make an effective decision.

### 2.3 Gathering Information

Consider information gathering as a series of steps.

These steps are as follows:

#### 2.3.1 Establish the Goal

This process involves establishing a purpose for the information gathering. In other words, why you are gathering this information? This allows you to ensure that you stay on track and do not gather information that is not relevant to the final outcome required. This should be clearly communicated to everyone you involve in the process. If they know why you want to know something they are more likely to be forthcoming.

Examples may include:

- Prepare a report for an extra Investigator to be dedicated to the enquiry.
- Prepare a job description requirement for the new Investigator.
- Prepare a report for new electronic equipment in order to enhance performance of the team as a whole.

When determining requirements, you should be aware of the environment in which the new equipment or staff will be utilized. Specifications come in many forms, the three most common are as follows:

- **Specifications:** These are the most formal type of information requirements. It will provide you with a brief that states exactly what information you are required to gather. Often specifications will also provide you with other information such as budgets, information sources, and your terms of reference. Specifications may also state to you how the information is to be presented for interpretation by the managers involved.

- **Job Instructions:** These can be quite formal and are generally what you as an Investigator will use. They generally will not be as strict as a set of specifications. They may allow you to approach a problem using your own knowledge and skills rather than telling you how to accomplish the task.
- **Consultation with End Users:** This type is the most useful. It allows you to discuss exactly what the end user will require from the information. It will allow you to work towards finding the exact requirements and will enable the report to meet their needs as well as is possible.

### 2.3.2 Determine information sources

It is vital that you have the right information when communicating. The information can be of two major types: Secondary and Primary.

Primary is information you gather and record yourself.

Secondary is information gathered and recorded by others.

	Sources	Problems?
Primary	Questionnaires, surveys, observation, experiments, historical information, and raw data.	Information must be gathered carefully to ensure it is accurate reflects facts.
Secondary	Books, internet, reports, newspapers, magazines, pamphlets, and journals.	Information may be inaccurate, out of date, or biased.

**Internal information sources** are any resources that you utilise from within your organization, site or venue. These may be personal sources (such as your own knowledge), interpersonal sources (relying on the expertise of others such as your immediate manager or venue owner / manager) or documented sources from the information systems within your organisation.

The advantages of this type of data are that the data is readily available, accessible on a continuous basis and that it is particularly relevant to the site /venue that you work at. The internal information from an organisation can be used for many reasons.

**External sources** are wide ranging, and include any information that does not come from official organisation sources. This may come from information providers such as the government, published data sources or from primary research conducted for the organisation by market research houses.

**Published Data Sources:** These sources are the most popular source of external information. The data is readily available, and is sufficient to answer a question. For example, you may be asked to see if a particular electronic security product is suitable for use at your site /venue. By reading material available from various sources you may be able to answer this question. Published resources are the various Government publications, periodicals and trade journals, industry associations, and other companies.



**Primary Research:** Primary research may involve employing an organisation to do this research for you and to gather the information you need. While this can pinpoint the exact piece of data you may need, it can be expensive. However there may also be a need for this type of research and data gathering for other reasons as well. The most important consideration is cost, and time. This type of data collection is expensive and time consuming, however given that it can provide you with tailor made information, you may find it useful for specific tasks.

### **2.3.3 Methods of collecting information**

Once you have determined the goals and sources of your information, you then need to plan on how you go about collecting the information. There is a range of ways of gathering information, some of the most useful are:

#### **Ask Questions**

One of the best ways of gaining information is to simply ask questions.

#### **Interviews**

This is a skill in which you need practice and training. When gaining information through an interview it is important that you prepare well in advance.

#### **Surveys**

These tools are complicated to set up and allow for bias if not correctly worded, however they are good tools for quickly gaining information and allowing for easy analysis of the information that you gain.

#### **Meetings**

This involves bringing together all those that will be able to provide you the information that you need in order to meet your objective. The group can provide you with what you need, discuss ideas and help you in identifying ideas and looking at each critically.

#### **Brainstorming**

This is an ideal way to get ideas from your work team. It is most often used during team meetings in order to allow everyone to have their say and to generate a wide range of ideas that will be used for further clarification of ideas. It is important that you allow ideas to flow without criticism of any kind (until the evaluation stage arrives). By doing this, people will be encouraged to contribute without having their ideas ridiculed. Often the craziest ideas are the best.



## 2.4 LEADERSHIP IN GETTING EVERYONE INVOLVED BY COMMUNICATION AND CONSULTATION

Now that you understand why information is important and how you can go about gathering information, let's look at how you can get everyone involved in the process. This is often known as consultation. When working with your co-workers on gathering information be sure that you:

- Involve your team or co workers in the gathering of information; ask for their help in making sense of the information in front of you.
- Share and explain the outcomes, this will help your team reach a better understanding of the information gathered.
- Involve the whole team so that there is a shared understanding of the data and how it will affect the organisation and work team.

A '**consultative approach**' to working with your team involves you outlining the situation that you are trying to resolve, **communicating** and asking your team members for ideas, and deciding what to do based on the ideas provided. An approach like this is useful whenever a decision involving a number of people is involved. You may also find it useful when you don't have the experience or confidence in your skills to make a decision by yourself. By involving others, you can ensure that all those people that have something to contribute have the opportunity to do so.

### 3.1 Giving Information to Others

Your message being sent and it being received is 'noise'. Noise is anything that can distort a communication and changes how the receiver perceives your message.

Modern workplaces are diverse. They include men and women, people of all ages, races, levels of experience, and levels of education, different mental or physical conditions. Each of these factors has an influence on how the receiver of a message perceives the message. Often you may find that an understanding cannot be reached immediately, simply because your message was not clear to the other person. It may have been interpreted differently based up to this stage; we have concentrated on getting information from others at your work site. However it is also likely that you will need to provide information to your team. There is a wide range of information that you may be asked to communicate.

Communication is a process to ensure that others understand exactly what your point of view is. It is a two way process that involves a message being sent by you and that message being received by another party. This should be straight forward, but between on the age of the individual or because they do not understand English well.

There are a range of solutions to this problem. They include:

- Using inclusive language: Don't use sexist or racist language (or language that may be interpreted as being that way) as it can often cause the individual to interpret your message negatively.
- Avoid jargon: Using complicated language can make a message extremely difficult to understand for those who may have trouble communicating. Ensure that you present your message as simply as you can.
- Get feedback: Feedback is crucial. Ask questions such as "Do you understand?", as this can allow you to ensure that the receiver has correctly received your message, and thus ensure that your communication has been successful.

### **3.2 The Communication Processes and Methods**

All Workplaces should have a Communication process. Having this process, you can ensure that all your staff and fellow workers know how to communicate and ensure that communication takes place when it should. By having communication processes in place you can be sure that your staff and fellow workers at your site /venue know how they can raise any issues they may have with their work and you know that problems can be resolved quickly and is recorded for the future.

It is important that you use a range of communication methods at your site/venue. You may use email, written communication methods or oral communication. Let's now look at how you can select an appropriate communication method.

There is a real problem with written communication methods. When we talk to someone face-to-face, we know just who we are talking to. We automatically adjust our speech to be sure we are communicating our message. This is almost done instinctively. However many writers don't make those same adjustments when they write to different audiences, usually because they don't take the time to think about who will be reading what they write. To be sure that we communicate clearly in writing, we need to adjust our message - how we say and what information we include by recognizing that different readers can best understand different messages.



## Know What to Say & How to Say It!

Studies conducted over the last 30 years have shown that communication between people is more dependent on the tone of voice (38%) used and by your physiology (55%), i.e. how you look first before they listen to what you say (7%).

The tone of your voice and your body language are as important as the words you use. By reading the tone of your voice and body language, people will determine if the words you are using are sincere. All the components of your message (words / tone / body language) must match or the message may be lost.

Security is a people business and having the ability to develop and maintain "Rapport" with a large number of people from any background will allow you to either get voluntary compliance, influence or redirect others to do what you want. Building rapport with people provides the opportunity to stop any problem(s) before they occur. Your attitude and behaviour will determine the outcome of the conversation.

## Key Elements Of Communication

Developing and maintaining rapport requires you to constantly respond to situations with others and respond to their questions, their needs and maintain control.

**Listening to people** - to what they say and how they say it. This is the ability to put what you say in the most appropriate, assertive and powerful words possible. The aim is to put the precise meaning of what you want into your listeners mind. That means doing whatever is necessary to avoid any misunderstandings that comes with normal distractions and influences.

Key elements of communication:

### **Content**

You have to know what you're talking about. Make sure you have decided precisely what it is you want and need to communicate.

### **Message**

Put your message into a context that the other person(s) will understand. The example and the words you use should paint a picture for the person(s) and it has to reflect your meaning.

### **Delivering**

Once you know your message that supports your meaning, the next step is to deliver it to the person(s), consider the use of your presence, body language and voice.

### **Understanding**

Understanding is the responsibility of the person(s), and how well they understand the message is directly related to how effective the content, message and delivering is done by you. Remember that there are always a lot of distractions in any situation; you need to use all the resources that you have available to hook the person(s) attention and redirect them to get voluntary compliance and the outcome you want.

## Self Control

To be able to effectively control someone else, you must be able to control yourself and your own emotions. The more upset the other person is, the more in control you must be. It is impossible to communicate if you have difficulty maintaining your composure under pressure. Therefore; never take anything that is said to you personally. Develop a **“thick skin”**.

Emotions and ego create aggressive behaviour, and those involved are looking for one of more of the following:

- Significance – to be noticed and be right
- Control – to get others to do what they want
- Connection – to have others notice and appreciate them
- Variety – they are bored and want excitement, something different
- Growth – build themselves up by taking shortcuts, learn from others
- Contribution – be seen as a valued contributor to a peer group

Always be on your guard to not become part of the problem, and be drawn in by others attempting to play on your emotions. Being aware of what they are looking for emotionally is part of being able to effectively communicate and de-escalate a potential confrontation.

### 3.3 Recognizing your Audience?

Your audience is a group who receives particular information. You should anticipate the needs or expectations of your audience in order to convey information or argue for a particular claim. Your audience might be your manager, other co-workers, your clients or customers. You need to know your audience before you start communicating.

In order to determine your audience, there are a number of factors that you should take into consideration:

- Who they are (age, sex, education, economic status, political/social/religious beliefs);
- What level of Information they have about the subject (novice, general reader, specialist or expert); and
- The context in which they will be taking in the information (in a newspaper, as a letter, in a report, during a speech, on the Internet, and so forth).

Your audience's goal is to gain information from your communication. Think about writing a newsletter or a resume: audiences read these for information, only how they use the information varies. You will need to:

- Determine who the audience is.
- Think about what is an appropriate format to use.
- Determine how your topic will fit the format.

### 3.4 Audience Analysis

Analysing your audience is essential. You need to investigate exactly who will read or hear what you are going to communicate. **NOTE:** Analyse your audience BEFORE you start writing, so you'll know what format, style, vocabulary, or level of information is expected.

Once you know your audience, you are ready to begin. Knowing your audience enables you to select or reject details for that audience. Knowing the knowledge level of your audience will help you determine how to write, how much information to include, how to speak your message, how long to make your text, how subjective or objective you should be, and how formal or informal your text should be.

If you only communicate with people when there are problems, you'll only be aware of the 'negatives' and not the overall picture. Your staff, in turn, will learn that they only get to talk to you when there's a problem.

## 4. KEY POINTS

Information is a crucial factor in any business decision. When providing any form of information for use in making management decisions, it is important to determine the information requirements.

The key information requirements that you should look for when gathering your information are:

- Information purpose;
- Scope;
- Form;
- Presentation; and
- Resources available.

Information for management decision making can come from two different sources:

- External information sources come from outside of the immediate organisation; and
- Internal information sources come from within the organisation.

### 4.1 Develop Trust and Confidence

All internal and external contacts are treated with integrity, respect and empathy. The organisation's social, ethical and business standards are used to develop and maintain effective relationships. Trust and confidence of colleagues, customers and suppliers is gained and maintained through competent performance.

Interpersonal styles and methods are adjusted to meet the organisation's social and cultural environment.

### 4.2 Developing Trust with Your Staff and Fellow Workers

The way that you and your co-workers behave with one another is crucial to the way that your relationships develop. Good behavior among co-workers and supervisors will result in positive and effective relationships. Positive relationships will cause workers to be more successful in meeting the overall objectives of the organization.

### 4.3 The Right Way of Treating People

Mutual trust is a shared belief that you can depend on each other to achieve a common purpose.

People sense how you feel about them. If you want to change their attitudes toward you, change the negative attitudes you have toward them. Building relationships requires the building of trust. Trust is the expectancy of people that they can rely on your word. It is built through integrity and consistency in relationships.

### 4.4 Getting Your Team to Cooperate and Follow Your Lead

- Do not just tell people to do something, let them know why you want it done. This can help in ensuring the task is properly understood.
- Don't get impatient. This often leads to anger and frustration.
- Don't assume you are always right.
- Give the benefit of the doubt.
- Show sensitivity — it is often things like this that add greatly to a positive working relationship.
- Ensure you always have accurate information.
- Show integrity.
- Value the ideas of others.

### 4.5 Motivation

We have discussed how you can go about ensuring that you have a level of trust among your staff and fellow workers. However, a big part of ensuring that they trust you and are willing to work with you is ensuring that they are properly motivated. In this section, we will examine motivation in detail — and look at how this can be used to develop a positive relationship.

Organisational objectives are not achieved by people simply turning up to work. You must challenge, inspire and maintain staff and fellow workers behavior to achieve goals. This can be achieved through a balance of the use of rewards, punishment and authority. This process is known as motivation.

#### **Motivators are**

- Achievement at work
- Recognition of work done
- The work itself (is it interesting or boring?)
- Responsibility for what one does
- Advancement
- Growth

## 5. SOCIAL, ETHICAL AND BUSINESS STANDARDS

When operating within a professional, ethical or social framework in the workplace it is important that you identify and work within the boundaries of your workplace. This is important as the boundaries set rules and procedures that will govern the way in which you operate. If you step outside these boundaries your workplace relationship may become strained and you may find yourself being less efficient because of it.

Boundaries are particularly important to being a professional supervisor, as we mentioned in a previous section professionalism refers to the ability to manage your relationships within a workplace, and thus respecting boundaries and being able to work within them is an important component of professionalism.

Before we examine the boundaries that may constrain any given managerial or business relationship, let's further examine whom you as a supervisor may build workplace relationships with. While you may consider the supervisors typical relationship to be with those they supervise, it can be much deeper than this, and include various other people both within your organisation and external to it whom visit your workplace at various times.

- **Agreed objectives:** Within your working life, there will be a number of objectives that either you have set with other individuals, or objectives that you have agreed to meet. These objectives become boundaries in that they may constrain your work and the way you do things within your job. Objectives constrain in that they may restrict you in doing one thing, if an objective says that something else is more important. Therefore, you should always consider the objectives you have agreed to when working with individuals, even if those objectives are not related directly to the individual you are dealing with, they may constrain any relationship you may wish to build with them.
- **Confidentiality:** This is a boundary in that it will restrain what you may and may not reveal to certain individuals. This may in some cases be a problem in that it may mean that you are not able to give 'the big picture' but there are privacy rights and laws that must be adhered to. This boundary is the mark of a professional supervisor. If you are able to correctly ascertain what should and should not be confidential you will be able to build trust among your staff and those you have a relationship with within the organisation.
- **Roles and responsibilities:** Your role and responsibilities (as defined within your job description) are also an important aspect to consider. These responsibilities define what your job involves. It is therefore extremely important that you abide by these roles and responsibilities rather than taking on roles that are beyond the normal scope of your position.
- **Possible conflicts of interest:** We are going to discuss conflicts of interest in greater detail later in this section, however, it is important to remember that conflicts of interest constrain your behavior, as if you believe that you have a conflict of interest it is important that you let the other parties subject to the given relationship know this fact, and then you are able to decide how to handle the situation if it is known by all parties.
- **Procedures** relating to complaints, discipline, and grievance: Your organisation may have procedures that govern how complaints, discipline and grievances are to be handled. Like laws these are boundaries that should not be crossed, and if at any time such an event occurs you must ensure that you abide by the procedures.



## Have Faith!

This may seem like an odd philosophy — but research has found that if you have faith in your own abilities — you are more likely to achieve your goals. The same can be said of having faith in your co-workers. If you believe they can achieve a goal — they are more likely to do so. They can sense your confidence in them and this is likely to cause them to be more confident in their ability to perform well. Being confident and positive is an excellent way to build trust and confidence in your staff.

Think about this hypothetical situation. You are working for a manager — he does not believe that your work unit will achieve the goals that he sets for you; he is negative and acts in a distant manner. Are you likely to want to perform well for this manager? (Probably not.) It comes back to motivation. The tone that you set as a manager or supervisor can have a significant effect on the way that your staff acts beneath you. If you trust your staff — they will feel that they have the right abilities to succeed in their goals.

Having faith in yourself also means being willing to trust yourself to take risks where necessary. You have to be willing to get behind a project completely — backing yourself in, and being accountable (or holding others accountable) for failure. If you are willing to do this, your staff will feel that they can be accountable as well. However, if you simply place any blame directly on your staff — you can imagine the results. Trust is a partnership — not something that is simply one way.

People want to feel valued in the workplace, and by trusting in them, you can help them improve their performance at work, and contribute more to the organisation. Ask yourself whether you trust people to do their best, or whether they have to prove themselves before you believe in their abilities.

## 5.1 Personality

Everyone in a workplace is different. There is a mix of different personality types in any workplace. I am sure that you can think of many different examples of personalities that exist in your workplace. You may have some people who are loud, some who are shy, some who are confident in what they do, some who like conflict, some who will avoid it at all costs. The range of different personalities that exist in a typical workplace is extraordinary. As a supervisor you need to think carefully about this mix and look for ways to minimise any problems that may emerge from treating everyone the same way.

There are four major personality descriptions:

- **Extrovert/introvert** - are you outgoing, like variety and action? Do you act quickly — or are you shy, quiet and always think before action is taken?
- **Sensors/intuition** - are you well organised and good at getting things started? Or are you better at using your intuition and gut instinct to make decisions?
- **Thinking/feeling** - do you think things through before making a decision, using logic to come to your decisions? Or are you better at understanding what others think and use feelings as the basis of your decision making?
- **Judgment/perception** - are you better when you have a plan to follow? Are you good at organisation and coordination? Or are you better when you have flexibility and you like to be able to change direction while undertaking a task?

## 5.2 Rapport - the Key to Building Trust

Rapport is achieved when two people can see the other person's viewpoint, appreciate each other's feelings, and be on the same wavelength. We all have different maps of reality - ways in which we perceive the world - and 'we can only really trust people who look at the world the way we do. If we feel understood, we give people our trust and open up to them more easily.' Taking the other person's position will help you achieve rapport and build trust.

### Build Rapport with People

Simply stated rapport is when **people are like each other, they like each other.** Of course the opposite is true, i.e. when people are not like each other, they don't like each other.

Rapport is a process of responsiveness, and understanding and using this information gives you a huge advantage on the job. There are 6 simple steps to getting rapport with someone, that can be done very quickly.

### THE 6 STEPS TO RAPPORT

Obtaining rapport with someone else is simpler than you may think. It can be done in 6 easy steps, as follows:

➤ **Match the Modality**

The catch cry here is STOP, LOOK AND LISTEN as this will tell you everything you need to know. Become aware of what type of modality the person is in, i.e. Visual, Auditory, Kinesthetic, and Auditory Digital.

Stop and be aware, Look and see how they stand, sit, breathe, etc., Listen to the words they use, this tells you a lot about the modality they are in. Use the same words and expressions they are using back to them. (refer to Appendix-Predicates)

➤ **Physical Mirroring**

Match the persons physiology, copy their postures, facial expressions, hand movements and gestures and even their eye blinking. This will cause their body to say unconsciously, "Hey, they are like me!..And I like them.

➤ **Match their Voice**

Listen to the tone, tempo and quality of their voice and how loud they talk. Match these and even throw in some of their key words a few times in a sentence back to them. Once you have gotten in "sync" with them, lower your volume, slow your speech and soften your tone. This can have to affect of calming the person.

➤ **Match their Breathing**

Watch the persons breathing, when they breathe in and out and match you breathing to theirs. A good hint is that most people breathe out when they are talking. Again, once you have gotten in "sync" with them, slow your breathing down. This will enable your heart rate to slow and therefore increase your ability to analyse and deal with the situation more effectively.

➤ **Match the Sizes of Information**

Listen to what the person is saying and notice whether they are big picture people or not. Big picture people get bored with details quickly. On the other hand someone who is into details will find that there is not enough information to deal with, if you only give them the big picture. So make sure that you are matching the content chunks that the person likes.

➤ **Match their Experiences**

When people first meet it is pretty normal for you to talk about yourself and your experiences. This is where you look to match common experiences, common interests, backgrounds, and even values and beliefs. It is not uncommon to find you have common associations. Stop and listen to what they are saying about themselves and match their experiences, backgrounds and interests. The most common one for example is football, golf, baseball, soccer, etc. from sports.

Following these 6 simple steps will build rapport with anybody in 60 seconds.

When speaking with people on the job use the above steps and remember to personalise the initial conversation by using an icebreaker. Greet people, introduce yourself and be positive which will hopefully start the dialogue off on a friendly level.

## **6.0 DEVELOP AND MAINTAIN NETWORKS AND RELATIONSHIPS**

Networks are used to identify and build relationships.

Networks and other work relationships are used to provide identifiable benefits for the team and organisation.

In the traditional corporate culture that existed until the 1980s, a manager would give an order and those beneath them were expected to follow it — no questions asked. Today, companies are constantly reorganizing. Clear cut lines of authority have faded, and can be difficult to find!

This has meant that the actions and attitudes of managers, subordinates, colleagues, customers, suppliers, competitors and government are more important than ever to the success of your management efforts because each individual plays a key role in the organisation. How well you do your job, your pay raises and promotions all depend on your ability to network with all of these different people.

### **6.1 What is Networking?**

To build a network and help others build networks managers must learn to use a number of key principles. Firstly, relationships are a basic human need. Helping other people fulfil their need for relationships helps you, too.

People also tend to do what is expected of them. If you expect the best of people, they will usually meet that standard. If you expect less, you will get less. Effective networking means building strong relationships that benefit both sides. Try to convey expectations of high performance by encouraging input in the goal-setting process. Not to set basic strategy, but to decide how to achieve company goals. Invest time and effort in employee training and give employees challenging assignments. You should also supply frequent feedback in as positive a way as possible, using past performance as a guide for future improvement. The result of these efforts will be enthusiasm on the part of members of your group, which invariably creates a strong foundation for lasting, mutually beneficial relationships.

People tend to associate with others similar to themselves. This tendency has both positive and negative consequences. By bringing together people with similar interests, you can build strong creative teams. This helps you, the manager, to earn the respect and cooperation of a wider spectrum of specialists. However, when people associate exclusively with others similar to themselves, they lose touch with the real world.

It is also important to be aware that **repeated interaction encourages cooperation**. People who repeatedly come into contact with each other tend to develop positive relationships, especially when they share a common goal. It's also a small world. You are surprisingly close to critical information, resources and people.

## **Networking Direction**

In addition to the principles listed above, effective networking depends on managing your personal relationships in *three directions*:

- *Up*, with your bosses
- *Down*, with your subordinates
- *Laterally*, with peers inside and outside the company.

In all three directions, effective networking means that you identify key relationships, build mutual understanding and act in ways that benefit both sides.

## **What Can You Do Now?**

Try this activity. Make a list of critical contacts - those relationships that are particularly important for your effectiveness. Identify critical gaps - personal relationships you need but don't yet have. For two weeks, keep a log of all your interactions - who, what, where, why. Put each person on a card and arrange the cards in order of the importance of the relationship. This will tell you how you should be dividing your time. Then work to improve your critical relationships. Think of what the other people need and find ways you can help them do their jobs better. Fill the gaps. Get together with new people who are important to you... have yourself introduced or introduce yourself, invite others to meet over coffee.

## **6.2 Rules for Networking**

- **Do a personal network inventory:** Map out the relationships that you already have within your organisation. Go through your calendar keeping track of the people you work with, talk to or bump into over the course of one week. Pay attention to the type of relationships you have with those on your list. Some will be *task-related relationships* with co-workers. Some will be *advice relationships* with people to whom you give advice or those from whom you receive advice. Some will involve *informal socializing relationships*. The strongest relationships the ones that should be at the heart of your network will involve a mix of all three types.
- **Fill your critical gaps:** Once you know where the gaps are in your network, start filling them in. Be authentic and genuine as you develop relationships. If you're too obvious, people will see right through you and it will backfire. The best way to initiate a relationship is to let it happen naturally.

- **Find common third parties:** Remember the small world principle. If you don't know someone directly, you undoubtedly know someone who does. They can provide an introduction. If nothing else works, start a relationship with someone by finding some reason to talk to him/her. Some way to contribute to his career. Is there information he needs? Do you have a candidate for a job he is trying to fill, or a team he is trying to launch?
- **Build a large network:** A large network means you know many people - but most will be within your own specialty. A diverse network includes people from different departments, groups, divisions and subsidiaries. A network might include close relationships with your suppliers and customers.
- **Know your boss:** The most immediate and direct relationship will always be with your boss. Generally, this will be the first link in your network. Use it to practice your networking skills and to learn other skills such as working successfully with people in authority.
- **Build around the core:** All companies have a core business that is at the very heart of its enterprise. You must identify the core of your business. If you're not in the centre, build relationships with the people who are. Come up with ideas that could help them.
- **Remember your peers:** Peers make powerful friends but dangerous enemies. Peer relationships are complex because they involve a mix of both cooperation and competition. A peer today may be your boss tomorrow or vice versa. Peer relationships are more important than ever, given the rise of such new corporate styles as multifunctional teams, 'network' organisations and horizontal corporations.
- **Build a balanced portfolio of strong and weak ties:** Strong ties are long-term, durable relationships that involve a lot of interaction. You should have strong ties to your boss, some peers in your area and some peers in departments. Strong ties are stable and dependable. They provide resources, friendships and social support. But just a few strong ties aren't enough. A boss or peer can be promoted or fired. Then you're left without a crucial relationship. You also need less-formal, less-intense 'weak' ties as bridges to other parts of the organisation and other social circles within the company.
- **Build relationships for the long run:** That means being responsible and ethical in your relationships. It means always remembering the secrets for building strong relationships - mutual understanding and mutual benefits. You must focus less on what you need and want and more on what the *other person* needs and wants. Try to figure out how you can contribute to the other person's life. In the process, you'll be helped as well.
- **Become a critical relationship yourself:** You can do things that will make other people want you as a member of their networks. Become a *Bridger* - the one who is the critical link between groups. This person knows the business and inner workings of both groups. Peers often turn to him or her, making him an extremely valuable player. Join committees that bring together disparate parts of the business.
- **Don't make the worst networking mistake:** Forgetting to network at all because you think you don't have to do it. You must network inside your company to tap into the informal grapevine and be in the know about as much as possible.

- **Finally, you need allies who can spread the word about you:** It's no good working hard and smart if nobody knows about it. You need those relationships so people will know that you are doing a really great job.

## 7.0 Manage Difficulties into Positive Outcomes

Difficulties are identified and analysed, and action is taken to rectify the situation within the requirements of the organisation and relevant legislation.

- colleagues are guided and supported to resolve work difficulties.
- workplace outcomes are regularly reviewed and improved in consultation with relevant personnel.
- poor work performance is managed within the organisation's processes.
- conflict is managed constructively within the organisation's processes.

Performance appraisal is the process of assessing how well your staff is doing their jobs. Most of your staff (as well as managers) dislike the whole process of having performance appraised. Unfortunately this attitude is very common and means that the process of performance appraisal can be viewed as being unsatisfactory.

Performance appraisals are used for many important purposes, the performance appraisal is used to make compensation, training and promotion decisions.

### 7.1 Sharing Performance Feedback

After gathering accurate performance data, the next step is to share performance feedback with your STAFF. Unfortunately, even when performance appraisal ratings are accurate, the appraisal process often breaks down at the feedback stage. Staff become defensive and dislike hearing any negative assessments of their work, no matter how small. Managers become defensive too, and dislike giving negative feedback as much as employees dislike receiving it.

So what can be done to overcome difficulties in performance appraisal feedback since performance appraisal ratings have traditionally been the judgment of just one person, the boss, one approach has been to use **360-degree feedback**. In this approach, feedback comes from four sources: the boss, subordinates, peers and the employees themselves. The data which is obtained anonymously (except for the manager) is then compiled into a feedback report comparing the employee's self performance ratings to those of the manager, coworkers and subordinates.

### 7.2 Conflict Management

In the course of a week, we are all involved in numerous situations that need to be dealt with through negotiation; this occurs at work, at home, and at recreation. A conflict or negotiation situation is one in which there is a conflict of interests or what one wants isn't necessarily what the other wants and where both sides prefer to search for solutions, rather than giving in or breaking-off contact.

Few of us enjoy dealing with conflicts - either with bosses, peers, subordinates, friends, or strangers. This is particularly true when the conflict becomes hostile and when strong feelings become involved. Resolving conflict can be mentally exhausting and emotionally draining.

But it is important to realise that conflict that requires resolution is neither good nor bad. There can be positive and negative outcomes. It can be destructive but can also play a productive role for you personally and for your relationships-both personal and professional. The important point is to manage the conflict, not to suppress conflict and not to let conflict escalate out of control. Many of us seek to avoid conflict when it arises but there are many times when we should use conflict as a critical aspect of creativity and motivation.

You will be constantly negotiating and resolving conflict throughout all of your professional and personal life. Given that organisations are becoming less hierarchical, less based on positional authority, less based on clear boundaries of responsibility and authority; it is likely that conflict will be an even greater component of organisations in the future. Studies have shown that negotiation skills are among the most significant determinants of career success. While negotiation is an art form to some degree, there are specific techniques that anyone can learn. Understanding these techniques and developing your skills will be a critical component of your career success and personal success.

### **7.2.1 Listen & Learn**

When dealing with someone in a difficult situation, **LISTEN TO THEM**; be interested in them, don't just wait until they are quiet so you can have your say. To show people you are listening to them, use active listening skills such as: Eye contact / Nod your head / Ask Questions / Give feedback.

In many conflict situations, the words that people use and the anger that they show is not directly related to the actual situation they face at that moment. The key here is to separate intention from behaviour. People's behaviour can actually be influenced by other factors such as the emotion that they feel at the time therefore ignore people's abuse and focus on a safe solution

### **7.2.2 Show your Empathy and Understanding**

If you can acknowledge a person's situation and point of view you may then be able to gain better insight into their situation. Showing appreciation does not mean you necessarily agree with the person, it does mean however that you are trying to build a rapport which will help to safely solve the situation. If you can see their point of view you will have a better insight as to why they may be reacting that way and you may be able to find some common ground to resolve the situation.

### **7.2.3 Stay Focused on a Safe Solution**

In a difficult situation it is easy to lose focus on the solution and become involved in arguments, particularly if people are rude and abusive towards the Security Officer. Never allow people to get under your guard and draw you into unnecessary arguments or dialogue. People are allowed to have a poor attitude. You need to stay focused on the outcome.

### 7.2.4 Guiding people with Positive and Negative Alternatives

When speaking with upset people who are making decisions based on emotions such as anger or frustration, it is important to calm the person down and make them see reason. This can be done by pointing out the positive and negative alternatives that are potential outcomes in the situation.

For example, explaining to a night club patron that if they leave the premises quietly they may be able to go to an alternative venue is a positive alternative. The opposite or negative alternative is that they may be removed from the premises and handed to police which is something everyone would like to avoid.

A good approach that considers all the above points is based on the acronym **HEARS**, which has 5 basic tools to help you with developing greater insight and agreement, i.e.:

- **Hear**  
When you hear what's said; make sure you look like you're hearing them.
- **Empathize**  
This means be in their shoes, it doesn't mean agreeing with them.
- **Ask**  
Consider the 5 types of questions to ask: Fact finding, general, opinion seeking, direct, and leading.
- **Repeat**  
Repeat back to them the complaint in your own words, and leave out any tone or emotions that can be misinterpreted.
- **Summarise**  
Put it all together, it must be brief, concise and above all inarguable; so that you get the voluntary compliance to do what you want.

### 7.3 Separate People from the Problem

It is critical to address problems, not personalities and avoid the tendency to attack your opponent personally; if the other person feels threatened, he defends his self-esteem and makes attacking the real problem more difficult. Try to maintain a rational, goal-oriented frame of mind: if your opponent attacks you personally, don't let him hook you into an emotional reaction; let the other blow off steam without taking it personally; try to understand the problem behind the aggression.

Make sure you send signals that you know the conflict is about the issues at hand and not personal. This will help to prevent the other side from getting defensive. Even in what appears to be win-lose situations, there are often win-win solutions; look for an integrative solution. This includes trying to create additional alternatives such as low cost concessions that might have high value to the other person; frame options in terms of the other person's interests; look for alternatives that allow your opponent to declare victory.

You should always seek to find out where you or your employees are having difficulties with the work they are assigned.

- Ensure that you work to support your colleagues in resolving all the work difficulties they may be having.



- Review your workplace outcomes on a regular basis and work to ensure that you are improving your performance.
- Performance appraisals are an excellent way of reviewing your performance and the performance of your staff.
- Conflict must always be dealt with quickly and constructively.



## **Legislation:**

When working in a business it is important to understand what legislation could affect your business. In the security industry it is important to be aware and understand the following legislation:

### **Commonwealth Powers (Industrial Relations) Act 1996**

The purpose of this Act is to refer to the Parliament of the Commonwealth certain matters relating to industrial relations within the state of Victoria — including matters of conciliation and arbitration for the prevention and settlement of industrial disputes, minimum terms and conditions of employment for employees as well as matters relating to termination of employment and freedom of association.

[http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/abcf0bcb80d47471ca256e5b00213b47/\\$FILE/96-059a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/abcf0bcb80d47471ca256e5b00213b47/$FILE/96-059a.pdf)

### **National Employment Standards**

From 1 January 2010, employers and employees in the national workplace system are covered by the National Employment Standards (NES).

Under the NES, employees have certain minimum conditions. Together with pay rates in modern awards (which also generally take effect from 1 January 2010) and minimum wage orders, the NES makes up the safety net that cannot be altered to the disadvantage of the employee.

The NES include minimum entitlements to leave, public holidays, notice of termination and redundancy pay. In addition to the NES, generally an employee's terms and conditions of employment can come from a modern award, agreement, pre-modern award and state or federal laws.

For industry specific to this topic individuals should visit the following website from where much of this topics information has been sourced

<http://www.fairwork.gov.au>

## **Fair Work**

All people working in Australia under relevant Commonwealth workplace laws are entitled to general workplace protections.

The *Fair Work Act 2009* provides protections of certain rights, including:

- workplace rights
- the right to engage in industrial activities
- the right to be free from unlawful discrimination
- the right to be free from undue influence or pressure in negotiating individual arrangements.

These rights are protected from certain unlawful actions, including (but not limited to):

- adverse action
- coercion
- misrepresentations
- undue influence or pressure in relation to:
  - individual flexibility arrangements under modern awards and enterprise agreements
  - guarantees of annual earnings
  - deductions from wages.

The Fair Work Ombudsman is an independent statutory office created by the *Fair Work Act 2009*. The Fair Work Ombudsman seeks to promote harmonious, productive and cooperative workplace relations and ensure compliance with Commonwealth workplace laws

For industry specific information individuals should visit the Fair Work Australia website at <http://www.fwa.gov.au>.

## **Equal Opportunity Act 2010 (Vic)**

Equal opportunity means that every person can participate freely and equally in areas of public life such as in the workplace, in education, or in accessing goods and services. Discrimination is treating, or proposing to treat, someone unfavourably or bullying them because of a personal characteristic protected by law. Equal opportunity law aims to promote everyone's right to equal opportunities; eliminate, as far as possible, discrimination and sexual harassment; and provide redress for people whose rights have been breached.

All employees, students, parents, school council members, contractors and volunteers are required to act in accordance with equal opportunity, anti-discrimination, harassment and vilification legislation. We all have a responsibility to ensure department workplaces including schools are respectful, safe and inclusive and free of discrimination, harassment, vilification and otherwise unlawful and unacceptable behaviours.

Under the Equal Opportunity Act 2010, it is still against the law to discriminate against a person on the basis of:

- age
- breastfeeding
- carer status
- disability
- employment activity
- gender identity
- industrial activity
- lawful sexual activity
- marital status
- parental status
- physical features
- political belief or activity
- pregnancy
- race (including colour, nationality, ethnicity and ethnic origin)
- religious belief or activity
- sex
- sexual orientation
- personal association with someone who has, or is assumed to have, any of these personal characteristics.
- It is also against the law to sexually harass someone.

[http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/7CAFB78A7EE91429CA25771200123812/\\$FILE/10-016a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/7CAFB78A7EE91429CA25771200123812/$FILE/10-016a.pdf)



**Victorian Equal Opportunity  
& Human Rights Commission**

## **Discrimination**

Discrimination is unfavourable treatment of a person in an area of public life (for example, at work) due to one of their personal characteristics.

The *Equal Opportunity Act 2010* details two types of discrimination:

- direct discrimination
- indirect discrimination.

**Direct discrimination** is when a person treats, or proposes to treat, a person with a protected personal characteristic unfavourably, because of that personal characteristic. Direct discrimination often happens because people make unfair assumptions about what people with certain personal characteristics can and cannot do.

**Indirect discrimination** is also against the law and refers to situations where treating everyone the same is unfair. This occurs when an unreasonable requirement, condition or practice that purports to treat everyone the same

ends up either actually, or potentially, disadvantaging someone with a personal characteristic protected by the law.

Discrimination can also become systemic when entrenched, structural and sometimes institutional patterns of behaviour or actions affect a range of people. These behaviours and actions are often part of organisational culture and are reinforced by policies or procedures. If your organisation receives a lot of complaints about the same or similar issues, it might be a result of systemic discrimination.

For industry specific to this topic individuals should visit the following website from where much of this topics information has been sourced [humanrightscommission.vic.gov.au](http://humanrightscommission.vic.gov.au).

### **Current OHS legislation, codes, standards, policies and procedures**

Victoria operates under the **Occupational Health and Safety Act 2004** and the supporting **Occupational Health and Safety Regulations 2007** for all matters relating to workplace health and safety.

From 1 January, 2012 the Commonwealth, state and territory governments introduced a new harmonised work health and safety law which aims to ensure work health and safety laws provide regulators with functions including:

- Providing advice and information to duty holders and the community
- Monitoring and enforcing compliance with work health and safety laws
- Fostering co-operative, consultative relationships between duty holders and the persons and representatives they owe a duty to
- Sharing information with other regulators; and
- Conducting and defending proceedings under work health and safety laws.

Until now, the Commonwealth, State and Territory Governments were responsible for making and enforcing their own health and safety laws. Even though, these jurisdictions are similar, the variations led to confusion. By developing the Model Work Health and Safety laws, Safe Work Australia, working with the Commonwealth, State and Territories harmonised the act, regulations and codes of practice.

It is important to note that not every state and territory were able to introduce the legislation on 1 January 2012. Victoria, South Australia, Tasmania and Western Australia will continue to operate under state specific legislation until they are able to implement the nationally harmonised legislation.

For further information on implementation schedules and the **Work Health and Safety Act 2011** visit [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).



### **Most offences under the Act are punishable by**

- 1800 penalty units for a natural person;
- 9000 penalty units for a body corporate;
- A term of imprisonment of 5 years.

All fines take the form of a penalty Unit, which are subject to change every financial year. Currently for the 2013 – 2014 period (1/7/13 – 30/6/14) that amount is \$144.36

<http://www.ocpc.vic.gov.au/CA2572B3001B894B/pages/faqs-penalty-and-fee-units>

### **Section 20 Duties of employers to employees**

- An employer must, so far as is reasonably practicable, provide and maintain for employees of the employer a working environment that is safe and without risks to health.

### **Section 23 Duties of employers to other persons**

- An employer must ensure, so far as is reasonably practicable, that persons other than employees of the employer are not exposed to risks to their health or safety arising from the conduct of the undertaking of the employer.

### **Section 25 Duties of employees**

While at work, an employee must

- Take reasonable care for own health and safety; and
- Take reasonable care for the health and safety of persons who may be affected by the employee's acts or omissions at a workplace;
- Comply with instruction and policies of employer and the Act or Regulations.
- While at work, an employee must not intentionally or recklessly interfere with or misuse anything provided at the workplace.
- Instructions, policies and information must be available to employees.

## Section 26 Duties of persons who manage or control workplaces

- A person who (owner or otherwise) has the management or control of a workplace must ensure so far as is reasonably practicable that the workplace and the means of entering and leaving it are safe and without risks to health.

## Section 32 Duty not to recklessly endanger persons at workplaces

- A person who, without lawful excuse, recklessly
- engages in conduct that places or may place
- another person who is at a workplace in danger
- of serious injury is guilty of an indictable offence.



The regulators for each state/territory, the contact details are:

Work Health and Safety	Websites
<b>Commonwealth contacts</b>	<p><b>www.safeworkaustralia.gov.au</b>  <b>Comcare</b>                      Website: <a href="http://www.comcare.gov.au">www.comcare.gov.au</a>                      Telephone: 1300 366 979  <b>Federal Safety Commissioner</b>                      Website: <a href="http://www.fsc.gov.au">www.fsc.gov.au</a>                      Telephone: 1800 652 500</p>
<b>National Contacts</b>	<p><b>Australian Chamber of Commerce and Industry (ACCI)</b>                      Website: <a href="http://www.acci.asn.au">www.acci.asn.au</a>                      Telephone: (02) 6273 2311 (Canberra) or (03) 9668 9950 (Melbourne)  <b>Licensing Line News</b>                      Website: <a href="http://www.licensinglinenews.com.au">www.licensinglinenews.com.au</a>                      Telephone: (07) 3247 5505  <b>National Safety Council of Australia (NSCA)</b>                      Website: <a href="http://www.nasca.org.au">www.nasca.org.au</a>                      Telephone: 1800 655 510  <b>Safety Institute of Australia (SIA)</b>                      Website: <a href="http://www.sia.org.au">www.sia.org.au</a>                      Telephone: 1800 808 380 or (03) 8336 1993  <b>Standards Australia</b>                      Website: <a href="http://www.standards.org.au">www.standards.org.au</a>                      Email: <a href="mailto:mail@standards.org.au">mail@standards.org.au</a>                      Telephone: 1800 035 822</p>
<b>Australian Capital Territory</b>	<p><b>WorkSafe ACT</b>                      Website: <a href="http://www.worksafe.act.gov.au">www.worksafe.act.gov.au</a>                      Email: <a href="mailto:worksafe@act.gov.au">worksafe@act.gov.au</a>                      Telephone: (02) 6207 3000</p>
<b>New South Wales</b>	<p><b>WorkCover NSW</b>                      Website: <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a>                      Telephone: 13 10 50</p>
<b>Northern Territory</b>	<p><b>NT WorkSafe</b>                      Website: <a href="http://www.worksafe.nt.gov.au">www.worksafe.nt.gov.au</a>                      Email: <a href="mailto:ntworksafe@nt.gov.au">ntworksafe@nt.gov.au</a>                      Telephone: 1800 019 115</p>
<b>Queensland</b>	<p><b>Workplace Health and Safety Queensland, Office of Fair and Safe Work Queensland, Department of Justice and Attorney-General</b>                      Website: <a href="http://www.worksafe.qld.gov.au">www.worksafe.qld.gov.au</a>                      Telephone: 1300 369 915 or (07) 3225 2000  <b>WorkCover QLD</b>                      Website: <a href="http://www.workcoverqld.com.au">www.workcoverqld.com.au</a>                      Email: <a href="mailto:info@workcoverqld.com.au">info@workcoverqld.com.au</a>                      Telephone: 1300 362 128</p>
<b>South Australia</b>	<p><b>SafeWork SA</b>                      Website: <a href="http://www.safework.sa.gov.au">www.safework.sa.gov.au</a>                      Telephone: 1300 365 255  <b>WorkCover SA</b>                      Website: <a href="http://www.workcover.com">www.workcover.com</a>                      Telephone: 13 18 55</p>
<b>Tasmania</b>	<p><b>WorkCover Tasmania</b>                      Website: <a href="http://www.workcover.tas.gov.au">www.workcover.tas.gov.au</a>                      Email: <a href="mailto:wstinfo@justice.tas.gov.au">wstinfo@justice.tas.gov.au</a></p>



Work Health and Safety	Websites
	Telephone: 1300 366 322 (inside Tasmania) or (03) 6233 7657 (outside Tasmania)
<b>Victoria</b>	<b>WorkSafe Victoria</b> Website: <a href="http://www.worksafe.vic.gov.au">www.worksafe.vic.gov.au</a> Email: <a href="mailto:info@worksafe.vic.gov.au">info@worksafe.vic.gov.au</a> Telephone: 1800 136 or (03) 9641 1444 Other contacts: <b>Industrial Deaths Support and Advocacy Inc (IDSA)</b> Website: <a href="http://www.idsa.com.au">www.idsa.com.au</a> Telephone: (03) 9654 3353
<b>Western Australia</b>	<b>WorkSafe WA</b> Website: <a href="http://www.worksafe.wa.gov.au">www.worksafe.wa.gov.au</a> Telephone: 1300 307 877 Part of the WA Department of Commerce <b>WorkCover WA</b> Website: <a href="http://www.workcover.wa.gov.au">www.workcover.wa.gov.au</a> Telephone: 1300 794 744

**URL**

<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhoWeWorkWith/StateAndTerritoryAuthorities/Pages/StateAndTerritoryAuthorities.aspx>

**Address:**

**Please note** that these websites are continuously being updated. It would be in your best interest to check the URL Address for your State or Territory to ensure that your references are up to date. This is the first stage of implementation and frequent updates will occur as work health and safety implements more codes of practice for each state or territory.

As a worker within or endeavouring to enter the work health and safety field, it is essential that you are familiar with workplace health and safety legislation. It is also important that you familiarise with the legislation that impacts on the field in which you operate. For example, if you work in the mining industry, you should also take the time to ensure that you are familiar with the work health and safety legislation within your state/territory that will assist you in solving problems as per your position and duty of care.

It is also important that you are aware of legislation that can impact on the decisions that you make within the workplace.





## **Privacy Act 1988 (Privacy Act)**

The Privacy Act 1988 (Privacy Act) is an Australian law which regulates the handling of personal information about individuals. This includes the collection, use, storage and disclosure of personal information, and access to and correction of that information. The Privacy Act includes:

- Section 14
  - 13 Australian Privacy Principles that apply to the handling of personal information by most Australian and Norfolk Island Government agencies and some private sector organisations
- Section 19
  - Credit reporting provisions that apply to the handling of credit-related personal information that credit providers are permitted to disclose to credit reporting bodies for inclusion on individuals' credit reports.

[http://www.austlii.edu.au/au/legis/cth/consol\\_act/pa1988108/](http://www.austlii.edu.au/au/legis/cth/consol_act/pa1988108/)

# Australian Privacy Principles — a summary for APP entities

from 12 March 2014



Australian Government  
Office of the  
Australian Information Commissioner

## APP 1 — Open and transparent management of personal information

Ensures that APP entities manage personal information in an open and transparent way. This includes having a clearly expressed and up to date APP privacy policy.

## APP 2 — Anonymity and pseudonymity

Requires APP entities to give individuals the option of not identifying themselves, or of using a pseudonym. Limited exceptions apply.

## APP 3 — Collection of solicited personal information

Outlines when an APP entity can collect personal information that is solicited. It applies higher standards to the collection of 'sensitive' information.

## APP 4 — Dealing with unsolicited personal information

Outlines how APP entities must deal with unsolicited personal information.

## APP 5 — Notification of the collection of personal information

Outlines when and in what circumstances an APP entity that collects personal information must notify an individual of certain matters.

## APP 6 — Use or disclosure of personal information

Outlines the circumstances in which an APP entity may use or disclose personal information that it holds.

## APP 7 — Direct marketing

An organisation may only use or disclose personal information for direct marketing purposes if certain conditions are met.

## APP 8 — Cross-border disclosure of personal information

Outlines the steps an APP entity must take to protect personal information before it is disclosed overseas.

## APP 9 — Adoption, use or disclosure of government related identifiers

Outlines the limited circumstances when an organisation may adopt a government related identifier of an individual as its own identifier, or use or disclose a government related identifier of an individual.

## APP 10 — Quality of personal information

An APP entity must take reasonable steps to ensure the personal information it collects is accurate, up to date and complete. An entity must also take reasonable steps to ensure the personal information it uses or discloses is accurate, up to date, complete and relevant, having regard to the purpose of the use or disclosure.

## APP 11 — Security of personal information

An APP entity must take reasonable steps to protect personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure. An entity has obligations to destroy or de-identify personal information in certain circumstances.

## APP 12 — Access to personal information

Outlines an APP entity's obligations when an individual requests to be given access to personal information held about them by the entity. This includes a requirement to provide access unless a specific exception applies.

## APP 13 — Correction of personal information

Outlines an APP entity's obligations in relation to correcting the personal information it holds about individuals.

For private sector organisations,  
Australian Government  
and Norfolk Island agencies  
covered by the *Privacy Act 1988*

[www.oaic.gov.au](http://www.oaic.gov.au)

Source: <http://www.oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/>



# **Maintain workplace safety in the security industry**

## **CPPSEC3001A**

*This page is intentionally blank*

# CPPSEC3001A Maintain workplace safety in the security industry

## INTRODUCTION

This unit of competency specifies the outcomes required to maintain Occupational Health and Safety policies and procedures to ensure the safety of self and others in a security work environment. It requires the ability to monitor risk controls and support OHS awareness and training processes.

Maintain workplace safety in the security industry – CPPSEC3001A.		
Element	Performance Criteria	
1.	<b>Maintain OHS awareness within the workplace.</b>	
	1.1	Organisational <b>OHS policies and procedures</b> are explained to team members and complied with in accordance with <b>legislative requirements</b> .
	1.2	<b>Consultative arrangements</b> are monitored to encourage team members to contribute to the management of OHS in the workplace.
	1.3	<b>Communication skills</b> and <b>interpersonal techniques</b> are used to explain the importance of OHS awareness.
	1.4	Recommendations are provided to <b>relevant persons</b> to improve the effectiveness of OHS policies and procedures.
2.	<b>Monitor security risk control procedures</b>	
	2.1	Inadequacies in <b>procedures for controlling security risks</b> are identified and promptly reported to relevant persons.
	2.2	Inadequacies in resource allocation for implementing risk control measures are identified and reported to relevant persons.
	2.3	Security <b>hazards</b> are investigated to identify their cause in accordance with risk control procedures.
	2.4	Risk control procedures are applied and <b>records</b> maintained in accordance with legislative requirements and organisational procedures.

<b>3.</b>	<b>Support OHS training</b>	
	<b>3.1</b>	OHS learning requirements of self and team members are identified and advice on <b>training needs</b> provided to relevant persons
	<b>3.2</b>	<b>Opportunities</b> for participation of self and team members in OHS training are supported and organised in accordance with identified learning needs and organisational procedures
	<b>3.3</b>	Coaching and mentoring assistance is provided to team members to support <b>OHS participative arrangements</b> and skill development

## REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge and their level required for this unit

### Required skills

- Accurately receive and follow instructions and procedures
- Accurately record and report details of hazards, risks and incidents.
- Application of hierarchy of controls
- Calculate resources required to monitor OHS in the workplace
- Communication skills to convey and discuss OHS concerns and information
- Communication to engage with minority groups (e.g. young people, old people, and people with addiction or disability, Indigenous Australians, people from culturally and linguistically diverse (CALD) backgrounds.
- Data analysis to monitor incidents (accidents), and the work environment and to evaluate the effectiveness of risk control measures and OHS procedures.
- Mentoring to support OHS training in the workplace
- Numeracy skills to estimate time to complete tasks and resource requirements
- Problem solving
- Read, analyse and interpret OHS information including common OHS signs and symbols
- Risk assessment and hazard identification

### Required knowledge

- Common types and purpose of Personal Protective Equipment
- Communication channels and procedures for maintaining safety
- Designated workplace OHS personnel
- Duty of care requirements of self and others
- Effects of stress on self and team members
- General rights and responsibilities of employers and employees with regard to OHS and consultative arrangements
- Guidelines relating to use of force
- Licensing requirements in the security industry
- OHS hierarchy of control and procedures for its application
- Own responsibilities to comply with safe working practices
- Principles and application of risk management and controls
- Procedures for emergency , evacuation and first aid response
- Range and meanings of common OHS signs and symbols
- Range of potential security workplace hazards , risks and emergency situations
- Signs and indicators of work related stress

## Maintain a Safe Workplace and Environment

In maintaining a safe workplace and environment, it is generally understood that risks or hazards that affect workplace safety are physical items such as furniture, fittings, plant, machinery, appliances and equipment associated with such items.

As a stakeholder in the workplace, it is important to also understand that systems of work, stress and the potential for chemical and biological risk will also have an impact on how you will perform tasks or assignments within the security industry.

It is therefore important to have an understanding, not only of the Occupational Health and Safety Act, but also of the code of practice that accompany it. Understanding the act and the code of practice will assist you in participating in workplace safety and minimise the risks to you and your fellow workers.

In addition to the above, it is critical to have a firm understanding of your company's policies and procedures relating to Occupational Health and Safety, emergency procedures, evacuation, and incident investigation and reporting.

## 2. The Occupational Health and Safety Act 2004 (VIC)

### Definitions

In this Act, unless inconsistent with the context or subject-matter:

**“Authority”** means the Victorian WorkCover Authority established under Section 18 of the **Accident Compensation Act 1985**;

**“Designated work group”** means a group of employees established under Division 1 or 2 of Part 7

**“Employee”** means a person employed under a contract of employment or contract of training (see also sub-section (2));

**“Employer”** means a person who employs one or more other persons under contracts of employment or contracts of training;

**“Inspector”** means an inspector appointed under this Act;

**“Plant”** includes:

- a. Any machinery, equipment, appliance, implement and tool; and
- b. any component of any of those things; and
- c. anything fitted, connected or related to any of those things



**“Practicable”** means practicable having regard to:

- a. the severity of the hazard or risk in question;
- b. the state of knowledge about that hazard or risk and any ways of removing or mitigating that hazard or risk;
- c. the availability and suitability of ways to remove or mitigate that hazard or risk;
- d. the cost of removing or mitigating that hazard or risk.

**“Prescribed”** means prescribed by this Act or the regulations;

**“Self-employed person”** means a person, other than an employer, who works for gain or reward otherwise than under a contract of employment or training

**“Substance”** means any natural or artificial substance, whether in the form of a solid, liquid, gas or vapour;

**“Supply”** includes supply and resupply by way of sale, exchange, lease, hire or hire-purchase, whether as principal or agent;

**“Workplace”** means a place, whether or not in a building or structure, where employees or self-employed persons work

### 3. Section 6- Objects of the Act

The objects of this Act are:

- a. to secure the health, safety and welfare of employees and other persons at work; and
- b. to eliminate, at the source, risks to the health, safety or welfare of employees and other persons at work; and
- c. to ensure that the health and safety of members of the public is not placed at risk by the conduct of undertakings by employers and self-employed persons; and
- d. to provide for the involvement of employees, employers, and organisations representing those persons, in the formulation and implementation of health, safety and welfare standards; having regard to the principles of health and safety protection set out in section. It is the intention of the Parliament that in the administration of this Act regard should be had to the principles of health and safety protection set out in section 4.

**4. OH&S issues and requirements – Occupational Health & Safety Act**

1. Ensure compliance to statutes, codes of practice, standards etc, in relation to Occupational Health and Safety, and workers' compensation.
2. Development of policy, procedures, safe work practices, and performance standards for safety and health.
3. Provision of advice to Managers, Supervisors and staff on safety and health issues in the workplace.
4. Promotion and coordination of the election of safety and health representatives.
5. Promotion, and coordination, of the establishment and operation of Occupational Health and Safety to Working Groups and Policy Committees.
6. Assistance to managers and supervisors, with the investigation of workplace accidents.
7. Assistance as necessary, in undertaking Occupational Health and Safety audits to assess systems, and work practices, as well as assistance in workplace inspections with supervisors, and safety and health representatives on risk assessments, hazard identification and implementation of appropriate control strategies.
8. Preparation of reports, and provision of information to management to enable the elimination of risks, or control of hazardous conditions.
9. Assists with the implementation, and coordination of training programs on all aspects Occupational Health and Safety.
10. Coordination of the collection and dissemination, of information on current legislation, standards, code of practice and other sources to all workplaces.
11. Collection and analysis of statistical data, and provision of advice to the Policy Committee, Working Groups and staff, on accident and workers' compensation trends.
12. Assists in the production, and distribution, of educational, training and promotional material on occupational safety and health.
13. Maintenance of rehabilitation policy, procedures and advisory services to facilitate the return to work, of staff members after injury or illness.
14. Assistance with the resolution of occupational safety and health issues.
15. Management of the workers' compensation claims system.
16. Consultative arrangements are monitored to encourage team members to contribute to the management of OHS in the workplace.

## 5. Current OHS legislation, codes, standards, policies and procedures

Victoria operates under the Occupational Health and Safety Act 2004 and the supporting Occupational Health and Safety Regulations 2007 for all matters relating to workplace health and safety.

From 1 January, 2012 the Commonwealth, state and territory governments introduced a new harmonised work health and safety law which aims to ensure work health and safety laws provide regulators with functions including:

- Providing advice and information to duty holders and the community
- Monitoring and enforcing compliance with work health and safety laws
- Fostering co-operative, consultative relationships between duty holders and the persons and representatives they owe a duty to
- Sharing information with other regulators; and
- Conducting and defending proceedings under work health and safety laws.

Until now, the Commonwealth, State and Territory Governments were responsible for making and enforcing their own health and safety laws. Even though, these jurisdictions are similar, the variations led to confusion. By developing the Model Work Health and Safety laws, Safe Work Australia, working with the Commonwealth, State and Territories harmonised the act, regulations and codes of practice.

It is important to note that not every state and territory were able to introduce the legislation on 1 January 2012. Victoria, South Australia, Tasmania and Western Australia will continue to operate under state specific legislation until they are able to implement the nationally harmonised legislation.

For further information on implementation schedules visit [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

The regulators for each state/territory, the contact details are:

Work Health and Safety	Websites
<b>Commonwealth contacts</b>	<p><b>Australian Maritime Safety Authority</b>                      Website: <a href="http://www.amsa.gov.au">www.amsa.gov.au</a>                      Telephone: (02) 6279 5000</p> <p><b>Comcare</b>                      Website: <a href="http://www.comcare.gov.au">www.comcare.gov.au</a>                      Telephone: 1300 366 979</p> <p><b>Federal Safety Commissioner</b>                      Website: <a href="http://www.fsc.gov.au">www.fsc.gov.au</a>                      Telephone: 1800 652 500</p>
<b>National Contacts</b>	<p><b>Australian Chamber of Commerce and Industry (ACCI)</b>                      Website: <a href="http://www.acci.asn.au">www.acci.asn.au</a>                      Telephone: (02) 6273 2311 (Canberra) or (03) 9668 9950 (Melbourne)</p> <p><b>Licensing Line News</b>                      Website: <a href="http://www.licensinglinenews.com.au">www.licensinglinenews.com.au</a>                      Telephone: (07) 3247 5505</p> <p><b>National Safety Council of Australia (NSCA)</b>                      Website: <a href="http://www.nasca.org.au">www.nasca.org.au</a>                      Telephone: 1800 655 510</p> <p><b>Safety Institute of Australia (SIA)</b>                      Website: <a href="http://www.sia.org.au">www.sia.org.au</a>                      Telephone: 1800 808 380 or (03) 8336 1993</p> <p><b>Standards Australia</b>                      Website: <a href="http://www.standards.org.au">www.standards.org.au</a>                      Email: <a href="mailto:mail@standards.org.au">mail@standards.org.au</a>                      Telephone: 1800 035 822</p>
<b>Australian Capital Territory</b>	<p><b>WorkSafe ACT</b>                      Website: <a href="http://www.worksafe.act.gov.au">www.worksafe.act.gov.au</a>                      Email: <a href="mailto:worksafe@act.gov.au">worksafe@act.gov.au</a>                      Telephone: (02) 6207 3000</p>
<b>New South Wales</b>	<p><b>WorkCover NSW</b>                      Website: <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a>                      Telephone: 13 10 50</p>
<b>Northern Territory</b>	<p><b>NT WorkSafe</b>                      Website: <a href="http://www.worksafe.nt.gov.au">www.worksafe.nt.gov.au</a>                      Email: <a href="mailto:ntworksafe@nt.gov.au">ntworksafe@nt.gov.au</a>                      Telephone: 1800 019 115</p>
<b>Queensland</b>	<p><b>Workplace Health and Safety Queensland, Office of Fair and Safe Work Queensland, Department of Justice and Attorney-General</b>                      Website: <a href="http://www.worksafe.qld.gov.au">www.worksafe.qld.gov.au</a>                      Telephone: 1300 369 915 or (07) 3225 2000</p> <p><b>WorkCover QLD</b>                      Website: <a href="http://www.workcoverqld.com.au">www.workcoverqld.com.au</a>                      Email: <a href="mailto:info@workcoverqld.com.au">info@workcoverqld.com.au</a>                      Telephone: 1300 362 128</p>
<b>South Australia</b>	<p><b>SafeWork SA</b>                      Website: <a href="http://www.safework.sa.gov.au">www.safework.sa.gov.au</a>                      Telephone: 1300 365 255</p> <p><b>WorkCover SA</b>                      Website: <a href="http://www.workcover.com">www.workcover.com</a>                      Telephone: 13 18 55</p>
<b>Tasmania</b>	<p><b>WorkCover Tasmania</b>                      Website: <a href="http://www.workcover.tas.gov.au">www.workcover.tas.gov.au</a>                      Email: <a href="mailto:wstinfo@justice.tas.gov.au">wstinfo@justice.tas.gov.au</a>                      Telephone: 1300 366 322 (inside Tasmania) or (03) 6233 7657 (outside Tasmania)</p>

Work Health and Safety	Websites
<p><b>Victoria</b></p>	<p><b>WorkSafe Victoria</b>                      Website: <a href="http://www.worksafe.vic.gov.au">www.worksafe.vic.gov.au</a>                      Email: <a href="mailto:info@worksafe.vic.gov.au">info@worksafe.vic.gov.au</a>                      Telephone: 1800 136 or (03) 9641 1444                      Other contacts:  <b>Industrial Deaths Support and Advocacy Inc (IDSA)</b>                      Website: <a href="http://www.idsa.com.au">www.idsa.com.au</a>                      Telephone: (03) 9654 3353</p>
<p><b>Western Australia</b></p>	<p><b>WorkSafe WA</b>                      Website: <a href="http://www.worksafe.wa.gov.au">www.worksafe.wa.gov.au</a>                      Telephone: 1300 307 877                      Part of the WA Department of Commerce  <b>WorkCover WA</b>                      Website: <a href="http://www.workcover.wa.gov.au">www.workcover.wa.gov.au</a>                      Telephone: 1300 794 744</p>

**URL Address:**

<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhoWeWorkWith/StateAndTerritoryAuthorities/Pages/StateAndTerritoryAuthorities.aspx>

**Please note** that these websites are continuously being updated. It would be in your best interest to check the URL Address for your State or Territory to ensure that your references are up to date. This is the first stage of implementation and frequent updates will occur as work health and safety implements more codes of practice for each state or territory.

As a worker within or endeavouring to enter the work health and safety field, it is essential that you are familiar with workplace health and safety legislation. It is also important that you familiarise with the legislation that impacts on the field in which you operate. For example, if you work in the mining industry, you should also take the time to ensure that you are familiar with the work health and safety legislation within your state/territory that will assist you in solving problems as per your position and duty of care.



It is also important that you are aware of legislation that can impact on the decisions that you make within the workplace.



## 6 Occupational Health and Safety Act – 2004

This Act first passed in 1985 to protect the health and safety of people at work. It was then updated to reflect change in 2004. It tells us what manufacturers, employers and employees are supposed to do to prevent injury or illness at work.

It replaces older laws and is updated when necessary. This is why you should always check the most up to date version.

Workplace OH&S management processes and designated personnel - The implementation of Occupational Health and Safety (OH&S) is the responsibility of the employer and employees.

Communication is the main mechanism in the promotion of Occupational Health and Safety, and one of the key tools used in the prevention of injuries in the workplace.

The security company you work for should have its own Occupational Health and Safety policy and procedures booklet or manual. Any OH&S booklet or manual is a form of communication.

The Occupational Health and Safety Act, the Workers' Compensation and Rehabilitation Act and the Workers' Compensation and Rehabilitation Amendment Act provide the basis of all information provided.

## 7 Victoria Work Cover Authority

The Victoria Work Cover Authority has to make sure that health and safety laws are obeyed, like checking that equipment is safe. It sends out inspectors to look at workplaces like factories and you're health and safety representative or your employer can ask for an inspector to look at the workplace, if you think there is something wrong.

The Occupational Health and Safety Act, is designed to reduce the incidents of workplace injury and disease by:

- Securing the health, safety and welfare of persons at work.
- Protecting persons at work against risks to their health and safety.
- Regular inspections of equipment and work areas.
- Continuous monitoring of equipment operation and work areas prior to and during work activities.
- Regular formal and informal consultations / meetings with colleagues.
- Ongoing training.
- Review of health and safety records.
- Dangerous goods register.
- Hazard reports.
- Injury records.
- Assisting in securing safe and healthy work environments.
- Eliminating risks to health, safety and welfare at work.

- Involving employees and employers in the formulation and implementation of Health and Safety standards.
- Parliament has clearly defined the role and obligation of the three categories of people in the workplace – management, employees and the self-employed (contractors etc).

Employers must provide a safe place to work and maintain it in that condition. They must also provide adequate welfare facilities and monitor employees' health. Management must also appoint an employee to resolve issues with employees with regard to health and safety issues and provide staff with education, training and instruction on these matters.

Employees must co-operate with employers on the implementation of safety measures, must maintain health and safety equipment in good working order, not put others at risk and take care of themselves.

The responsibility for Safety in the Workplace is not the sole responsibility of Management. All employees working on a site are obliged under law, to be vigilant and take specific safety steps if they consider a hazard exists.

This responsibility exists under Common Law, which has ruled that a '**duty of care**' exists where two or more people are in proximity. This duty expects a reasonable person to foresee something that may cause injury to another or indeed themselves.

Employees, management and service providers should not only be alert for hazards, but must be aware of potential hazards as well. **A hazard is something that has the potential to cause harm to people, property or processes.**

## 7.1 Reporting OH&S Matters

The Occupational Health and Safety Act, has set objectives to promote and improve standards for Occupational Health and Safety, with an emphasis on **consultation** between employers and employees in the workplace. This has been done by setting out general duties in the Act, and by supporting the general duties with other requirements in the Act and Regulations.

The Act describes duties that are required of certain groups of people, who have an effect on safety and health at work. It imposes a **general duty of care** to protect persons at work from hazards, and to maintain safe and healthy workplaces.

All persons are obliged to report identified or potential OH&S matters to a Supervisor or the Occupational Health and Safety Officer and follow whatever steps are outlined in the organization's procedures. If remedial action is not taken within a reasonable period, you should follow it up.

## 7.2 Improving Safety

Improving the working environment, training people and maintaining safety equipment can achieve improving Workplace Health and Safety.

Training would include drills such as evacuations; dealing with bomb threats, toxic spills and gas leaks. Every workplace should have a staff member qualified in first aid.

Improving the working environment includes identifying potential hazards, reporting them according to the specified method and making sure they are followed up.

Maintenance of safety equipment is something that can easily be overlooked unless there is a tight regime of checking and replacement. Maintenance checks in a busy or lazy work site can be overlooked, put off, even forgotten altogether, unless employees and management are vigilant.

## 7.3 General Provisions Relating to OH&S

### Section 21 - Duties of Employers

1. An employer must, so far as is reasonably practicable, provide and maintain for employees of the employer a working environment that is safe and without risks to health.

Penalty: 1800 penalty units for a natural person;

9000 penalty units for a body corporate.

2. Without limiting sub-section (1), an employer contravenes that sub-section if the employer fails to do any of the following:
  - a. provide or maintain plant or systems of work that are, so far as is reasonably practicable, safe and without risks to health;
  - b. make arrangements for ensuring, so far as is reasonably practicable, safety and the absence of risks to health in connection with the use, handling, storage or transport of plant or substances;
  - c. maintain, so far as is reasonably practicable, each workplace under the employer's management and control in a condition that is safe and without risks to health;
  - d. provide, so far as is reasonably practicable, adequate facilities for the welfare of employees at any workplace under the management and control of the employer;
  - e. provide such information, instruction, training or supervision to employees of the employer as is necessary to enable those persons to perform their work in a way that is safe and without risks to health.
3. For the purposes of sub-sections (1) and (2):
  - a. a reference to an employee includes a reference to an independent contractor engaged by an employer and any employees of the independent contractor; and



- b. the duties of an employer under those sub-sections extend to an independent contractor engaged by the employer, and any employees of the independent contractor, in relation to matters over which the employer has control or would have control if not for any agreement purporting to limit or remove that control.
4. An offence against sub-section (1) is an indictable offence. Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

## Section 25 - Duties of Employees

1. While at work, an employee must:
  - a. take reasonable care for his or her own health and safety; and
  - b. take reasonable care for the health and safety of persons who may be affected by the employee's acts or omissions at a workplace; and
  - c. co-operate with his or her employer with respect to any action taken by the employer to comply with a requirement imposed by or under this Act or the regulations.

Penalty: 1800 penalty units

2. While at work, an employee must not intentionally or recklessly interfere with or misuse anything provided at the workplace in the interests of health, safety or welfare.

Penalty: 1800 penalty units

3. In determining for the purposes of sub-section (1) (a) or (b) whether an employee failed to take reasonable care, regard must be had to what the employee knew about the relevant circumstances.
4. An offence against sub-section (1) or (2) is an indictable offence.

Note: However, the offence may be heard and determined summarily section 53 of and Schedule 4 to, the **Magistrates' Court Act 1989**).

## Section 26 - Duties of Persons Who Manage or Control Workplaces

1. A person who (whether as an owner or otherwise) has, to any extent, the management or control of a workplace must ensure so far as is reasonably practicable that the workplace and the means of entering and leaving it are safe and without risks to health.

Penalty: 1800 penalty units for a natural person;

9000 penalty units for a body corporate.

2. The duties of a person under sub-section (1) apply only in relation to matters over which the person has management or control.

3. An offence against sub-section (1) is an indictable offence.

**Note:** However, the offence may be heard and determined summarily (see section 53 Schedule 4 to, the **Magistrates' Court Act 1989**).

## 7.4 Representation of Employees

### Section 43 — Establishment of Designated Work Groups

1. An employee may ask his or her employer to establish designated work groups of employees of the employer at one or more workplaces.
2. The particulars of the designated work groups are to be determined by negotiation, in accordance with section 44, between the employer and employees.
3. The employer must do everything reasonable to ensure that negotiations start within 14 days after the request.

Penalty: 10 penalty units for a natural person;

50 penalty units for a body corporate.

4. An employer may initiate negotiations with employees of the employer to establish designated work groups.

### Section 44-Negotiation of Agreement Concerning Designated Work Groups

1. Negotiations concerning designated work groups under this Division must be directed only at the following:
  - a. the manner of grouping, into one or more designated work groups, employees at one or more workplaces that:
    - i. best and most conveniently enables the interests of those employees relating to occupational health and safety to be represented and safeguarded; and
    - ii. best takes account of the need for a health and safety representative for the designated work group or groups to be accessible to each member of the group;
  - b. the number (which must be at least one) of health and safety representatives for each designated work group;
  - c. the number of deputy health and safety representatives (if any) for each designated work group;
  - d. the term of office (not exceeding 3 years) of each health and safety representative and deputy health and safety representative (if any);
  - e. whether the health and safety representative or representatives for the designated work group or groups are authorised also to represent

independent contractors, or a class of independent contractors, engaged by the employer, and any employees of such independent contractors, who work at a workplace at which members of the designated work, group or groups work.

2. If the negotiations result in agreement on the particulars mentioned in subsection (1), the employer must establish the designated work group or groups (as agreed) by giving written notice to the employees.

Penalty: 10 penalty units for a natural person;

50 penalty units for a body corporate.

3. The parties to an agreement concerning a designated work group or groups may, at anytime, negotiate a variation of the agreement.

4. If a variation is agreed, the employer must vary the agreement by giving written notice to the employees.

Penalty: 10 penalty units for a natural person;

50 penalty units for a body corporate.

5. In negotiations concerning a designated work group or groups (including negotiations for a variation of an agreement), an employee or a group of employees may be represented by any person authorised by the employee or group (as the case may be).

6. An agreement concerning a designated work group or groups must only deal with the particulars mentioned in sub-section (1).

Note: Certain matters must be taken into account in negotiations for an agreement or a variation of an agreement (see section 46).

## **Section 54. Election of Health and Safety Representatives**

1. A health and safety representative for a designated work group is to be elected by the members of the designated work group.

2. A person is:

- a. only eligible to be elected as a health and safety representative for a designated work group if he or she is a member of that group; and
- b. not eligible to be elected as a health and safety representative if he or she is disqualified under section 56 from acting as a health and safety representative.

3. All members of the designated work group are entitled to vote in an election.
4. The members of the designated work group may determine how an election is to be conducted (subject to sub-section (5)) but, if they do not reach agreement within a reasonable time, any member may ask the Authority to arrange for an inspector to:
  - a. conduct the election; or
  - b. if the inspector considers it appropriate, appoint another person to conduct the election.
5. An election must be conducted in accordance with the procedures (if any) prescribed by the regulations.
6. If the number of candidates for election as a health and safety representative equals the number of vacancies, the election need not be conducted and each candidate is to be taken to have been elected as a health and safety representative for the designated work group.

#### **7.5 Section 58. Powers of Health and Safety Representatives**

1. A health and safety representative for a designated work group may do any of the following:
  - a. inspect any part of a workplace at which a member of the designated work group works:
    - i. at any time after giving reasonable notice to the employer concerned or its representative; and
    - ii. immediately in the event of an incident or any situation involving an immediate risk to the health or safety of any person;
  - b. accompany an inspector during an inspection of a workplace at which a member of the designated work group works;
  - c. require the establishment of a health and safety committee;
  - d. if a member of the designated work group consents, be present at an interview concerning occupational health and safety between:
    - i. the member and an inspector; or
    - ii. the member and the employer concerned or its representative;
  - e. if the health and safety representative is authorised to represent a person mentioned in section 44(1)(e) or 48(1)(e) and that person consents, be present at an interview concerning occupational health and safety between:

- i. the person and an inspector; or
    - ii. the person and the employer concerned or its representative;
  - f. whenever necessary, seek the assistance of any person.
2. However, a health and safety representative may do those things only for the purpose of:
  - a. representing the members of the designated work group, or persons mentioned in section 44(1)(e) or 48(1)(e) whom the representative is authorised to represent, concerning health or safety; or
  - b. monitoring the measures taken by the employer or employers in compliance with this Act or the regulations; or
  - c. enquiring into anything that poses, or may pose, a risk to the health or safety of members of the designated work group, or of persons mentioned in section 44(l)(e) or 48(l)(e) whom the representative is authorised to represent, at the workplace or workplaces or arising from the conduct of the undertaking of the employer or undertakings of the employers; or
  - d. attempting to resolve (in accordance with section 73) with the employer concerned or its representative any issues concerning the health or safety of members of the designated work group, or of persons mentioned in section 44(l)(e) or 48(l)(e) whom the representative is authorised to represent, that arise at the workplace or workplaces or from the conduct of the undertaking of the employer.
3. Nothing in this Act or the regulations imposes, or is to be taken to impose, a function or duty on a health and safety representative in that capacity.

## Section 60 - Provisional Improvement Notices

1. If a health and safety representative believes on reasonable grounds that a person:
  - a. Is contravening a provision of this Act or the regulations; or
  - b. has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated:

The health and safety representative may issue to the person a provisional improvement -notice requiring the person to- remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention.

2. However, the health and safety representative may only do so after consulting with the person about remedying the contravention or likely contravention or the matters or activities causing the contravention or likely contravention.

3. A provisional improvement notice must:
  - a. state the representatives belief on which the issue of the notice is based and the grounds for that belief; and
  - b. specify the provision of this Act or the regulations that the representative considers has been or is likely to be contravened; and
  - c. specify a day (at least 8 days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention.

Note: For service of provisional improvement notices, see section 64.

4. A person to whom a provisional improvement notice is issued must:
  - a. if the person is an employee, bring the notice to the attention of his or her employer; or
  - b. If the person is not an employee or is an employer who is given a copy of the notice in accordance with paragraph (a):
    - i. bring the notice to the attention of each other person whose work is affected by the notice; and
    - ii. display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being performed that is affected by the notice.

Penalty: 5 penalty units for a natural person;  
25 penalty units for a body corporate.

## **7.6 Section 61 - Provisional Notices May Include Directions**

1. A provisional improvement notice may include directions on the measures to be taken to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.
2. A direction may:
  - a. refer to a compliance code; and
  - b. offer the person to whom it is issued a choice of ways in which to remedy the contravention, likely contravention, matters or activities.

**Section 63. - Attendance of Inspector at Workplace After Issue of Provisional Improvement Notice**

1. Within 7 days after a provisional improvement notice is issued to a person:
  - a. the person to whom it was issued; or
  - b. if the person is an employee, his or her employer:

may ask the Authority to arrange for an inspector to attend at the workplace to enquire into the circumstances the subject of the notice.
2. The Authority must ensure that an inspector attends the workplace as soon as possible after the request is made and before the day specified in the notice as being the day by which the notice must be complied with.
3. The inspector must, as soon as possible:
  - a. enquire into the circumstances the subject of the provisional improvement notice; and
  - b. affirm (with or without modifications) or cancel the provisional improvement notice by giving written notice to the health and safety representative who issued it and the person to whom it was issued.
4. The inspector may perform any of his or her functions or exercise any of his or her powers under this Act that the inspector considers reasonably necessary in the circumstances.
5. A notice under sub-section (3)(b) must set out:
  - a. The basis for the inspector's decision to affirm or cancel the provisional improvement notice; and
  - b. If the provisional improvement notice is affirmed, the penalty for contravening that notice; and
  - c. how the person may seek review of the inspector's decision.
6. A person to whom a provisional improvement notice was issued that is affirmed by an inspector under this section must comply with the provisional improvement notice.

Penalty: 500 penalty units for a natural person;

2500 penalty units for a body corporate.

7. An offence against sub-section (6) is an indictable offence.

Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

## **7.7 Section 67. Obligation to Train Health and Safety Representatives**

1. An employer must, if requested by a health and safety representative for a designated work group of which employees of the employer are members, allow the representative to attend the following courses:
  - a. an initial course of training in occupational health and safety after being elected;
  - b. a refresher course at least once in each year, after completing the initial course of training, that he or she holds office.
2. A request to attend a course must not be made less than 14 days before the course is to start.
3. A course must be:
  - a. approved or conducted by the Authority; and
  - b. relevant to the work of the members of the designated work group or the role of health and safety representatives; and
  - c. subject to sub-section (5), chosen by the health and safety representative in consultation with the employer.
4. The employer must:
  - a. allow each health and safety representative time off work to attend the courses with such pay as he or she would otherwise be entitled to receive from the employer for working during that period; and
  - b. pay the costs associated with each health and safety representative's attendance at the courses.

Note: If the health and safety representative represents a designated work group of the employees of more than one employer, section 68 provides for the apportionment of those costs among the employers.

5. If an employer refuses to allow a health and safety representative to attend a course or they cannot agree on a particular course, the representative may ask the Authority to determine a specified course that the representative may attend for the purposes of sub-section (1) (a) or (b).



6. A determination must be in writing and the Authority must ensure that it is not made less than 14 days before the specified course is to start.
7. An employer who, without reasonable excuse, refuses to allow a health and safety representative to attend a course specified in such a determination is guilty of an offence and liable to a fine not exceeding:
  - a. In the case of a natural person, 60 penalty units; or
  - b. in the case of a body corporate, 300 penalty units.
8. If:
  - a. a health and safety representative represents a designated work group of the employees of more than one employer; and
  - b. any of those employers has complied with this section in respect of the representative:  
each of those employers is to be taken to have complied with this section in respect of the representative.



## 7.8 Section 72. Health and Safety Committees

1. An employer must establish a health and safety committee in accordance with this section:
  - a. within 3 months after being requested to do so by a health and safety representative; or
  - b. If required by the regulations to do so.

Penalty: 10 penalty units for a natural person;

50 penalty units for a body corporate.

Note: An employer is required to consult employees on the membership of the committee (see Part 4).

2. At least half of the members of a health and safety committee must be employees (and, so far as practicable, health and safety representatives or deputy health and safety representatives) of the employer.
3. The functions of a health and safety committee are:
  - a. to facilitate co-operation between the employer and employees in instigating, developing and carrying out measures designed to ensure the health and safety at work of the employees; and
  - b. to formulate, review and disseminate (in other languages if appropriate) to the employees the standards, rules and procedures relating to health and safety that are to be carried out or complied with at the workplace; and
  - c. such other functions as are prescribed by the regulations or agreed between the employer and the committee.
4. A health and safety committee must meet:
  - a. at least once every 3 months; and
  - b. at any other time if at least half of its members require a meeting.
5. Subject to this Act and the regulations, a health and safety committee may determine its own procedures.

## 7.9 Section 74. Direction to Cease Work

1. If:
  - a. an issue concerning health or safety arises at a workplace or from the conduct of the undertaking of an employer; and
  - b. the issue concerns work which involves an immediate threat to the health or safety of any person; and
  - c. given the nature of the threat and degree of risk, it is not appropriate to adopt the processes set out in section 73:

the employer or the health and safety representative for the designated work group in relation to which the issue has arisen may, after consultation between them, direct that the work is to cease.

2. During any period for which work has ceased in accordance with such a direction, the employer may assign any employees whose work is affected to suitable alternative work.  
Note: Any of the parties attempting to resolve the issue may require an inspector to attend the workplace (see section 75).

## 8.0 Section 75. Inspector May be Required to Attend Workplace

1. If an issue is not resolved under section 73 within a reasonable time, or an issue is the subject of a direction under section 74 that work is to cease, any of the parties attempting to resolve the issue may ask the Authority to arrange for an inspector to attend at the workplace to enquire into the issue.
2. The Authority must ensure that an inspector attends at the workplace as soon as possible after the request is made.
3. The inspector must, as soon as possible, enquire into the issue and may perform any of his or her functions or exercise any of his or her powers under this Act that the inspector considers reasonably necessary in the circumstances.
4. If:
  - a. The inspector issues a prohibition notice; or
  - b. otherwise determines (in writing) that there was reasonable cause for employees to be concerned for their health or safety:

an employee who, as a result of the issue arising, does not work for any period pending its resolution but would otherwise be entitled to be paid for that period continues to be entitled to be paid for that period.

5. A dispute concerning an entitlement under sub-section (4) may be referred to the Magistrates' Court or to any other court or tribunal that has jurisdiction in relation to the matter.

## 8.1 Section 76. Prohibition on Discrimination

1. This section applies to:
  - a. an employer who dismisses an employee, injures an employee in the employment of the employer or alters the position of an employee to the employee's detriment; and
  - b. an employer who threatens to do any of those things to an employee; and
  - c. an employer or prospective employer who refuses or fails to offer employment to a prospective employee, or treats a prospective employee less favourably than another prospective employee would be treated in offering terms of employment.
2. The employer or prospective employer is guilty of an indictable offence if the employer or prospective employer engaged in that conduct because the employee or prospective employee (as the case maybe):
  - a. is or has been a health and safety representative or a member of a health and safety committee; or
  - b. exercises or has exercised a power as a health and safety representative or as a member of a health and safety committee; or
  - c. assists or has assisted, or gives or has given any information to, an inspector, a health and safety representative or a member of a health and safety committee; or
  - d. raises or has raised an issue or concern about health or safety to the employer, an inspector, and a health and safety representative, a member of a health and safety committee or an employee of the employer.

Note 1: The effect of section 57(2) (b) is that a reference to a health and safety representative includes a reference to a deputy health and safety representative.

Note 2: The offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

3. An employer or prospective employer may be guilty of an offence against sub-section (2) only if the reason mentioned in sub-section (2)(a), (b), (c) or (d) is the dominant reason why the employer or prospective employer engaged in the conduct.
4. An employer or prospective employer who is guilty of an offence against subsection (2) is liable to:
  - a. In the case of a natural person, a term of imprisonment not exceeding 6 months, or a fine not exceeding 500 penalty units, or both; and
  - b. in the case of a body corporate, a fine not exceeding 2500 penalty units.

### **Section 77. Defendant Bears Onus of Proof**

In proceedings for an offence against section 76, if all the facts constituting the offence other than the reason for the defendant's conduct are proved, the defendant bears the onus of proving that the reason alleged in the charge was not the dominant reason why the defendant engaged in the conduct.

## **9.0 POLICY AND PROCEDURES**

The difference between a policy and a procedure is that a **policy** is a plan of action adopted by an individual or group where a **procedure** is a particular course of action intended to achieve a result

### **Sample Policy & Procedures**

#### **Commitment**

Safety Training Centre A acknowledges that the provision of a safe and healthy work environment for employees, Trainees, contractors and visitors is not just a moral and legal responsibility but also a prerequisite for it to achieve its primary mission of conducting teaching, research and scholarship at the highest international standards. This commitment to protecting its human resources also extends to ensuring the training centre's operations do not place the local community at risk of injury, illness or property damage.

#### **Objectives**

The training centre will ensure compliance with its State Act and Regulations, other legislation and current industry standards by:

- providing and maintaining safe workplaces, plant and systems of work
- providing information, instruction, training and supervision to ensure safe systems of work
- ensuring that nominated safety personnel are adequately trained and supported

- consulting and cooperating with safety and health representatives, employees and others
- providing and maintaining personal protective equipment as required
- continuously reviewing and improving its safety performance.

## **Responsibilities**

Each member of Safety Training Centre A is accountable for implementing this policy in their area of responsibility. Management is responsible for:

- the provision and maintenance of a safe workplace and systems of work
- involvement in the development, promotion and implementation of safety and health policies and procedures
- training and supervising employees and Trainees in the safe performance of assigned tasks
- the provision of resources to meet the safety and health commitment.

## **Employees, Trainees and contractors are to:**

- take reasonable care of their safety and health and that of others
- follow all safety and health policies and procedures
- report all known or observed hazards, incidents and injuries.

## **9.1 Procedures - Emergency Evacuation**

### **Don't Panic**

#### **At all times during an emergency follow the instructions of the Building and Area Wardens**

1. On hearing the evacuation alarm, immediately prepare to leave the building – secure confidential materials and valuables, collect personal belongings, shut down experiments, and switch off computers, electrical appliances, equipment and machinery.
2. If the evacuation alarm sounds, or if instructed to do so by a Warden, leave the building by the nearest and safest exit route. All doors should be closed (but not locked) on leaving.
3. If possible take hand held personal belongings (such as handbags and briefcases) with you when you leave. Do not return to collect belongings.
4. Assist any person with a disability to leave the building, or to the nearest fire isolated or fire safe haven for multi-storey buildings. Do not attempt to carry people down stairs. See the People with Specific Needs section.
5. Walk quickly and calmly to the designated assembly area for your building or as advised by a Warden or Fire and Rescue Services personnel.

### **Do not use the lifts**

6. Remain at the assembly area (in groups) until instructed to leave by a Warden or Fire and Rescue Services personnel.

7. Do not re-enter the building until informed that it is safe to do so by a Warden or Fire and Rescue Services personnel. Do not enter a building in alarm.

In the event of an earthquake:

- Take shelter under tables, desks or in doorways.
- Stay away from windows, shelving and large free-standing furniture.
- After the earthquake, look for injured persons in your area and assist, provided safe to do so.
- Leave the building as soon as able.

### **An evacuation may be implemented as a result of:**

- Fire
- Gas leak
- Extreme climatic conditions
- Bomb threat
- An armed intruder on site
- Explosion
- Other crises' or disaster situations

Therefore, it is of vital importance that all Security Officers are familiar with the procedures. If at any time any part of any procedure is unclear, you should contact your manager/supervisor for clarification.

## **9.2 Safety hazards are identified**

Safety hazards are identified and appropriate risk control measures are to be implemented in accordance with OH&S and organisational requirements.

### **Safety hazards may include:**

- Falling debris
- Smoke inhalation
- Incorrect/insufficient information on evacuation
- Blocked stairway exits
- Incorrect use of fire fighting equipment
- Potential explosives
- Pressure levels.

Workplace hazards need to be identified and controlled in the workplace and acted on according to your company's guidelines and policies.

Knowing your own company's OH & S protocols and policies will also assist you in identifying possible hazards, thus assisting in reducing the possibilities of an emergency or evacuation.

### **9.3 Risks and Hazards**

Achieving what the Law requires as it relates to Occupational Health and Safety is compliance with the available Acts, Regulations and Code of practice. Since the introduction of the Occupational Health and Safety Acts and associated documents and business compliance, there is a lower incidence of serious injury and death in the workplace. The lowering of injury in the workplace has come about by hazard and risk management initiatives. However the working environment must be safe and without risk to health and safety to all stakeholders including:

- yourself
- fellow employees
- your neighbours
- your customers
- visitors to your site or venue
- contractors or sub contractors working at your site or venue
- passers by

To ensure that persons are not placed at risk at your workplace, it is imperative that you must be able to recognise risks and how you can minimize them. You can:

- identify hazards and risks
- carry out hazard and risk assessments
- eliminate or minimise hazards and risks
- control hazards and risks

If the hazards and risks fall under a specific regulation or code of practice, then the details within the regulation - or code of practice .must be followed in order to meet the required standard. A hazard can be stated to be anything that could cause harm, injury or death. A hazard may be seen as being immediate. A risk is the possibility of a hazard occurring.

Examples of hazards and risks:

- moving fork-lift
- chemicals
- chemical solvents
- repetitive task / job
- badly designed workplace

To achieve hazard/risk elimination or reduction within your workplace it is important that a checklist be produced. Systematically inspecting the workplace and listing all hazards and risks can achieve this. In doing so you must ask the following questions:



- It is wrong?
- It could go wrong?
- In the future it could go wrong?

The Investigator charged with the responsibility of conducting a Workplace Injury claim for compensation must be aware of a number of issues as should those that move on and become Workplace Inspectors they should all become familiar with the following and use the checklist when conducting their investigations.

## 9.4 OH&S Checklists

### Occupational Health and Safety Checklist

The following is not an exhaustive list but provides a range and gives you an idea of the issues that should be looked at when conducting your investigation and compiling reports.

- Aggression or violence in the workplace.
- Unmarked machine control buttons - where instructions or directions are worn off or where coloured buttons are worn and unable to be identified.
- Safety guards on machines - inoperative, ineffective or missing.
- Waste build up on floors such as broken glass and food.
- Incorrect footwear - is there a requirement for safety boots?
- Storage of chemicals, chemicals incorrectly labelled / not labelled,
- Aluminium ladders used near electrical power source?
- Worn insulation cables, power leads or broken power points.
- Operational procedures or systems of work - are they safe?
- Confined spaces - e.g. where chemical spraying or spray painting may occur.
- Storage areas or shelving - incorrect stacking or untidy.
- Floors and walkways that is wet or flooded.
- Stairs, ladders and platforms that are not secured.
- Lighting that is too bright, too dim or doesn't work.
- Electrical - damaged or worn appliances or cables.
- Rubbish - waste accumulation such as paper/cardboard or food waste.
- Workbenches that is not tidy or secure.
- Hazardous substances incorrectly stored, labelled or leaking containers.
- Vehicles not roadworthy or badly maintained.
- Tanks, trenches and other confined spaces where gases may build up.
- Outdoor areas that are used as dumping grounds for machinery or equipment.
- Medical and biological issues - syringes, cross-infection, and body waste.
- Piping and pressure vessels not maintained or old.
- Offices - layout and density.



- First aid provisions that is not adequate to the workplace.
- Emergency procedures not practiced or not in place.

Once a list is compiled, a risk or hazard assessment must be performed for each risk or hazard. The risk / hazard assessment must indicate not only the risk / hazard, but also the consequence if it is not treated and the likelihood of it occurring.

## 9.5 Conduct and Compile a Risk / Hazard Assessment

When making an assessment of the risk factor for each of the hazards, you must ask yourself:

- What could be the worst result if this is not rectified?

For this reason, the risk/hazard assessment must be carried out by estimating the likelihood and the consequences in the context of existing risk or hazard control measures. Examples of consequences may be:

Level	Consequence	Description
A	MODERATE	near miss, no injuries, inconvenience, no financial or legal costs
B	MINOR	on-site first aid required, possible loss of time, possible financial or legal costs
C	MAJOR	ambulance/hospitalisation required, loss of time, financial or legal costs required, other authorities involved
D	CATASTROPHIC	death, ambulance/hospitalisation required, loss of time, financial or legal costs required, other authorities involved, bad publicity

When the risks/hazards have been assessed, they must be placed in order of priority from highest to lowest risk factor indicating the likelihood of them occurring. This is called 'rating the hazard/risks'.

## 9.6 Hazard / Risk Rating System

On completion of hazard/risk assessment you may find that there are several serious hazards within the workplace. A more systematic sorting of priorities may need to take place. Health and safety Investigators can help in this process. In rating the hazards/risks, you must look at the likelihood of it occurring. The questions you should ask are:

- How often do you do the task or is the task done?
- Does it make it more or less likely for an event or incident to occur?
- How often are people near the hazard/risk?
- How close do they get to the hazard/risk?
- Has the event/incident ever occurred before at your work place or elsewhere?
- How often has this event/incident occurred?
- Have there been any reports of near misses due to the event/incident?
- Why has the event/incident occurred?

An example may be:

Level	Likelihood	Description
1	CERTAIN	The incident/event will occur if not treated
2	LIKELY	The incident/event will probably occur if not treated
3	MODERATE	The incident/event should occur if not treated
4	UNLIKELY	The incident/event may occur if not treated

Once establishing the likelihood of the incident or event occurring:

- work on the highest risk/hazard first;
- first try and eliminate the risk/hazard;
- if this is not possible, then change the risk/hazard reducing the risk as far as possible;
- if this does not work change the work procedure so that it changes the risk factor in the workers' favour;
- as a last resort use personal protective equipment/clothing.

Preventative steps can be taken in areas of immediate concern, resulting in a quality control system being put into place.

## 9.7 Hazard / Risk Identification and Notification

It must be remembered that in dealing with risks/hazards, a partnership approach is necessary between all stakeholders in the workplace. That approach includes informing your workgroup, other staff; your client and/or your employer.

- Risks or hazards in the workplace must be documented.
- If a **contracted service**, that documentation must be passed on to your employer who should the pass on the information to the client.
- If an **in-house service**, the documentation must be passed on to your supervisor or manager.
- All documentation must be completed as stipulated in your Standard Operating Procedures (SOP)'s and the Site Procedures.

Where a hazard is found in the workplace, immediate notification must be made to your team leader/supervisor and to members of your workgroup and other staff where necessary. Immediate provisions must then be made to avoid the hazard and your team leader/supervisor should the take steps in eliminating the hazard.



## 9.8 Hierarchy of Controls

The risks must be minimised to the lowest reasonably practicable level by taking the following measures in the following order. In most cases a combination of elimination, substitution, engineering controls, administrative controls and PPCE are chosen to effectively control the risks.

1. **Elimination:** The job is redesigned or the substance is eliminated so as to remove the hazard. However, the alternative method should not lead to a less acceptable product or less effective process.
2. **Substitution:** Replace the material or process with a less hazardous one. For example replace one chemical with another that is not hazardous.
3. **Engineering controls:** Install or use additional machinery such as local exhaust ventilation to control the risk. Separating the hazard from operators by methods such as enclosing or guarding dangerous items of machinery.
4. **Administrative controls:** Reduce the time the worker is exposed to the hazard. Provide training. Perform risk assessments. Increase safety awareness signage.
5. **Personal Protective Clothing and Equipment:** Only after all the previous measures have been tried and found to be ineffective in controlling the risks to a reasonably practicable level, then Personal Protective Clothing and Equipment must be used. If chosen, PPCE should be selected and fitted to the person who uses it. Workers must be trained in the function and limitation of each item of PPCE. PPCE may be used as a temporary control measure until other alternatives are installed.



## 9.9 Controlling workplace hazards



Hazard



Risk



Eliminate the hazard or risk



Engineer out the problem



Introduce administrative controls



Provide PPE

## 10.0 Hazards and safety signs

One of the ways you can make sure you are safe at work is to obey any hazard warnings and safety signs.

The signs used in your particular workplace will depend on the industry in which you are employed. The use and placement of signs in the workplace should be considered as part of the overall health and safety plan for your workplace.

The size, shape, wording, colour and use of safety signs used within Australia are covered by regulations that apply to specific industries. Signs may be used to provide information, to warn of danger or to indicate a safe situation.

Four colours are used in safety signage:

RED	warning
YELLOW	caution
GREEN	safety
BLUE	mandatory

**What other Hazards can you think of that may be relevant ...?**


## 10.1 Hazards in the Security Industry - (The Investigator)

The following is a non-exhaustive list of issues that may impact on Occupational Health and Safety for **The Investigator**:

- Untidy workplaces.
- Licensed premises where RSA is not adhered to.
- Events with no alcohol restrictions.
- Licensed premises where the Liquor control Reform Act is not adhered to.
- Patrol vehicles that are not maintained.
- Non functioning or poorly maintained communications equipment.
- Investigators not working as a team.
- Investigators not communicating dangers to each other.
- Worksites that have poor or no lighting.
- Worksites that have no procedures or expectations set out.
- Worksites that have not been subject to a risk/hazard assessment prior to commencement.
- Worksites that do not do regular risk/hazard inspections.
- Poor support or no support from employer or client.
- Regular appraisals by team leaders, supervisors or managers to monitor stress.
- Lack of Critical Incident Stress debriefing both formal and informal.
- Unfamiliarity with client OH&S requirements.

## 10.2 Support Occupational Health and Safety Training

In order to ensure that safe work practices are encouraged, the learning needs of the workgroup need to be established. Although asking workgroup members about what those needs may be may have value, observing and monitoring the workgroup and individuals within the workgroup in the performance of their assignment will give an indication of what aspects of OH&S need to be addressed.

It must be stressed, that where individuals within the workgroup require training and those needs are not met, those individuals may place other members of the workgroup as well as themselves at risk. It is imperative that each member of the workgroup thinks of themselves as mentors to other members of the group. This should not be seen as “another task” or “I don't want to tell him what to do” situation; this instead, is a crucial part of teamwork. This is a method of protecting and supporting your workgroup and individuals within your workgroup.

In order to find out more about OH&S or aspects of OH&S you can:

- consult your nearest Worksafe Victoria office
- look for information on the internet
- participate in OH&S short courses
- visit your local library
- visit a university library
- talk to your OH&S Investigator

Where you feel OH&S training of your workgroup is required, you should consider the following:

- Consult your OH&S representative/Investigator.
- Consulting your management.
- Identifying whether training is appropriate on the job or in a classroom.
- When should such training take place?
- The literacy and numeracy skills of the subject group.
- The comprehension skills of the subject group.
- The resources required for training.
- The venue.
- Who should do the training (outsourced or in-house)?
- Does the training program comply with:
  - Government legislation;
  - Organizational policy;
  - Code of practice;
  - Australian standards?
  
- What time of day should the training take place?
- The type of notification required to ensure attendance.

Whether you base training on identified needs or not, all members of the workgroup require ongoing training and reminding of their obligations in the workplace. It is not uncommon for workgroup members to forget or develop "industrial blindness", where, for whatever reason, they do not see or recognise risks or hazards in the workplace.

- Safety boots or shoes
- Hearing protection
- Latex or rubber gloves
- Resuscitation masks or face shield

If the employer / site manager / supervisor states that this equipment must be worn whilst on site then you must wear it, he / she is telling you that there is a potential risk to your wellbeing and they observe and practice OH&S.

Failing to wear any protective equipment that the employer asks may be a breach of workplace agreements and could also be seen as a breach of **Section 25 of the Act; (Employees Responsibilities)**

### **In Summary:**

Ensure your wife, husband, partner or someone always knows where you are going that day, what your program is and who you are seeing.

A Safe Workplace calls for the co-operation of both the Employer and the Employee, it is not a single issue, by the regular inspection of the environment potential dangers will be eliminated.



Policies and Procedures must not only be put in place they need to be constantly reviewed and all stakeholders need to be consulted and involved in the process of **Occupational Health and Safety**. You will be required to prepare and provide an **Evacuation Plan** as part of this unit and **Complete a Question & Answer Sheet** to demonstrate your understanding of this module and OH&S policy.

### **Workplace Tips Specifically for Security Personnel**

You must stay safe. Here are some practical tips:

- Carry a first aid kit in your vehicle or in a pouch on your equipment belt.
- Wear protective gloves when about to touch blood or body fluids. The few seconds it takes to put the gloves on will protect you and not cause the injured person further distress.
- Use a plastic protector facemask with a one-way valve if having to give mouth-to-mouth resuscitation.
- Wear eye protection during situations that are likely to generate droplets of blood or body fluids.
- Wash your hands or other body parts should any bodily fluids come into contact with your skin. (People may spit on you)
- Dispose of gloves and facemasks by turning them inside out and dispose of them in an approved bio hazard bag.
- If your skin has been penetrated wash the affected area with soap/hexifoam and copious amounts of water. Cover wound with a protective covering.
- If bodily fluids enter your mouth spit them out and rinse with water several times without swallowing.
- With needle stick injuries encourage gentle bleeding and wash area with water and soap and or hexifoam. See your Doctor or attend at an Emergency Department at earliest opportunity.
- Wear gloves when handling any item soiled by body fluids.
- Be aware that people carry syringes as a weapon or secrete them on their person in the event that they may get searched.
- The easiest safety tool to use is distance. By placing distance between yourself and possible offenders the risks of biological or physical hazards have been reduced significantly.
- The next easiest safety tool to use is communications. If the situation requires it call for back up before getting involved. Call for emergency services at the first sign and communicate with clarity and precision especially when dealing with offenders.

If operating as a Crowd Controller ensure that all spilt liquor, vomit, blood, broken glass and any other materials that may cause injury are cleaned up. Make this part of your duties to observe and report such hazards and have the appropriate people clean it up. Unless specified in your SOP's, it is not your job to clean it up but you do have a responsibility to make sure nobody else slips due to its presence.

### **10.3 Accident Reporting and Investigation**

Any employee suffering an injury in the workplace should see a medical practitioner for treatment of the injury and must obtain the prescribed Work Cover certificate from the doctor.

As soon as possible after any injury or dangerous occurrence happens an investigation should be undertaken and the reporting procedures detailed in the Accident Reporting and Investigation section should be put in place.

These reporting procedures are designed to meet the requirements of the OH & S Act and to provide a better means of developing an improved database in regard to injury trends. The injured employee or his/her representative should complete a Work Cover "Worker Claim for Compensation" form and forward the claim form with the medical certificate to the employer. Claim forms are available from local post offices.

Workplace supervisors are to ensure that all accidents and dangerous occurrences are investigated and a report completed using the agreed procedure. Employee and OH&S representatives to the workplace are to be involved in the investigation. All work places are to maintain a register of injuries.

It is the responsibility of all employees to report any work place injury or dangerous occurrence to their immediate supervisor.

#### **Equipment**

Equipment breakdown or failure can have disastrous effects on your assignment, it is critical that all equipment is checked prior to use each day.

**Equipment Checks** - will check to ensure operational efficiency of:

- Camera's
- Mobile Telephone
- Torch
- G.P.S.
- Voice Recording Device
- Your Motor Vehicle – ( Is It Roadworthy – Insured and has a full tank of Fuel )

## Vehicle Maintenance and Use

Many security operations require the use of vehicles in order to complete duty requirements. This in turn brings certain obligations to the Security Officer, as well as management. Both parties have a responsibility under the Occupational Health and Safety Act for maintaining, as far as possible, a safe and healthy working environment. The motor vehicle used for patrol work is a piece of equipment, and as such is to be maintained in a safe condition at all times.

Most companies will have a specific department whose main responsibility is to ensure that all vehicles are in a safe working order and regularly serviced.

You must:

- Comply with company SOP's regarding vehicle use
- Comply with all Road Traffic Regulations

Complete the vehicle checklist prior to driving the vehicle, which may include checking:

- Fuel levels
- Engine fluid levels
- All lights are operating
- Radio (if fitted) within the vehicle is operating correctly
- For damage

Once the shift has been completed the vehicle must be returned in a clean and tidy state, the vehicle signed in and the key returned.

## 11.0 Sexual Harassment and Discrimination

The laws relating to Sexual Harassment and Discrimination can be found in both Commonwealth and State Legislation.

### Sexual Harassment

Sexual harassment is the making of an unwelcome sexual advance or request for sexual favours or engaging in unwelcome conduct. It is unlawful and must not be condoned or tolerated. It includes propositions for sexual intercourse, unwelcome and unnecessary touching and gender based insults.

#### 11.1 Discrimination is a two-fold thing:-

- a) A person must be treated less fairly;                      AND
- b) This must be because of their sex, religion, skin colour or sexuality, etc.

There are many workplaces where there are strong written policies and procedures about this subject but in practice little or nothing is done about it in a practical sense. The security industry is an incredible mix of ethnic groups, various religious beliefs and nowadays an increasing number of females. These few factors can be a breeding ground for discrimination.

The modern security officer must be aware of how easy it is to commit discrimination particularly if they are placed in a position of authority such as team leader or supervisor.

## **Harassment**

Is a similar work place problem, which involves unjust treatment of a fellow worker because of sex, religion, skin colour, sexuality, etc.

The treatment only needs to be unwelcome and because of this it is sometimes necessary for the harasser to be made aware that their conduct is unwelcome. Once advised there can be no further excuse for the actions.

## **Bullying**

Bullying is designed to sit above the legislated areas and is basically any conduct in the workplace, which is unwarranted, unwelcome or unnecessary. From a disciplinary point of view it is much easier to prove as it relies only on actions and conduct and not the intent required to prove discrimination and harassment.

### **11.2 Commonwealth Sex Discrimination Act 1994**

Section 28 A (1)

A person sexually harasses another person (to the person harassed) if:

The person makes an unwelcome sexual advance or an unwelcome request for sexual favours, to the person harassed; or engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

In circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated an offence has been committed.

### **11.3 Victoria Equal Opportunity Act 1995**

The objectives of this act are :

- To promote recognition and acceptance of everyone's right to equality of opportunity.
- To eliminate, as far as possible, discrimination against people by prohibiting discrimination on the basis of various attributes.
- To eliminate, as far as possible, sexual harassment.
- To provide redress for people who have been discriminated against or sexually harassed.

**Other risk hazards could also include: ( Applicable to all )**

- Ergonomic
- Environmental
- Electrical
- Mechanical
- Loose objects and fixtures
- Hazardous materials
- Obstructions

There is a difference between an emergency situation and an incident. In an emergency situation you will always need the assistance of outside help, generally, emergency services. However, in many cases an incident can be handled internally by security.

**Emergency situations may include:**

- Bomb threats
- Threatening/challenging/aggressive persons
- Accidents
- Armed/unarmed robbery
- Fire
- Natural disasters

**Incidents may include:**

- Accidents resulting in injury
- Situations affecting the security of self, others or property
- Theft
- Fatigue
- Security breaches

You may find in an emergency situation, that the emergency services take control of the situation; however your assistance may still be needed.

**Assistance may involve:**

- Providing back-up support
- Explaining/clarifying
- Problem solving
- Providing encouragement
- Providing feedback to another team member
- Undertaking extra tasks as necessary.
- Updating situation reports to management or clients

## 12 Building management Equipment

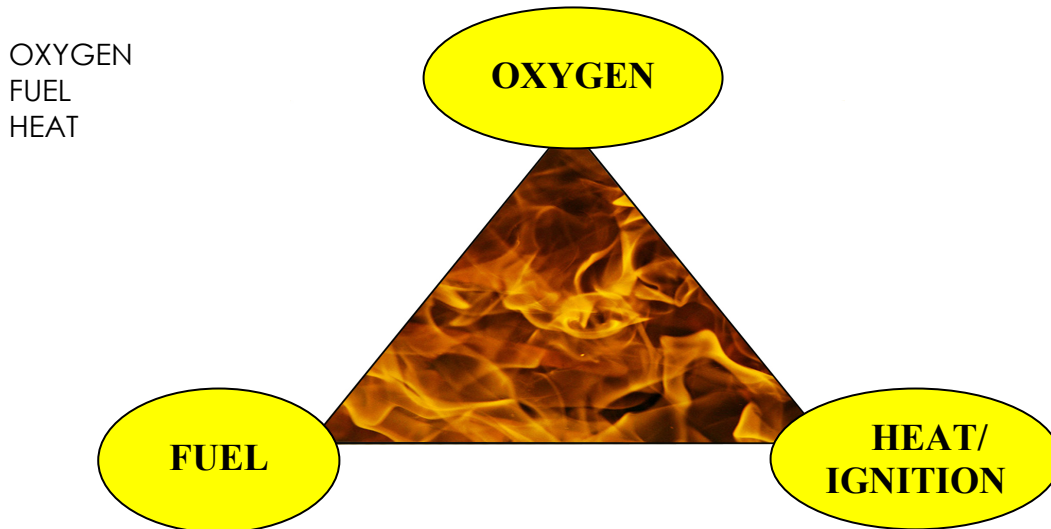
The following Equipment should be held by the owners or management of a site, however if they don't hold such equipment, you may find that some security companies will provide the following for their Security Officers:

1. Construction Type Helmets with wearer's title
2. Good Quality Torches / where applicable
3. Floor Plan of Entire Building Identifying:
  - a. Different Areas (using colours)
  - b. Location of Break Glass, Manual Call Points
  - c. Location of Fire Fighting Equipment
  - d. Location of Exits
  - e. Nominated Assembly Areas
  - f. Fire Indicator Panel
  - g. List of all on-duty staff, where applicable

The floor plans provide further detail of Emergency exit points, Fire alarm Locations, Fire fighting Equipment – including Hose Reels and Fire Extinguishers, and lastly it should have emergency contact numbers. It is these facts that all security staff must be fully aware, and where possible receive training in the use of emergency combating equipment.

### What causes a fire?

Different factors may actually combine to cause a fire such as negligence, accidents or criminal behaviour. But all fires require the same three elements to start and burn, they are:



This known as the **fire triangle** and the method to control a fire is to remove any one of these elements. This can be achieved by:

- Cooling the fire by applying water to reduce its heat
  - o Do not use water on electrical or oil based fires
- Starving the fire by removing its fuel source such as combustible materials like
  - o Wood, paper, paint tins or turning off gas supply
- Removing the oxygen by smothering the fire through
  - o Covering the fire with sand or fire proof material
  - o Closing windows and doors
  - o Use of carbon dioxide etc. fire extinguishers

## 12.1 Fire Fighting and Protection Equipment

### Examples of the four main fire extinguishers found in workplaces



Use on ordinary combustibles like wood, paper etc.

(Plain Red)



Use on ordinary combustibles plus Flammable liquids like petrol & cooking oils.

(Red with Blue Band)



Use on most ordinary combustible plus Can be used on most types of flammable liquid and electrical fires.

(Red with Black Band)



AB(E) type not for use on cooking oils and fats; B(E) type not ordinary combustibles.

(Red with White Band)

## Operating fire extinguishers

The extinguisher should be checked before arriving at the fire and should be the right type for the fire type. Carry fire extinguisher to scene of fire, remove pin and direct nozzle at fire.







- FOAM – Spray so that foam falls lightly onto fire – do not spray directly into burning liquids
- CO2 – Spray close to fire working from outside to centre
- DRY CHEMICAL – Direct to base of flames
- WATER – As above

## Hose Reels

Some work sites may have fire hose reels, which are usually housed in large red metal cabinets. The method of operation is:

- Check that nozzle is in closed position
- Pull hose off drum in direction of fire
- Open main water supply valve
- Open the nozzle and direct stream at base of fire
- Ensure you are holding the hose firmly as it will kick

### Portable Fire Extinguisher Guide

Two colour schemes exist for fire extinguishers		Extinguishant	Class A	Class B	Class C	Class E	Class F	Red text indicates the class or classes in which the agent is most effective.
Pre 1999	Post 1999		Wood, Paper, Plastic	Flammable and combustible liquids	Flammable gases	Electrically energised equipment	Cooking oils and fats	
		WATER	YES	NO	NO	NO	NO	Dangerous if used on flammable liquid, energised electrical equipment and cooking oils and fat.
		FOAM	YES	YES	NO	NO	LIMITED	Dangerous if used on energised electrical equipment.
		POWDER	YES (ABE) NO (BE)	YES (ABE) YES (BE)	YES (ABE) YES (BE)	YES (ABE) YES (BE)	NO (ABE) LIMITED (BE)	Look carefully at the extinguisher to determine if it is a BE or ABE unit as the capability is different.
		CARBON DIOXIDE	LIMITED	LIMITED	LIMITED	YES	LIMITED	Limited outdoor use.
		VAPORISING LIQUID	YES	LIMITED	LIMITED	YES	LIMITED	Check the characteristics of the specific extinguishing agent.
		WET CHEMICAL	YES	NO	NO	NO	YES	Dangerous if used on energised electrical equipment.

LIMITED indicates that the extinguishant is not the agent choice for the class of fire, but may have a limited extinguishing capability

[http://www.transport.wa.gov.au/imarine/19168.asp#Different\\_types](http://www.transport.wa.gov.au/imarine/19168.asp#Different_types)



## Action to take when fire is detected

In most instances the presence of a fire will be obvious from the smell or presence of smoke. The earlier a fire is detected the easier it is to combat and to stop it spreading. If it is safe to do so you may have to investigate to determine the source and extent of the fire. Action you take must include:

- Take control and take action until relieved or told otherwise
- Remain calm and relay information in a concise manner
- Raise the alarm and either contact emergency services yourself or arrange it
- Alert any persons in immediate danger and evacuate to designated safe area
- Close all windows and doors to limit oxygen to fire
- Check and search for injured persons

### **Only if it safe to do so** combat fire with on-site equipment

- Check equipment is functional
- Select equipment appropriate to fire (see extinguisher types)
- Approach fire staying low with any wind at your back
- Always have exit route planned
- Direct fire fighting agent (water, foam etc.) at base of fire
- Touch test doors for heat prior to opening
- Turn off fuel sources such as gas, oil etc. if applicable
- Remove obvious combustibles if possible
- If fire cannot be controlled or contained then area must be evacuated
- If safe and practicable protect sensitive equipment from smoke or water damage



## 13 Emergency Services

An emergency such as a large fire will usually involve the attendance of one or more of the emergency services, including the police, ambulance, fire brigade and Workcover authority.

Your role at the scene of an emergency may be to:

- Meet and direct them to the emergency site
- Restrict access of non-essential persons to site
- Supply and interpret emergency site plans
- Supply details of hazardous materials on site
- Details of possible fuel sources
- Details of on-site fire fighting equipment
- If evacuation has been conducted are all persons present and accounted for
- List of contact telephone numbers
- Unlock access gates and doors to allow access
- Vehicular traffic control
- Relocate other property in danger of damage - vehicles etc.
- Maintain integrity of site security
- Maintain communications

### Evacuations

An evacuation may be implemented as a result of fire, gas leak, extreme climatic conditions, bomb threat, an armed intruder on site, explosion, other crises or disaster situation. Therefore it is of vital importance that all Security Officers are familiar with the procedures. If at any time, any part of any procedure is unclear, you should contact your manager/supervisor for clarification.

### Emergencies

An emergency is basically any situation or circumstance that is a threat to the health and safety of people as well to the loss or damage of property.

### Communications

Another element of fire prevention is that of maintaining effective communication between all stakeholders on the work site on all OH&S issues including fire fighting and evacuation procedures.

Fire fighting and evacuation procedures should be clearly posted. All new security staff must undergo induction training and become familiar with fire and evacuation guidelines.

### General Building Information

Building site plans should also be clearly posted showing nominated safe assembly areas and location of potential hazards, such as fuel stores and chemicals. Site plans should also indicate the location and type of fire fighting equipment.

### **Hazards may be identified through:**

- Regular inspections of equipment and work areas
- Continuous monitoring of equipment operation and work areas prior to and during work activities
- Regular formal and informal consultations/meetings with colleagues
- Regular housekeeping activities
- Ongoing training
- Review of health and safety records
- Hazard reports
- Hazardous substances / signs
- Dangerous goods registers
- Injury records

Knowing your own company's OH & S protocols and policies will also assist you in identifying possible hazards, thus assisting in reducing the possibilities of an emergency or evacuation.

### **General safety requirements**

It is recommended that you examine your premises on a continuous basis for the following (this is also referred to as good housekeeping):

- Corridors, aisles and walkways remain clear of obstructions.
- Exit doors remain clear and unlocked whilst the premises are occupied.
- Excess quantities of combustible materials are not permitted to accumulate anywhere on the premises.
- Extra care is taken in the use and maintenance of office heating equipment
- There is no accumulation of litter, which may increase the danger of fire.
- There is correct storage of flammable liquids.
- The public address telephone system is not defective.
- Fire and smoke doors are kept shut except during use; self closing mechanisms are in operational order; doors close automatically and are not held open by wedges etc.
- Fire stairs are kept clear at all times and are not used for storage.
- The keeping of flammable liquids on the office floor is permitted only in special circumstances and then only in minimal quantities.
- All occupants are encouraged to observe the greatest care in the use of naked flames, matches, portable heaters, electrical appliances and other possible sources of ignition. Their immediate surroundings are to be kept neat and tidy.
- Any safety breaches found are reported to the Security Supervisor.

## **An evacuation of premises is conducted**

An evacuation of premises is to be conducted in accordance with organisational evacuation plans and/or assignment instructions.

### **Evacuation procedures**

More instructions are to follow in this section, however as a general rule, when an evacuation is initiated as a result of a genuine emergency situation or as a drill, the ECT members should clear the building by directing staff and the public to their designated assembly area, as quickly and calmly as possible. ECT members should then report to the Security Supervisor and await further instructions.

### **Assembly area procedures**

All other staff should report to and remain at the safe nominated assembly area, until the situation is stabilised. Under no circumstances should staff members be permitted to go back into the building for any reason, unless the ECT has advised them that it is safe to do so.

### **In an evacuation the following points should be kept in mind:**

- Arrange assistance for mobility-impaired persons.
- Secure cash and valuable documents (if safe to do so).
- In a fire situation evacuate with a minimum of personal material. In a bomb threat situation take all your personal material.
- Where it is possible in a fire situation, close all doors and windows on departure. In a bomb threat situation open all doors and windows.
- Prevention of panic is of paramount importance.
- Obey directions given by emergency services personnel and security.
- Keep all exits and entrances clear at all times.

Do not allow anyone except Emergency Services personnel to re-enter the building, while the alarm is sounding.

### **Relevant reports and documentation**

Relevant reports and documentation are to be accurately completed and processed in accordance with legislative and organisational requirements.

You may be required to maintain a number of documents as a Security Officer. It is important that you fully understand the documents and the details you are required to record.

Reports and any other documentation that is required must be prepared and passed on to your supervisor. Operational records and reports are to be prepared in a timely manner, presenting all relevant facts and information, and in accordance with organisational requirements, assignment instructions, post orders, and in accordance with legislative requirements.

### Documentation may include:

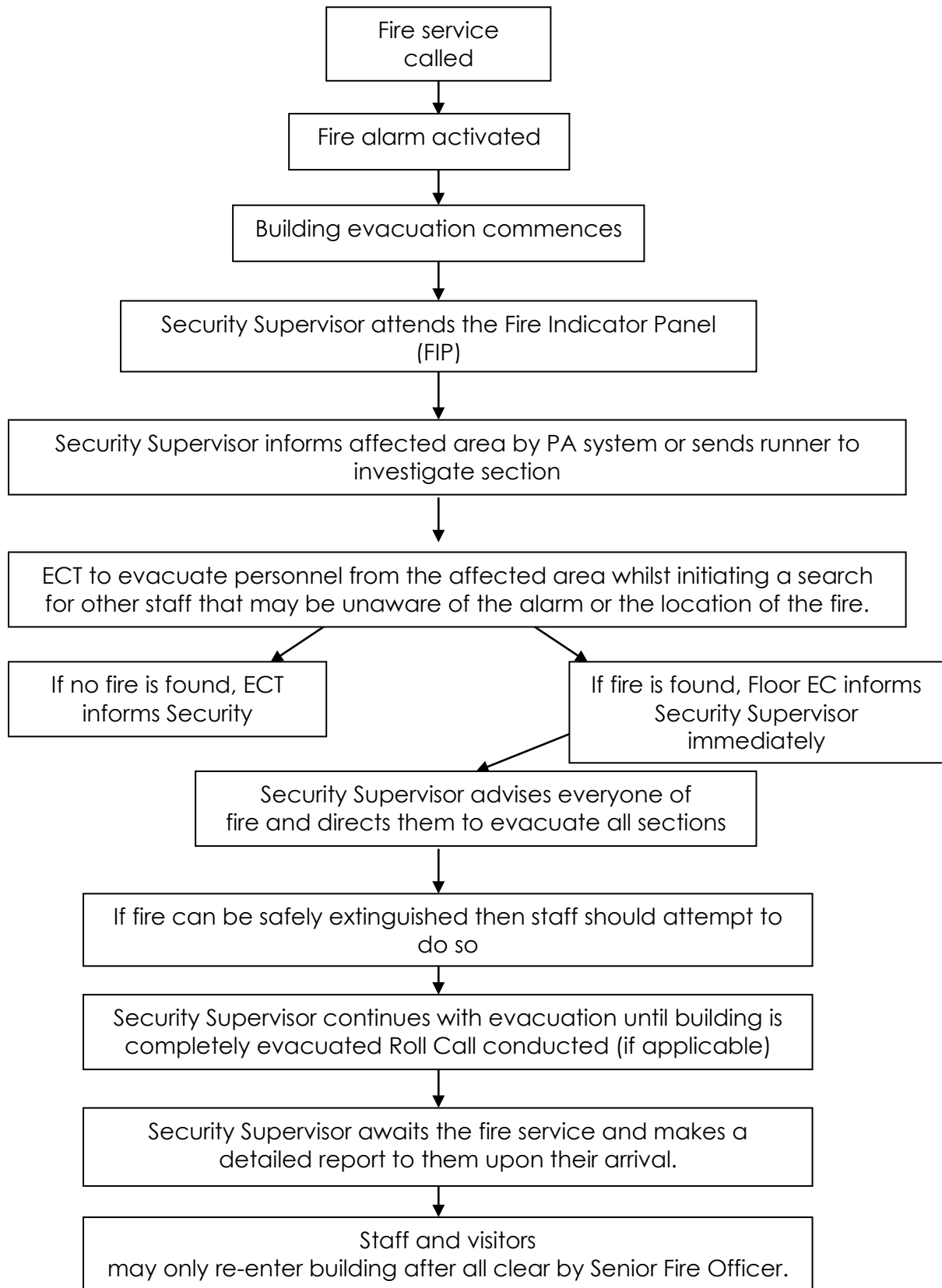
- Daily activity reports
- Occurrence reports
- Emergency systems report forms
- Incident reports
- Patrol run sheets
- Key Issue register
- Crowd Control register
- Equipment issued register
- Visitor log

### Handling the news / media

Staff members should not discuss emergency situations with the news / media. All enquires should be forwarded to the owners or management of the building. The media is only to be furnished with accurate information, to ensure that irresponsible statements from uninformed sources do not precipitate copycat incidents or crank calls.



The following fire and emergency flowchart documents the chain of events that should occur if a fire alarm is activated on site.



## 14 Bomb Threat Response

Unfortunately bomb threats are a regular occurrence but fortunately they are usually hoaxes. However any threat received must be considered legitimate until it is evaluated. Any evaluation is based on the amount of available evidence or intelligence relating to the threat.

Most bomb threats are received via the telephone and the considerations are:

- Immediately start recording details, ask the caller;
- What type of bomb is it?
- When will it explode?
- Where is it?
- Why are you doing it?
- Note background noises
- Try to estimate caller's age, nationality (accent?)
- Ask for a name
- Even if it sounds like a hoax get as much information as you can
- Do they seem to have some technical knowledge about explosive devices?
- DO NOT hang up but keep line open until advised otherwise
- Fill out and complete a bomb threat check list form

Company policy and the nature of the call will determine as to whether the police are notified. If the police are notified and attend an assessment will be done to either conduct a search or evacuation or both.

If a search is commenced and you are allocated an area to check the following guidelines should be followed:

- Prior to search have people remove their transportable personal belongings
- Search rooms in a methodical manner looking:
  - Low – Middle – High
  - Start and finish at common point
  - Under furniture and fixtures
  - Inside cupboards and desks, others areas to check include:
    - Suspended ceilings
    - Garbage cans
    - Garden beds
    - Phone or photo booths
    - Elevators (shafts)
    - Toilets
    - Vehicles
    - Mailboxes
    - Ducts and any other place likely to conceal a device
    - Open all doors and windows as you go – this to help dissipate blast

Once a room has been cleared it should be clearly marked in some way to indicate that, this is to avoid it being re-searched.

Indicators, which should arouse suspicion, can include:

- Articles in strange locations
- Strange shape and size
- Attached to an electrical source
- Wires or string protruding from article
- Bag or article which no one claims ownership of
- Strong or strange odour emanating from article
- Oily or greasy stain or residue
- Noise coming from article

If a suspicious article or device is located basic guidelines are:

- Do not move or tamper with device in any way
- Notify police as to location, size and any identifiable features
- Isolate device and cordon off area
- Evacuate all persons from immediate area to a minimum safe distance:
  - About 100 metres for shoe box sized device
  - About 300 to 500 metres for anything larger
  - For devices attached to fuel source (e.g. LPG tank) up to 1 kilometre
- Do not operate mobile phones or portable two way radios (there is a remote chance a transmission could detonate a device)
- Do not smoke or allow smoking in vicinity
- Treat it as a genuine explosive device until advised otherwise





# Work effectively in the investigative services industry

## CPPSEC3026A

*This page is intentionally blank*

# CPPSEC3026A Work effectively in the investigative services industry

## Introduction

This unit of competency specifies the outcomes required to work in a wide range of roles within the investigative services sector.

- It requires the ability to interpret and comply with legal and procedural requirements, organise and complete daily work activities, and identify opportunities for professional development.
- It also requires use of methods for improving own knowledge base and maintaining a professional approach in carrying out investigations.

Work effectively in the investigative services industry - CPPSEC3026A	
Element	Performance Criteria
<b>1.</b>	<b>Interpret and comply with legal and procedural requirements.</b>
<b>1.1</b>	The range of <b>legislative and procedural requirements</b> relevant to investigative services are identified and complied with.
<b>1.2</b>	<b>Assignment instructions</b> are reviewed to interpret legal and procedural compliance requirements.
<b>1.3</b>	<b>Personal limitations</b> in completing assignment instructions are identified and assistance sought as required from <b>relevant persons</b> .
<b>1.4</b>	Own <b>work performance and conduct</b> demonstrates a commitment to compliance with applicable legislative and client requirements.
<b>2.</b>	<b>Model high standards of performance.</b>
<b>2.1</b>	<b>Investigative tasks</b> are organised and completed within designated timeframes.
<b>2.2</b>	<b>Factors</b> affecting the achievement of work tasks are promptly identified and corrective actions implemented in consultation with relevant persons
<b>2.3</b>	Trust and confidence of clients and colleagues is gained and maintained through demonstration of high standards of investigative services.
<b>2.4</b>	Breaches of industry codes of ethics or practices are identified and reported to relevant persons.

<b>3.</b>	<b>Develop and maintain investigative competence.</b>	
	<b>3.1</b>	<b>Feedback</b> is used to identify and develop ways to improve own competence in providing investigative services.
	<b>3.2</b>	<i>Personal knowledge and skills are assessed against occupational <b>competency standards and other relevant benchmarks</b> to determine professional development needs and priorities.</i>
	<b>3.3</b>	<b>Opportunities for professional development</b> are identified, planned and implemented to improve own competence level.
	<b>3.4</b>	<b>Professional networks</b> are participated in to identify and build relationships and improve personal knowledge of investigative practices, technologies and trends.

## REQUIRED SKILLS AND KNOWLEDGE

### Required skills

- basic risk assessment
- communicate in a clear and concise manner in both written and verbal modes
- complete workplace documentation in a legally appropriate manner
- driving and navigation
- numeracy skills to estimate time to complete activities and prioritise task observation
- personal skills to relate to people from a range of social, cultural and ethnic backgrounds and varying physical and mental abilities
- planning and prioritising work tasks
- questioning to confirm legal issues and procedures associated with job specifications
- questioning to confirm technical issues associated with work tasks or equipment
- request advice, support or further information
- research
- seek and receive feedback on performance and areas requiring improvement
- self reflection to identify skill improvement needs
- source, organise and record information
- use and interpret maps and street directories
- use business equipment and technology to plan tasks and complete reports
- work on an individual basis and as part of a team.

### Required knowledge

- evidence management principles
- legal requirements relating to a range of investigative services
- legislative restrictions on the use of recording devices
- limits of own responsibilities and authority to undertake investigations
- range of investigative client services
- range of professional networks for investigative services
- reporting requirements for investigative work
- surveillance equipment, techniques and listening devices
- techniques for factual investigation
- terms and conditions of own employment
- types and uses of information gathering equipment
- types and uses of investigative equipment.

## Occupational Health & Safety, Risk Assessment - Stay-Safe Priorities

Occupational Health and Safety risk assessment has become a mandatory exercise to be carried out before commencing any operational activity in any facet of law enforcement or investigation, and whilst it sounds difficult or onerous in simple terms it is neither. It is merely an exercise where the risk assessment is discussed and formalised in writing as a precursor to an operation order or instruction or as a mental exercise carried out by the investigator who is about to carry out the function on behalf of the client.

It is simply looking at the persons being dealt with, the area where the activity is to be carried out and therefore identifying if any of these factors pose a threat or risk to persons taking part. This includes also the person of interest and not just the investigators.

Whilst the Police have greater risk factors in a volatile situation the investigator also faces risk from some of the persons he may come in contact with whilst carrying out his function.

After identifying any risk associated with the activity the investigator must then analyse the risk and eliminate the risk to the best of his ability. Eliminating the risk could be as simple as meeting the person of interest in neutral and public places or taking another investigator to the interview. Simply advising a colleague or manager of the activities to be carried out and the location of the activity is a form of eliminating risk.

Not providing home or personal details to a person of interest is another simple tool to eliminate risk and this will be discussed further in the health and safety unit.

**Law and legislation:** To work in any industry you must be aware of the many different types of legislations, codes and standards. These standards will influence the way in which you conduct your duties. If an employee fails to meet certain standards, it could result in disciplinary action by his employer. On the other hand, if the employer or employee fails to meet certain standards, or legislations are breached, it could result in criminal or civil action against a company or individual. A broad understanding of a number of legislation and codes may be required for you to work effectively in your particular industry. Some examples of Legislation, codes and national standards that you may need to be aware of,

- Occupational Health and Safety
- Environmental issues
- Equal employment opportunity
- Anti-discrimination and diversity
- Commonwealth/State/Territory legislation and Acts for your industry
- Licensing arrangements
- Australian Standards, quality assurance and certification requirements
- Relevant industry Code of practice
- Industrial relations and trade practices
- Privacy requirements
- Freedom of information and confidentiality
- Crimes Act
- Privacy Act/s
- Evidence Act/s

## 1. Definition of Law

The law is the orderly system of rules that must be obeyed by all members of society for the protection of and well being of society. These rules are enforced by State Authorities through law enforcement agencies, private agencies and the judicial system. (i.e. police, legal fraternity, judicial Investigators, local law Investigators, private investigators and ultimately by the Courts, civil and criminal) Civil and Criminal laws are the two main types of law that Investigators deal with.

**1.1 Civil Law** is the body of law concerning citizens. Examples of Civil Law include contracts, defamation, land law, and torts (for damages and wrongs committed against another).

**1.2 Criminal Law** concerns crimes against the good order of society, which have been determined as actions that could threaten the well being of an organised society.

**1.3 Legislation: (Parliament-made law).** The main source of law and regulation is parliament-made. The process to make laws is similar in both the federal and state parliaments. Laws made by parliaments are called statutes, Acts or legislation. A draft Act is called a Bill. A Bill is debated by the parliamentarians and if it is passed by a majority in both Houses of Parliament it becomes an Act.

The precise meaning of words and phrases in Acts and delegated legislation is sometimes difficult to understand. Courts are often involved in deciding the meaning of particular parts or words of an Act. The court's interpretation of sections and words in an Act becomes part of the law. For example, the law related to divorce is not wholly contained in the Family Law Act 1975. It is found by looking at both the Act and the decisions judges have made in court cases, about the Act.

Victorian Acts apply to those living in Victoria and to the courts and judges within Victoria. Commonwealth Acts apply to the whole of Australia and to the courts and judges handling Commonwealth or federal law. The Constitution (see below) sets out which parliament has responsibility for different aspects of government.

Generally, judges cannot overrule or challenge an Act unless the Act is "unconstitutional". This means it was beyond the power of the Commonwealth or state parliament to make that law in the first place. The courts can then declare the Act or parts of it invalid and of no effect.

If a government does not like a judge's decision and/or interpretation of an Act, the parliament can pass an Act specifically to overturn that decision. Parliament can also add rules to judge-made law. In that case, parliament-made law will assert all the rules for that area.

From time to time, parliament will repeal (do away with) or amend (change) an Act. Parliament is not restricted because of earlier Acts, and can change laws as it wishes.

A set of rules has been developed by judges to help them interpret Acts; for example, there is a rule of interpretation which says that Acts are to be given their ordinary meaning unless that would lead to some absurdity. Occasionally, the meaning of an Act is unclear and the court decision (if there is one) is not helpful in clarifying the meaning. Where this occurs, the law is difficult to state one way or the other.

## **2. CASE LAW:**

When parliament passes laws it endeavours to make the purpose of the legislation clear. However, arguments are often raised in courts that cast doubts on what the law means or its interpretation or even on compliance issues. In these cases, usually or generally in an appeal situation, the Judge makes a 'ruling', giving his reasons for his interpretation and thereby sets a precedent and makes **Case Law**.

Senior Courts are not bound by this interpretation, though they would consider the decision, if it was made by a lower Court, but lower courts such as the Magistrates Court are bound by the decision of the superior Court. The appeals courts do not necessarily determine the matter when the appeal is based on a point of law; they simply make a binding decision on the point(s) of law being appealed and then refer the matter back to the lower court for determination. Few Australian laws were made by parliaments prior to 1850. Judges decided each case as it came to court. They wrote down the reasons for their decisions and these are called judgments. The important judgments were published in books known as law reports.

Case law can assist an Investigator in how he/she might approach a similar type of a case.

**Common Law** is an 'unwritten law' which evolved over hundreds of years, based mainly on what the Crown (British Parliament) decreed, and what Judges decided. Some of the Laws that govern our society are still based on Common Law rather than Statute Law.

Judges were (and still are) bound by a strong tradition to decide each similar case along the lines of earlier decisions made. If the facts of the earlier cases were not exactly the same, the judge could still compare the situations and apply a common principle or develop a new, reasonably similar principle for the new facts. This is known as the doctrine of precedent. The principles and rules contained in the collection of judgments and court procedures became known as the common law.

Some of the rules that direct the conduct of court cases and court-made law are as follows.

1. A judge's decision in each case is binding on those involved (the parties) in that case. If you agree to the court sorting out your dispute, then you cannot seek to change the rules of the court after the case has been fought. Each party in a court case accepts the authority of the judge and must do whatever the judge orders to be done after the case is over.
2. If an appeal is not made within the time limits, the matter is settled and the case cannot be re-opened. If, for example, a neighbourhood dispute over a fence is fought



before the courts, and one neighbour wins and the other loses, they cannot return before another judge later to argue the same case to see if there is a different outcome. Occasionally, fresh evidence in a criminal case can be used as a reason to re-examine a court's verdict. Examples in Australia include the famous Lindy Chamberlain murder conviction.

3. If one of the parties appeals to a higher court (within the time limit), the higher court can either agree with the lower court's decision or make a new decision. The higher court's decision is then binding on the parties, unless an appeal is lodged within the time limits to an even higher court.
4. The decision of the highest court in the court structure is final. No further appeals are possible.

The doctrine of **precedent** means that the judges in lower courts must follow decisions of higher courts and a single judge of a court must follow a decision with more than one judge in that court. The decisions of courts outside Australia are not binding on Australian courts, although they assist or guide Australian courts in making decisions on new facts or new legislation. If, for example, the case before the Australian court is unusual or difficult, the judges and lawyers will look to the decisions of overseas courts for guidance or comparison.

A court, when it makes a decision, will give reasons for its decision. Another case with similar but not identical facts can be decided differently. If this happens reasons will usually be given as to why this case should be treated differently. Each case is decided on its own facts.

The highest court in Australia is the High Court, which consists of seven judges and is based in Canberra. The Chief Justice of the High Court is Australia's most senior judge. The High Court need not follow its own earlier decisions, or precedents, and can make new law by deciding, with a majority of judges, to change the law.

Parliament-made law over-rides judge-made law if both apply to the same problem. But judge-made law still applies in many areas and the practice of following previous court decisions continues today. Judges continue to develop the law in areas not covered by legislation; they also have an important creative role in interpreting legislation when there is a dispute about the meaning or application of a section of an Act. The decisions judges make in interpreting Acts become part of the common law, which other courts will refer to.

### 3. Standard of proof:

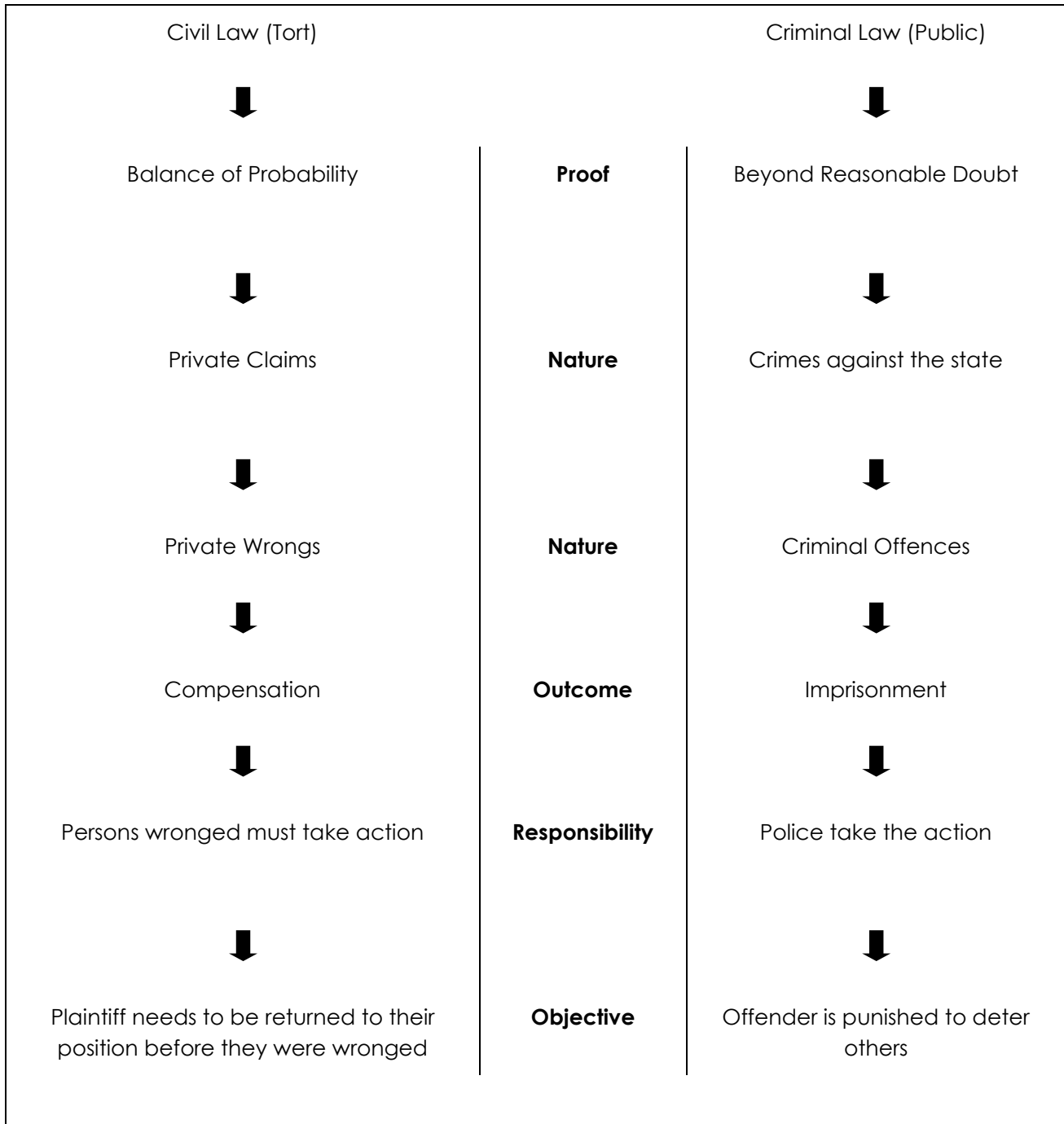
In a **Civil Case**, it is **the balance of probabilities** where the Plaintiff must convince the court that his version of the event is more probable than the defendant's.

In a **Criminal case**, a case must be proven to the level of **"beyond reasonable doubt"**. This standard of proof must carry a high degree of probability. (But not necessarily water tight.)

### 3.1 Mens Rea & Actus Reus - Guilty Act & Guilty Mind

Basic 'rights' in society are guaranteed under Common Law, however, one which can affect security operatives is 'Mens Rea' and 'Actus Reus' which means Guilty Mind and Guilty Act. Both these elements need to be proven in a Court of Law to gain a conviction. Therefore, if anyone was to commit an offence accidentally or because of circumstances beyond their control, they would be not guilty. A person must have intent to commit an offence for it to be a crime.

#### Civil Law and Criminal Law – Overview



#### 4. Civilian Arrest powers - legal and illegal arrests:

**4.1 Arrest** is best described as the seizure or touching of a person's body with a view to restraining them. However, your mere words may amount to an arrest, if in the circumstances your words bring to the person's mind that they are under some compulsion (to remain) and therefore submit to this compulsion. Do not detain a person unless you are 100% positive that you have the legal right to detain them. This means that you must not detain a person longer than absolutely necessary. It may be more beneficial to take and pass on the offender's identification and offence details to the police. If you do make an arrest, you should notify Police immediately or as soon as possible. If you do arrest someone, advise them that they are under arrest, and the reason why they are under arrest.

**4.2 Who Can Make an Arrest?** Legislation in the **Crimes Act 1958, Sec. 458**, provides any person in Victoria, regardless of their occupation (*civilians / Police / security*) or status (*resident or tourist*), with the legal power to make a lawful arrest. A major stipulation to this arrest power is that the arresting person **must find the person committing an offence** [where the offence is a crime, summary offence or misdemeanour – 'offence' does not relate to a parking, driving or council infringement.]

**"Finds Committing" is defined in the Crimes Act as:** "Where a person is found, doing any act, or behaving or conducting himself, or in such circumstance that a person so finding him, believes on reasonable grounds that he is guilty of the offence." (Crimes Act 1958, Sec 462.)

If you do arrest a person, you must be able to validate that you found that person committing an offence, and that you had any of these following reasons to arrest the person: (1) in order to ensure the offender did not **C**ontinue the offence, (2) in order to ensure the offender **A**ppears at court to answer the charge (3) in order to ensure the **P**ublic order is preserved & (4) in order to ensure the **S**afety of the public or offender. The acronym **CAPS** is often used to remember these four needs that must be present before a lawful arrest can be made: C – Continuation; A – Appearance; P – Preserve; S – Safety.

**Section 458 of the Crimes Act (Arrest Power)** also stipulates that you must arrest a person if instructed by Police to do so, or, if you believe on reasonable grounds that a person is escaping from legal custody, or aiding or abetting another person to escape from legal custody, or avoiding apprehension by some person having authority to apprehend that person in the circumstances of the case.

**Important factors to remember as a Private Investigator:** You have no power of arrest regarding a person who may have committed a crime previously. You have no power of arrest for a situation where a person might admit or confesses to committing a previous crime (or offence) to you; in this situation you should caution the person, and then report this matter to Police. Only Police have the arrest power to arrest someone that they believe has committed a crime. (Described in Crimes Act. Sect 459] Someone that might confess a crime to you, does not equate to the "Find Committing" conditions under Section 458, Crimes act. As an Investigator, you should be fully aware of the authority that you have under the Crimes Act - Section 458, to affect a lawful arrest.

Do not detain a person unless you are 100% positive that you have the arrest power to detain them. This means that you must not detain a person longer than absolutely necessary.

**Searching a person:** An Investigator has no search power to search a person.

**Vehicle searches:** Private Investigators have no legislative authority to search vehicles without the consent of the owner. If significant suspicion of drugs, weapons, or stolen property contact the Police.

## **5. The Investigator and the law**

Though Private Investigators would not usually make criminal arrests, or interrogate criminal offenders, by having knowledge of what constitutes the offences of Theft, Burglary, Fraud, Assault and Criminal Damage it would assist in dealing with insurance claims that are often related to these offences. These offences are described in the Crimes Act, and some are described in Section 12 of this chapter.

Investigation, as a professional occupation, is based on the methodology of using ethical and legal actions, evidentiary rules, and techniques in the gathering of facts, circumstantial evidence and associated (relevant) information. These gathered facts and information, assists in providing truthful evidence to both criminal and civil cases, and provides for the analysis and diagnosis of many situations in a wide variety of industries.

**Investigators** are often required to inquire into situations or events and must first establish that the situation exists, or that the event has happened, or is about to happen, or that an offence (crime) has been committed.

Investigators will have to confront many issues whilst in practice: there are laws to observe, clients to appease, family to consider and other pressures. Balancing your time and planning and prioritising your work load are necessary to achieve success. Preparing and planning your day, and keeping your office and environment free from disruptive disturbance, and staying on top of your work-load is essential to maintain successful outcomes. Accepting feedback positively is another way to rate your performance.

As an Investigator you must not become complacent, or be neglectful in keeping up-to-date with changes in the industry that might affect the way you should conduct your business. Networking and gaining knowledge about the activities of your competitors, innovations, or changes in legislation are essential to work effectively within the investigative industry.

The purpose of any investigation, in the spectrum of private investigations, is to produce a result that confirms or rebuts suspicion or allegation.

## 6. The Roles of the Investigator

The Investigator is the person responsible for the conduct of an investigation into a particular allegation, event, circumstance, situation or crime. Private investigators regularly undertake anti-fraud work for insurance companies relating to loss claims and welfare fraud. These activities may involve surveillance or direct interviewing of claimants. Often, legal background work is undertaken for law firms, by way of interviewing witnesses or claimants for both civil and criminal cases. Other Investigator activities include workplace investigation into work safety, and internal or external theft and fraud. In other work there is domestic type work regarding checks on partner activities, which is often related to fidelity issues. Searching for missing persons or abductions of children by parents who have separated or are divorced is also a regular work activity.

## 7. The Principles of Investigation

**An investigation is in search of the truth in the interests of justice and in accordance with the requirements of the law.** This definition is equally applied across the board to all classes of Investigators involved in all types of investigations. As you are searching for the truth, you must abide by the law. Evidence must be obtained fairly and legally. Remember, that your actions and propriety may be the subject of scrutiny by other authorities at some later time. The process of investigation involves exploration of basic sources of evidence relevant to the facts of the matter under enquiry. The success of an investigation is directly affected by the time taken to respond after notification.

An investigator is a collector of facts, and the evidence collected must be allowed to present its own conclusion. The scene of the crime, act, omission or event must be visited in the initial stage of the investigation. The scene must be preserved in its original state until it has been viewed, photographed and examined by Police (for crime scenes), the investigator and/or other technical experts.

## 8. The Responsibilities of the Investigator

Responsibilities need to be quickly prioritised at the scene of an event, or crime. Rendering medical assistance to seriously injured persons is the highest priority. The identification and isolation of witnesses involved in the event or crime, and prevention of contamination of the scene, and prevention of destruction of evidence, are of critical importance also. The search of a scene must be exhaustive; the investigator must be satisfied that he/she has found all evidence capable of being found. The investigator should take notes in his/her note book of where, when and what was found, and who was there.

Physically evidence (examples: people's testimony, records of interview, photographs, audio-tape and exhibits) are real evidence that always 'tell the same story'; and are not subject to the adverse influences that often affect or distort human memory. Science and technology are aids for investigation. The investigator must pursue and discover the physical evidence and pass them on to the experts for analysis.

Evidence from witnesses can be affected by human frailty and other influences; statements from witnesses must be confirmed or corroborated where possible. Evidence consists of facts and circumstance, testimony (statements), documents and physical exhibits which may prove or disprove the matter under enquiry. Ability to accurately describe your observations and to clearly communicate with people are major skills in the processes of investigation.

Investigation requires interviewing and statement taking techniques that conform to the Law (Evidence Act 2008). Written notes or recordings must be made progressively throughout an investigation. If it is worthwhile making a mental note of something, it is worthwhile making a written or recorded note of it.

The type and degree of the event will often determine the style and method of investigation. Remember that criminals, offenders and subjects all have human rights; in your treatment of people, demonstrating your respect is a good way to gain co-operation. The quality and standard of an investigation will often be commensurate with the efforts and motivation of the investigator. The success of an investigation relies heavily upon being highly prepared, so as to be able to capitalise on any opportunities that might be presented.

Investigation involves the processes of induction and deduction. Induction is the assembling of all of the available evidence, and deduction is the analysis and hypothesising for a solution to the matter under inquiry.

The Investigator is the person responsible for the conduct of an investigation into a particular allegation, event, circumstance, situation or crime. Objectivity is the main concern of the Investigator. He/she must avoid developing a tunnel vision approach and must show professionalism by avoiding the influences of opinions, speculations, premature conclusions, scurrilous, vexatious and vindictive claims, or false allegations. Totally dismiss and resist the temptations of any pre-conceived conclusions.

The Investigator is often required to determine the truth of the matter under enquiry by collecting and evaluating all available and relevant evidence. Investigators should be equally concerned about establishing the proof of innocence of a subject, not just the proof of their guilt. In this context, an Investigator should develop expertise in the taking notes, sketches, videos and photographs.



## 8.1 Investigation process:

### 1. Establish if the allegation, claim or complaint is correct and has been committed.

The starting point for any investigation is to establish if the event, crime or allegation has actually been committed. This is the basis for continuing the investigation.

### 2. Establish the identity of the person who is the subject of the allegation, claim or complaint.

- This information is usually provided to you when the task is allocated. However, through the process of investigation you must still ensure this person identified, is in fact, the person who committed the actions being investigated.

### 3 Establish the whereabouts of the person who is the subject of the allegation, claim or complaint.

This is not always available to you and is not always easy to establish. Part of the enquiries you may be required to undertake, could be locating the party or parties involved.

Investigators often talk about a '**gut feel**' regarding an event, or information that they make insight into. This 'gut feel' often relates to their previous experience, where a pattern of information or circumstances are very similar. In this situation, the professional investigator should write down these thoughts and what he/she might think might have happened. (But) A 'gut feel' must not replace or cancel the need to go through an accurate, or rigorous process, in order to prove or disprove their hypothesis.

## 8.3 The attributes of an Investigator;

COMMON SENSE	INTEGRITY	INITIATIVE	DEDICATION
KNOWLEDGE	JUDGEMENT	COURAGE	

These attributes combined with ATTITUDE and DECISION MAKING ABILITY should produce the particular qualities of a competent Investigator.

**8.4 Your Attitude:** To be an effective Investigator there are demands required of unconditional service and dedication. At times your activities may attract attention from various authorities that may ultimately lead to your activities and methods being scrutinized, by some other body or higher authority, such as the Ombudsman, Licensing Services Division or the Courts. The Investigator should develop a reliable reputation for himself through his dealings with individuals and the public in being professional, honest and dedicated performance of duty.

The Investigator's attitude must be one where he/she zealously guards their reputation and character in order to ensure and provide confidence to their impartiality and integrity.

As Investigators you will be exposed to a broad cross-section of the community, where you will deal with different cultures, attitudes, beliefs, morals and standards. You will deal with professionals, tradespersons, educated, uneducated persons, rich and poor clients or witnesses. In dealing with these various classes of persons you must develop an understanding of human nature and human respect, so as to tolerate people, and learn to react and adjust to their behaviours, in various situations.

You must place a high order on your planning, preparation and logical execution of the investigation. The experienced Investigator, embarking on a planned investigation, must provide sufficient preparation to maximise opportunities that present themselves.

Preparation often means the difference between success and failure. Remember these two sayings ... **“Time spent on preparation is never wasted”**, and **“Failing to Prepare is Preparing to Fail”**

## 9. Civil Law terminologies and important Civil Case Law Studies:

### 9.1 AN AGENT:

An agent is a person who is employed to act for, or on the behalf of another. An investigator, security guard or a crowd controller is an agent for the owner of the firm they work for, and of their client. An employer may be liable (legally responsible) for the actions or omissions of their employees.

### 9.2 DUTY OF CARE:

A House of Lords ruling in 1932 determined that we all have a duty of care towards each other. **A person has a Duty of care to conduct himself in such a way as to avoid harm to others, where any reasonable person would have been able to see that such harm could occur.** A legal duty of care is owed: Lord Atkin's famous statement that “a duty is owed to your ‘neighbour’ who is, any person you might reasonably assume can be affected by your actions or lack of actions”. In this context, a breach of duty is - damage that is suffered, which was foreseeable. Lord Atkin's ruling is very important to people in the investigations industry, because you are often responsible for the safety and well being of other people, and this may mean that just doing your job is not enough, your duty of care means that at all times you must be aware of what could happen.

You have a Duty of Care to all persons you deal with, including those effected by your actions or lack of actions - the same would apply to all matters covered under the Occupational Health & Safety Act.

### 9.3 NEGLIGENCE:

In civil law, one of the major causes of disputation is negligence. If a person is negligent, that person and / or their employer, can be liable for the loss suffered as a direct result of that negligence. The end result for failing to execute your duty of care responsibility is Negligence. The following case demonstrates how both an investigations staff member and their employer can be deemed liable for negligence.

**9.4 VICARIOUS LIABILITY:** is the actions or omissions of an **Agent**, who could also be the responsibility of the employer, and that employer could be **you**.

**10. CASE LAW** *Myer Stores & Ors versus SOO*. In the Supreme Court –Victoria, 1991: Case concerning: Tort - False Imprisonment – *Plaintiff mistaken for shoplifter* – Role of Store Investigations, Investigator. Escorting Plaintiff to Investigations Office – (Damages)

Mr. Soo was shopping in Myer's in Melbourne when he was approached by a Myer's investigations Investigator and two police Investigators who wanted him to accompany them to the security office. Despite his offer to co-operate and show his bags there and



then, and ignoring his protests that they “had the wrong man” the Investigators insisted he accompany them to the office. With police and the investigations Investigator at his each side and one behind, he was escorted to the office.

This action followed the theft of some items from the store several days earlier, an event caught on CCTV cameras. When the investigations Investigator had subsequently seen Mr Soo some days later he believed he was the same thief and phoned the police.

However, after an hour, Mr Soo was allowed to leave. The police and store investigations were unable to establish any connection between Mr Soo and the theft. Soo sued Myer's for false imprisonment and was successful as the company was vicariously liable for the actions of their employees. Soo also sued the Police claiming false imprisonment.

In his judgment the judge said Soo had been restrained by being actively escorted to the interview room. The Investigators had indicated he had no alternative, although this had been done passively.

The court also found the false imprisonment continued in the interview room even though the door remained open and there had been no physical restraint. Mr Soo was at no time there on a truly voluntarily basis. The case was awarded \$10000 against Coles Myer plus interest and associated costs.

A comment by Fleming in his 7th edition of the Law of Torts states “Better that such losses (from shop stealing) be counted as the cost of doing business than that they be minimised at the expense of individual freedom”. This comment is relevant in any **arrest** situation where a person is detained, or deprived of their liberty. You must question your actions: Is it justified? Is it lawful? If a person believes in their own mind they are under arrest they are under arrest, despite what you believe the situation to be.

## **10.1 Force Majeure**

The **Force Majeure** clause in a contract excuses a party from not performing its contractual obligations due to unforeseen events beyond its control. These events include natural disasters such as floods, earthquakes, and other "acts of God," as well as uncontrollable events such as war and terrorist attacks.

Force Majeure clauses are meant to excuse a party, provided the failure to perform could not be avoided by the exercise of due diligence and care. However, it does not cover failures resulting from a party's financial condition or negligence. For example, you signed a purchase agreement for a house, and before you gained ownership of it, the house burned down due to a fire caused by lightning. Neither the buyer nor the seller would be held liable under the terms of the contract; the seller for not providing the property as stipulated in the contract, and the buyer for not paying the balance of the purchase price.

Force Majeure literally means "greater force." When used in a contract, the Force Majeure clause is one of several boilerplate clauses, which are clauses normally written using standard, universal language. Other common boilerplate clauses include arbitration clauses and entire agreement clauses.

When negotiating Force Majeure clauses, make sure the clause applies equally to all parties. Be sure to include specific examples of events that will excuse performance under the clause. The following are three basic categories of these kinds of events:

- Natural disasters, such as earthquakes, hurricanes, floods, tornados, and fires
- Disasters, such as earthquakes, hurricanes, floods, tornados, and fires
- Human events, such as wars, riots, or other major upheavals
- Performance failures outside the control of the contracting party, such as disruptions in telephone service attributable to the telephone company; labour disputes other than those of the contractual parties; government restrictions (denial or cancellation of a necessary license); or supplier problems (product unavailable)

Generally, the events that the Force Majeure clause does not cover include:

- Computer failures & Software glitches
- Distributor troubles
- Internal labour disputes
- Credit problems

The language of a Force Majeure clause should pertain to the area of business that the contract covers.

Here's a sample template of a Force Majeure contract clause:

*Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export of other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected (including mechanical, electronic, or communications failure).*

Courts using the interpretive rule of *ejusdem generis* (Latin for "of the same kind," used to interpret loosely written statutes) could possibly exclude certain unforeseen events unless specifically listed in the Force Majeure clause. One way is to list in the contract as many of the possible uncontrollable events that might cause the terms of the contract not to be fulfilled. As an extra precaution, add the phrase "including but not limited to," as shown in the above example of a Force Majeure clause.

## **11. EVIDENCE**

The *Evidence Act 2008* regulates the way in which evidence is collected, presented and evaluated in criminal and civil court proceedings. The rules of evidence contained in the *Act* are, therefore, central to operation of the whole justice system. The Law of Evidence governs the means and manner in which a person may substantiate his or her case, or refute his or her opponent's case.

There are two Evidence Acts that relate to the State of Victoria, the Commonwealth Evidence Act 1995 and Victoria State Evidence Act 2008.

## 11.1 What is Evidence?

Evidence consists of facts, testimony and exhibits that can be used to prove or disprove a matter under inquiry in a court or tribunal. Physical evidence does not need to be visible to the naked eye and can include but is not limited to such evidence as fingerprints, footprints, footwear impression which may need to be enhanced in order to be recorded, compared and analysed.

### Other States Laws relating to Evidence

Qld -	Evidence Act 1977 (Qld)
TAS -	Evidence Act 2001 (Tas)
NSW -	Evidence Act 1995 (NSW)
ACT -	Evidence Act 1971 (Act)
WA -	Evidence Act 1906 (WA)
SA -	Evidence Act 1929 (SA)

## 11.2 COLLECTING EVIDENCE

These procedures provide assistance for Investigators collecting or gathering evidence. Investigators are also responsible for the collection of evidence / exhibits. Procedures will vary from investigation to investigation. The procedures below will only offer an outline to how an investigation could be conducted.

### 11.3 Running log of events

Through the course of an investigation from the initial contact by a client or initial instruction by your company through to all other stages of the investigation you must raise and maintain a running log of events including-

- day, date, time, location;
- who was present at the scene or present during inquiries;
- full details of persons interviewed;
- detail your processes and plans for inquiry
- establish basic facts;
- note observations, in particular, visible evidence
- catalogue evidence as per procedural requirements
- note conversations overheard or reported.

Any physical evidence that comes into the possession of an Investigator must immediately be preserved and clearly marked for identification purposes. Generally, when the investigator takes possession of property it is referred to as “bag and tag”. Bag – the item is placed in a container of some description to prevent deterioration and contamination. Tag – an exhibit label is attached to the item and it records the following:

- The investigative company's Job Reference Number
- File number of an investigator's choosing (e.g. BJW\1,2,3 etc.)
- Investigator's name and licence number

- A brief description of the item (eg: Blue-coloured, left-foot, ladies shoe, size 6)
- Time, date and location of where item came into the possession of the investigator

Investigators should be the only persons to have access to exhibits and control of lockable areas where the exhibit/s are stored. In the event that the investigator has to keep custody of an exhibit for an extended period, the investigative company would normally appoint a property custodian who would be responsible for the long term storage of evidence.

An investigator should wear latex gloves when handling, collecting or moving evidence. Where possible a photograph should be taken at each step of collection. All items (except for needle-sharps and certain dangerous goods) should be placed in a sealed plastic bag or envelope. Any item that possesses features that would make storage in a plastic bag or envelope undesirable or unsafe must be placed into an appropriate storage container or facility (i.e. sharps container for a syringe and labelled accordingly).

The bag, envelope or container must be clearly marked prior to placing the item within. The Investigator must maintain a register of exhibits in hard copy, which should record at least the following:

- File reference number
- Date obtained / found
- Time obtained / found
- Description and the nature of contents
- The precise location that it was found in
- From whom received
- Names of any person witnessing the find;
- Acquisition receipt number if required
- Investigator who took possession
- Location of storage
- Disposal date
- Disposal receipt number
- Investigator who arranged disposal



**Exhibit Label (Sample)**

ABC INVESTIGATIONS IDENTIFICATION LABEL	
Our Ref:	Identification Number
Client Ref:	Property book number
<b>INVESTIGATOR</b>	
Licence Number	State
Name	
<b>BRIEF DESCRIPTION OF ARTICLE</b>	
<b>TIME, DATE, AND LOCATION WHERE FOUND</b>	

<b>SIGNATURE OF INVESTIGATOR AND ALL PERSONS HANDLING ARTICLE</b>	
Signature	Time and date
<b>DIRECTIONS</b>	
<ol style="list-style-type: none"> <li>1. Attach this label to the article immediately it comes into your possession.</li> <li>2. Note time and date and sign the label.</li> <li>3. Security of the article is the responsibility of the investigator until handed to the property custodian</li> <li>4. If passing to another person, have them sign the label and insert the time and date.</li> <li>5. Do not tamper with or contaminate the article in any way</li> </ol>	

## 11.4 Illegal items

The tasks of identifying, recording, collecting and interpreting physical evidence during an investigation is a job done by the Investigator. All physical evidence must be photographed (several photos) or video recorded in their initial state) prior to be collected. Use a ruler alongside of evidence to provide reference regarding the size of any object or exhibit.

In some investigations you may find evidence regarding illegal substances or objects.(e.g.: narcotics, firearms) You should not touch these items. Police should be notified immediately to attend the scene, and to examine and collect this evidence. If you are able to photograph these items without disturbing the crime scene then do so. Note: walking through a crime scene can destroy key evidence. If you suddenly find illegal items and sense it is a crime scene, contact Police.

**Note:** finding such items during an investigation may turn what seemed to be a simple employer — employee investigation into a criminal matter. A further point to note is, that if such items are found, then you may need to leave the scene for your own safety. We suggest that you return to the area or scene when advised to do so by the Police.

## 11.5 Seizing Evidence

Private Investigators have no power to seize evidence. Investigators have no general statutory powers to obtain and retain documents or physical evidence simply on the basis that the documents or physical evidence may or will be required for court proceedings.

## 11.6 Procedures in relation to handling evidence

These procedures provide assistance for Investigators handling evidence / exhibits. Investigators are also responsible for handling evidence / exhibits and should refer to the procedures below. Procedures will vary from investigation to investigation. The procedures below will only offer an outline to how an investigation could be conducted.

All evidence that does not belong to your client should, unless otherwise directed by a Court or other authority, be returned to its owner or the person from whom it was obtained as soon as possible after the Investigator is satisfied that it is not required for further proceedings.

## 11.7 Preservation of evidence

The general rule in handling any exhibit is to handle it as little as possible. It is important to retain the item as closely as possible to the state in which it was found.

This is especially true in the case of documents. The overriding rule is that if an Investigator takes possession of an original article which the Investigator believes has

potential value as an exhibit, the Investigator should immediately place this item into an evidence bag and make arrangements for appropriate safe storage.

### 11.8 Continuity of possession

The expression "continuity" is used to describe the handling and whereabouts of an exhibit from the time it comes into the possession of an Investigator until the time it is produced in court to the proceeding have concluded.

Continuity is also referred to as the "chain of evidence". Bearing in mind that a chain is only as strong as its weakest link, any weakness, such as not being able to confirm the retention of evidence for a period, leaves it open to suggestion that the evidence presented in court is not the same as the evidence originally obtained.

Investigators need to be aware that they may be required to account, in court, for their involvement with an exhibit. Therefore, Investigators should record the following information about any evidence / exhibit that comes into their possession. This information should be recorded in the Investigators personal notebook and on any running logs or log books:

- File reference number
- The date, time and place that the exhibit came into your possession
- A description of the exhibit, or photo, and any other identification details
- From whom you obtained the evidence
- How you obtained the evidence
- When you relinquished possession of the evidence
- To whom you relinquished possession

The Investigator who initially takes possession of the exhibit, is usually the person who will be required to produce the evidence at court. All evidence must be clearly labelled and marked showing all of the details previously described. If exhibits are handled or moved by other investigators/persons for appropriate reasons, then there is a need to establish a proof of continuity of possession. Investigators must comply with continuity of possession by: the recording the receiving Investigators name, signature and date out, and each subsequent handler's details, signature and date in. The Investigator receiving the evidence must sign the handing-over Investigator's personal notebook, as having received the evidence and must record the following in his own notebook;

- day, date and time of receipt; and
- sign and print Investigator's name, and employment

The same record must be made in the receiving Investigator's official notebook. The person holding the evidence for a long period of time must secure the evidence in a restricted access area, in a secure cabinet or evidence safe etc. that cannot be interfered with, by a third party and to which the person holding the evidence only has access. The secure storage of evidence must be able to be proved in court. Some companies may prefer a more formalised system of

receipting evidence such as the use of triplicate paged receipt books. These receipt books will show such details as stated above.

### **11.9 Documents as exhibits/evidence**

Investigators should ensure that evidentiary documents such as logbooks, contracts, receipts, anonymous letters, extortion notes, indecent or threatening letters and / or other documents that may be required as evidence / exhibits in court are handled carefully so as to ensure that they are not changed in any way. In particular:

- Investigators should ensure that such documentary exhibits are not used to be written upon, or stapled, or torn, or folded, or pinned or mutilated in any way.
- Investigators should also ensure that such documentary exhibits are not placed in a position where they can be stained, or where impressions from writing on paper above, will be left on the documentary exhibit. (e.g., writing on an envelope after the document has been placed inside, the impressions on a document can be an important part of forensic document examination).
- Investigators should avoid applying pressure and making indentations.
- Investigators should not attempt to repair damaged documents.
- If burning documents are found, try to smother them, and try to avoid using water to extinguish flames.

When an Investigator becomes aware that a document may be required in some later court proceeding, the Investigator should arrange for it to be placed in an evidence envelope/folder as soon as possible. The Investigator should package each item in a separate evidence bag. There are two reasons for this:

1. It prevents damage to the document itself.
2. In the unlikely event that it may be necessary, it preserves any fingerprints that may be on the document.

If an Investigator needs to work from a document he or she should take a photocopy (while wearing latex gloves) of it and work from the copy.

Investigators should make every effort to retain possession of original documents. If it is not possible to take possession of original documents it is important that Investigators arrange for them to be photocopied. If a document is photocopied:

- sign and date the photocopy, preferably on the back of the photocopy;
- wherever possible, try to arrange for the person retaining the original document to sign the photocopy as being a true copy of the original; and
- treat the photocopy as an original;
- where possible, have the copy of the documents certified by the appropriate person;



Investigators should record in their personal notebook the date on which the original documents were filed or stored. This will assist an Investigator to obtain the originals documents if required.

### 11.10 Handling other evidence:

**Drugs** An Investigator should not handle illicit substances at any time. If handling prescription medications, ensure that you use rubber gloves, and minimise the handling of such items, and retain the original packaging/labelling if possible.

#### Drugs could include:

- liquids
- medicines
- powders
- crystals
- pills
- solids, or
- vegetable matter,
- LSD



The Investigator making the find must package the whole item (including the original packaging) into a sealable plastic bag or a sealable plastic container.

Any synthetic drug recipes found should be placed in a plastic document holder or envelope. On the discovery of these items, marijuana (cannabis) and other illicit substances, the Investigator making the find must report this incident to the Police immediately.

#### Clothing

If clothing is found as an exhibit, then these items should be placed in a clean plastic bag or clean envelope.

#### Syringes

Syringes are only to be collected as evidence **at your own risk**. If liquid is still present in a syringe it must not be expelled. The syringe must be placed in an approved sharps / syringe container only. One syringe only should be placed in each sharps container.

If an investigator is to collect a syringe he must practice extreme caution when placing a syringe in a sharps container and subsequent handling of the container. The container must be marked clearly that the contents is a syringe or sharps and must be handled with extreme caution.

## Ropes, string or twine

If an investigator is to collect such items the entire rope needs to be collected as evidence including any knots or attachments. Take care to prevent fraying and where possible isolate the ends.

## Dangerous Goods

Evidence / exhibits consisting of dangerous goods must be handled in accordance with any dangerous goods policies. Any dangerous good held as evidence by Investigators must be kept in a suitable storage area, and in accordance to the recommended Occupational Health and Safety requirements of this classified item. Classifications, which are not permitted to be kept in the same storage area, must be segregated in accordance with the requirements of the local or regulatory authorities.

## Firearms

The first priority is to ensure the safety of all persons in the immediate vicinity - which includes you. An Investigator should not handle a firearm. (unless under extreme circumstances). On the discovery of such items, the Investigator making the find must report this incident to the Police immediately.

The weapon must be secured in the condition it was found in. The weapon should not be touched or removed unless extreme circumstances exist. Do not attempt to remove cartridges, dry fire or unload the weapon.

## Flammable Liquids

Flammable Liquids are only to be collected as evidence **at your own risk**. Flammable liquids must be left in the original container and only stored if safe to do so.

## Alcohol

Alcohol must be retained in the original container or if it is found in an open container poured into a clean glass bottle and secured with a cork or screw top.

## Biological evidence

Biological evidence could include hair, blood stained clothing, other fluids, etc. Each item must be packaged separately. If the item is wet it must be placed in a clean, leak-proof, container and handled in such a way that any possible spatter patterns are not destroyed.

Once the item is placed in a clean, leak-proof, container it should be stored in a refrigerator clearly labelled "WET ITEM PLEASE REFRIGERATE". If the item is dry, it must be packaged in paper.

## Fingerprints

In any investigation there will be articles and other items that may hold latent fingerprints, footprints or impressions. Care must be taken to avoid spoiling or contaminating such evidentiary items.

### Access to evidence

Investigators must not provide access to any exhibit without the approval of the custodial Investigator. Under no circumstances should Investigators allow unsupervised access to an exhibit.

If an exhibit is to be handed over to Police the Investigator must follow the processes of his company.

### Return of evidence

Evidence should be returned to their source as soon as possible after it is determined that there is no longer any need for an investigation or for court proceedings, or has notified that the court proceedings have been finalised. It is the responsibility of the relevant Investigator to return evidence used in court.

## 12.0 OTHER CRIMINAL LAW RELEVANT TO INVESTIGATORS

**12.1 Theft:** Refer to Section 71, 72 and 74 of the Crimes Act 1958.

In Victoria, a person is guilty of theft if he / she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

The Key Elements (called Points of Proof) that must be proven in order for a theft charge to be proven are:

**Identity** – The first element that must be proven, is that the accused is clearly identified as the person that has committed the offence. This is usually proven by eye witness account or admissions.

**Dishonesty** – The second element that must be proven, is that the accused person appropriated the property dishonestly (guilty mind). This is usually proven by actions taken and admissions made.

**Appropriation** – The third element that must be proven, is that the accused person appropriated the property. In other words the accused treated the property as their own, subsequently assuming the rights of ownership. Thus for this element to be proven it must be shown that the accused did take the property and this can be proven by eye witness accounts, possession of the property and/or admissions.

**Property - Belonging to another** – The fourth element that must be proven, is that the property of the alleged theft belonged to another. This is proven by evidence from the owner of the property and/or admissions made. It must be shown that the items stolen did not belong to the offender.

**Intention to permanently deprive** - The fifth element that must be proven, is that the accused person appropriated the property with the intention of permanently depriving the owner of it. The prosecution must prove that the accused took the property with the intention to permanently keep, rather than temporarily borrow, the item. This is proven by admissions and how the accused has dealt with the property.

Property includes all money, real or personal and other intangible property. Refer to section 71 of the Crimes Act 1958 for definition of Property.

### **12.2 Robbery and Armed Robbery** Crimes Act No.6231/1958 Section 75A.

In cases where a theft has taken place with the use of force this would constitute a charge of robbery. Where a weapon and force is involved it becomes armed robbery.

**12.3 Burglary** - Crimes Act No.6231/1958 Section 76(l) A person is guilty of Burglary if they enter a building, or part thereof, as a trespasser with intent to steal, assault a person, or cause damage therein. The key elements (or points of proof) to this criminal charge are:

1. Identity
2. Enters
3. A building/part of a building
4. As a trespasser
5. Intent to steal, or assault a person within, or damage property.

### **12.4 Obtaining a Financial advantage by deception** Crimes Act 1958, No. 6231 Section 82.

The offence of Obtain Property and Financial Advantage by Deception is related to the basic question of a person's "**dishonesty**". A Private Investigator involved in Insurance investigations should have good knowledge of this type of crime. The key elements, or points of proof are:

1. Identity
2. By deception
3. Dishonestly
4. Obtains
5. For himself (or another)
6. A financial advantage.

#### **Investigators often work to establish the veracity of:**

- Claims for insurance where fraudulent circumstances are reported in regard to the claim,
- Staged accidents, substituted drivers, or embellishment of the list of property that has allegedly been stolen in a burglary.
- Workcover, Centrelink or Traffic Accident Commission cases that might involve providing false or misleading information to them for the purpose of gaining financial advantage.
- The lack of disclosure for insurance where previous claims, criminal history, licence suspension, or serious traffic offences were required to have been disclosed. These claims often occur in the inception (taking out) of an insurance claim, where information has been lied about.

To prove this charge, the obtaining (or attempt to obtain) of the financial advantage, must be by deception. The **deception** must be deliberate or reckless. It must be proved for instance, that a false statement actually deceived, and was the intent of the person to dishonestly gain financial advantage. It is not necessary to prove any **intent to permanently deprive** under this section. The question needs to be asked: Did the accused person gain or attempt to gain financial advantage by his actions or conduct? The meaning of "**gain financial advantage**" is plain in its meaning.

## 12.5 STALKING, Crimes Act No. 6231/1958 Section 21A (1)

**THE BASIC DEFINITION OF STALKING MEANS** - The intention of causing physical/mental/harm/arousing fear for safety in that person/another person. Stalking is a term commonly used to refer to unwanted attention by individuals (and sometimes groups of people) to others. Stalking behaviour is related to harassment and intimidation.

**Stalking** is detailed at section 21 A (2) Crimes Act – Version incorporating amendments 5 September 2012 and includes:

- (a) following the victim or any other person.
- (b) contacting the victim or any other person by post, telephone, fax, text message, e-mail or other electronic communication or by any other means whatsoever;
- (ba) publishing on the Internet or by an e-mail or other electronic communication to any person a statement or other material —
- (bb) causing an unauthorised computer function (within the meaning of Subdivision (6) of Division 3) in a computer owned or used by the victim or any other person;
- (bc) tracing the victim's or any other person's use of the Internet or of e-mail or other electronic communications;
- (c) entering or loitering outside or near the victim's or any other person's place of residence or of business or any other place frequented by the victim or the other person;
- (d) interfering with property in the victim's or any other person's possession (whether or not the offender has an interest in the property);
- (da) making threats to the victim;
- (db) using abusive or offensive words to or in the presence of the victim;
- (dc) performing abusive or offensive acts in the presence of the victim;
- (dd) directing abusive or offensive acts towards the victim;
- (e) giving offensive material to the victim or any other person or leaving it where it will be found by, given to or brought to the attention of, the victim or the other person;
- (f) keeping the victim or any other person under surveillance;
- (g) acting in any other way that could reasonably be expected —
  - (i) to cause physical or mental harm to the victim, including self-harm; or
  - (ii) to arouse apprehension or fear in the victim for his or her own safety or that of any other person —

with the intention of causing physical or mental harm to the victim, including self-harm, or of arousing apprehension or fear in the victim for his or her own safety or that of any other person.

## **Can an Investigator be charged with Stalking when the Investigator has been retained to carry out surveillance on a person?**

Considering the required legal knowledge, integrity and ethics of an investigator it should be unlikely because the Investigator does not have any intent to cause any physical or mental harm. The Crimes Act provides a possible defense to this accusation under section 21 A (2) Crimes Act part 4A,

(4A) In a proceeding for an offence against subsection (1) it is a defence to the charge for the accused to prove that the course of conduct was engaged in without malice—

(a) in the normal course of a lawful business, trade, profession or enterprise (including that of any body or person whose business, or whose principal business, is the publication, or arranging for the publication, of news or current affairs material); or

(b) for the purpose of an industrial dispute; or

(c) for the purpose of engaging in political activities or discussion or communicating with respect to public affairs.

This risk reinforces the need for proper instructions from your client to ensure that as an Investigator you are not being used by your client for improper purposes. It is very important that an investigator understands the risk of being accused of this occurring in regards to section 21 A (2) Crimes Act and particularly part (f).

### **12.6 The Crimes Act 1958 section 21, Crimes (Family Violence) Act 1987 and Family Violence Protection Act 2008.**

These Acts were introduced so members other than aggrieved family members can be provided with protection under the Act, as Intervention Orders are only available to aggrieved family members.

A person who has such an order issued against him / her under the relevant act should not seek to engage the services of another to obtain or collect data, conduct surveillance, or undertake any other action pertaining to the subject on his or her behalf in a domestic or other such dispute as to which the orders would effect. The intention by issue of the Order by the court is to prevent and protect further contact with or harassment of the aggrieved family members.

Persons undertaking such activity whilst acting as an agent (such as an Investigator), and, who is aware of the existence of such an order, could be considered as a person who has breached the order and would therefore be subjected to the same penalties as would be imposed on the person to whom the Order was directed to. By asking the relevant questions the Investigator will be able to establish the Bona Fides of the person with whom they are conducting business with and whether or not such an Order exists.

It is not uncommon for an Investigator to be approached and asked to conduct surveillance on a person who may be protected by the issue of an order such as that pertaining to violence, child abuse, or other similar issues and this is why extensive questioning of the client requesting the service should be undertaken to establish whether or not such an order exists before accepting an assignment.

## 13 SURVEILLANCE DEVICES ACTS

For Private Investigators in the course of their duties, this Act effectively spells out what Law Enforcement Agencies can do, with proper authorisation and it must be understood that none of the authorities bestowed on Law Enforcement Agencies can transfer to Private Investigators. If that Act says you cannot do it, do not do it, or risk substantial penalties.

### 13.1 Victoria State Surveillance Devices Act 1999

The purposes of this Act are;

- to regulate the installation, use, maintenance and retrieval of surveillance devices;
- to restrict the use, communication and publication of information obtained through the use of surveillance devices or otherwise connected with surveillance device operations;
- to establish procedures for law enforcement Investigators to obtain warrants or emergency authorisations for the installation, use, maintenance and retrieval of surveillance devices;
- to create offences relating to the improper installation or use of surveillance devices;
- to impose requirements for the secure storage and destruction of records, and the making of reports to judges, magistrates and Parliament, in connection with surveillance device operations;
- to repeal the Listening Devices Act 1969;
- to recognise warrants and emergency authorisations issued in other jurisdictions for the installation and use of surveillance devices.
- to implement and enforce new Workplace Surveillance Rules in Victoria.

To have a better understanding of any legislation, code and standard we must be able to summarise the legislation and understand the meaning of key words within the legislation. The meanings of key words in this Act are summarised below.

### 13.2 Definitions under this Act

**building** includes any structure;

**data surveillance device** means any device capable of being used to record or monitor the input of information into or the output of information from a computer, but does not include an optical surveillance device;

**device** includes instrument, apparatus and equipment;

**enhancement equipment**, in relation to a surveillance device, means equipment capable of enhancing a signal, image or other information obtained by the use of the surveillance device;

**install** includes attach

**optical surveillance device** means any device capable of being used to record visually or observe an activity, but does not include spectacles, contact lenses or a similar device used by a person with impaired sight to overcome that impairment;

**listening Device** means any device capable of being used to overhear, record, monitor or listen to a private conversation or words spoken to or by any person in private conversation, but does not include a hearing aid or similar device used by a person with impaired hearing to overcome the impairment and permit that person to hear only human sounds ordinarily audible to the human ear. [Surveillance Devices Act, s.3]

**premises** includes-

- (a) land; and
- (b) a building or vehicle; and
- (c) a part of a building or vehicle; and
- (d) any place, whether built on or whether in or outside this jurisdiction;

**private activity** means an activity carried on in circumstances that may reasonably be taken to indicate that the parties to it desire it to be observed only by themselves, but does not include-

- (a) an activity carried on outside a building; or
- (b) an activity carried on in any circumstances in which the parties to it ought reasonably to expect that it may be observed by someone else;

**private conversation** means a conversation carried on in circumstances that may reasonably be taken to indicate that the parties to it desire it to be heard only by themselves, but does not include a conversation made in any circumstances in which the parties to it ought reasonably to expect that it may be overheard by someone else; NOTE:- Private conversation does not include an interrogation.

**record** includes-

- (a) an audio, visual or audio visual record; and
- (b) a record in digital form; or
- (c) a documentary record prepared from a record referred to in paragraph (a) or (b);

**report**, in relation to a conversation or activity, includes a report of the substance, meaning or purport of the conversation or activity;

**surveillance device** means-

- (a) a data surveillance device, a listening device, an optical surveillance device or a tracking device; or
- (b) a device that is a combination of any 2 or more of the devices referred to in paragraph (a); or



- (c) a device of a kind prescribed by the regulations;

**this jurisdiction** means Victoria;

**tracking device** means an electronic device the primary purpose of which is to determine the geographical location of a person or an object;

**use** of a surveillance device includes use of the device to record a conversation or other activity;

**vehicle** includes aircraft and vessel;

## 14. OFFENCES STATED UNDER THE VICTORIAN SURVEILLANCE DEVICES ACT.

**14.1 Listening Device:** A person must not knowingly install, use or maintain a listening device to overhear, record, monitor or listen to a private conversation to which the person is not a party unless:

- each party to the conversation has consented; or
- in accordance with a warrant or emergency authorisation; or
- in accordance with a law of the Commonwealth.  
(Surveillance Devices Act, s.6)

**14.2 Optical Surveillance Device:** It is an offence to knowingly install, use or maintain an optical surveillance device to record visually or observe a private activity (to which the person is not a party) unless:

- each party to the private activity has consented;  
or
- in accordance with a warrant or emergency authorisation; or
- in accordance with a law of the Commonwealth; or
- the occupier of the premises allows a law enforcement Investigator to do so AND the device is necessary to protect any person's lawful interests.  
[Surveillance Devices Act, s. 7]

**14.3 Tracking Device:** It is an offence to knowingly install, use or maintain a tracking device to determine the geographical location of a person or object unless:

- the person being tracked has consented; or
- the owner of the object being tracked consents; or
- in accordance with a warrant or emergency authority; or
- Devices in accordance with a law of the Commonwealth  
[Surveillance Act, s. 8]

### 14.4 Data Surveillance Device

It is an offence for a law enforcement Investigator to knowingly install, use or maintain a data surveillance device to record or monitor the input or output of data into or from a computer, unless:

- the person on whose behalf the information is being input/output has consented; or
- in accordance with a warrant or emergency authorisation; or Devices in accordance with a law of the Commonwealth [Surveillance Act, s. 9]



**NOTE:** The offences created under sections 6,7,8 and 9 of the Surveillance Devices Act are punishable with a **maximum of 2 years imprisonment and/or 240 penalty units**

**NOTE:-** For the purposes of this Act, a law enforcement Investigator means a member of the NCA who is a member of the Federal Police or of a Force of a State or Territory of the Commonwealth; or

- an authorised Investigator within the meaning of the Conservation, Forests and Lands Act (not for emergency authorisation provisions). [Surveillance Act, s. 3(1)]

## 15.0 Commonwealth and State Surveillance legislation

There are two Surveillance Devices Acts that relate to the State of Victoria, the Commonwealth Surveillance Devices Act 2004 and Victoria State Surveillance Devices Act 1999. The main purposes of the Commonwealth Surveillance Devices Act 2004 are;

- a) to establish procedures for law enforcement Investigators to obtain warrants, emergency authorisations and tracking device authorisations for the installation and use of surveillance devices in relation to criminal investigations and the location and safe recovery of children to whom recovery orders relate; and
- b) to restrict the use, communication and publication of information that is obtained through the use of surveillance devices or that is otherwise connected with surveillance device operations; and
- c) to impose requirements for the secure storage and destruction of records, and the making of reports, in connection with surveillance device operations.

The relationship of this Act to other laws and matters except where there is express provision to the contrary, this Act is not intended to affect any other law of the Commonwealth, any law of a State, or any law of a self-governing Territory, that prohibits or regulates the use of surveillance devices such as the Victoria State Surveillance Devices Act 1999.

The Commonwealth Surveillance Devices Act 2004 is mostly directed to law enforcement agencies and it is the Victoria State Surveillance Devices Act 1999 that we need to study and understand so we can work effectively in our industry. This Act is not just directed to law enforcement agencies it is also directed toward employers and employees with provisions of **workplace privacy**.

## 16 Regulation regarding installation, use and maintenance of tracking devices

- (1) Subject to subsection (2), a person must not knowingly install, use or maintain a tracking device to determine the geographical location of a person or an object-
  - (a) in the case of a device to determine the location of a person, without the express or implied consent of that person; or
  - (b) in the case of a device to determine the location of an object, without the express or implied consent of a person in lawful possession or having lawful control of that object.

Penalty: In the case of a natural person, level 7 imprisonment (2 years maximum) or a level 7 fine (240 penalty units maximum) or both; In the case of a body corporate, 1200 penalty units.

### **16.1 Regulation of installation, use and maintenance of data surveillance devices by law enforcement Investigators**

- (1) Subject to subsection (2), a law enforcement Investigator must not knowingly install, use or maintain a data surveillance device to record or monitor the input of information into, or the output of information from, a computer without the express or implied consent of the person on whose behalf that information is being input or output. Penalty: Level 8 imprisonment (1 year maximum) or a level 8 fine (120 penalty units maximum) or both.

### **16.2 Workplace Privacy**

On 1 July 2007, the Surveillance Devices (Workplace Privacy) Act 2006 (Vic) came into effect, amending the existing Surveillance Devices Act 1999 (Vic) (Act). This new law was prompted by the Victorian Law Reform Commission's (VLRC) 2005 inquiry into workplace privacy suggesting workers' privacy was not adequately protected by existing legislation and recommended a prohibition on surveillance of private areas in the workplace.

### **16.3 How the new rules affect employers**

The amendments mean that employers cannot use listening devices or optical surveillance devices (such as video cameras) for surveillance of workers in workplace toilets, washrooms, change rooms or lactation rooms. In addition, employers are prohibited from communicating or publishing material obtained through surveillance. These prohibitions apply equally to all public and private sector Victorian employers, regardless of whether they are partnerships, businesses or companies. Contravention of either of these prohibitions may result in imprisonment of up to two years or fines of up to \$132,144.

The prohibitions are not absolute, allowing surveillance in three limited circumstances:

- where a warrant or emergency authorisation has been granted to permit surveillance
- in accordance with a Commonwealth law (e.g. a law relating to national security)
- where required as a condition of a liquor licence (e.g. in a licensed venue)

In these three circumstances, information obtained from surveillance may only be used in accordance with the relevant warrant, Commonwealth law or licence requirement.

#### 16.4. Continuation of existing surveillance prohibitions

The amendments insert new prohibitions into the Act, but otherwise keep existing requirements intact. The Act continues to regulate the use of listening devices, optical surveillance devices and tracking devices (such as GPS tracking devices used on vehicles). These existing requirements apply generally—not just in the employment context—but it was noted by the VLRC that the exceptions for consent and non-private activities meant that often workers could not rely on these requirements to protect them from workplace surveillance.

In addition to the requirements of the Act, any personal information collected through surveillance must also be handled in accordance with information privacy laws such as the Information Privacy Act 2000 (Vic) (for Victorian public sector agencies) and the National Privacy Principles under the Privacy Act 1988 (Cth) (Privacy Act) (for private sector organisations).

#### 16.5 Definitions relating to Workplace Privacy

In this Part- **employer** means a person, unincorporated body or firm that-

- (a) employs a person under a contract of service or apprenticeship; or employs a person under the **Public Administration Act 2004** or any other Act; or
- (b) engages a person under a contract for services; or
- (c) engages a person to perform any work the remuneration for which is based wholly or partly on commission; or
- (d) engages a person to perform work on an unpaid or voluntary basis;

**Firm** has the same meaning as in the **Partnership Act 1958** but does not include an incorporated limited partnership within the meaning of Part 5 of that Act;

**washroom** includes a room fitted with bathing or showering facilities;

**worker** means a person employed or engaged by an employer, in a manner set out in the definition of **employer**, but does not include a person who is employed or engaged by another person to perform services in connection with that person's family or domestic affairs;

**workplace** means any place where workers perform work.

#### 16.6 Prohibition on certain uses of optical surveillance devices or listening device

- (1) Subject to subsection (2), an employer must not knowingly install, use or maintain an optical surveillance device or a listening device to observe, listen to, record or monitor the activities or conversations of a worker in a toilet, washroom, change room or lactation room in the workplace.

Penalty: In the case of a natural person, level 7 imprisonment (2 years maximum) or a level 7 fine (240 penalty units maximum) or both; in any other case, 1200 penalty units.

- (2) Subsection (1) does not apply to the installation, use or maintenance of an optical surveillance device or a listening device-
- (a) in accordance with a warrant, emergency authorisation, corresponding warrant or corresponding emergency authorisation; or
  - (b) in accordance with a law of the Commonwealth; or
  - (c) if required by a condition on a licence granted under the Liquor Control Reform Act 1998.

### **16.7 Unlawful interference with surveillance devices**

Unless authorised by or under this Act, a person must not knowingly interfere with, damage, remove or retrieve a surveillance device that has been lawfully installed on premises .

### **16.8 Privacy Principles**

During the course of an investigation, when conducting surveillance it may occur that recordings may be taken of people surrounding your subject, as well as your subject themselves. You must maintain all information including these recordings in accordance with the national privacy principles. These principles are can be sourced from the Privacy Act 1988 (Federal) and have been included in the Privacy Act 2000 (VIC). The privacy principles will be discussed in CPPSEC3012 Store and protect Information.

## **17 THE AUTHORITY OF PRIVATE INVESTIGATORS UNDER THE ACT**

Private Investigators do not have any specific or designated authority under the Surveillance Devices Act so must work within the framework of the Act and can only use a surveillance device when that usage is NOT unlawful under the Act.

A Private Investigator cannot apply for any warrant or court order to use a surveillance device in accordance with the Act. Due to privacy issues and the more frequent use of surveillance devices in private circumstances the surveillance devices legislation is being reviewed.

## **18. WHEN SURVEILLANCE DEVICES CAN BE USED OR NOT BE USED BY INVESTIGATORS**

A conversation that an Investigator is a party too can be recorded without the knowledge or consent of the other party or parties to the conversation and used as part of the enquiry. A conversation that the Investigator is not a party too can be recorded by the Investigator when the conversation is being conducted in circumstances where the parties involved in the conversation ought reasonably to expect to be overheard.

Where a private activity is being carried out and the parties believe the private activity will not be observed and the private activity is within a building the activity cannot be recorded by an Investigator.

However if the private activity is being carried out within a building but the curtains, windows, or blinds are open and the occupants therefore ought reasonably expect to be observed then it is not longer a private activity.

Any activity outside a building and any activity where the parties ought reasonably expect to be observed carrying out the activity can be recorded. That does not mean the Investigator can climb a fence, ladder or lamp pole to then observe and record the activity if it cannot be ordinarily observed.

Surveillance devices should not be installed in toilets or locker rooms. Any other area of a workplace can be subject to camera surveillance if desired to and consented to by the owner/occupier of the building as the occupants ought reasonably expect that their activities will be observed whether by CCTV, covert surveillance or otherwise.

## **19. Professional development**

Professional development refers to skills and knowledge attained for both personal development and career advancement. Professional development encompasses all types of facilitated learning opportunities, ranging from university degrees to formal coursework, conferences and informal learning opportunities situated in practice. It has been described as intensive and collaborative, ideally incorporating an evaluative stage. There are a variety of approaches to professional development, including consultation, coaching, communities of practice, lesson study, mentoring, reflective supervision and technical assistance.

## **20. Continuous Learning**

Development of employee skills, knowledge and experience is essential in today's rapidly changing workplace. In order for the organisation to remain competitive and to retain its reputation for excellence, employees should have up-to-the-minute information and the ability to use new technologies, adapt to organisational change, work in flatter organisations in which cross-functional skills and knowledge are required, and work effectively in teams and other collaborative situations. Employees, too, recognise that it is essential for them to continue to learn so that they will be effective in their jobs and able to move into other positions or accept new responsibilities as circumstances demand.

## **21. Corrective Action**

Corrective Action is often part of an Investigation process. It is also a common business term, which in the event of non-conformance to standards being found in methods, materials, suppliers, system, or the product (our service) attempts to correct this. Corrective Action Requests may be generated by clients, internal auditors, or staff, and should always be generated on receipt of a customer complaint, safety complaint or environmental complaint. This system seeks to identify the failure in the process and remedy it as soon as possible.

## **VICTORIAN LEGISLATION**

The full list of current Victorian legislation can be found at <http://www.legislation.vic.gov.au/> - you should learn to navigate this site.



**Provide quality  
investigative services to  
clients**

**CPPSEC3029A**

*This page is intentionally blank*



## CPPSEC3029A Provide quality investigative services to clients

### Introduction

This unit of competency specifies the outcomes required to provide quality investigative services to clients. It requires the ability to identify the investigation needs of clients and identify and resolve client service problems. It also requires an ability to review the investigative services to identify required improvements.

Provide quality investigative services to clients - CPPSEC3029A		
Element	Performance Criteria	
<b>1.</b>	<b>Identify client needs.</b>	
	<b>1.1</b>	Relationship with client is established using appropriate <b>interpersonal techniques</b> to confirm needs and expectations.
	<b>1.2</b>	Clients are provided with information about available <b>investigative services</b> to meet their needs and assisted in selection of a preferred option.
	<b>1.3</b>	Benefits and limitations of preferred investigative options to meet client needs are discussed with client using appropriate <b>communication skills</b> .
	<b>1.4</b>	<b>Limitations</b> in meeting client needs are recognised and assistance sought as required from relevant persons.
<b>2.</b>	<b>Deliver investigative services.</b>	
	<b>2.1</b>	Effective investigative services are provided to meet identified client needs in accordance with <b>assignment instructions and legislative requirements</b> .
	<b>2.2</b>	Special requirements of client are identified and service adjusted as required in accordance with client requirements.
	<b>2.3</b>	Information regarding <b>possible problems</b> is promptly communicated to clients and contingency management plans implemented within an appropriate timeframe.
	<b>2.4</b>	<b>Investigative evidence</b> is gathered and organised in accordance with client and legislative requirements.

<b>3.</b>	<b>Review customer service.</b>	
	<b>3.1</b>	Client satisfaction is regularly reviewed using <b>verifiable evidence</b> in accordance with assignment instructions.
	<b>3.2</b>	Client feedback is analysed in consultation with relevant persons and used as the basis for improvements to service delivery.
	<b>3.3</b>	Client complaints are handled promptly and courteously and details recorded.
	<b>3.4</b>	Investigative records are safely and securely maintained in accordance with client confidentiality and legislative requirements.

## REQUIRED SKILLS AND KNOWLEDGE

### Required skills

- communicate using appropriate channels and communication modes
- identify and comply with applicable legal and procedural requirements, including licensing requirements, relevant to investigative activities
- interpret and follow instructions and procedures
- operate basic investigative equipment
- organise investigative equipment and resources
- participate effectively in meetings, discussions and interviews
- record, report and document information which may be used as evidence
- relate to people from a range of social, cultural and ethnic backgrounds and of varying physical and mental abilities
- risk assessment
- source, collect and organise information
- use and interpret maps and street directories.

### Required knowledge

- applicable licensing and legal requirements relevant to investigative operations
- communication channels and modes
- information gathering techniques
- interviewing, reviewing and debriefing processes
- investigative methods using surveillance and factual investigation
- legislative restrictions on the use of recording devices
- observation and monitoring techniques
- operational functions of a range of investigative equipment
- principles of effective communication including interpersonal techniques
- reliable sources and methods for collecting information
- reporting and documentation requirements
- requirements for collecting, preserving and presenting evidence
- requirements for continuity of evidence.
- standards and procedures for client service.

## Introduction

While the saying that goes “the customer is always right” makes much sense, in the investigative industry it is true only as long as what the customer wants is legal and ethical. However, with that said, our industry is a service industry and is a competitive one. We need to maintain customer relationships for the benefit of the individuals earning their livelihood in it and for the good of the industry as a whole.

The best and easiest way to do this is to keep the client in mind all the time. Remember that everything you do is being paid for by your client, who then deserves the best. Of course doing a top job for your client is only half the battle. You need them to know that you’re doing a top job, and there a few procedures you should put in place to ensure this.

Be aware that it’s a lot easier to build customer confidence than to rebuild it.

### 1. Accepting Changes

Most corporate customers know exactly what they require from an investigation firm and when they issue a work order, define those requirements precisely.

However, with other customers this may not be the case. They may even be unsure of what it is they are trying to establish. In this case the terms of reference can change midway through a task and may change more than once. Even the corporate customer may decide, midstream, that, for instance, they don't want twenty hours of surveillance after all, fifteen will do.

Whatever the case, you must always be willing to bend to the changes, go back to the client, talk it through again and re-establish what is required.

#### 1.1 Professionalism

Clients will feel positive about their investigator if they gain a sense that he/she is a professional who knows their business. You will gain their trust and goodwill (maybe a bonus too) when they notice these traits. The best way to be professional is to have a work ethic, which means completing all tasks in accordance with organisation and industry standards, and clients' needs.

While we keep saying that you must comply with the client's wishes, this does not mean that you comply with the point which brings industry standards down. If a request threatens this you must explain the situation to the client and pleasantly but firmly, why it can't be done. The client will understand that if you won't compromise your work ethic, you won't compromise his/her confidence or requirements.

Body language is another aspect that can contribute to an air of professionalism. Start with a firm handshake but never one of those hand grinders, which denote an ego problem. Stand straight, sit erect (but comfortably) and maintain eye contact. Never appear uncomfortable or ill at ease.

## **1.2 Communications**

Effective customer relations cannot occur without communication and so the style of communication can have a significant effect on the standard of the relations. Communications can be verbal or written on paper or electronically.

Maintain a high standard of presentation and precision in each area and never be slow to communicate.

When speaking, do so clearly and never at a pace where your mouth gets ahead of your mind. Pause between sentences if you need to clarify your thoughts.

## **1.3 Client Expectations**

In the modern competitive business world, clients have certain expectations with regard to reliability, punctuality and appearance. People have the not unreasonable expectation, that what you say you will do, will get done. They expect you to be on time for appointments and when you arrive that your personal presentation is appropriate.

This does not mean that you must meet clients in a tailored suit and patent leather shoes. But it does mean that your clothes are clean and in good order; your hair is groomed; you appear to have used a new razor; your shoes have been cleaned that morning.

A tie is still a good idea, even if you take it off when you leave the client. Some companies have a dress code that insists you wear a tie at all times.

If clients visit you in your office and they have to stretch to see over the pile of papers, cameras, exhibit bags and radios; and where the only clear space is the bit you've pushed aside to make room for a cup of coffee; then you have not instilled them with a feeling of confidence in your ability. The conclusion they will jump to, and probably the correct one, is that you spend most of your day meddling about, unsure of what you're supposed to be doing. This type of environment is not conducive to efficient operations and your client knows it.

## **1.4 Client Dissatisfaction**

It is not always possible to keep all of the people happy all of the time. Clients are going to be dissatisfied from time to time. This is not a disaster in itself (unless it happens more often than from time to time) but it can be a disaster if you're not aware of it.

It is important that the causes of client dissatisfaction be identified and dealt with in accordance with company procedure and to the satisfaction of the client.

If you do more listening than talking you will be more likely to understand how the client feels and you may actually benefit from the client's dissatisfaction.

Turning adversity into advantage is an art form but one which we can all muster simply by going about our task conscientiously.

If a client has been dissatisfied but you rectify the matter promptly and satisfactorily, you will probably have a client who regards your work more highly, than if the situation had not arisen.

Simply explaining the matter more succinctly may solve the dissatisfaction, or it may involve implementing some changes. You may have to refer the matter to more appropriate personnel or you may even have to work through the terms of reference again.

### **1.5 Client preferences, needs and expectations are clarified by using appropriate interpersonal skills.**

- Keep it simple when you're talking to your clients.
- Don't use jargon that will confuse them.
- Speak clearly and with confidence.

You may have your sales pitch down pat, but your body language may tell a different story, remember, actions speak louder than words, and negative body language will lead your clients to believe that you're only interested in what you're selling, not what their needs are, keep a check on body language, and not just your own.

Watch your client; you'll be able to tell if they're happy with what you're saying.

One thing to be aware of is making a false claim, if you advertise the cheapest prices in town, or even friendly sales staff, then that's what your clients will expect when they come to you. Only promise what you know you can deliver at the 'right price'. A reference to some other organisation when you cannot do the work is sometimes greatly appreciated and may result in business you can carry out at some other time.

A friendly, comfortable and relaxed meeting will inspire confidence in your ability to satisfy the needs of your client.

This is just part of being an Investigator, you must be able to relate to people regardless of community standing or status, all the way down to your average 'Joe Blow' not all of your clients are going to be Corporations, Government Agencies, Insurance Companies, Solicitors and Loss Assessors.

### **1.6 Clients are consulted and provided with information about available investigative services to meet their needs and assisted in their selection of preferred options.**

When starting a new business or when your existing is flagging and turnover is down we scratch for ideas on what we should do, we need to take some action and fix the problem.

Apart from the usual Flyers, Brochures and Telephone Calls used to promote your new business activity or service being offered there are many others forms of communicating with prospective new clients and your existing ones, you may consider the setting up of your own Web Site, (your ISP will assist you)

There is an Investigator who gets a lot of work from his website address and the website is actively advertised in the yellow pages also. People sometimes feel more comfortable about making their first contact almost anonymously via e mail.

A small classified advertisement in your local newspaper and offering a range of services can also bring good results.

There is nothing wrong with ringing former clients and enquiring if everything is OK and perhaps they have a need for your services. It's amazing how many people say to you on the telephone after you have contacted them - 'Hearing your voice has just reminded me that I have got a little job I have just thought of, can you help, are you available?' Sure am.

If your sales aren't as good as they could be, and you're not sure why, the answer may lie in the way you're communicating with your customers.

Are you out there selling yourself and your business. It only takes one successful letter or phone call out of a dozen and you have got work.

So, to keep those doors swinging, your clients happy, and the dollars rolling in, here are a few tips to help you communicate more effectively with your clients.

## **2 Using e-mail.**

E-mail can be an effective way of attracting repeat custom to your website and a relatively cheap marketing tool. However, if used incorrectly, e-mail can be extremely effective in driving visitors away from your site. Too many people have been the victims of e-mail spamming and have become understandably wary about exposing themselves to a further onslaught.

If you plan to use e-mail you must take steps to ensure your clients want to hear from you, as well as make the information you send attractive and interesting. You want the e-mail to prompt them to return to your Web site.

To guarantee effective e-mails, you must ensure you:

- Gain active consent.
- Have a "clean" e-mail list.
- Provide relevant and up-to-date information.
- Allow the addressee to easily unsubscribe.
- Provide assurance e-mails are virus free.

## **3. Gaining active consent**

Only send e-mail to people who have given you permission. To get this consent you can include a section in your site that asks whether the viewer would like to find out more about your product or whether they would like to receive information about your services.

You can ask clients, if they want to be placed on, or remain on your e-mail list.

## 4. De-Briefing

When a job has been completed, don't just send the client your report and your bill. Contact them personally, talk through the operation with them and be keenly sensitive to any opinions expressed.

It is at this point that they may divulge information that they had preferred to keep to themselves while the operation was underway.

If you discover any underlying concerns explain and clarify them, even at this late stage. And all of us like a pat on the back, so if that comes during the de-briefing accept it graciously – you have earned it!

Leave customers happy. Even if you never see the client again, it is a positive learning experience for you and you don't know whom he/she might talk to.

## 5. Responding Promptly

Whenever a client makes an inquiry respond to it promptly. If you get back to the office and there's a message to contact the client, do so immediately, don't put it off until later or the next day.

Some clients may have a tendency to be on your back a bit too much, constantly inquiring about how the job is going, have you done this or that, what did you find out there, etc? The client is paying your way and, in many cases, is in an extreme state of anxiety. Having to deal with a bit of their anxiety must sometimes be part of the task. Always respond promptly, knowledgeably, accurately and courteously.

### 5.1 Keeping Written Records

What goes on between you and your client should be part of your note taking ritual. Write down every contact and include details, questions asked, complaints made.

Provide an objective record of all the matters addressed and what remedial or any other actions were undertaken.

### 5.2 Confidentiality

One thing that would blow away the greatest job you've ever done would be to breach the client's confidence.

Much of the material you'll use and discover in the investigative industry will be of a confidential nature. Never reveal any of it to unauthorised persons.

All information must be kept confidential in accordance with company procedure and the client's requirements.



**The rights and responsibilities of clients and the organisation are identified and effectively communicated to the client as appropriate.**

Quite often Clients have no real understanding of the responsibilities, limitations and obligations imposed on Investigators. These responsibilities, limitations and obligations can frustrate the Client and it is important that they are clearly explained to the Client as part of the briefing process. They could equally impact on the Client if unlawful acts are carried out.

The responsibilities, limitations and obligations flow from -:

- Privacy Act – makes obtaining personal information difficult if not impossible.
- Freedom of Information Act - can be slow and expensive and specific requests are required.
- Duty of care.
- The action of and omissions by persons acting as Agents.
- Code of Conduct.
- Ethical conduct.
- Private Security Act.
- Surveillance Devices Act.
- Occupational Health and Safety Act.
- Criminal Law, and the rights of subjects.
- Organisation policy and procedures.
- Legal ramifications.
- Reluctance of Law Enforcement Agencies or Corporations to release information.

If these limitations are explained to the Client and discussed in detail, other avenues and options for carrying out the task may be discovered. Think outside the square.

**Personal limitations in assessing client needs are identified and assistance is sought when required from appropriate persons.**

No Investigator is an expert in every aspect of investigations and therefore must recognise the limitations of his or her ability. An effective Investigator will network in order to have available experts in whatever field is required available in order to satisfy the Client and keep control of the Investigation and the invoice.

A significant part of this course will relate to the use of experts in every field in order to provide expert evidence or opinions as part of the conclusion or result of the investigation.

The experts could include but are not limited to -:

- Doctors, including Medical specialists, Psychologists & Psychiatrists
- Accountants & Financial Advisers.
- Civil Engineers & Video and Audio Engineers.
- Solicitors or Barristers.
- Pharmacists.

An Investigator should take advantage of the experts available in order to provide expert evidence and should not feel inadequate for doing so. It is the sign of a thoughtful and competent Investigator doing his or her best for the Client. However experts do not come cheap and the costs involved as accruing should be relayed to the Client.

**Information regarding problems and delays is promptly communicated to clients and contingency management plans implemented within an appropriate timeframe.**

When being briefed by a Client (or Manager or Supervisor) the Investigator should take notes of the specific requirements of the assignment so that both parties are clear on what is required, what the investigation entails, and what the desired outcome is. Part of this briefing should include clear and open reporting lines and requirements for regular briefing meeting, formal or informal.

There are constant issues about the availability of potential witnesses, information, documents, and advice. Experts are not always immediately available, departments supplying information or documents will not be hurried by your personal needs and it is inevitable that problems and delays will occur. Contingency plans can be put into place, by adjusting timelines, or adjusting schedules. Perhaps a different approach to original priority planning can be re-formulated. Communicate with clients in a free and frank discussion and discuss these issues.

If clear, regular and open reporting lines are put in place all of these difficulties (and results) can be promptly conveyed to the Client (or Manager or Supervisor). By being fully frank and promptly apprised of the progress of the investigation, they will (hopefully) be understanding.

**Complaints from clients and difficult situations are handled courteously and recorded according to organisational requirements.**

Complaints from Clients (or Managers or Supervisors) can be avoided by simple adherence to adequate briefings, two way communication, regular and progress reports (formal and in writing within set timelines) that can be recorded against the assignment file and then retained for future reference.

Most complaints from Clients (or Managers or Supervisors) arise as a result of a misunderstanding or mis-information. However in the event of a complaint that may constitute poor performance, inadequate performance, unethical behaviour and even criminal activity must be dealt with affirmatively, transparently and with enthusiasm by a person with the experience to carry out the investigation into the complaint.

Many complaints that result from inadequate or poor performance can generally be dealt with by a simple acceptance of the facts, adequate explanation, an apology and remedial action.

## 6. Benefits for your business

An effective complaints handling system is essential to your business. Your business can benefit in several ways:

- Improved product quality and service delivery
- Fewer mistakes and less time spent fixing them
- Better understanding of customers' needs
- Greater customer loyalty and a healthier bottom line
- More customers through word of mouth advertising from satisfied clients
- Less time and money spent attracting customers & improved business reputation

Remember you could be pushing profits out of the door if you do not have an effective complaints handling system.

## 7. Handle complaints effectively by:

- Having a policy of welcoming customer complaints
- Setting up a system to handle complaints effectively
- Training your staff to handle complaints well
- Dealing with the complaints you receive immediately
- Ensuring the process for making complaints is easy for your customers
- Regularly reviewing your complaints record.

Successful businesses work hard to keep their customers satisfied. Although prevention is better than cure, it is almost inevitable that at some stage you will receive a customer complaint. Don't presume a customer complaint is a negative experience because, if handled well, it can be a valuable learning tool.

## 8. Establishing quality customer service: these following points need to be addressed.

- Do the job thoroughly and correctly the first time
- Be totally committed to legally satisfying customer needs,
- Continuously improve yourself, and the quality of your service
- Adopt a positive and creative approach to change and problem solving
- Take pride in your duty, professionalism and integrity
- Treat all people you come into contact with empathy, and in a reassuring and supportive way.
- Provide safety for yourself, clients and everyone else at all times
- Work on your appearance, check your body language, and your speech. Use your telephone as regularly as you can to Update and communicate with customers.



**Client satisfaction is regularly reviewed using verifiable evidence in accordance with assignment instructions.**

Client satisfaction can be a fragile thing, and can only be assured by the same old same old. Two way communications, transparency, free and frank discussions, regular consultancy, do lunch (probably not what the text book demands), have coffee.

To sum this up, you must:

- Communicate,
- Accept advice and criticism, and do not get precious.

If a Client is no longer giving you work ask yourself .... Why?

There has to be a reason, and you need to find it if you are to survive. Compare your assignment instructions with the results provided to client.

**Self-Evaluation**

- Did you comply with the Clients instructions?
- Have a look at the last few assignments you did for that Client,
- Were your reports a bit slack, information provided not verified?
- Were you distracted and did not perform to your usual standard?
- Are there other factors the Client may not be aware of?

Assess your own performance ... are you;

- Falling short on knowledge,
- Keeping up with technology,
- Keeping up with the market place and your competitors,

Look for what you need to review and improve on ...Learn to Communicate.

**Finally, don't take your clients for granted.**



# Develop investigative plan

## CPPSEC3027A

*This page is intentionally blank*

## CPPSEC3027A Develop investigative plan

### Introduction

This unit of competency specifies the outcomes required to develop and document an investigative plan. It requires an ability to assess the scope of the investigation, select a preferred investigative method based on client requirements and time, resource and legal parameters, and plan for contingencies in the conduct of the investigation.

Develop investigative plan - CPPSEC3027A		
Element	Performance Criteria	
1.	<b>Identify scope of investigation.</b>	
	1.1	<b>Assignment instructions</b> and <b>relevant information</b> is obtained to review client and <b>legislative requirements</b> .
	1.2	Clarification of instructions or further information is sought as required from <b>relevant persons</b> .
	1.3	Necessary <b>resources and equipment</b> are identified and availability checked against assignment instructions and budget.
	1.4	<b>Limitations</b> in conducting investigation are recognised and assistance sought as required from relevant persons.
2.	<b>Determine method of investigation.</b>	
	2.1	An effective <b>method of investigation</b> is determined in accordance with assignment instructions, client brief and continuity of evidence requirements.
	2.2	<b>Background information</b> and an assessment of benefits and limitations is conducted to confirm suitability of recommended investigative method.
	2.3	Necessary modifications to investigative methods are identified and implemented where practicable based on an assessment of risk.
	2.4	Proposed investigative method is discussed and confirmed with client using appropriate <b>communication techniques</b> .

<b>3.</b>	<b>Develop investigation plan.</b>	
	<b>3.1</b>	Investigation plan is prepared based on assignment instructions, client requirements, and identified investigative methods and resources.
	<b>3.2</b>	Plan includes identified <b>sources</b> and <b>methods for collecting information</b> which are valid, lawful, reliable and make efficient use of resources.
	<b>3.3</b>	Plan incorporates contingency measures to maximise safety of self and others and preserve evidence in line with legislative requirements.
	<b>3.4</b>	Investigation plan is recorded and documented using <b>business equipment and technology</b> and securely maintained with due regard to privacy.



## Required skills and knowledge

### Required skills

- Basic analysis
- Complete workplace documentation and reports
- Evaluate diverse or conflicting pieces of information
- Identify and access relevant information from reliable sources
- Information technology
- Interview skills
- Literacy skills to understand and communicate information (reading, writing, speaking, numeracy and listening)
- Make discretionary decisions
- Numeracy skills to estimate time to complete work tasks and resource requirements
- Personal skills to relate to people from a range of social, cultural and ethnic backgrounds and varying physical and mental abilities
- Planning
- Prioritise work tasks and complete activities within designated timeframes
- Problem solving and negotiation
- Questioning to check understanding
- Research
- Risk assessment
- Surveillance.

### Required knowledge

- Basic investigation techniques
- How to safeguard confidential information
- How to use business equipment to present information which may be used as evidence
- Information management systems and methods
- Legal and ethical obligations with regard to the gathering and distribution of information
- Legislative requirements applicable to the conduct and reporting of investigations
- Legislative restrictions on the use of recording devices
- Occupational Health and Safety (OHS) requirements for investigative activities
- Operational principles and capabilities of investigative equipment
- Purpose, benefits and limitations of factual versus surveillance for investigations
- Reliable sources and methods for collecting information
- Requirements for collecting, preserving and presenting evidence
- Requirements for continuity of evidence
- Standards and procedures for client service.

## 1.0 Introduction

Information can be in many forms. It could be details about what someone saw or did; what happened to someone; what are a person's habits or condition; where someone resides, works or goes; what are a person's assets or relationships. Information could be the causes of an incident, risk assessment, forensic analysis, circumstances of a fraud, and many, many other things.

**1.1** Before setting out to gather information, you should identify all of the possible sources of background material, based on the client's terms of reference and the availability of material.

List witnesses and/or informants; the agencies from which material may be available, be they public or private; documents for viewing; physical evidence for collection, etc.

The client may be able to identify some of these sources and, at the same time, he/she may rule out some sources. For example, if you are asked to do a reference check on a person the agreement may suggest who you can talk to, what organisations the subject belongs to, where they work etc, but at the same time it may rule out some people and organisations that may compromise the investigation.

The sources of information are many and while some are obvious an investigator should also use his/her imagination to discover others. Never overlook what you might discover by talking to colleagues.

An Investigator is only limited by his or her imagination.

### 1.2 Some public sources of information are:

- Telephone directories.
- Electoral rolls.
- Australian Securities and Investment Commission.
- Vic Roads.
- Commonwealth and State Gazettes.
- Register of Births, Deaths Marriages.
- Libraries.
- Police.
- Government Offices
- Banks
- Financial Institutions
- Department of Justice

### 1.3 Some private sources of information are:

- Electronic data bases (DTMS, etc)
- Law firms
- Churches
- Witnesses
- Friends and associates
- Business or employment colleagues

- Trade publications, newspapers
- Local traders
- Informants
- Surveillance
- Door knocks.
- Surveillance devices.
- Interviewing witnesses.

#### **1.4 These are referred to as being Avenues of Inquiries.**

A risk assessment should be carried out during all phases of the task to ensure risks are reduced to a minimum. Where time or resources are not an issue then safety for all persons involved in the task, including the subject (if any) should be paramount. Prior to commencing any phase of the investigation the equipment needs should be assessed. Whilst it would be unusual to have unlimited resources, unlimited equipment, unlimited timelines and unlimited budget the reality is that is likely restrictions will apply and should be included in your planning.

#### **1.5 Preliminary Inquiries**

The next step in gathering background material is through preliminary inquiries, as these will point your investigation in a particular direction and allow you to put a time frame around the operation.

Are the witnesses available and if so, when? Is the evidence suitable for forensic examination? Can the subject be photographed at home? In which state is the company registered? Is the subject married? Was the vehicle owned or leased? And so on.

These types of indicators may affect what the client wants. They may cause a change of objective or method of operation, or may mean you'll need more information from the client.

#### **1.6 Your sources of information for preliminary inquiries may include:**

- Verbal details and documents supplied by the client.
- Readily accessible information supplied by friends, relatives or associates.
- Colleagues
- Search of public records.

Preliminary inquiries should also identify any activity that may violate the investigator's code of practice, or breach ethical or moral standards. (Operating outside these codes put your licence in jeopardy).

#### **1.7 Validating Information**

Once these initial inquiries have been completed it is essential to cross reference all the related information collected from the relevant authorities, persons and organisations, to validate its authenticity.

If satisfied with the information you can move to the next stage, but any anomalies must be clarified by further inquiries or by reference back to the client.

## 1.8 Comparing Alternatives

At this stage you should be close to instigating an action plan and ready to compare the various alternatives for gathering the information and deciding on techniques, keeping in mind any constraints imposed by the client.

### 1.9 These constraints may include:

- Total cost of operation.
- Time limit for completion.
- Geographical area of activity.
- Use of equipment, including electronic surveillance.
- Contact with sources of information.
- Liaison with authorities.

You must examine and consider all of the options and compare all of the alternatives, in terms of the best chance to provide a successful outcome. The time involved and the cost are to be considered also. It is appropriate to review similar operations with which you've had experience and seek advice from colleagues with similar experience. By doing this you can avoid the mistakes of the past and detect ways of achieving a more effective outcome.

Another factor to be taken into account when comparing alternatives is the limitations of your organisation. This means taking into consideration the skills of the personnel available, and the facilities and equipment available.

## 2.0 Choosing Methods

The final stage in selecting the method of gathering information is to layout all the alternatives and the results of preliminary inquiries from which the decisions will be made.

### 2.1 This information may include:

- Client directions.
- Background information.
- Information gathering techniques.
- Operatives' expertise.
- Equipment capabilities.
- Equipment availability.

You must then decide how this information is to be used and what alternative are available to ensure a satisfactory outcome.

## 2.2 The alternatives may include:

- Researching public records.
- Surveillance.
- Electronic methods.
- Undercover operations.
- Questioning.
- Interviewing.
- Use of informants.
- Advertising.
- Testing of rumour.
- Pretext inquires.
- Photographic and recorded evidence.

You must use a systematic process based on an assessment of all the available information to choose how to gather the required information.

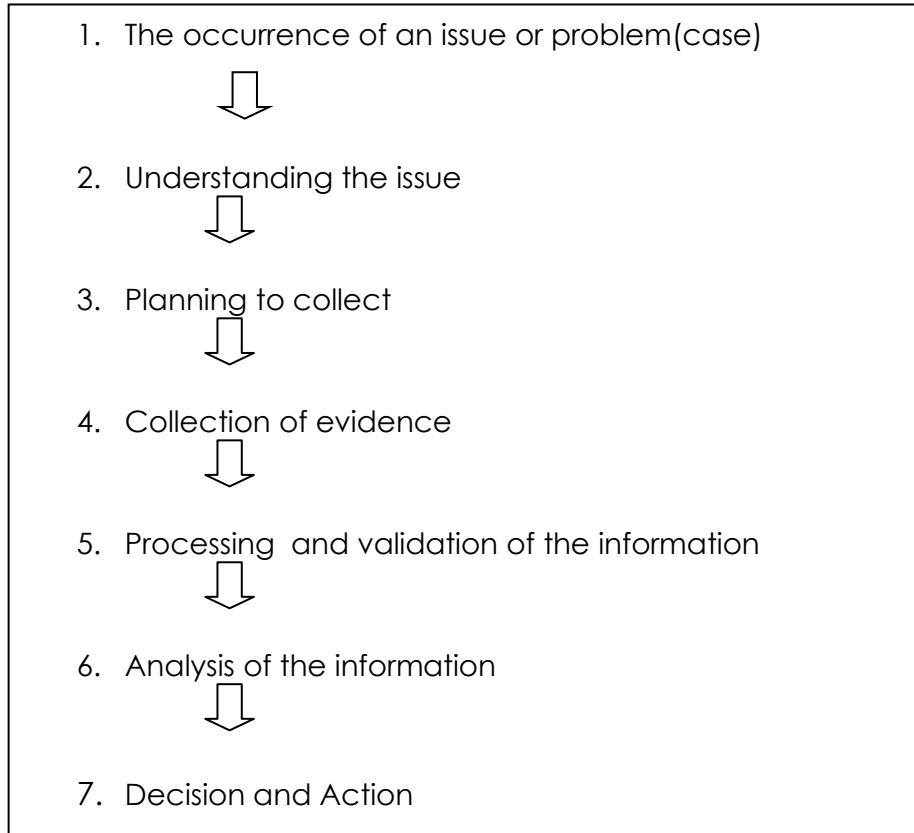
As this process continues you must ensure it remains aligned to the terms of reference and the client's requirements.

Also adhere to all legal requirements for privacy, freedom of information, confidentiality and evidence.

## 2.3 Final Instructions

Not until all the sources of information have been identified and preliminary inquiries completed, can you go back to the client with scope of task amendments and final confirmation of the terms of reference.

**2.4** At this point an action plan should be in place. Your overall action plan should be similar to the diagram below: however, it will change as the investigation develops, and there will be need to make fresher plans along the way. From step one, this process works towards you establishing what your client's needs are, and then to step two, with you understanding exactly what the issue is all about. With this information you begin step three - Planning to Collect, and then step 4 Collecting the evidence. Step 5 is the processing and validation of your information. (is it signed with affidavit, and ready to take to a court of law?) Step 6 is the analysis of the information or evidence. The analysis might follow with your recommendations or action to follow in a report.(example: you may advise your company of your recommended actions) Step 7 is the decision and action regarding your case.(again, you may not get the chance to make the decisions, or take actions on the investigation case you have worked on. ) Your plan will often change depending upon what is available to you, what is unveiled, revealed, or stated by witnesses and subjects. A contingency plan often needs to be in place or developed immediately in order to work alongside of sudden or expected changes.



The following Investigative Plan tends to suit a 'law enforcement' style of plan.

**Investigation Plan Template**

INVESTIGATION PLAN					
File Number		File Allocation Date		Investigator Allocated file	
Summary of Matter					
Applicable Legislation					
Points of Proof for each Identified Offences					
<b>INVESTIGATION PROCESS</b>					
Witness and Contact Details					
Evidence Obtained and from Whom					
Evidence anticipated to be required and from whom					
Identified Alleged Suspects					
Investigation Time Frame					
Additional Investigative Steps					

*This page is intentionally blank*





# Locate subjects

## FNSMCA304A

*This page is intentionally blank*

## FNSMCA304A Locate subjects

### Introduction

This unit describes the performance outcomes, skills and knowledge required to investigate and locate subjects and determine appropriate means of approach.

Locate Subjects - FNSMCA304A							
Element	Performance Criteria						
1.	<b>Research/investigate case</b>						
	<table border="1"> <tr> <td>1.1</td> <td>Client's written instructions are accurately and clearly interpreted</td> </tr> <tr> <td>1.2</td> <td>Preliminary <b>searches for subjects</b> are thoroughly and comprehensively completed and all appropriate <b>mercantile data</b> are checked for relevant information</td> </tr> </table>	1.1	Client's written instructions are accurately and clearly interpreted	1.2	Preliminary <b>searches for subjects</b> are thoroughly and comprehensively completed and all appropriate <b>mercantile data</b> are checked for relevant information		
1.1	Client's written instructions are accurately and clearly interpreted						
1.2	Preliminary <b>searches for subjects</b> are thoroughly and comprehensively completed and all appropriate <b>mercantile data</b> are checked for relevant information						
2.	<b>Conduct searches/enquiries</b>						
	<table border="1"> <tr> <td>2.1</td> <td><b>Field calls</b> are made as directed by client that also meet legislative requirements</td> </tr> <tr> <td>2.2</td> <td>Address is checked when necessary and any further leads are persistently followed to ascertain whereabouts of <b>subject</b> and alternative lines of approach developed and assessed to determine the most effective and applicable</td> </tr> <tr> <td>2.3</td> <td>Searches are conducted in a reasonable time period as specified by client with detailed field notes on times, dates, occurrences and results accurately maintained to obtain the best result from searches</td> </tr> </table>	2.1	<b>Field calls</b> are made as directed by client that also meet legislative requirements	2.2	Address is checked when necessary and any further leads are persistently followed to ascertain whereabouts of <b>subject</b> and alternative lines of approach developed and assessed to determine the most effective and applicable	2.3	Searches are conducted in a reasonable time period as specified by client with detailed field notes on times, dates, occurrences and results accurately maintained to obtain the best result from searches
2.1	<b>Field calls</b> are made as directed by client that also meet legislative requirements						
2.2	Address is checked when necessary and any further leads are persistently followed to ascertain whereabouts of <b>subject</b> and alternative lines of approach developed and assessed to determine the most effective and applicable						
2.3	Searches are conducted in a reasonable time period as specified by client with detailed field notes on times, dates, occurrences and results accurately maintained to obtain the best result from searches						

<b>3.</b>	<b>Formulate/report recommendations</b>	
	<b>3.1</b>	Information gathered is reviewed with results used to determine a strategy for action
	<b>3.2</b>	Outcomes are documented clearly and concisely then made accessible to all relevant staff
	<b>3.3</b>	Links between the outcomes and the analysis of the debtor information are proposed as a basis for further action or non-action
	<b>3.4</b>	Relevant reports are completed without delay and disseminated to appropriate staff and management

### Required skills and knowledge

#### Required skills

- well-developed communication skills to:
  - determine and confirm client requirements, using questioning and active listening as required
  - effectively use telephone investigation techniques
  - negotiate and resolve disputes
  - liaise with others, share information, listen and understand
  - use language and concepts appropriate to cultural differences
- literacy skills to:
  - read and interpret documentation from a variety of sources and recording, gathering and consolidating investigation information
  - draft reports and letters
  - interpret and comply with legal and ethical principles and obligations,
- well-developed research and analysis skills to locate subjects and determine appropriate approaches that comply with legal obligations, industry and organisational codes of practice and ethical principles
- IT skills for:
  - accessing and using appropriate software such as spreadsheets and databases using internet search systems
- organisational skills, including the ability to plan and sequence work

#### Required knowledge:

- all relevant State and Commonwealth Acts
- legal obligations on investigative processes
- search techniques and relevant databases

## LOCATE SUBJECTS.

Investigators are often tasked for one reason or another to undertake a client's instructions to locate a person that has decamped from an address, or whose whereabouts are sought for some other reason. Whilst it may well be that the person sought has incurred a debt, or he / she may be required to give evidence in matters coming before a Court, or is a person that is a distant relative of the client.

Investigators must be aware that it is also possible that a client may seek to engage an Investigator to locate a person for reasons that could result in endangering the physical wellbeing of the person sought, the jealous and vindictive ex-partner is a client that the Investigator is well advised to avoid, because as an Investigator you have both a professional, ethical and moral obligation to ensure that by disclosing the whereabouts of the person sought you do not disclose such information that would lend itself to endanger the life of another, nor should it cause another to be placed in danger from persons posing as a client.

Investigators need to be satisfied that by their undertaking of the instructions given by a client their conduct will not be called into question, legal and moral issues need to be addressed and clients instructions and reasons for the giving of such instructions must be clearly understood.

Clients should be made aware of the limitations imposed on the Investigator by the Privacy Act and by both State and Federal authorities who often issue orders that prevents the disclosure of the whereabouts of a person so to ensure their safety, in particular it is not uncommon practice for a Federal Magistrate, or the Family Court or other jurisdictions to issue such an order in matters that may come before them, and it is the responsibility of the Investigator to learn of such orders either through a direct undertaking from the client or further enquiries by whatever means are possible.

Regardless of the reason such instructions are issued to the investigator it is imperative that all undertakings and relevant inquiries are conducted in such a manner that it fully complies with current Government Legislation pertaining to the Privacy Act and that such inquiries are deemed as being lawful. Consideration must be given to the circumstances to ensure that an Investigator is not an unwitting tool in contravening an order made by the Court or in regard to stalking. Whilst the investigator may not have any criminal intent in locating the person the client may.

The first question that an Investigator must ask the client is;

***“Why do you want to locate this person..?”***

By asking this question the Investigator could well avoid himself / herself being compromised, the Investigator cannot simply ignore the possibilities that a client may not fully understand or be aware of the restraints and pitfalls that are sure to be encountered during the course of the inquiry, and it would be somewhat foolish and naïve of the Investigator not to advise the client of them from the outset.

***Remember this, you are responsible for your own actions and you may well be called on to give a full account of them from the witness box in a Court of Law or civilly.***

Having attempted to heighten your awareness of the legal minefield that is tucked away within the Privacy Act, and by having briefly given mention to some of the issues and obligations that the Investigator must consider before committing himself/herself to the task ahead we will now look to the more practical side and purpose of this unit as it would relate to the Investigator in the execution of their undertaking.

As previously mentioned there are a number of reasons why a client may issue instructions to the Investigator to locate a person and, as with any investigation, it is necessary to gather as much background information as possible from the client to assist. Questions must be asked and answered, if the basis for the undertaking is a debt related matter documents such as a contract or agreement form signed by the subject sought may exist that could provide not only personal data related to the subject but may also provide information as to his/her occupation and place of employment, or the contact details of a relative or associate of the subject who has agreed to act as a guarantor must be considered, ask the right questions of the client to ensure all information is made available to assist with the inquiry.

### **1. The Skip – Tracer (Investigator)**

- Major lending institutions and credit providers are more likely to employ ' in house ' personnel ( quasi investigators who are not necessarily licensed) on a full time basis to locate delinquent debtors who have decamped from their last known address; the title of ' Skip Tracer ' is often given to the Investigator to describe their ' in house ' role within the company, and they are usually Investigators who have full access to the personal data and information of a ' borrower ' or debtor that would have been disclosed, and therefore recorded at the time of entering into a contract with the Credit Provider.

Insurance companies and those that could be considered more aligned to the legal fraternity such as a Barrister and or Solicitor are less likely to employ 'full time' or in- house Investigators, or Skip-Tracers, to assist them to locate someone that has moved from their last known address, they are more inclined to outsource the task, and more often than not little if any information other than a name and last known address is known to them. For example, the person sought may have witnessed an incident such as a motor vehicle accident, or an assault, or, was said to be present at the time and place where an offence may have occurred and only their name and a contact telephone number was obtained or given at the time. There may only be a nickname or the names of associates known.

The Avenues of Inquiries that are open to the Investigator will vary with each undertaking, in order to expand on any information as would be gathered from the client the Investigator must be prepared to ask

questions so to ensure nothing, be it either deliberately or unintentionally, is being withheld from them.

**Ask the question ...**

**... “Is there anything else in the file that may assist ...? “**

**... the answer may surprise you. Ensure the file is read and understood in total.**

- Investigators may well be advised to give consideration as to the costing and overall time frame of the undertaking and an agreement should be reached between the client and the Investigator before any inquiries are commenced, not every client is willing to accept the fact that the Investigator after having exhausted all available avenues of enquiries could not locate the subject sought. It does not matter how skilled the Investigator is and how many hours are allocated to the matter there will always be a client who expects a positive outcome and is unwilling to accept and pay for nothing less. Perhaps another consideration would be to seek some sort of an acknowledgement from the client that in addition to payment being assured the client is not a person that is restrained in any way to issue such instructions, and again you may need to ask the client a question such as ...

**“ Are there any Restraining or Intervention Court Orders in place that would prohibit the disclosure of the whereabouts of the subject to you that I should know about ..? “**

THE GENEALOGIST;

- A Genealogist is also a person that provides a service to clients to locate a subject, most Genealogists' are not licensed investigators and will not accept instructions to locate a debtor or a witness; Genealogy is a study of the descent of ancestors and pedigrees.

## **2. Using Sources Of Information;**

The avenue of enquiries open to being explored will largely depend on the information initially given by the client, the more background information given the clearer the path to travel, the in house skip tracer has a clear and distinct advantage over those Investigators deemed to operate within the private sector, however it must be remembered that all Investigations must be conducted in such a manner that it is compliant with current legislation. This does not abolish the skip tracer of his/her responsibilities as is covered under the Privacy Act; even though the subject may have at the time of entering into a contract signed a waiver or release in regard to the privacy provisions in regard to permitting contact with a third parties such as an employer or estate agent, law enforcement authorities, banks or medical practitioners. The person may have not given permission to allow the exchange of any data other than that to verify the information as was first given and this will depend on the specific wording of the

authority to release information. Some persons agreeing to sign an authority to release information have been known to insert a sunset clause that causes the authority to expire after a certain time period.

Mercantile companies who purchase debt (unpaid credit card and other debt) at a greatly reduced dollar amount then have to locate the subject in an attempt to recover. Even though the debt has been on sold to those persons or companies the authority to release information was not given to or provided to those organisations it was only provided to the original lender or credit provider therefore those organisations cannot rely on that authority to release information when seeking to source information.

The information recorded on most loan applications is regarded as being confidential and restricted unless otherwise noted. The skip tracer would be well aware of any small print usually hidden within the general terms and conditions of the application pertaining to the disclosure of any such information and would be well skilled to take any advantage of, and even exploit that information to ensure their inquiries lead to achieving a positive outcome.

Unfortunately many Investigators operating within the private sector will become frustrated by the restraints imposed on them and may well be tempted to bend the rules a little from time to time, and seek information from associates who may have access to a secure data base. This course of conduct is fraught with danger to both the Investigator and the person who has access to the secure data base as all searches for information are recorded against the person accessing the system. The task given to locate a subject is like trying to navigate a path through a minefield, it's ultimately your choice to make as to what path to take, but be aware of what the consequences and severity of the penalties are before you take the wrong step and involve persons in authority who may well find themselves liable to penalties such as dismissal for accessing that information.

Many investigators and persons with the authority to access secure data bases, be it Police, Centrelink, Vic. Roads, Telstra, the Tax Office or other data bases have found themselves before the Magistrates Court for attempting to obtain secure information or for providing that secure information to unauthorised persons.

After collecting and reviewing all relevant information gathered from the client the Investigator must begin to source additional information so to assist them with their inquiries, the last known address of the subject is the most obvious place to start, the Investigator must decide if a physical visit to the last known address of the subject as opposed to attending at their local Electoral Office to inspect voters rolls would be more beneficial to them, by opting to undertake a field call to the last known address the investigator has the opportunity to speak with the current occupants and neighbours and by asking the right questions could be provided with information that directs him/her to the subject sought.

Whilst the telephone, social networking sites or the Internet provides the facility to undertake searches and gather information whilst sitting at a desk it does not afford the investigator the same opportunities to ask questions as does a field call.



## Subscription or Commercial Pay for Service Search Organisations

There are organisations that can provide searches of public records facilities or have authority to access secure web sites. However these organisations have their limitations also in that they may rely on authority to release information provided by the person being researched. It is not difficult to find organisations on the internet that offer these services but the issue is that most of them are based in the USA, have no access to Australian records and furthermore are subject to very different privacy laws. The services offered on the internet are extensive, expensive, not always relevant, and need to be searched depending to the needs of a particular case. Searching 'find any records', 'free credit report', 'free criminal checks' or 'public records' will result in more than a million website options on each and most are overseas. The links offered here are known to be reputable and serve as an example only. Back ground checks on Google, I Australia, produces 428,000 options. Some links are -:

[www.precisebackground.com](http://www.precisebackground.com)

[www.vedaadvantage.com](http://www.vedaadvantage.com) (Veda Advantage)

[www.dnb.com.au](http://www.dnb.com.au) (Dun and Bradstreet) email to: [clientservices@dnb.com.au](mailto:clientservices@dnb.com.au)

[www.infosearch.net.au](http://www.infosearch.net.au)

[www.crimtrac.gov.au](http://www.crimtrac.gov.au)

[www.aipd.com.au](http://www.aipd.com.au) (Australian Institute of Private Investigators)

<http://www.mirusonline.com.au> very interesting site, open it, click on data. You give information to companies and to governments voluntarily. They then use it and on sell it however they wish to and to whoever wants to buy it. This appears to be a very useful site, but it is pay for service.

Public records and data bases are easily accessed via the Internet, search engines are able to source and retrieve information that was once unavailable to the Investigator; by simply typing in a few key words pertaining to the nature of your search you can quickly retrieve information from a number of Government Agencies and Institutions that store what is commonly referred to as public records; for example the Australian Securities and Investments Commission is one such agency ( [www.asic.gov.au](http://www.asic.gov.au) ) that provides on line information that may assist, information relating to the proprietor(s) of a registered business can also be found at [www.abr.business.gov.au](http://www.abr.business.gov.au), or [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) or <https://online.justice.vic.gov.au/cav/br-search-criteria?mode=bnextr> and although the information gathered from such sources may assist in the inquiry it is important to note that the information may be limited and historical rather than current and the onus to validate the information clearly rests with the investigator.

A number of companies exist that offer to provide information that may have been gathered from a third party source for a fee, information given to a telemarketer, the information recorded on the subscription to a magazine, the membership application to a sporting club could very easily be on sold to such a company that would collate, filter and cross reference the information to enhance their existing data base; a number of banking and some financial institutions purge their debtors ledgers and sell delinquent accounts to private companies for a few cents in the dollar and in doing so it provides that company with full access to such information that would be recorded by the borrower on the Application / Contract signed by him / her, the purchaser of the debtor ledger would employ a number of skip tracers to locate the debtor (subject ) and may well be the company that is offering to sell such information to assist in locating a subject.

The decision to subscribe to companies offering to provide such data to assist in locating a subject is a difficult one to make, the initial cost to the subscriber may outweigh the value, however many Mercantile Agencies, Debt Recovery Agencies and some Insurance Companies take full advantage of such information offered by them.

With the introduction of public forums to the Internet and sites such as Face Book, My Space, Tube and Twitter individuals are able to post information about themselves and, or, their friends for others to read, the subject of your investigation may be a person that is featured on one of these sites and the investigator should not overlook the value of these sites.

Once all available information has been gathered and all avenue of inquiries have been exhausted the investigator must prepare and present his / her report to the client, the in house skip tracer is usually provided with a simple template by his / her employer that would serve not only as a check sheet that would be used throughout their inquiry but also as their final report; Investigators within the private sector will need to compile a report for their client that would give a full account of their undertaking of the instructions given, ( refer to module CPPSEC3028A – Compile Investigative Report ).

Investigators would be well advised to consider the use of what is commonly described as being a ' Disclaimer Clause ' when furnishing their report to a client that would make it clear to the reader that any information gathered from a third party source should not be relied on and you will not be held responsible for any errors or omissions in the reporting of any information gathered from a third party source; the use of a disclaimer clause does not absolve the investigator of his / her duty of care and general conduct of the undertaking of the instructions given by the client but it does afford the investigator some protection.

A litigator may issue proceedings to recover a debt based on the information presented in your report only to then learn from the Process Server that the defendant ( *the person who was the subject of your investigations* ) does not nor ever did reside at the address, or he/she has just moved from the address you advised the client of some months ago and the client may well look to recover the cost of such litigation from you ... that Disclaimer inserted in your report may serve you well in such situations ... perhaps the address you provided to the client was the address given to you by a third party.

Having now addressed a number of issues the Investigator is faced with when tasked with locating a subject such as the restrictions imposed on them by law and the need to comply with both State and Federal Legislation we should perhaps now address some of the moral Issues the Investigator may need to consider in more detail when undertaking instructions from a client to locate a subject.

As has already been said clients will turn to the Investigator seek to learn the whereabouts of a person for a number of reasons and the Investigator must learn of the reason by asking the client “ Why do you want to locate this person ..?” depending on the answer given the Investigator will either accept or decline the instructions, moral, legal and ethical issues would have been considered and the instructions suggest that the subject will not be placed in harm’s way by revealing his / her whereabouts to the client.

There are considerable and consistent negative connotations conveyed in these notes. That was not intended at the commencement but because of the dangers associated with locating subjects and breaching the Privacy Act new Investigators must be aware. The Privacy Act has very severe penalties for breaches. We make no apologies for making you aware and making you cautious when undertaking the task of locating subjects.

### **3 Missing Persons**

Over 35,000 people are reported missing in Australia each year. This averages to a person being reported missing every 15 minutes and over 70 people every day. Police throughout all states spend approximately 120,000 hours every year in relation to missing person cases. This averages to 4 hours of police work spent on each missing person. The following statistics relate to missing persons reported in 2008

<http://www.afp.gov.au/media-centre/facts-stats/national-missing-persons.aspx>

Of the 35,000 persons reported missing

- Over 9,000 are from NSW
- Over 5,000 are from VIC
- Over 5,000 are from QLD
- 5,000 are from SA
- 2,500 are from WA
- Over 1,000 are from ACT
- 800 are from NT
- 500 are from TAS

Over 99% of missing persons are located with

- 86 % being located within one week
- 7% being located between 8 and 31 days
- 6% being located after one month
- Less than 1% of missing persons are not located.

In VIC there are over 500 long term missing person cases. In NSW there are over 500 long term missing people’s cases. In the remaining states there are over 600 long term missing person cases. The majority of long term missing person cases is deemed undetected or unsolved homicides. There is a very low incidence of rewards offered by police or

government to assist in solving long term missing person or missing children cases. In regard to general homicide in Australia, where bodies are not concealed, males represent 85 percent of offenders and 67 percent of victims of homicide. In regard to general homicide, 74% of victims are known to the offender, 26% are unknown.

In regard to victims of general homicide;

- 32% died from stab wounds
- 27% died from blunt force trauma
- 17% died from gunshot wounds
- 12% died from strangulation or suffocation
- 12% died from a variety of other causes



Of the 35,000 people who are reported missing each year, 49% are female, 51% are male, 55% of missing persons are young people and children, 45% are adults, 23 % of missing persons are recorded as having mental health issues.

A significant proportion of persons are reported missing from institutions such as psychiatric hospitals, general hospitals, aged care hostels, intellectually disabled care hostels; youth supervised hostels and detention centres.

When excluding people missing from institutions almost two thirds of missing persons are under the age of 18.

The vast majority of missing persons are recorded as being single. Research also states that significant proportions of persons reported missing have undergone or will undergo repeat incidents.

Compared to the general population, missing persons are more likely to be born in Australia and living in a metropolitan area.

Missing adults are more likely to be unemployed. With the exception of homicide, the most common reasons for people going missing are physical health problems, mental illness including dementia and Alzheimer's disease, communication breakdown, economic reasons, family and social difficulties.

The national rate of missing persons reported to police is 1.55 per thousand individuals. South Australia and the ACT have double the national average rate of missing persons.

For every missing person an average of at least 12 other people are affected. This amounts to over 360,000 affected persons per year. Family and friends of missing persons have reported a range of physical, emotional, financial and psychological impacts. For relatives and friends of long term missing persons the impact is ongoing for years and even decades.

Each missing person is estimated to cost the community about \$2,360 in search costs. The cost of searching for missing persons amounts to over \$72 million annually.

Although there are over 1,600 long term missing persons in Australia, the Australian Federal Police website lists only 172 of these persons. Victoria Police and Tasmania Police do not have missing person websites. Victoria Police do not have cadaver search dogs.

There is no government national database for missing persons and unidentified remains in Australia.

There is only one memorial dedicated to missing persons in Australia – the Mandurah Missing Persons Memorial in WA.

Thirty thousand (30,000) missing persons exceeds the total number of victims reported to police for homicide, sexual assault and unarmed robbery combined over the same 12 months. The incidence of missing persons is at least as high as that of other issues that generate greater media interest.

*Ref: Louise and Charmin Foundation for Missing Persons*

### 3.1 Conducting a Missing Persons Investigation.

If a loved one goes missing, it is also important to gather as much information as possible. The last known location and the last person to speak to the missing person can be important clues for the investigator. Information about what the person was last wearing can also be useful. Gathering together personal effects, phone numbers of friends, and recent photographs can all help trace a missing person.

A professional investigator can use surveillance and other methods to locate people. An investigator may be able to devote more time to a specific case than the local law enforcement professionals and may be more willing to work closely with families to find missing persons.

### 3.2 Missing Persons Kit

The missing person's kit will help the investigator collect as much information as possible

1	Recent Videos
2	Recent Photographs
3	The missing person's habits
4	Any past medical problems or similar situations
5	Any tattoos, body piercings, or medical alert bracelets
6	Any media coverage can determine the success of a missing persons case
7	Access to someone's phone list, phone number
8	Access to recent credit card statements
9	Access to online account (face book, twitter etc)
10	Access to close relative and friends
11	Any information from Police Investigations

## 4. Boolean Search

### What is Boolean Search?

Boolean searches allow you to combine words and phrases using the words AND, OR, NOT and NEAR (otherwise known as Boolean operators) to limit, widen, or define your search. Most Internet search engines and Web directories default to these Boolean search parameters anyway, but a good Web searcher should know how to use basic Boolean operators.

### Where does the term Boolean originate?

George Boole, an English mathematician in the 19th century, developed "Boolean Logic" in order to combine certain concepts and exclude certain concepts when searching databases.

### How do I do a Boolean Search?

You have two choices: you can use the standard Boolean operators (AND, OR, NOT, or NEAR, or you can use their math equivalents. It depends on you, the searcher, on which method you're more comfortable with. For example:

### Boolean Search Operators

- The Boolean search operator **AND** is equal to the "+" symbol.
- The Boolean search operator **NOT** is equal to the "-" symbol.
- The Boolean search operator **OR** is the default setting of any search engine; meaning, all search engines will return all the words you type in, automatically.
- The Boolean search operator **NEAR** is equal to putting a search query in quotes, i.e., "sponge bob square pants". You're essentially telling the search engine that you want all of these words, in this specific order, or this specific phrase.

**Examples:** Using AND narrows a search by combining terms; it will retrieve documents that use both the search terms you specify, as in this example:

- Melbourne and Victoria
- Using OR broadens a search to include results that contain either of the words you type in.
- Liberal OR democrat
- Using NOT will narrow a search by excluding certain search terms.
- Victoria NOT travel

## ANSI-89 wildcard characters

Use this set of wildcard characters when you use the **Find and Replace** dialog box to find and optionally replace data in an Access database or an Access project. You also use these characters when you run select and update queries against an Access database, but you do not use them in queries run against an Access project.

CHARACTER	DESCRIPTION	EXAMPLE
*	Matches any number of characters. You can use the asterisk anywhere in a character string.	<b>wh*</b> finds what, white, and why, but not awhile or watch.
?	Matches any single alphabetic character.	<b>B?ll</b> finds ball, bell, and bill
[ ]	Matches any single character within the brackets.	<b>B[ae]ll</b> finds ball and bell but not bill
!	Matches any character not in the brackets.	<b>b[!ae]ll</b> finds bill and bull but not ball or bell
-	Matches any one of a range of characters. You must specify the range in ascending order (A to Z, not Z to A).	<b>b[a-c]d</b> finds bad, bbd, and bcd
#	Matches any single numeric character.	<b>1#3</b> finds 103, 113, 123

## ANSI-92 wildcard characters

Use this set of wildcard characters when you run queries against Access projects (.adp files), and when using queries or the **Find and Replace** dialog box to search databases set to use the ANSI-92 standard.

CHARACTER	DESCRIPTION	EXAMPLE
%	Matches any number of characters. It can be used as the first or last character in the character string.	<b>wh%</b> finds what, white, and why, but not awhile or watch.
_	Matches any single alphabetic character.	<b>B_ll</b> finds ball, bell, and bill
[ ]	Matches any single character within the brackets.	<b>B[ae]ll</b> finds ball and bell but not bill
^	Matches any character not in the brackets.	<b>b[^ae]ll</b> finds bill and bull but not ball or bell
-	Matches any one of a range of characters. You must specify the range in ascending order (A to Z, not Z to A).	<b>b[a-c]d</b> finds bad, bbd, and bcd

### NOTES

To find wildcard characters that reside in your data, enclose the character that you want to find in brackets, like so: **[#]**. Follow that rule when searching for asterisks (\*), question marks (?), pound signs (#), opening brackets ([), and hyphens (-). Do not use brackets when searching for exclamation points (!) or closing brackets (]). To find those characters using the **Find and Replace** dialog box, simply enter the character in the **Find What** box with no surrounding brackets. You follow the same approach when finding the characters with a query. For example, this syntax returns all records that contain an exclamation point: **Like "!!\*"**.

*This page is intentionally blank*





# Store and protect information

## CPPSEC3012A

*This page is intentionally blank*

## CPPSEC3012A Store and protect information

### Introduction

This unit of competency specifies the outcomes required to store and protect information for future retrieval. It requires an ability to use appropriate technology to record and maintain the integrity of data, as well as to preserve evidence which may be used in future judicial proceedings.

Store and protect information - CPPSEC3012A		
Element	Performance Criteria	
1.	<b>Collect and assess information.</b>	
	1.1	Applicable provisions of <b>legislative</b> and <b>organisational requirements</b> relevant to storing and protecting information are identified and complied with.
	1.2	<b>Information</b> is collected and assessed for accuracy and potential future use in accordance with <b>client</b> requirements.
	1.3	Protection requirements and storage methods are determined in accordance with client and legislative requirements.
	1.4	Information is labelled, registered and recorded using appropriate <b>business equipment</b> .
2.	<b>Store information.</b>	
	2.1	Information is stored for future analysis, dissemination and use in accordance with legislative requirements.
	2.2	<b>Factors</b> relevant to the secure and safe storage of information are addressed and confirmed as required with <b>relevant persons</b> .
	2.3	<b>Storage arrangements</b> are implemented in accordance with best practice and client requirements.
	2.4	Continuity logs are established and maintained to monitor security and movement of information.

<b>3.</b>	<b>Dispose of information.</b>	
	<b>3.1</b>	Authorisation to dispose of information is verified with relevant persons.
	<b>3.2</b>	Information disposal method is determined appropriate to the type of information.
	<b>3.3</b>	Information is disposed of in accordance with organisational procedures and legislative requirements.
	<b>3.4</b>	Relevant documentation is completed and securely maintained in accordance with organisational procedures.

## REQUIRED SKILLS AND KNOWLEDGE

### Required skills

- Collate and organise information
- Collect and assess information
- Communicate effectively with people from different social, cultural and ethnic backgrounds and of varying physical and mental abilities
- Dispose of information
- Identify and comply with applicable legal and procedural requirements including licensing requirements
- Operate business equipment and technology
- Organise resource and equipment requirements
- Prioritise and complete activities within designed timelines
- Read, analyse and interpret information
- Record and document information
- Solve basic problems
- Store and preserve information use a range of office equipment and technology
- Verify validity of information.

### Required knowledge

- Applicable licensing and legal requirements for handling and managing information and the retention of information
- Applicable licensing requirements
- Best practice storage arrangements
- Documentation formats and processes
- Information collation techniques
- Information documentation processes and storage procedures
- Methods and procedures for the disposal of different types of information
- Operational functions of a range of business equipment and technology
- Principles of effective communication including interpersonal techniques
- Privacy and confidentiality policies and procedures
- Reporting and documentation requirements
- Requirements for preserving and retrieving evidence
- Storage requirements for information that is susceptible to spoil or damage (e.g. film, computer tapes)
- Techniques to verify and validate information.
- Technology applications relevant to the analysis and storage of information
- Types and availability of storage facilities.

**Note: (THIS MODULE SHOULD BE READ IN CONJUNCTION WITH THE PRIVACY ACT)**

## 1. Information to be stored is assessed for accuracy and potential future use

Information to be stored is assessed for accuracy and potential future use in accordance with client and *legal requirements*. Information is safely and securely maintained. Information, materials and evidence should be stored according to evidence management principles to ensure its preservation, security and availability in accordance with continuity of evidence requirements.

Such principles and procedures provide assistance for investigators handling evidence / exhibits. Investigators are responsible for the handling evidence / exhibits and need to follow strict procedures to ensure that information is managed correctly from start to finish. Procedures will vary from investigation to investigation.

### 1.1 Information to be stored may include:

- Data
- Physical items, specimens, samples etc
- Original, copy and digital recordings / photographs
- Original and back-up DVD's
- Computer-based information
- Reports / reports of incidents
- Radio / telephone records
- Logs
- Diary, logs
- Sketches

### 1.2 Preservation of evidence

From time to time investigators will be required to handle various articles that may be required as evidence / exhibits in various proceedings. The general rule in handling any exhibit is to handle it as little as possible. It is important to retain the item as closely as possible in its original condition.

This is especially true in the case of documents. The overriding rule is that if an investigator takes possession of an original article which the investigator believes has potential value as an exhibit, the investigator should immediately place this item into an evidence bag and make arrangements for appropriate safe storage.

*(For further information on Preservation of Evidence, refer to Unit of Competency "Work Effectively in the Investigative Industry – Section 11)*

### 1.3 Organisational requirements may relate to:

- legal and organisational policy and procedures including personnel practices and guidelines
- organisational goals, objectives, plans, systems and processes
- legislation relevant to the operation, incident and / or response
- employer and employee rights and responsibilities
- business and performance plans
- policies and procedures relating to own role, responsibility and delegation
- quality and continuous improvement processes and standards
- client service standards
- defined resource parameters
- Occupational Health and Safety policies, procedures and programs
- Emergency and evacuation procedures
- duty of care, code of conduct, code of ethics
- access and equity policy, principles and practice
- records and information systems and processes
- communication channels and reporting procedures

#### **All information is stored securely after assessment**

All information is stored securely after assessment of all legal requirements. The company you work for should have procedures in regards to the storage of information.

### 1.4 Storage of information and documents may include:

- storing in appropriate secure facilities either on-site or off-site, including:
- storage in computer directories and sub-directories
- storage on CD, disk drives or backup systems
- storage / filing of hard copies of computer generated documents
- storage / filing of hard copies of incoming and outgoing facsimiles
- storage / filing of incoming and outgoing correspondence
- storage of evidence including photographs, data, witness / interview statements

## 2. Reports

Copy of reports and retained material are to be processed in accordance with legal and organisational requirements. All material is to be managed in accordance with *evidence management* principles, continuity of possession and other legislative requirements.

Such principles and procedures provide assistance for investigators handling evidence / exhibits. Investigators are responsible for the handling evidence / exhibits and need to follow strict procedures to ensure that information is managed correctly from start to finish.

The *evidence management* principles include the handling of certified copies of exhibits and evidence. Your organisation may have procedures for processing of materials in place.

### 2.3 Processing may include:

- recording / copies of recordings
- retention
- filing
- storage
- shredding
- certifying copies of evidence



### 2.4 Methods of storage and level of security are determined

Methods of storage and level of security are determined after assessment of all Occupational Health and Safety and legal factors. Depending on the level of security, you will find procedures in place. These procedures are to be followed in accordance with you assignment instructions.

### 2.5 Levels of Security can include:

- Minimum - security level:
- Low - security level:
- Medium - security level:
- High - security level:
- Maximum - security level:

Minimum - security level areas usually require very minimal security such as a locked office or filing cabinet. However a maximum - security storage facility may utilise considerable resources, such as monitored alarms, security key locked safes and strong rooms with some level of physical security presence.

Maximum security storage areas may require persons to be authenticated / authorised before entry and exit to the area.

### 2.6 Authenticating entry and exit can be achieved by;

- Checking identity documentation or passes, a manifest, a verification list, or others
- ID should have most of the following information on it;
  - Photograph
  - Date of Issue
  - Address
  - Date of Birth
  - Date of Expiry
  - Department or organisation

The methods of communication to clients may be applied, in one or more of the following ways. However, you may find that the company you work for may not allow you to contact a client direct. So therefore you should check your company's protocols before contacting clients.



### **3. Store Information**

#### **3.1 Information is registered, recorded and stored for future analysis**

Information is to be registered, recorded and stored for future analysis and dissemination in accordance with client and organisational requirements. Your company should have procedures in place for the collection, storage, retrieval and disposal of evidence.

Procedures provide assistance for investigators gathering evidence. Investigators are also responsible for the collection of evidence / exhibits. Procedures will vary from investigation to investigation. The procedures below will only offer an outline to how an investigation could be conducted.

#### **3.2 Information technology is used to maintain information**

Information technology is used to maintain information in accordance with organisational requirements. Information technology can be used to assess for relevance and accuracy and to ensure information is consistent with *client* terms of reference, *reporting* and other organisational requirements.

Business equipment is used to present information in a clear and concise manner and within designated timeframes using suitable formats, style and structure. Business equipment is to be used appropriately, it is not to be abused, used incorrectly, or used for personal needs without permission from management.

#### **3.3 Storage arrangements prevent the likelihood of theft**

Storage arrangements are made to prevent the likelihood of theft, cross contamination, interference or tampering and are suitable for the effective retention of information in original condition. All of these points need to be considered before choosing the appropriate storage facility and before choosing the appropriate level of storage security.

#### **3.4 Continuity logs are maintained to track movements of information**

Continuity logs are to be maintained to track movements of information in accordance with organisation requirements. Your company should have procedures in place for the collection, storage, retrieval and disposal of evidence.

Investigators need to be aware that they may be required to account, in court, for their involvement with an exhibit.

### 3.5 Disposal of information when no future use is anticipated

Disposal of information when no future use is anticipated is to be in accordance with *client's requests* and organisational requirements. Evidence should be returned to its source as soon as possible after it is determined that there is no longer any need for an investigation or for court proceedings, or has notified that the court proceedings have been finalised. Your company will have a procedure in place for the disposal of evidence. The procedures may include:

- disposal receipt policies
- responsible officer to arranged disposal policy
- document destruction policy

### 3.6 Retention of original copies of information

Retention of original copies of information is to be in accordance with client's instructions and legal requirements. Investigators will be required to handle various articles that may be required as evidence / exhibits in various proceedings. The general rule in handling any exhibit is to handle it as little as possible. It is important to retain the item as closely as possible in its original condition.

Investigators should ensure documents such as logbooks, contracts, receipts, anonymous letters, extortion notes, indecent or threatening letters and / or other documents that may be required as evidence / exhibits in court are handled carefully so as to ensure that they are not changed in any way. In particular:

- Investigators should ensure that such documentary exhibits are not written on, stapled, torn, folded, pinned or mutilated in any way.
- Investigators should also ensure that such documentary exhibits are not placed in a position where impressions from writing on paper above, will be left on the documentary exhibit. (e.g., writing on an envelope after the document has been placed inside, the impressions on a document can be an important part of forensic document examination).
- Investigators should avoid applying pressure and making indentations.
- Investigators should not attempt to repair damaged documents.
- If found smother burning documents but avoid using water to extinguish flames.

When an Investigator becomes aware that a document may be required in some later court proceeding, the Investigator should arrange for it to be placed in an evidence envelope as soon as possible. The Investigator should package each item in a separate evidence bag. There are two reasons for this:

- It prevents damage to the document itself.
- In the unlikely event that it may be necessary, it preserves any fingerprints that may be on the document.

If an Investigator needs to work from a document he or she should take a photocopy (while wearing latex gloves) of it and work from the copy.

Investigators should make every effort to retain possession of original documents. If it is not possible to take possession of original documents it is important that Investigators arrange for them to be photocopied. If a document is photocopied:

- sign and date the photocopy, preferably on the back of the photocopy;
- wherever possible, try to arrange for the person retaining the original document to sign the photocopy as being a true copy of the original; and
- treat the photocopy as an original;
- where possible have the copy of the documents certified by the appropriate person;

Investigators should identify in their personal notebook and file a note that has possession of the original documents. This will enable an investigator to obtain the original documents if required.

#### **4 Documentary Evidence**

***Under the Victorian Evidence Act 2008, a document*** means any record of information, and includes—

- (a) anything on which there is writing; or
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (d) a map, plan, drawing or photograph;

#### **5 Video and Audio Recordings**

With technology becoming more affordable and readily available, closed circuit television (CCTV) systems are utilized commonly. The evidence available from CCTV systems is generally of great value, being an independent, impartial and accurate witness to events. For this reason, many jurisdictions require police to record interviews by either video or audio equipment. The use of portable video cameras and audio recording equipment by investigators has also increased.

Unfortunately, such evidence can also be altered, lost or destroyed.

Suggested procedures for maintaining the integrity of CCTV video evidence include:

1. This should incorporate: day(s), date(s), time(s), location, video number and incident (if appropriate).

2. This record should outline: the number of each recording; the time, day and date covered by each recording; the time or counter number of particular incidents; brief details of any incidents; the location of the recording; and details of any copying or removal of the DVD from its location to which only authorised personnel have access with a log recording handling/movement/access.
3. This means that only an authorised individual should make any copies of the recording. This person should also make a statement confirming that they have made an exact and complete copy of the original recording and the day, date and time and purpose for which the copy was made. This person may also be required to give evidence before a court or tribunal confirming this information.

For video or audio recording utilised to record interviews or specific evidence, procedures should include the following:

1. Label the DVD/Recording. Label details should include: day, date, time(s), location, and name of matter, names of person interviewed or recorded and on occasion, the name of the interviewer or photographer.
2. Details of the DVD/Recording should be recorded in an evidence log. In addition to the information recorded on the label, this log should also include the key details recorded on the DVD and the location of the original DVD/Recording.
3. Original DVD's should be placed in a sealed envelope or bag. The DVD label details should also be recorded on the bag or envelope.
4. Store the DVD/Recording in a secure location, to which only authorised personnel have access.
5. Authorised copying only. Any copies made of the recording, should follow the suggested procedure outlined above.

## 6 Privacy Act 2000 (VIC)

The Privacy Act also imposes obligations on all sorts of organisations in regard to the collection and storage and destruction of personal information. Whilst it has limited effect on Investigators it is important Investigators be aware of and comply with the provision of the Act. Those provisions are dealt with separately during this course and non-compliance can incur significant penalties.



**National Privacy Principles (Summary)**

No	Issue	Summary
1	Collection	<p>Collection of personal information must be by fair and reasonable and lawful and ethical means. Collection should only occur where necessary for the organisations functions and activities. Collection is preferably from the individual concerned.</p> <ul style="list-style-type: none"> <li>• Before at or close to the time of collection and organisation</li> <li>• should notify the individual of</li> <li>• Organisations contact details</li> <li>• Purpose of collection</li> <li>• Individuals right to access the information</li> <li>• Usual disclosures</li> <li>• Whether the collection is required by law.</li> <li>• Main consequences of not providing the information</li> </ul> <p>Where the information is collected from the third parties, advise the person who is the subject of the information of the six dot points above.</p>
2	Use & Disclosure	<p>Use and disclose personal information</p> <ul style="list-style-type: none"> <li>• For the primary purpose for which it was collected or;</li> <li>• For a directly related secondary purpose the individual would reasonably expect.</li> <li>• Where the individual consents</li> <li>• For law enforcement</li> <li>• For direct marketing provided the information is not sensitive, it is not practicable to obtain consent and an individual can opt out.</li> <li>• For other prescribed exceptions.</li> </ul> <p>If disclosing health information prescribed exceptions may apply. Where disclosure is for law enforcement then record the disclosure.</p>
3	Data Quality	<p>Take reasonable steps to ensure that personal information collected and managed is complete and up to date.</p>

4	Data Security	Take reasonable steps to protect personal information from misuse and loss and from unauthorised access, modification or disclosure. Destroy or permanently de-identify personal information no longer required. Note, provisions relating to the retention of records in other legislation may apply.
5	Openness	Document and make available-policies on the management of personal information and steps a person can take to access health information. On request take reasonable steps to advise an enquirer of; General classes of personal information held by the organization The purpose for which it is held and How the personal information is collected and managed by the organisation
6	Access & Correction	Allow access to personal information by the individual concerned-unless prescribed exceptions apply. Where an individual establishes the personal information to be incomplete, out of date or inaccurate- take reasonable steps to correct the information.
7	Identifiers	Should only attach an identifier (other than a name) to an individual where necessary to enable an organization to function efficiently. Must not use another organisations identifier as its own unless it is prescribed.
8	Anonymity	Wherever it is lawful and practicable-individuals should have the option of not identifying themselves when entering into a transaction with an organization.
9	Trans-boarder data flow	Should transfer personal data to someone (other than the subject of the information) who is outside Australia only if prescribed conditions apply. Personal data only.
10	Sensitive Information- Personal	Sensitive information is defined as information about a person's racial or ethnic origins, political opinion, political association, religious belief or association, philosophical beliefs, membership of a trade or professional association or a trade union, sexual preference or criminal record. You cannot collect unless you have a reason.

Personal Information means information or an opinion, whether true or not and whether recorded in material form or not, about an individual whose identity is apparent, or can be reasonably determined from the information or opinion.



# Conduct interviews and take statements

## CPPSEC3033A

*This page is intentionally blank*



## CPPSEC3033A Conduct interviews and take statements

### Introduction

This unit of competency specifies the outcomes required to acquire information by interview and take statements to assist or initiate an investigation. It requires the ability to plan and carry out effective information gathering activities through interview and post interview processes, use recording equipment, take accurate statements and manage all investigative information in a secure and confidential manner.

Conduct interviews and take statements - CPPSEC3033A		
Element	Performance Criteria	
1.	<b>Prepare for interview.</b>	
	1.1	Client and <b>legislative requirements</b> relevant to briefing and debriefing procedures and processes are identified and complied with.
	1.2	<b>Assignment instructions</b> and <b>background material</b> is obtained, reviewed and clarified as required with <b>relevant persons</b> .
	1.3	<b>Resource</b> requirements are confirmed and organised in accordance with investigative objectives.
	1.4	Interview location is accessible and non-threatening and encourages safety, confidentiality and confidence.
	1.5	Recording equipment is checked for correct operation in accordance with <b>manufacturer's instructions</b> .
	1.6	Arrangements are made as required for a witness to be present at interview to ensure information is not compromised in accordance with legislative requirements.
2.	<b>Conduct interview.</b>	
	2.1	Interview is conducted using effective <b>communication skills, interpersonal techniques</b> and sensitivity to individual <b>social and cultural differences</b> .
	2.2	Appropriate <b>protocols and procedures</b> are used in accordance with legislative requirements.
	2.3	Interview <b>plan</b> and <b>strategies</b> are followed and adjusted and <b>contingencies</b> implemented to address changing circumstances.
	2.4	Appropriate equipment and recording methods are used in accordance with manufacturer's instructions.

	<b>2.5</b>	Contradictions, ambiguity, uncertainty or misunderstandings are identified and clarified during the interview.
	<b>2.6</b>	Physical evidence presented during interview is described in full in accordance with legislative requirements.
<b>3.</b>	<b>Take statements.</b>	
	<b>3.1</b>	<b>Format</b> and <b>procedures</b> for taking <b>statements</b> are observed and complied with.
	<b>3.2</b>	Statements are taken in the first person and accurately reflect the interviewee's knowledge of the interview subject matter.
	<b>3.3</b>	Statement includes written affirmation from interviewee as to their understanding of its contents and the conditions under which it was made.
	<b>3.4</b>	Statement is signed and dated by interviewee and witnessed by interviewer or sworn in front of a <b>duly authorised person</b> in accordance with legislative
<b>4.</b>	<b>Complete interview.</b>	
	<b>4.1</b>	Interview is terminated in a sincere, courteous and friendly manner.
	<b>4.2</b>	Copy of records of interview are provided to interviewee and receipted in accordance with legislative requirements.
	<b>4.3</b>	Notes made during interview and other relevant information are retained and secured with due regard to confidentiality and principles of evidence management.
	<b>4.4</b>	Post-interview procedures are conducted as required and records updated.
	<b>4.5</b>	Interview results are reviewed, reported and securely maintained in accordance with legislative requirements.

## REQUIRED SKILLS AND KNOWLEDGE

### Required skills

- Accurately record, report and document information and evidence
- Communicate using appropriate channels and communication modes
- Disseminate information with due regard to confidentiality issues
- Elicit accurate information from interviewee
- Evaluate diverse pieces of information and promptly clarify misunderstandings, ambiguity or contradictions
- Identify and comply with applicable legal and procedural requirements, including licensing requirements, relevant to conduct of interviews and evidence collection
- Information technology
- Organise and operate recording and other equipment
- Plan and conduct meetings and interviews
- Prepare and compile statements in required formats
- Prioritise work tasks and complete activities within designated timeframes
- Relate to people from a range of social, cultural and ethnic backgrounds and of varying physical and mental abilities
- Risk assessment
- Use information storage and retrieval systems
- Verify information for accuracy and relevance.

### Required knowledge

- Applicable licensing and legal requirements for conducting interviews and taking statements
- Continuity of evidence
- Effective interpersonal techniques
- Information management systems and methods
- Interview strategies and techniques
- Interviewing, reviewing and debriefing processes
- Post-interview procedures
- Principles of continuity of evidence
- Principles of effective communication including interpersonal techniques
- Procedures for the security and storage of information
- Procedures for the use of interpreters
- Recording methods and use of recording equipment
- Reliable and verifiable sources of information
- Reporting and documentation requirements
- Requirements for duly authorised persons to swear statements
- Rights of individuals in relation to the conduct of interviews and statement compilation
- Techniques for negotiation, conflict resolution and problem solving.

## 1. Interviewing and Recording Methods

### 1.1 Purpose Of Unit

A significant instrument in the everyday collection of evidence is the investigator's capacity to gain and record information from a broad spectrum of individuals, from a variety of cultural and socio-economic backgrounds. Eliciting information is sometimes an inexact and difficult process demanding specific competencies, patience and an understanding of human nature.

Often an interview directly stimulates and provides an investigation with more avenues of enquiry. Circumstantial, physical and forensic evidence all have compelling probative value but where such evidence simply does not exist, the only other possible source of evidence is that which is asked during interviews with individuals.

This competency standard covers the skills and knowledge required to acquire information by interviews and take statements to assist or initiate an investigation. It requires the ability to plan and carry out effective information gathering activities through interview and post-interview processes, use recording equipment, take accurate statements and manage all information in a secure and confidential manner. This work would be carried out under limited supervision within organization guidelines.

### 1.2 Basic Purpose Of Interviews – Preparing You For This Training

The written statement is a documented version of a particular event that is produced by a person who is able to provide and express such information. It is the witnesses' account of the matter, and as such the message pertaining to the matter must be of the witnesses' best recall of the event. The Investigator, who is the person designated to obtain the statement, should not influence the outcome of the statement by asking questions, suggesting information, or by prompting the person making the statement in such a manner that it could be construed that the statement finally obtained was directed away from what the person actually wanted to express and in fact contains false evidence that the witness may later recant.

The basic purpose of any form of any form of interview is to gather evidential and relevant information and evidence in a format that is chronological (in the same order that the event occurred), relevant (part of the circumstances of the overall incident), and is evidential (admissible in a Court of Law). The ultimate use of information gathered by the Investigator is a matter for the client and the Investigator should simply be the gatherer of the relevant information to be utilised by the client. Not all matters, in fact few matters, proceed to Court, but the signed statement or formal interview is relied upon heavily in making decisions by your client or their legal representatives in making decisions with regards to the future direction of matters.

All information that is relevant to the event should be included in the interview and parts of the interview that are not necessarily evidential can be excluded at a later stage if appropriate.

Before we look at the methods in regard to conducting interviews, the Investigator must become familiar with all accepted industry standards and methods of conducting an interview with persons of interest. In order to become competent and professional it must be realised that all accepted methods of interviewing must result in the formal recording of the interview in written or digitally recorded format. The written format can include signed statements, records of interview or notes taken at the time of interview.

Before attempting to define the various interview techniques or procedures it is very relevant to point out that generally, if not specifically, it is your CLIENT who will dictate the type of interview to be conducted. The client may be uninformed, misguided, or seeking to utilise an avenue of enquiry that you consider to be the wrong methodology; whilst you may offer advice or guidance in regard to the appropriate type of interview that should be conducted, it is the decision and wishes of the client that should be abided with, as they have their own needs and beliefs.

### **1.3 Definition Of Interviewing**

Simply, it is a planned conversation designed to elicit facts from an individual who has knowledge of those facts by asking relevant questions and recording the answers given.

### **1.4 Cognitive Interviewing techniques**

Cognitive interviewing techniques are good interview techniques that aid the witness's or subject's memory recall. Cognitive interviewing is based on assisting the witness or subject to concentrate, re-stating things with greater detail, or to gain some better mental imagery about what they are describing. This style of questioning also moves towards building a greater rapport with the interviewer.

The interviewer should not disrupt the concentration of the witness, and should avoid asking questions until the witness stops concentrating. The witness is the source of the information, not the interviewer. Try to ask questions that are compatible with what the witness is thinking about, and not what the interviewer wants. Defer such questions until the witness has exhausted information provided on the one event at a time. The interviewer should strive to convince the witness of the importance of this detailed description. Assisting the witness or subject to gain a greater memory of previous events is what the Investigator should attempt to elicit. The interviewer should use these methods at all times, but especially where a witness provides superficial information.

Cognitive techniques are often assisted by communicative skills, to obtain informative statements or witness's responses, usually by prompting the witness's memory with questions like What happened then? or, When did that happen ? or, Where did that happen? or, Who was there when that happened ? or, Why did you think they did that? or, Can you tell me more about that?

The cognitive interview strengthens the communication between the interviewee and the interviewer by:

- Assisting the witness to formulate a comprehensive, intelligible response
- Assisting the investigator to understand and record the witness' response
- Assisting the investigator understand the witness' psychological needs
- Relegating the investigator's needs to the witness

## 2. Types Of Interviews

### 2.1 Written signed statements:

A statement from a witness is a recollection of witnesses' observations about an event. The witness describes the facts and events that they witnessed, and which are relevant to the matter or event. Written signed statements provide a series of 'word pictures' for court proceedings. Writing a statement provides a permanent record for what occurred. It prevents a witness changing his/her mind later. Statements must be obtained and provided voluntarily by the person of interest, they cannot be compelled to co-operate. Written signed statements are the person of interest's version of events and subject to their recall of the event. The statement can be recanted at any time by the witness and the investigator has no control over this situation.

Written signed statements (on their own) are not admissible in Court and therefore cannot be tendered in evidence in the absence of the witness. The written signed statement is a version of events provided by the person of interest, and is what they may decide to give in evidence in Court. The person of interest must be in Court so that they can be cross-examined on the evidence, which hopefully (but not always) will be the same as what they provided in their original written signed statement.

There is no reflection on the investigator if the witness changes their version of events whilst giving evidence in the witness box. Their evidence is what they give under oath from the witness box and not what is contained in their written signed statement obtained on a previous occasion and sometimes years ago. Variation is a fact of life.

Obviously the investigator must faithfully record the version of events given by the person of interest and the investigator must not embellish the version given and must not wilfully change the version of events to suit the circumstances, or as desired or designed by the investigator. That sort of activity may result in action against the investigator.

### 2.2 Procedures when taking Statements:

Try to put the witness at ease. Separate other witnesses, so that the witness making the statement is not influenced by others. Before you start the statement, try to get an overall account of the 'picture'. Use the witness's language and description of the events. Refrain from suggesting what might have happened. Try to write a chronological order of events. Use direct speech if conversations are being spoken about by the witness, example: *John, my brother, then came running into my house and said to me, "All the tyres on your car have been slashed"*. Do not over-write any mistakes in a written statement; just strike a clean line through any corrected information. Before your witness signs, make sure you have covered everything required. Exclude any irrelevant material.

If a witness is under 18 years of age, that person is required by Law to state their age in a witness statement.

When the statement is finished, the witness must then read the statement. Make sure that the witness reads the statement aloud to you. This assists you in the witness acknowledging the statement's content. You should then ask the witness "is this statement true and correct?" If the witness agrees, then they should sign each page of the statement. You should then provide a 'jurat' on this statement, which is the acknowledgement by the Investigator that the statement was taken and the signature of the witness/subject was witnessed by the Investigator. (See copy of witness statement at the end of this unit)

You should give a copy of the statement to the witness.

Some insurance companies insist on written statements; signed written statements are often desired by Workcover or Traffic Accident Commission matters (as they are more likely to be concluded in a Court or Tribunal hearing). Sometimes, a Lawyer may engage you to take a written statement from a witness in regards to a matter concerning the defence of his client, who has been charged with an offence.

Some witnesses might produce what they think is their written statement. You may have to transcribe this statement, and add further information that they might tell you; you might assist this witness by asking them to expand on their account of the event. (What, where, when, why, and how questions)

### **2.3 Formal Interviews – Audio Recorded**

Police have moved to audio recordings of all subject interviews. Audio/Video recordings have been in vogue for several years regarding serious criminal offences. Many Private Investigation companies use similar recorded interviews for Workcare, Insurance and Solicitor work.

The methodology of providing an audio recorded interview will be discussed at a later stage, but simply put, it is a formal interview with the appropriate introduction, caution of rights, preamble, actual questioning of the witness in the interview, and then the closing of the interview. A transcription can be provided to the witness, or their legal representative. That transcription can then be utilised in the same manner as a formal written statement but the audio recorded interview is more spontaneous and the witness/subject can be heard telling the story in their own words and using their own expressions. This method of interview also provides the Investigator with more flexibility in the direction of the interview, immediate clarification of any issues that arise, and a little more 'think-time' for a witness/subject who is being evasive, contradictory or untruthful.

The advantages of audio recorded interviews are many. They are less time consuming, more cost effective, they are hard to dispute, when the words used by the parties involved can be replayed, and the conversation can be transcribed.

The audio recorded interview is usually conducted by the Investigator at the home address of the subject or at another location as arranged. One of the biggest problems is internal noise (examples: an electric jug, kids playing and crying, loud television, radio etc. etc.) and this has to be avoided and planned by the investigator in conjunction with the subject. It is good practice to tell the subject that you want a "noise-free" interview.

Usually there are no other persons present at the interview but each person present should be identified on the recording device.

The recording device is generally a small portable device of the digital type as the digital recording can be downloaded and forwarded as necessary electronically(eg; via email to your Investigative company base). There is no compulsion to provide a copy of the audio recording to the subject, but if a copy is requested it should be provided on a CD at a later date.

Many subjects are concerned that the interview is being recorded and this can be simply explained as being procedure and that it provides security for both parties as it cannot be argued as to what was said or not said and it provides an irrefutable record of the conversation.

The recording device should be placed in an obvious position between the parties to record the conversation and generally the subject forgets that the device is even operating when they relax and start to take part in the interview. Most insurers, if not all, would prefer that their clients are not covertly recorded under any circumstances as the process should be open and frank. Whilst it is lawful to covertly record a conversation that you are a party to it is not the preferred manner of conducting an interview.

The subject should be asked to sign an acknowledgement agreeing that they are aware the interview is to be audio-recorded and other than the preamble, the interview is conducted in a simple question and answer format.

The completion of the recording is little more than a comment that the interview has concluded and the recording device is to be switched off and that can be acknowledged by both parties.





### 3 Location of Interviews

Investigators generally work as sub-contractors and work from home. Whilst some investigative firms or employers of investigators have office locations and office facilities they rarely, if ever, provide interview rooms or facilities. Clearly you are not going to invite the witness/subject to your home to be interviewed.

Therefore the average investigator will be carrying out interviews of witnesses/subjects in the homes of the witness/subject by appointment. Therefore you are a guest in their home, they are a 'customer' of your client and therefore you must treat them with respect and provide customer service as would be expected by your client. You are also subject to the trespass laws and if the interview turns 'nasty' and you are asked to leave then you must leave.

If the interview cannot be conducted at the witness/subject's home for some reason (they are compelled to co-operate and submit to the interview in regard to insurance claims for example) such as they simply do not want you to attend at their home then the alternatives are limited to meeting in a car park or meeting at a McDonalds restaurant. 'Maccas' is quieter and preferred to a busy noisy coffee shop. The initiative of the Investigator is tested in finding an appropriate location for interview. It is also not unusual to meet at the scene of the event particularly if the event being investigated is a motor vehicle collision and the interview can take place there in your vehicle.

Some ethnic groups do not want you in their home or want you to remove your shoes, or they do not want you in the house because you are unclean, the house is untidy, the wife is sick and so on. If it is a burglary claim they have no option, as you must inspect the scene and point of entry, otherwise generally you have to accept the situation and simply cope.

So, do not think your interviews will be conducted in comfortable surroundings of your choice or provided by your client.

#### 3.1 Less Formal Interviews

Insurance Companies make decisions based on commercial considerations and are profit driven and many clients who employ Investigators are cost conscious. Investigators will not be paid to drive all over the City or State to interview witnesses and therefore the Investigator will be required to conduct interviews of other persons involved in the event by telephone. This may include passengers in a motor vehicle collision, the other driver, or witnesses.

Some clients may direct that these witnesses should be interviewed in person, and the 'formal interview' guidelines apply.

If the witnesses are to be interviewed by telephone then copious notes of the conversation should be taken for reference purposes and the witness should be well aware of the fact that they are being interviewed by an Investigator and on whose behalf the Investigator is acting. The interview should not be covertly recorded.

The witness may decline to provide written or verbal information and that is their right.

#### **4 Record of Interview**

There will be occasions when a re-interview of a subject is necessary. You may discover after your initial interview that things are not as the subject would have you believe in regard to say the insurance claim made.

Further enquiries made based on the initial interview may reveal that (for example)

- Enquiries with Police reveal that the subject is to be charged with exceed .05%
- That the subject is unlicensed to drive a motor vehicle or the drivers licence is suspended
- The driver is not a nominated driver on the policy
- Enquiries with neighbours do not support the version of events given
- There are undisclosed prior convictions or licence suspensions
- There is undisclosed criminal history
- There are undisclosed previous insurance claims
- The telephone call history of the insured has him somewhere else and not where the incident occurred
- There are discrepancies in the stolen property list

For re-interview you should simply conduct a second audio- recorded interview – or conduct a pre-planned record of interview where all questions to clarify issues are asked. You might even consider doing a second signed statement covering the (newer) issues.

##### **4.1 Desktop Investigations**

Most insurance companies, particularly those who deal with truck insurance, conduct what are referred to as desktop investigations. These investigations are either carried out by unlicensed and unqualified claims officers who conduct their interviews totally by telephone and obtain their authority to gather traffic infringement history and criminal history by mail or fax. It is not unusual for a claims officer of an insurance company to make all sorts of initial enquiries and then decide it is a matter that should be dealt with by an Investigator so the Investigator then has the role of sorting out what by now has become a mess. Other more enlightened insurers refer desktop investigations to licensed Investigators in the first instance which hopefully provides a more comprehensive result.

It is not unusual for more complicated claims or less clear claims to be referred to Investigators 'to just have a look at it' simply because the story being told by the insured when making the claim cannot be understood or needs clarification. Telephone interviews are deemed sufficient generally in this case.

## 4.2 Affidavits

Affidavits are similar to written formal statements both in content and format. In fact most affidavits are either derived directly from written statements taken by Investigators or are compiled by Lawyers directly from their clients.

The major difference between a written signed statement and an affidavit is that the affidavit is sworn and signed before a designated class of person (see Appendix 02) for a specific purpose such as a Supreme Court application and because it is a sworn document it carries more weight than a signed statement. There are alternatives to swearing an affidavit depending on the deponent's religious beliefs but the document carries the same weight and penalties for false swearing (perjury). The affidavit cannot replace giving evidence from the witness box because all witnesses giving evidence must be able to be cross examined and you cannot cross examine an affidavit.

Investigators will rarely deal with affidavits as they are basically the province of lawyers but Investigators may on occasions be required to sign an affidavit outlining their activities in regard to an investigation they conducted. This is not a regular occurrence.

## 4.3 Statutory Declarations

For many years (and occasionally still) insurance companies relied on statutory declarations from the insured as proof of evidence that the insured owned certain property being claimed as stolen (for example). A Statutory Declaration is a lesser version of an affidavit and carries less weight than an affidavit even though it is signed before basically the same class of designated persons as an affidavit is.

Where the affidavit is sworn to be true (on the Bible or other similar tome) a Statutory Declaration is simply declared to be true and signed and witnessed.

There is a firm belief, and a belief that is totally unjustified, that a Statutory Declaration is some un-assailable proof of the truth and the contents are without question.

A Statutory Declaration is nothing more than a version of events or statement of facts according to the person making the Statutory Declaration and is signed in front of a designated person. The designated person (as with an affidavit) who witnesses the signature to either the affidavit or Statutory Declaration is not signing as to the truth of the contents or supporting in any way the truth of the contents just to the fact that the person making the affidavit or the statutory declaration signed the document.

Investigators will rarely deal with Statutory Declarations but if your client requires that you obtain such a document from their customer or whoever you are dealing with then simply comply and obtain the document in the knowledge it is virtually worthless. The document carries the same weight and penalties for false swearing (perjury) as with an affidavit if you can prove the contents are false.

If a person you are dealing with volunteers to provide a Statutory Declaration in regard to certain facts or a certain event accept the offer gracefully. It does not stop that person

from being scrutinised or questioned further on the contents or the facts contained in the Statutory Declaration. Statutory Declarations are over rated in terms of value or credibility.

#### 4.4. The Evidential Interview

The evidential interview converges on two predominant ingredients of a subjects' account of the issue being investigated i.e. **Memory and communication**. The subject must first draw into consciousness all the details of the issue and then communicate them to the investigator.

Only if both these processes operate properly, will an effective interview take place.

**A principal of the evidential interview is the concept of guided retrieval.** Because all the pertinent information rests in the individual's mind, the objective of the interview is to assist the subject in accessing that information. At this point of the interview, it is the subject, **not** the investigator who will or will not access the desired information. Consequently, the interview must be directed by the mental processes of the witness.

Simply, it is the witness and not the investigator who is the significant player in the interview. An investigator should not adopt a dominant role, whilst a subject plays a secondary role. **The successful interviewing investigator is one who can determine how the subject has stored the pertinent information and then guide the witness through the search of their memory to retrieve that knowledge.**

#### 4.5 The interview technique used by the Investigator must improve the memory recall by the witness and is achieved by

- Drawing down on the subjects' mental representation of the issue (eg: What happened then ?" "How did you feel about that?" "What did you do then?")
- Suggesting techniques ensuring the witness becomes the relevant participant in the Interview, and
- Providing retrieval strategies facilitating the witness accessing certain information

Although the information is accumulated in the subjects' mind, simply activating this knowledge does not necessarily confirm a productive interview. **Another obstruction is the inability to communicate the information effectively to the investigator.**

#### 4.6 If the investigator/witness interview is regarded as a simple communication system, two otherwise problem areas may be identified

- The subject converting the conscious memory into a verbal description
- The investigator comprehending and recording that description

Based on a notion there is a communication system in place and simply not two isolated individuals, each player should be aware of the other's needs and capabilities. The productive witness should be able to engender a comprehensive description of the conscious memory and must present the description in a form that is understandable and significant to the investigator. Similarly, the investigator should become a competent listener and be attentive to the witness' psychological needs and capacity.

**The primary understanding of an investigator and the most basic interviewing skill is to recognise THAT YOU LEARN MORE BY LISTENING THAN YOU DO BY TALKING. Let the witness/subject tell the story. Interviewing is a critical ingredient of every investigation and one of the more significant skills of the investigator.**

The effective investigator should be flexible enough and skilled enough to alter the direction of the interview or guide the witness or subject in such a way to keep the discussion relevant without interrupting the information flow.

The methods of interviewing employed by the investigator must meet two strict prerequisites. Firstly, the **methods must be based on proven procedures for establishing the truth of the matter under investigation.** The interview must be formulated systematically and according to plan. Secondly, the **methods of interview must always conform to the requirements of the law** regarding the admissibility of admissions or confessional evidence. These techniques may be the subject of searching judicial inquiry if the matter goes before a court or tribunal.

#### **4.7 Definition Of Interviewing**

**Simply, it is a planned conversation designed to glean facts from an individual who has knowledge of those facts.**

**The questions to which the investigator seeks answers are**

WHAT	what is the nature of the matter?
WHEN	when did it occur?
WHERE	Where did it occur?
WHY	Why did it occur?
WHO	Who was involved?
HOW	How did it happen?

#### **4.8 Attributes Of The Interviewer**

The interviewer should possess specific personal attributes in order to succeed in ascertaining the facts through a conversation with the individual who is cognisant of such facts. The following are some of these desired attributes



## 4.9 Attitude of Investigators

Regardless of how or why an Investigation is referred to an Investigator it is important for an Investigator to be aware that they are not the Police, they are not conducting a criminal investigation, they are not dealing with criminals (that could be argued when dealing with organised crime such as staged motor vehicle collisions), and they have no legislative authority.

Investigators are dealing with members of the public who are in one way or another involved with the Investigator's client and that is either as an injured worker, or as a result of a claim for an insurable event either involving a motor vehicle or their home or business.

Most insurance companies (in fact probably all of them) make commercial decisions and that can range from declaring a vehicle to be total loss when it appears not to be to being very satisfied with having a claim withdrawn when it becomes obvious it is a fraudulent claim. **Insurance companies rarely insist on their 'customers' who submit fraudulent claims being prosecuted by the Police so therefore the role of the Investigator is to act impartially in their dealings with the client (insurers) and their customers but convince the 'insured customer' to withdraw the claim if it can be proved to be fraudulent.** To reach this position requires intuitive and intelligent interview techniques that are used in an effective manner without alienating any persons involved but achieving the desired result.

**The client expects that the Investigator will provide them with evidential, relevant, timely interviews presented in a formal manner with an appropriate report that allows the client to make a decision on the future conduct of the matter.**

**In summation the Investigator should demonstrate –**

- Impartiality in all circumstances
- Avoid emotional involvement
- Fairness to the witness/subject
- Perseverance and persistence
- Remembering the objective i.e. a search for the **truth/facts**
- Being able to relate to the subject regardless of personal opinion.

## 5. Vocational Proficiency

The investigator should be able to employ personal professional experience in specific aspects of the issue in order to relate the interview to the -

- The facts of the matter
- A reconstruction of the event
- Techniques/resources employed in investigating the matter
- Modus operandi of the individual/s involved
- Scientific investigational techniques/resources relative to the issue.

## 5.1 Adaptability

- Ability to adapt to the personality of the subject
- Capacity to adapt to unexpected developments during the interview
- Proficiency in maintaining an open mind

## 5.6 Knowledge Of The Matter Being Investigated

The investigator should be thoroughly conversant with every variable of the issue that is known at the time. Without this knowledge the investigator is not equipped to manage unexpected developments. With it, he or she is equipped to distinguish between fact and inference, truth and untruth and to acknowledge discrepancies as they occur.

**The following specific information regarding a matter should be in possession of the interviewer (as per client instructions if provided) if it is known and it might not be known**

- Nature and details of the matter under investigation
- Date, time and place of incident
- Details of the scene/area
- Nature and value of exhibits
- Modus operandi employed by individuals involved
- Incriminating or suspicious circumstances implicating the subject
- Details of witness details or statements (if any)

## 6. Planning The Interview

**The investigator should prepare strategies for the interview.** He or she should consider the nature of the evidence, the type of individual to be interviewed and general circumstances of the matter. This may influence the format and manner of interview.

### **FAILING TO PLAN IS PLANNING TO FAIL.**

### 6.1 Time Of Interview

Normally, the investigator should select a time for the interview as soon as practicable after the **event** and when he or she is in possession of all available and pertinent information. Clients have expectations that all matters will be dealt with expeditiously and even within a nominated time frame.

### 6.2 Privacy

As far as practicable the investigator should ensure the interview takes place in private. The only individuals present should be the investigator, sometimes a corroborating investigator and the subject. If the subject requires other persons of his choosing to be present then that should be agreed with. (example: wife, husband, brother, friend, solicitor, etc.)

**There should be complete freedom from interruption, distraction and any other influence inhibiting the interview as far as is possible. In a subjects own home that is hard to control.**

### **6.3 THE CAUTION (RIGHT TO SILENCE) – CRIMINAL INVESTIGATIONS**

One of the most central individual rights of an individual subjected of having committed a criminal offence is the **right to silence**.

This is the logic behind what criminal investigators(Police)have come to know as the **caution** (in the USA it is called reading the subject his rights) and is based on the **common law precept and reinforced by the Judges Rules that an individual does not have to say anything which would incriminate him or herself**

**The words of the Caution, sufficient for ALL purposes are - I MUST INFORM YOU THAT YOU ARE NOT OBLIGED TO SAY OR DO ANYTHING, BUT ANYTHING YOU SAY OR DO MAY BE TAKEN DOWN IN WRITING AND GIVEN IN EVIDENCE AT COURT. DO YOU UNDERSTAND THAT?**

Few private investigators will ever deal directly with persons that are being investigated by them on the basis of them having committed a criminal offence, and therefore will never need to caution persons. Most investigators deal only with civil matters and that generally relates to matters involving civil contracts (financial, utility, personal injury or insurance) and therefore need not bother themselves with the need to caution. If a confession for fraud was made by the person being interviewed regarding an insurance claim, then a Caution should be given immediately. (Police should then be contacted to charge the subject.)

There are exceptions of course, loss prevention officers working (usually in-house) for large retail organisations may deal directly with shop stealers or employees detected committing criminal offences (usually theft or deception matters) and whilst they may caution the subject before interviewing them they are restricted in what they can do and how far they take the matter because if the matter is to proceed to Court the Police must be involved and interview or re-interview the subject.

**Keeping in mind that as Investigators we may deal with persons who have lodged a fraudulent insurance claim and in fact ultimately admit that fact and they withdraw the claim then your client's aims have been achieved.** There is then no need to continue to interview the subject in regard to their criminality because it is probably not what your client wants you to do but if you do continue the interview into the area of criminality where admissions of guilt (culpability) are going to be made then **for those admissions to be admissible in a Court of Law the subject must be cautioned before making those admissions.**

Contrary to that contention though is the fact that the Evidence Act and the Crimes Act do not define private investigators as 'Investigating Officials' under the Act's and that excludes private investigators from the need to caution subjects. That however does not stop defence barristers vigorously arguing the opposite.



**Best Advice** – if there is evidence of criminality discovered during your investigation then finish your investigation to your client's satisfaction and if your client is agreeable then hand the matter over to the Police. **Don't get involved in areas where you have limited expertise, recognise your limits and seek instructions from your client.**

#### 6.4 The Use Of An Interpreter To Conduct Interviews

When using an interpreter in conducting a formal interview, whether and audio recorded interview or a written statement it is important that he/she be fluent in the exact dialect spoken by the witness. Merely learning a foreign language in school is usually not enough. It is also unsatisfactory to use a person who has a poor command of English, is a family member, or who is not an adult. Family members can be utilised for mundane enquiries or in regard to non-critical issues.

The interpreter must know the English language well enough to understand exactly what you wish to convey. He must have a significant vocabulary and knowledge of sentence structure in both languages to make an accurate translation. He must be able to pass on to the witness the information, as well as reflect the attitude and manner of expression you wish to convey. Further, he must be able to recognise any idiosyncrasies in the witness's answers and bring them to your attention, along with the reply information.

The witness should generally be seated in a chair opposite you, with the interpreter in between but slightly to one side, so that by merely turning his head he directly faces either you or the witness as the conversation switches back and forth.

It is desirable to orient the interpreter prior to the questioning as follows:

- He should merely act as a vehicle for accurately interpreting and passing the information back and forth between you and the witness.
- He should imitate your voice inflection and gestures as much as possible.
- There should be no conversation between the interpreter and the witness, other than what you tell him to say.
- No matter what the witness says, the interpreter should pass it on to you, rather than evaluate its worth himself. This includes even the most trivial remarks or exclamation.
- Even if the witness has some knowledge of English, if you have decided to use an interpreter, you should pass all information through the interpreter to avoid confusion as to whom the witness should answer.

You must completely control the interpreter and, through him, control the witness. Usually, you are restricted to use of the more routine methods of interviewing because of the limitations of the interpreter. At the conclusion of the questioning, after the witness has left the room, it is often worthwhile to ask the interpreter how he evaluates the witness.

In spite of the limitations and difficulties involved in using an interpreter, you can often conduct very successful interview if they are well planned and controlled.

There are agencies that provide qualified interpreters and the most used organisation is <http://www.tisnational.gov.au/> but there are a multitude of options in the Yellow Pages or on line. Some are telephone interpreters only, some will not attend on site and some use unqualified persons. The nominated organisation (Federal Dept. of Immigration) provide full on site service but only by appointment.

### 6.5 Over Enthusiastic Insured Victim

This type of victim is encountered frequently. They greet you at the front door and immediately commence giving you the run down on what has happened thrusting documents or information at you. This may be due to nerves but is disconcerting as it throws our planned structured interview into disarray.

You need a few minutes to set up, get documents signed, and commence the interview in a structured manner. Politely explain that you have a set format in how the interview is to be conducted in order to gather all the required information and ensure all clients' needs are met and we in the fullness of time gather all their information from them.

If they are going to make a cup of tea or coffee do not switch on the digital recorder until the kettle has boiled because that is all you will hear on the recording. Wait until that is done before commencing the recorded interview in your structured, planned orderly manner.

### 6.6 Categories Of Witnesses

This session will

- Identify the various types of witnesses
- Suggest methods to be employed to effectively deal with the differing types witnesses

The variety of witnesses the investigator may be required to interview will vary considerably thus it is important for the investigator to have an appreciation of the differing classes of witnesses in order to plan an appropriate interview strategy. Witnesses (including the investigator) usually fall within the following broad classifications.

### 6.7 Impartial Witness

This type of witness has nothing to gain or lose in consequence to an investigation. They are normally individuals with a sense of civic responsibility and generally make the most appropriate witness in an inquiry.

### 6.8 Biased Witness

Biased witnesses have a definite vested interest in the matter and have a propensity to colour their account of events. The reasons for this bias may not be immediately apparent to the investigator but may be due to any of a number of motives.



## 6.9 Unfriendly Witness

These individuals display hostility towards the investigator and/or the investigation. Usually they appear among relatives, peers or associates of the person who is the subject of the investigation. They may intentionally attempt to mislead the investigator.

## 6.10 Untruthful Witness

They will readily embrace any suggestion advanced by the investigator. Untruthful witnesses may be encouraged by bias, hostility or unwillingness to become involved. In order to become a successful liar, it is imperative to possess a retentive memory. If the investigator subjects a witness is lying, it is suggested not to immediately challenge the witness but permit him or her to persist until such time, he or she is completely caught up in their lie and it is impossible to maintain credibility.

## 6.11 Unwilling Witness

Some witnesses may be hesitant due to a dislike of authority or the establishment. They may have been involved in an investigation previously and now desire to avoid perceived inconvenience or embarrassment.

When this situation occurs, the investigator should attempt to establish the reason for their unwillingness.

## 6.12 Nervous Witness

The investigator should encourage this type of witness to relate their tale by exhibiting empathy and adopting a caring and confident approach to the interview.

## 6.13 Child Witness

Insurers would prefer that person under 16 years of age not be interviewed regarding insurance claims but that may be unavoidable. Children frequently make good witnesses due to their proficiency in observing and recalling faithfully what had been observed. However children are susceptible to suggestions thus becoming easily influenced. They also can be very truthful but because of their age may lack credibility.

Children should not be interviewed unless it is absolutely critical and only in the presence of an adult, preferably the parent. (Any person under age of 18yrs, by Law must state their age on any *witness* statement.)

7. **Leading questions should be avoided when interviewing children.** In many cases, a child's response will mirror the manner the investigator slants the question. Some child witnesses should be dealt with in a similar manner as the nervous witness.

The presence of a parent or guardian may succeed in overcoming the child's nervousness. It is desirable to have to have a parent or other adult present during the interview of a child.

## 7.1 Spouses

There are no restrictions on Investigators interviewing the wife or husband of a subject in regard to what are civil matters (insurance, financial, personal injury or similar matters). There are issues of bias and impartiality of course and these must be considered and dealt with but there is no reason why this class of person cannot be interviewed in regard to this type of investigation.

## 7.2 Expert Witness

The investigator should bear in mind that although the expert witness might be highly qualified in his or her area of expertise, they may be unenlightened of the law and the probative value of evidence.

Before seeking and using the opinion of an expert witness ensure that the person is qualified in the area where opinion is sought.

Motor mechanics, panel beaters, arson chemists, electricians, locksmiths, and computer technicians are used by investigators to provide expert opinions and this is totally acceptable providing the person is qualified in their field of expertise.

## 7.3 Non-Expert Witnesses

There may be a situation during the course of everyday life where an individual is accustomed to form an opinion which may be sufficient for the purposes of an investigation. However this may not be considered sufficient for expert evidence purposes in Court. Non-expert witnesses should be treated with caution but not necessarily rejected.

## 7.4 Questioning Techniques

This session will

- Explain the differing categories of questions
- Identify styles of questions
- Identify styles of questions to be avoided

Frequently interviewing investigators may be heard to ramble on through such questions- occasionally containing double negatives or two questions in the one sentence which the subject refuses to answer or if he or she does so, replies only to part of the question.

An apparent philosophy among many subjects, specifically hard-core criminals are that they make no admissions to anyone. However, experience has illustrated people do talk. Continued silence or denials in the face of pertinent probing questions is almost impossible.

**It is quite difficult to question a subject in such a manner whereby all the criteria for a successful interview are met.** In order to structure our thinking around questioning techniques, it is helpful to identify varying categories of questions.

## 8.0 Categories Of Questions

### Closed Questions

Closed questions are those, which clearly define the parameters within which the subject is expected to answer. Examples of closed questions may be found in requests for specific information such as personal particulars i.e. Name, address, date of birth and so on, but are not confined to these. Sometimes the questions are framed in such a way limiting the subject's range of answer options even further by giving the subject a choice of only one of two replies, "Was it 7:00pm when you left the premises?" or "Was it 7:00am or 7:00pm?"

Closed questions are useful for directing the subject towards a specific line of thought and for stimulating a specific response. Closed questions make it difficult for a subject to evade or shy away from the information being sought.

A potential problem with closed questions is they tend to provide the subject information regarding the interviewer's thought processes, since they clearly illustrate the type of information being sought.

### Open-ended Questions

Open-ended questions are useful in the investigative aspects of the interview when the investigator is concerned with reading the subject and with assessing the level of implication, if any, in the matter about which the subject is being questioned.

Open-ended questions are very versatile when compared with closed questions.

## 8.1 Styles Of Questions

### Leading Questions

The leading question is merely a type of closed question to which the answer is assumed or suggested in the question and should be avoided, for example,

- You were at the White Horse hotel last night, weren't you?
- You would have to agree that it's one of the better hotels, would you agree?

## 8.2 Echo Question

An echo questioning style consists of taking up the subject's last response and repeating it back to the subject in a question form. This causes the subject to analyse his or her response and comment further and is useful to reinforce admissions made by the subject.

Q Why did you claim that travel allowance, knowing that you were not entitled to it?

A Because I needed the money, I was desperate.

Q So you needed the money, you were desperate?

A Yes, I've got a drug habit which costs me heaps and that was the only way I could get some money short of robbing a bank.

Q The only way you could get money short of robbing a bank?

A Goodness I wouldn't rob a bank, I'm not a violent person, there's easier ways of getting money apart from that sort of caper.

### 8.3 Precise Style of Questioning

Precise questions, although closed, call for a specific answer and limit the reply to a definite item of information. The following questions are examples of increasing precision in the type of information being sought

- Where did you go?
- Where did you go yesterday?
- Where did you go yesterday afternoon?
- Where did you go when you finished work yesterday afternoon?

**Questions should be precise, chronological, and the answers should include times, persons met even to what was discussed. Elicit the story in small segments tying down the person in interest to a specific version of events.**

### 8.4 Controlled Answer Question

These questions confine the answer from the subject to a specific situation, for example, -

Q I understand you were present when the James Brown was injured in an industrial accident. Is that correct?

Q Will you tell me what happened?

This style of question is based on facts and is more appropriate than, "Where were you when the accident occurred".

### 8.5 Answers to Questions

Care should be taken ensuring the subject answers the question put to him or her. The investigator should not accept an evasive answer or question from the subject in return, for example

Q Where did you get those computer disks?

A I've had them for months, why do you want to know?

**This is an evasive answer and question to you in return. He or she has not answered the question.** The next question might be

Q Where exactly, did you get those disks? - Followed by

Q When exactly, did you get those disks?

## 8.6 Refusal By Subject To Answer Questions

Individuals who are the subject of an investigative interview may fall into three broad categories:

- Individuals readily admitting to their involvement in the matter
- Individuals admitting to their involvement after a lengthy interview
- Individuals who decline to answer questions

Subjects with nothing to hide are generally co-operative and Investigators should avoid categorising subjects prior to or even during an interview. A positive, friendly and fair attitude from the investigator can turn people around to become more amenable.

Where the subject is anxious to make admissions and unburden him or herself, it is easy for the investigator to overlook vital ingredients of the circumstances. As a precaution against this potential predicament, the investigator should adopt the practice of noting all the facts of the matter under investigation and ensure appropriate questions covering those matters are asked and check listed during and at the conclusion of the interview.

## 8.7 Silence Or Failure To Co-Operate

During the interview there may be occasions when the subject is exhibiting some reluctance or taking longer than usual to answer questions. **A strategy the investigator may wish to employ is silence. It is a powerful instrument in eliciting a more detailed response.** Television interviewers adopt this tactic to apply pressure on unwilling interviewees. In regard to matters that private investigators may be involved in such as insurance, financial and personal injury matters because of the contractual arrangements subjects are obliged to co-operate with an investigation and should be reminded of that. Continued refusal to co-operate by the insured can only lead to claim refusal.

## 8.8 Pitfalls In The Interviewing Process

The following are some of the dangers the investigator must avoid during an interview

### **Anger:**

A forerunner of defeat. The angry individual normally says things he or she will later regret. The investigator who becomes enraged or is perceived as being perturbed by the interviewee negates the efforts to create an atmosphere conducive to communication. Once angry the investigator is emotional and objectivity suffers.

### **Threats:**

The investigator resorting to threats has already lost the interview and any admissions, confessions or other incriminating statements by the subject would, in all probability, be rejected as evidence, should the matter go to prosecution.

### **Hurrying:**

The investigator should not be stampeded into conducting an interview for which he or she is ill prepared. Lack of preparation increases the prospects of overlooking vital information. A hurried or tense atmosphere also cultivates anxiety and again is not conducive to a cordial atmosphere necessary for fruitful interview. Appropriate time should be permitted for in the interview preparation stage.

### **Prejudice:**

Each interview must be approached with an open mind. Prejudice, literally implies pre-judgement or making up one's mind without sufficient information flies in the face of the objective interview. Any prejudice, labelling or stereotyping of the individual to be interviewed must be avoided in all investigative interviews. The investigator must be persuaded only by the facts of the matter being investigated. One of the worst mistakes the investigator may make is to jump to conclusions on the basis of prejudice, stereotyping or labelling or on circumstantial evidence, which has not been thoroughly appraised.

### **Degrading the Subject:**

Regardless of the matter being investigated the subject is a human being and deserving of respect and should be treated accordingly. Degrading the subject by sarcasm, suggestions of inferiority or insults due to ethnic or socio-economic differences is not only contrary to the principles of interpersonal communication but flies in the face of the well entrenched legal principles of the presumption of innocence and of natural justice and also anti-discrimination laws. Any suggestions a subject has not been justly or fairly treated during the interview, again will jeopardise any incriminating evidence obtained and may result in the investigator being open to complaint and censure.

### **Undue emphasis on Inconsistencies:**

A common propensity of many investigators is to perceive with suspicion minor contradictions or inconsistencies in accounts tendered by different individuals about the same matter. Some variation in any two accounts of the same event will always occur. In some cases the mere presence of insignificant inconsistencies is indicative of truthfulness. Stories, which are exactly identical in every detail, should be regarded with a degree of scepticism because they may have been concocted.

## **8.9 Obtaining The Written Statement**

Once the investigator has interviewed a witness and has decided the information is of **evidentiary value**, this information may be recorded in the form of a written statement.

**A statement is the narrative transcript of the witness' evidence.** The statement should only accommodate that information that is relevant and/or evidential which may then be permitted to be given in evidence by the statement maker if the matter proceeds to a Court or Tribunal. Written signed statements are relied on heavily by clients in regard to the determination of a matter or the future disposition of a claim.



**9.0 Evidentiary means** that the witness saw the incident, heard the incident, heard a conversation, or used one of their five senses as part of the incident (see, hear, touch, smell, or taste) and can give those observations in evidence. Relevance is also important and it is difficult to separate relevance and evidential. It is better to include subject matter that may not be strictly evidential or relevant than reject it outright as it can be rejected later or treated with less weight in considering the matter.

The statement may be written or typed by the investigator and then read and signed by the witness at its completion. This mode of statement taking affords the investigator control over the statement format and content (including what is relevant and discarding what is irrelevant) while the witness may observe what is being recorded.

## 10 Purpose Of The Written Statement

**The written statement serves two predominant purposes**

- To provide clients and lawyers with the nature and degree of the available evidence and whether there is adequate evidence of what has occurred to the satisfaction of your client.
- For the guidance of the lawyers acting for the client if proceedings are instigated.

**When taking a statement the following points should be adhered to:**

- The investigator must ensure that a statement is obtained from persons of interest at the **first practical opportunity**
- The person making the statement must sign and acknowledge the statement and must include a Jurat as required by s.126 Evidence (Miscellaneous Provisions) Act 1958.

## 11.0 Beginning The Interview

The first few minutes of the interview are used to establish a rapport between yourself and the subject and to identify each other. Irrespective of the type of interview, rapport is important.

Introduce yourself and your assistant (if there is one), and thank the interviewee for making the time available.

Ask the subject what they prefer to be called. The few minutes you spend at the beginning of an interview, casually familiarising yourself with the interviewee is important. You use it to gauge the normal level of anxiety and stress for the subject and their 'believability'.

At this stage you make sure the subject understands completely what the interview is all about. Ask them if they have any questions, and if they do, answer them honestly and extensively.

When you feel the tension of the strange situation begin to disperse, move on.

## 11.1 Note Taking

Note taking can cause different reactions in people. Different situations can cause different reactions.

In a normal interview note taking is rarely a problem, but occasionally you will meet someone who reacts hesitantly as soon as they realise their words are being recorded. Other will react in the opposite direction and will even watch the writing hand, trying to make sure they are not talking too quickly for the note taker.

Where someone pauses every time they notice the writing hand you have a problem but the best you can do is make the note taking as unobtrusive as possible and inform the witness the note taking is to ensure accuracy.

One way of doing this is to try and detach the spoken word from the written word. Don't write while the interviewee is speaking. Make notes after they have answered. This may not always be possible of course but avoid a burst of handwriting every time they say something significant.

## 11.2 Body Language

People have two languages: verbal and non-verbal (body language). One has been cultivated over a lifetime; the other has usually been ignored.

Verbal language can, and often is, manipulated and used to conceal the truth, to lie, and to create false impressions. The body, generally, does not have this capacity and while the mouth can deliver a variety of messages, the body usually delivers the truth.

An experienced Investigator will observe quickly analyse body language and it is a skill all Investigators should develop. Practice on your friends and colleagues.

For example, if initially people tend not to place a hand to their mouth when they speak, but begin to do this later, this may indicate something. If they sit on the edge of the chair to begin with but lounge back as soon as serious questions come, this may also indicate something. Observing body language is a great skill for an investigator to develop.

Eye contact or the lack of eye contact is also another body language tool and some persons cannot look you in the eye when they are lying. However be aware that some cultures believe eye contact is inappropriate (Vietnamese example) so the lack of eye contact has to be tempered with that knowledge.

## 11.3 Posture of the Investigator:

- An upright position.
- Frontal alignment with the subject.
- Legs and arms uncrossed.
- Hands open.
- Good eye contact.



#### 11.4 Interviewers should:

- Maintain eye contact whenever possible.
- Avoid expressions (disbelief, shock, surprise, etc).
- Appear understanding and interested, emphasise.
- Avoid gestures.
- Speak confidently, clearly.
- Not touch the interviewee.

#### 11.5 Controlling The Interview

To achieve a successful interview maintain control and keep the subject blinkered on the purpose of the exercise. The best way of doing this is to follow a few basic rules.

**They are:**

- Have the questions well prepared.
- Keep questions simple.
- Use plain English (and explain anything that isn't).
- Do not ask multiple questions.
- Listen to answers.
- Do not respond to subject's questions unless the question is relevant
- Try not to ask leading questions but this may be necessary.
- Take a break to freshen the mind and body.

In a normal interview it is acceptable to respond to the subject's questions, provided that they are in the context of the issue at hand. Diversions onto other subjects will only waste time and cause people to lose concentration.

#### 11.6 Finalising The Statement

When an interview has been completed and especially if you are transcribing it into a statement, you must ensure it is correct and acceptable to the subject by them reading it or you reading it to them. Many subjects will simply say they do not want to read it, they are happy to sign it as they have been following what you have written.

Usually there will be some alterations to be made. Perhaps you may have put a wrong inflection on some point or you may have phrased something differently from what the interviewee intended. Points of disagreement or misunderstanding must be clarified.

Make adjustments and corrections until you are both satisfied and have the document signed.

The statement will now need to be witnessed and this must be done by the Investigator who has seen and heard it made. Under normal circumstances this will be you.

It will read "Statement taken and witnessed by ... *name.*, at ... *time*, on ...*date*".

## 11.7 Actually Constructing The Statement

We have discussed how a statement should be taken and what should be included. The following document is a statement taken by an Investigator in regard to a travel insurance claim. The holder of the travel insurance claimed that he had been unlawfully dealt with whilst overseas and money in his possession had been effectively stolen. Because of the detail provided by the investigator ultimately the claim was refused as the insured had clearly voluntarily taken part in the activities that resulted in him handing over the large sum of monies,

This is probably one of the better and detailed statements produced and demonstrates how a statement should be constructed. You will note that the Investigator has asked questions of the insured and has taken small bites (segments) of his story and converted the responses from the insured into the statement narrative. If you break down the statement content, commencing with the insured's name, and consider then that every minute detail was elicited from the insured as a result of a question asked by the Investigator you then begin to understand how many questions the Investigator asked to compile the narrative.

**12.0** The questions may be as simple as when happened next? Or where did you go then, what time was it now, what day was it, who was present, what happened then.

**We are going to analyse the following statements from three perspectives.**

- The comprehensive narrative detail and content.
- The number of questions that would have been asked by the Investigator to extract and record the written narrative content.
- The fact that the questions asked and the answers given to compile the written narrative could easily have been recorded as an audio recorded interview with the same result in about half the time. This will demonstrate to you that there is little difference in the interviewing method used to compile a written narrative style statement and the interview method to carry out an audio recorded interview.

## EXAMPLE STATEMENT

Claim No: 187555

### STATEMENT

Name - Mr Craig Wilson

D. O. B: 31 October 1966

Address: 24 Eliza Drive Mount Smith Victoria

Phone Number. 0409-215-888

Interview Commenced.- On 24 February 2011 at Mt Smith Victoria

#### **States:**

My full name is Craig Wilson . I currently reside at 14 Eliza Drive Mount Smith and I have lived at this address for approximately the last two years.

I am a self employed brick layer and have been trading as Consulting Trades Pty Ltd for approximately the last three years but I am currently working for Rock Pty Ltd who are bricklaying contractors. Rock Pty Ltd are located at Woolards Grove Frankston and are contacted on telephone number 0412 666-774.

During the years I have been self employed I would estimate that I would gross approximately \$35,000.00 to \$40,000.00 per year and at present I am currently earning approximately the same amount of money,

In March 2010 I decided to have a holiday in Asia and departed on June 2010 and purchased flight tickets to Singapore with Emirates Airlines and I paid for this ticket with my ANZ Gold Visa Card and the cost of this ticket was \$1,050. 00 and it was an open year ticket that allowed me to return to Australia any time during the following twelve months.

I flew out of Melbourne on 22 June 2010 and arrived at Singapore on the same day.

For approximately one month and stayed at my cousin's Mr Andrew Reel and holidayed in Singapore staying at his home and he lives at 37 Skunk Hill Street Newton Circus Singapore and he can be contacted on 65-6236-7777.

On the 5th July 2010 I travelled to Indonesia to Kuta and stayed in Pefis One at Agun Pagi Ionn. I paid cash for this accommodation and the cost was approximately 70,000 rupiahs a day which is approximately \$140 Australian and these funds were coming out of one of my three Credit Cards and also from my Savings because this was the start of my holiday.

I stayed at Kuta for one month and left to return to Singapore on 5 August 2010. My flights to and from Indonesia were on Garuda Airlines and were paid for by my cousin.

On my return to Singapore I stayed at my cousins home until I left to travel by train to Malaysia on the 24 August 2010.

I arrived in Kuala Lumpur the following day the 25 August 2010 and stayed at the Coliseum at Jan Road Kuala Lumpur. I stayed at the Coliseum for approximately a week which cost 25 ringgits which is approximately \$12.50 Australian for a day's accommodation.

I left Malaysia 30 August 2010 by bus to Ko Samui in Thailand and stayed at Lanin Pali Beach Resort and stayed there for approximately two or three weeks.

After this I went to Ko Panguang by boat and stayed at the Black and White Bungalows which is at Sunset Beach Hot Rin.

At this point in time my Visa had expired and I went back to Sanin to get an extension on my Visa and was given a ten day extension and I had to leave Thailand by 2 October 2010.

On 31 September I left Phuket to Chiang Mai by Thai Airlines and went to the Department of Immigration and asked how to get an extension on my Visa.

I then went to Burma for one day so that I could get a new Visa in Thailand. After obtaining the new Visa I flew to Laos by Laos Aviation.

Before I went to Laos I spent a week in Chiang Mai hospital because of chronic fatigue which they treated me with heaps of drugs, physiotherapy and chiropractic. I was in hospital from the 9 October until the 12 October 2010.

From Laos I travelled to Vietnam by bus on the 17 October 2010 and I stayed in Vietnam until the 8 November 2010 about a month.

I travelled all over Vietnam over that month by bus and ended up in Saigon and then returned to Thailand via Cambodia and went to Bangkok arriving on the 14 November 2010.

At this point in time I estimate that I had spent approximately \$10,000.00 to \$15,000.00.

On arrival in Bangkok I booked into the New World Lodge Hotel in Batabanu which is located Bangkok Central. I planned to stay a few nights and ended up staying for approximately a week.

On about the 18 November 2010 at approximately 12.00 pm I was at a side stall eating lunch and this little guy called Tony started talking to me and asked me if I was Australian.

This person was short, about five foot five, grey hair, skinny and he was wearing dress slacks and a plain t-shirt he was reasonably dressed of Asian appearance.

After about half an hour he said that his daughter had lived in Melbourne and that I should come and meet his daughter and his brother-in-law. He also said he had been a jockey in Hong Kong and all through Asia.

At about 2 00 pm this man Tony and I left the side stall and he hailed a taxi down, a yellow one and told the Taxi Driver where to take us but I didn't hear the address and he spoke to the driver in Thai.

'We headed in a north east direction towards the Airport, and after about half an hour we ended up at an apartment; I would estimate that the Airport was still 10-20 kilometres away.

The building I went to was a multi storey building of approximately ten levels and it was a brick building.

We entered the building by the car park and then took an escalator to the sixth floor of the building.

After getting off the escalator we turned left and Tony knocked on the second door on the left and the door was answered by a person Tony said was his brother-in-law.

His brother-in-law introduced himself as Doy and he was of Asian appearance, about 5 foot 7 inches, greyish hair, slim and he was missing one of his front teeth.

Doy said he used to work at Crown Casino as a Croupier, I spoke with Doy and Tony for about an hour or so and during that time I was offered a Coke and something to eat.

I had a glass of Coke and we just talked that he knew a rich man who came from Brunei and he plays Mahjong and that we should try to win some money off him.

At this point in time I had about \$150.00 Australian in Thai Baht which is about 4,100 Baht and my Credit Cards, which included ANZ Gold Visa, Westpac Mastercard and Bank of Melbourne Visa Card. My passport was back at hotel in my room.

After about half an hour Doy's daughter arrived and was introduced by Doy as Sarin. She was brunette, 5 foot eight inches, approximately 37 years of age and she was wearing a shirt or a dress or something like that.

Doy then said his friend Mr Serapoon was coming around to take him to a Casino to play Mahjong and that he and I should try to win some money from him.

I said I didn't know how to play cards he said that he would deal and ensure I won and I said I didn't have any money and Doy said he would cover me.

At this point in my holiday I had spent about \$10,000.00 Australian on my holiday and had access to \$2,000.00 I could get through my Visa Cards and the \$150.00 Australian in cash was all I had.

We all talked for approximately another twenty minutes and Mr. Serapoon arrived and Doy set up a card table in his bedroom.

Tony remained in the lounge room and Safin, Doy, Mr. Serapoon and I went into the bedroom and I said I've only got \$100.00 and Doy said he would cover me.

We sat around the table Mr. Serapoon was sitting on the bed and I was sitting on a chair, Doy was standing up dealing cards and Sarin was sitting next to me on my left hand side.

I played twenty-one, Black Jack for about half an hour and we were using chips, red, green, yellow and blue and each had a different value.

I can't remember their value but they were \$5.00, \$10.00, \$20.00, \$50.00, \$100.00, and this was to represent United States of America dollars.

Doy had lent me \$500.00 in US notes to open with and Mr. Serapoon had pulled out about \$5,000.00 in US currency and I was amazed.

We opened another hand and the stake was up to \$2,500.00 US and I wanted to buy another card at this stage we were playing Black Jack and there was already \$10,000.00 in the centre and I had to see his last bet or lose the hand.

At this stage I was holding twenty-one in the cards and I knew I couldn't lose but I had no money to cover the \$5,000.00 so I said to Mr. Serapoon that I would get the money somehow.

He said he wanted the bet to be covered now but agreed to the cards being put in an envelope and for Doy to lock the cards away until I could get the money. At that stage I didn't have my ANZ Gold Visa with me either. So that's what happened the cards were placed in two A4 envelopes and placed in a two foot by one foot lockable security box by Doy and the key was given to Mr. Serapoon.

The time was then about 7.00 p.m. and Tony and Sarin telephoned a Taxi and they accompanied me back to the Hotel, and stayed with me while I checked if I had any money on my ANZ Visa Card to cover the bet, after I said I didn't have enough in my account they said they would contact me the following day to see if I had the money, they then left in the Taxi.

I can't remember passing anything and that it was near a service station but I was taken a different way every time.

At approximately 9.00 p.m. I telephoned Mr Ray Kells who is a friend of the family from the phone in my room and asked if I could borrow \$10,000.00 Australian and he said he would see what he could do and talk to my mother (he is my mother boyfriend). Ray can be contacted on telephone number (03) 9787-5555. I then telephoned my mum.

On 19 November 2010 my mother wired through \$10,000.00 Australian Dollars through to Western Union in Batabanu to the Thai Farmers Bank.

Mum rang me on 18 November and 19 November and said the money would be sent via Western Union.

On 19 of November I went back to see Mr. Serapoon to let him know I couldn't get the money until the following day.

I offered Mr Serapoon my ANZ Visa Gold Card as collateral because mum had put \$16,000.00 Australian in this account as well.



Mr. Serapoon took the card as collateral and he said he would wait for me to get cash and he locked the ANZ Visa Card in the safety box.

During this time Tony would pick me up and I never went to the apartment by myself.

On 20 November 2010, I went to the unit with 225,000 Baht which covered the \$5000.00 US bet and Mr. Doy opened up the security box and we commenced the game again.

Doy said the pool was worth \$17,500.00 in US currency and 225,000 Baht. I then said I am not gambling anymore and he said could you do me a favour if you buy some gold for me and he would pay me 20% in US currency.

This was because he would get taxed taking the gold out of the country and I wouldn't.

Serapoon then pulled out a big pile of money and said he would pay me \$20,000.00 US currency if I brought \$16,000.00 US worth of gold.

I didn't want to carry \$US20,000.00 in cash so I left the money I won with Tony at the apartment and thought I would buy the gold on my ANZ Visa Card.

At about 7.00 p.m. Tony, Sarin and I took a taxi from the apartment to the west side of Bangkok to Aurora Golden Gems in a huge department store.

I then purchased \$28,000.00 Australian of Gold Jewellery. This included bracelets, necklaces that were all 24 carat gold which totalled 1.368 kilograms of gold.

Tony and the women who served me picked the jewellery and I went along with it.

At about 8-00 p.m. Tony, Sarin and I caught a taxi back to the apartment and I was tired so Doy gave me a cup of coffee and I drank it.

Then I remember falling asleep and when I woke up I was in a Taxi in the middle of Bangkok, this was at about 11:00 pm.

The taxi driver didn't speak English so I got into another taxi that the driver of spoke English and he took me back to the hotel and I don't remember paying him, my wallet was still with me with all my cards and 400.00 Baht.

The following day at about 10:00 a.m I went to the Australian Embassy in Bangkok.

I spoke to Darren, Warren and Margaret at 37 Sathom Road Bangkok and the telephone number was 02-444 2680.

I was advised to pay the hotel bill where I was staying and they said that they could not help me locate the people who stole my gold and money.

I went to the Thai tourist Police Station at about 8.00 p.m. on 21 November and reported the theft of the gold and the money. The police took my statement and compiled a

report. The Police Station is located at 2911 Soi Jang Suan and can be contacted on 02-765-2964.

The Police wanted me to undergo a drug test but the embassy officials told me just to leave the country so I didn't get a drug test or seek medical treatment.

The effects of the drugs I were given was I was just knocked out and really tired but I wasn't vomiting or anything.

I then caught a train on 21 November to Yathi and then back to the Coliseum Hotel in Kuala Lumpur and stayed there a day until I could get a flight back to Melbourne.

I paid for this accommodation from the money supplied by the Australian Embassy.

I then caught a train from Kuala Lumpur to Singapore and flew back to Melbourne on 26 November 2010.

I have recently found the telephone numbers that I telephoned Doy and Sarin on. These are 013-63945 for Doy and 09-804 667 for Sarin.

I did not ring my cousin in Singapore for help because he and I had a fight after my last visit.

My mother can provide details of my money transactions and dates. She can be contacted on telephone number (03) 9796 5496 at 24 Eliza Drive Mt Smith.

When I was on my way to the Australian Embassy I met an English man on the way that said he has just been scammed out of 10, 000 pounds through some deal relating to gems.

Since my return to Australia my life has been effected by this loss of money to the point I'm depressed, I can no longer work for myself and I have nightmares and it just stuffed my whole life. I estimate my total loss to be at \$28,000.00 Australian in gold and \$10,000.00 in cash (Australian). Not counting the US dollars I had won amounting to \$12,500.00.

I did not have any other travel insurance and I did make a claim for medical expenses with Zurich on my return for the amount of \$400.00.

This statement is true and correct to the best of my Knowledge and memory.

Signed .....  
(Craig Wilson )

STATEMENT taken and signature witnessed  
by Drew Anthony on 24 February 2011 at Mt Smith Victoria.

Signed: .....  
( Drew Anthony Investigator )

**Example Record Of Interview Where Discrepancies Emerge After An Initial Interview – This Is One Method Of Conducting A Planned Re-Interview**

Record of Interview conducted at 24 Eliza Drive Mount Smith Victoria 3111

At 1.30pm on the 28th day of February 2011.

Present Drew Anthony Investigator and Mr. Craig Wilson

-----

**Q1. Do you recall that on the 24th day of February 2009 you made a statement to me regarding the losses incurred by you during a trip to various Asian countries during the period June to November 2010?**

A. Yes I do.

**Q2. You have in fact made a travel insurance claim seeking to regain those losses. Is that correct?**

A. Yes it is.

**Q3. Is this your signature on this statement dated 24 February 2011 (Produced)?**

A. Yes that is my signature.

**Q4. Is this statement a true account of what occurred?**

A. Yes it is.

**Q5. Is there anything that you would like to add or change?**

A. No nothing at all.

**Q6. I intend to further interview in relation to this matter by writing down a question and then asking that question and then recording your answer, do you understand that?**

A. Yes, but I don't know why, I told you everything.

**Q7. Are you agreeable to me further interviewing you in this manner?**

A. Yes I suppose so.

**Q8. Would you please state your full name?**

A. Craig Wilson.

**Q9. What is your date of Birth?**

A. 31-10-1966.

**Q10. What is your current occupation?**

A. Self employed brick layer.

**Q11. Do you agree that it is now 1.30 pm on Thursday the 28th day of February 2011?**

A. Yes

**Q12. You said on February 24th 2011 in your statement to me that you were in Bangkok on 18 November 2010. Were you in Bangkok on 18 November 2010?**

A. Yes, that's correct.

**Q13. You also said that you met a person called Tony on that day. Is that correct?**

A. Yes.

**Q14. You have then told me that after meeting Tony and various other people the loss accrued by you from playing cards and other activities was \$50,000. Is that correct?**

A. Yes that is correct.

**Q15. That is the sum total of your claim to Zurich Insurance and is based on your travel insurance. Is that correct?**

A. Yes, I believe that I am entitled to be compensated for theft and fraud under the policy.

**Q16. You have told me that your mother, your father and your mother's boyfriend sent to you various amounts of money whilst you were in Bangkok in order to cover your losses. Is that correct?**

A. Yes, they did send me money, ask them.

**Q17. In fact I have obtained the bank records of your mother, your father and your mother's boyfriend with their consent and those records do not support what you are telling me. What do you say about that?**

A. I did not think you would do that, I thought you would just believe me, how can you do that.

**Q18. In fact your mother has told me that you are a thief and scam artist and this sort of fraudulent behaviour is the way you live. What do you say to that?**

A. Well there is a mother's love for you. What a bitch.

**Q19. Furthermore I have perused your travel history from Immigration with your express consent and that travel history disclosed that you were back in Australia when you say these events occurred. What do you say to that?**

A. I did not think you would go so far in checking my story. I am in a bit of trouble aren't I?

And so it goes on ... and on ... and on ... until you are satisfied that all the discrepancies in the story given have been put to the subject and are responded to.

**Q20 It is my belief based on my enquiries that your insurance claim against Zurich Travel Insurance for the losses allegedly suffered is a fraudulent claim. What do you say to that?**

A Unfortunately you are correct. What can I do about it, I do not want to get into trouble. I just did not have any money.

**Q21 Would you consider withdrawing your claim in writing if I provide to you the appropriate document to sign?**

A Yes, I will withdraw the claim. Thank you.

**Are you prepared to read this Record of Interview and if it is true and correct sign it as being true and correct?**

A. Yes.

**Do you agree that the time now is 2.25 pm?**

A. Yes.

Signed: ..... Date: ..... Signed: .....Date: .....

Print Name: ..... Print Name: .....

-----

**Now is the time to sign off .... He signs the record of interview, bottom of each page, he initials any alterations; You sign the record of Interview, bottom of each page and the interview is concluded.**

**Appendix One - This Document Is Signed By The Person Being Interviewed By Digital Recording. There Are Various Versions.**

**ADOPTION STATEMENT**  
**AUDIO RECORDED INTERVIEW**

I, (Full Name) \_\_\_\_\_  
(Date of Birth) \_\_\_\_\_ (Occupation) \_\_\_\_\_ of  
(Residential Address) \_\_\_\_\_ (Suburb)  
\_\_\_\_\_ in the State of \_\_\_Victoria\_\_\_\_\_

**State as follows:**

On the (Date) \_\_\_\_\_ I participated in a recorded  
interview with XXXXXXXXX of XXXXXXXXXXXXX at, (Place of Interview) \_\_\_\_\_  
relative to my claim for insurance (Claim Number) \_\_\_\_\_  
against \_\_\_\_\_XXXXXXXXXX\_\_\_\_\_ Insurance Company.

Prior to the commencement of the interview, I was advised that the interview would  
be recorded.

The answers that I gave during the interview were given of my own free will.

No threat, promise, offer of advantage or benefit or inducement was held out  
to me to give the answers as recorded in the interview.

The evidence I have stated during the interview is true and correct to the best of my  
knowledge and belief.

Signature:

Witness:

Date:

Date

**Appendix Two - This Document Is A Basic Preamble To A Digital Recorded Interview and Could Be Adapted To Any Interview.**

**AUDIO RECORDED INTERVIEW PREAMBLE**

This is a **digitally recorded** interview between YOUR NAME of xxxxx Investigations on behalf of Blastit Insurance in regard to your claim relating to XXXX (this covers most claims dealt with - sort out what you are dealing with)

and.....(insured) .....conducted at (time).....on

(date).....2011 at (Location).....

Mr/Ms.....For the purpose of identification could you please state your full name and address?

Mr/Ms.....What is your age and date of birth?

Mr/Ms.....What is your occupation?

Additional persons present to be identified by stating their name address, age, date of birth and occupation.

Mr/Ms.....The purpose of our discussion today is to make inquiries into a claim lodged with.....Insurance in relation to .....(type of claimed incident) Do you understand this?

Mr/Ms.....Can you please detail your movements leading up to the claimed incident? (theft of motor car/burglary/motor vehicle accident)

As much detail as possible usually cover several hours prior to the Incident, the discovery of the incident and what they did then?

Elaborate on the initial summary of movements.....

Once the claimed incident has been adequately covered, you then take them through the specific headings of the report such as drivers licence details, past driving history, criminal history previous insurances/companies and claims for at least the past five years.

Financial situation – mortgage, credit card debt, family income, personal loans, and comment in report as to how their homes

presented and approximate value – this is just a brief picture as to a financial motive.

Purchase details of the vehicle, do they have the contract, is it under finance?

Condition of the vehicle service history, who services it, corroborates service history with the mechanic.

Advertised for sale – ask the question? Do a quick internet search. Items in the vehicle, list personal items and values, usually covered for up to \$500 of personal item

Accessories – what was fitted, when receipts? Were these items listed on the policy if not why not?

Obtain full stolen property list, gather and take substantiation for items stolen in a burglary, receipts, photos, Instruction Manuals, anything that they can produce to prove the item existed.

Conclude interview, turn off device

### **Appendix Three - Disclosure Questions For A Motor Vehicle Or Burglary Claim**

If you are investigating a motor vehicle or burglary claim ask only the following questions relevant to the type of claim bearing in mind that when the policy was taken out and when the claim was lodged those questions should have already been asked, but you must still cover this issue during your interview. Failure to answer these questions truthfully at the time of inception of the policy, or at the lodging of the claim can result in the claim being refused,

Explain to the insured that the acquiring of insurance through Blastit Insurers requires you to ask a number of questions as part of the investigation. Those questions you must ask are relevant to the acceptance of the claim.

The relevant questions in regard to a motor vehicle claim are -:

- In the last five years has any driver (of the vehicle) been convicted of or had any fines or penalties imposed for any driving related alcohol/drug offence
- In the last five years has any driver (of the vehicle) had a licence cancelled or suspended
- In the last five years has any driver (of the vehicle) had any at fault claim or accident
- In the last five years has any driver had any not at fault claim or accident involving vehicle damage
- In the last five years has any driver (of the vehicle) had any claims or incidents involving stolen or burnt out vehicles or previous burglary claims.



- In the last five years have you /or any driver of the vehicle had any claim refused, insurance declined or special conditions imposed on a motor vehicle/or other policy of insurance
- In the last ten years have you /or any driver/ been convicted of, or had any fines or penalties imposed for any crime involving drugs, dishonesty, arson, theft, fraud or violence against any person or property
- Have you or /any driver/ been declared bankrupt and not been discharged for at least the last twelve months
- Will the vehicle be used for any excluded vehicle usage
- Is the vehicle modified in any way from the manufacturers original specifications
- Are there any exceptional circumstances special to you in deciding whether to insure you or any driver.
- Has any driver (of the vehicle) been issued with a traffic infringement notice or on the spot fine other than parking fines or speeding offences where the fine was for travelling less than ten kilometres above the speed limit.

The relevant questions In regard to a burglary -:

- In the last ten years have you been convicted of, or had any fines or penalties imposed for any crime involving drugs, dishonesty, arson, theft, fraud or violence against any person or property
- Have you or /any driver/ been declared bankrupt and not been discharged for at least the last twelve months
- In the last five years have you had any claim refused, insurance declined or special conditions imposed on a motor vehicle/or other policy of insurance.
- Have you made any claim for insurance in regard to a burglary or theft or other event in the last five years.
- What is your previous insurance history with any insurance company in the last five years?

The questions in regard to disclosure vary from insurer to insurer but the point is that they are a very important part of any insurance investigation. Who were the previous insurers, why did you change insurers, and if necessary enquire with those insurers in regard to the previous insurance history of the insured? Failure to disclose claims, refusal or declining of policies, can result in a claim being refused.

The financial questions asked are important, embarrassing yes, but a financial motive for a claim must be excluded. A huge claim for say electrical items or jewellery when no evidence can be produced that they existed, or the life style or income of the insured does not support the ownership of such items, or a house where the contents are sparse and old but new expensive items are allegedly stolen can reveal that the claim is fraudulent in the sense that the items never existed, were never possessed, and no proof of ownership can be produced. Substantiation of the existence of an item stolen is a critical part of the interview. But if it is not provided, so be it. That is a then a matter for the insurers.

Failure to disclose criminal history, previous insurance claims, and refusal of claims, or declining to insure are grounds to refuse a claim. If the person admits any of the above they should be asked where they asked the question in regard to refusal or declining a policy, or previous claims on inception and if they were asked the question what was the

answer they gave to that question. Failure to disclose criminal convictions (or traffic convictions or licence suspension) for whatever reason in regard to claims prejudices the insurers in assessing risk in regard to accepting the insured as a risk and insurance is all about assessing risk so it is an important part of the interview on behalf of the investigator and should be commented on in the final report.

Disclosure is also an issue every time a policy is renewed. When a policy is due for renewal the insurer's always include information about 'what we must tell you' and 'what you must tell us' and then in some cases the disclosure questions are asked again. Most people do not read the renewal information. Failure to disclose traffic convictions and licence suspensions incurred during the year the policy has been in existence can lead to claim refusal. This area should be canvassed and questions asked if there are any disclosable issues that occurred during the year and if the insurers were notified and if not why not.

Occasionally there are conditions on a policy that require (say) security screens on all external windows below 3m and deadlocks on all doors. If this is the case, take photos and ask questions if the conditions are not being complied with ask questions and ask why not and this information is included as part of your report.

## **Appendix Four**

### **List Of Persons Authorised To Witness Affidavits (Or Statutory Declarations)**

- Any Judge or the Associate to any Judge
- A Master of the Supreme Court or the County Court or the Secretary of such a Master
- A Justice of the Peace or a Bail Justice
- The Prothonotary or a Deputy Prothonotary of the Supreme Court, the Registrar or a Deputy Registrar of the County Court, the Principal Registrar of the Magistrates' Court or a Registrar or Deputy Registrar of the Magistrates' Court
- The Registrar of Probates or an Assistant Registrar of Probates
- The Registrar or Deputy Registrar of the Legal Profession Tribunal
- A member or former member of either House of the Parliament of Victoria
- A member or former member of either House of the Parliament of the Commonwealth
- A Public Notary
- [Solicitor]: A natural person who is a current practitioner or registered interstate Practitioner within the meaning of the *Legal Practice Act 1996*
- A member of the police force of or above the rank of sergeant or for the time being in charge of a police station
- A person employed under Part 3 of the Public Administration Act 2004 with a classification that is prescribed for receiving affidavits
- A senior officer of a Council as defined in the Local Government Act 1989
- A person registered as a Patent Attorney under Part XV of the Patents Act 1952 of the Commonwealth
- A fellow of the Institute of Legal Executives of Victoria





# Operate information gathering equipment

## CPPSEC3034A

*This page is intentionally blank*

## CPPSEC3034A Operate information gathering equipment

### Introduction

Unit descriptor: This unit of competency specifies the outcomes required to operate equipment to gather information about persons, items or assets. It requires the ability to determine surveillance methods, operate surveillance equipment and document information. It also requires compliance with legislation applicable to investigation processes.

Operate information gathering equipment - CPPSEC3034A		
Element	Performance Criteria	
1.	<b>Select equipment required.</b>	
	1.1	<b>Assignment instructions</b> are reviewed to identify <b>information gathering activities</b> and <b>equipment</b> needs in accordance with client and <b>legislative requirements</b> .
	1.2	Necessary equipment is <b>sourced</b> and accessed in accordance with assignment instructions.
	1.3	Routine <b>pre-operational checks</b> are carried out according to <b>manufacturer's instructions</b> .
	1.4	Faults and malfunctions are reported and action initiated to rectify problems or seek replacement as appropriate.
2.	<b>Operate equipment.</b>	
	2.1	Training, licensing and legislative requirements are identified and complied with prior to and during equipment operation.
	2.2	Equipment is operated in a safe and controlled manner according to manufacturer's instructions.
	2.3	<b>Occupational Health and Safety (OHS) issues</b> are identified and appropriate risk control measures implemented.

<b>3.</b>	<b>Maintain and store equipment</b>	
	<b>3.1</b>	Cleaning and maintenance of equipment are conducted in accordance with manufacturer's instructions.
	<b>3.2</b>	Complex faults or repair requirements outside area of responsibility or competence are reported for specialist advice.
	<b>3.3</b>	Equipment is stored in a safe and secure area in accordance with manufacturer's instructions.
	<b>3.4</b>	Records and <b>documentation</b> are completed and maintained with due regard to client confidentiality.

## REQUIRED SKILLS AND KNOWLEDGE

### Required skills

- apply safe workplace practices and procedures
- communicate in a clear and concise manner
- communicate using appropriate channels and communication modes
- identify and comply with applicable legal and procedural requirements, including licensing requirements relevant to information gathering activities
- identify faults and determine appropriate repair or replacement action
- interpret and follow instructions and procedures
- maintain inventory of equipment and consumables
- measure and calculate consumption and servicing requirements
- operate a range of information gathering equipment
- organise equipment and resource requirements
- read and interpret basic technical information
- record, report and document information which may be used as evidence
- relate to people from a range of social, cultural and ethnic backgrounds and of varying physical and mental abilities
- risk assessment
- solve routine problems
- use and interpret maps and street directories.

### Required knowledge

- applicable licensing and legal requirements relevant to investigative operations
- common and complex equipment faults
- configuration and operation of information gathering equipment used from a vehicle
- interviewing, reviewing and debriefing processes
- legal implications relating to use of ancillary equipment for listening, tracking, observation, record keeping associated with note taking
- observation and monitoring techniques
- operational functions of a range of investigative equipment
- pre-operational checking functions and procedures
- principles of effective communication including interpersonal techniques
- procedures for gathering information by factual investigation or surveillance
- reporting and documentation requirements
- requirements for the securing and storage of information gathering equipment and consumables
- Routine maintenance procedures for investigative equipment.

## 1. Assignment Instructions

In order for Investigators to effectively conduct an investigation, they *must* first look at where the assignment instructions come from. In many cases, assignment instructions would have been prepared for the investigator. Verbal instructions from the client or the Investigative firm may validate the assignment instructions. Investigators need to be prepared to undertake an assignment once the assignment instructions have been reviewed and a risk assessment has been completed. SOPS will be part of the assignment phase, there is a wide variety of information within these documents including:

- Instructions from client/management
- Assignment objectives and timeframes
- Work tasks and procedures
- Resources and equipment requirements
- Reporting and documentation requirements
- OH&S issues

The issue an investigator faces is one in which he is obliged to conform to many standards, policies and procedures, and legal requirements. Legal obligations should be at the forefront of an Investigator's mind when identifying client and assignment requirements. Investigators are required to review information given in relation to assignment instructions to identify the needs of the client. Sources of information may include:

- Operational plans
- Assignment terms of reference
- Operation manuals
- Manufacturer's specifications
- Applicable legislation and code of practice

### 1.1 Equipment for information gathering may include:

- Audible and visual warning devices
- Binoculars, telephoto lens, tripod
- Detection devices
- Electronic counter surveillance equipment
- Electronic readers and recognition controls
- Infra-red, night vision equipment
- Measuring tape
- Mirrors
- Mobile phone and other means of communication
- Scanners
- Spares and consumables (notepads, guise, pens, batteries,
  - Licences, street maps, telephone directories, light bulbs, credit cards, cash, protective clothing, public transport tickets,
  - Vehicle fuel)
- Torch
- Videos, cameras, recorders
- Voice recorders.



## 1.2 Faulty Equipment

Equipment that is faulty needs to be returned to the investigation firm or your office. A fault tag needs to be applied to faulty equipment and marked for repair.

Never take the risk of using faulty or potential equipment as it could compromise the entire investigation.

If you have no replacement you need to attend to the repairs and embark on the investigation another day.

## 1.3 A FEW TELEPHONE TIPS FOR INVESTIGATORS.

**One of the most powerful tools in an investigators tool kit is the telephone.**

**The telephone brings you business, both new and old, and is the one major communications medium you obtain information with.**

### **The Call Forward:**

One way to ensure you can receive- and answer your incoming calls anywhere and anytime 24 hours a day seven days a week is to use a Call Forward facility.

Your telephone service provider may provide this type of service, consider using it. When in the field, you can forward your land line calls to your mobile phone.

When at home, you can have your office phone forwarded to your home and your mobile phone.



### **The Unlisted Number:**

Set up a separate unlisted and unpublished line in your office for receiving calls and give this number out when you are under pretext or want to avoid mentioning who you actually are.

Always answer this phone, "Business Office." or similar.  
Place a note on the handset to remind you what line it is.

### **The Caller ID:**

Ensure your caller ID is turned off when making a call to gather information by using a pretext or ploy or when talking to the subject of your inquiry.

### **Blocking Call Waiting Beeps:**

#### **Block incoming calls when you are on an important call.**

Call waiting gives a little beep when another call is coming in and you are on the phone. This can be annoying when you are doing an important interview and will sometimes disconnect you when you are using the line on a modem.

## **Change Your Voice On The Phone:**

Consider using a filter of some description (it may be as simple as a cloth) to cover the mouthpiece when speaking, it can soften an accent; reduce the pitch in your voice.

## **Portable Home Phone:**

The convenience of a portable home phone is nice but it's like broadcasting your conversation over the radio.

If you are going to use a cordless home phone, get a digital model.

## **Answering Machines:**

Consider carefully what your "Out Going "message will convey to the caller. Keep it simple. What do you want callers to know?

For a small fee, your service provider may provide an answering service for you. They are usually anonymous generic messages.

## **Recording:**

### **The One Party Consent:**

When recording telephone conversations, it is very important for you to know and understand One Party Consent.

*One Party Consent means that one party to the telephone conversation has to have knowledge and give consent to a recording. If you are a party to the call and consent to the call being recorded then you can record the call. The other party does not have to be informed that the call is being recorded. But remember unless you are a party to the call (or conversation) then you cannot record it unless the parties involved ought to reasonably expect that the conversation will be overheard. (Surveillance Devices Act)*

### **Recording Calls from Your Mobile Phone**

Recording calls from your mobile phone can be a problem, a number of new ages mobile telephones have inbuilt facilities that may allow you to record and down load later. Nokia 3310/3330 /3210 'Ghost Phones' may be useful, (subject to the Surveillance Devices Act provisions)

Here is another simple solution to the problem.

Obtain any compact recorder with an external microphone jack, purchase a small-amplified microphone that will fit in your ear, place the microphone in your ear, turn the recorder on and dial the number.

When you place the mobile phone up to your ear, you will record the call.

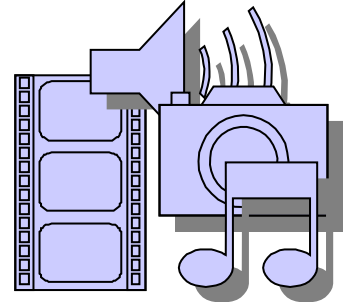
## Mobile telephones

Consider pre-paid mobiles. One it stops people from identifying who you are, and who holds the account! Ensure you caller identifier is turned off, and then you are anonymous, and safe, and why do you think drug dealers use pre-paid mobiles?

..... For the same reason.

### Background Noises:

Before making that call consider what noises there are in the background, it may be you would call from a shopping centre, a busy highway, the dog is barking, whatever it is be aware that the person you are calling may also hear that, your ploy could be flawed, or it may be enhanced.



**Both situations should be considered.**

**It may be that you wish to paint a deliberate picture of a specific location.**

It may be to your advantage to leave the office, call from a public telephone or mobile at or near a Railway Station, a Shopping Centre.

Use your number one weapon, the telephone to your advantage.  
I hope the few tips I have suggested here will assist you.

Write down a few others that you think may be important and useful to you.

## 1.4 Introduction To Investigative Photo / Video-Graphy

Part of the Investigators trade or craft is recording information that can be used; Photography is an indispensable tool of the investigator.

The visual evidence you may produce could have the power to sway a Judge and Jury; it could offer proof that cannot be disputed in a personal injury claim or a matrimonial settlement.

Good visual recording of evidence, be it by way of a surveillance exercise or otherwise, will portray as much information, if not more than your written report, it was once said ...

**“One picture is worth a thousand words ... “**

(Still photographs confirm what you observed and what the video recorded.)

Understand how cameras work before you consider shooting video.

If you do not have your own camera outfit and know how to use it you lessen your value to an agency, client, obtain your own; learn how to operate it even in the dark.

**For example:**

- Permanent, accurate, unbiased record of something specifically observed; or
- Capture a detailed appearance of something that may later reveal details that were not observed at the time the photograph was taken, the image captured.

Learning how to shoot professional quality Photographs will allow you to record professional quality video.

**You do not get a second chance.**

**As a record of observations, Still Photographs serve:**

- To recall to the investigative mind, details of what was seen; and
- To explain what was seen to someone else, perhaps in court.



**Important to remember:**

- Never edit an original recording; you may be accused of suppressing evidence.
- Never throw away any spoiled cards, keep them, and account for each shot.
- Learn to use one camera and camcorder very well.
- You will get better Photographs and have gained valuable experience for recording by becoming familiar with your own equipment.

## 2. THE FUNDAMENTAL PRINCIPLES

Good quality equipment used in a professional manner will usually provide good quality photographs, by purchasing a quality camera outfit you minimize the risk of product failure, remember,

**'You may not get a second shot at it.'**

Compare the camera to the human eye; reflected light enters a dark chamber from the front and passes through a lens, both have light sensitive areas behind the lens, in the eye, it is called a retina; in a digital camera, this is called sensor.

A device called a lens controls the amount of light transmitted into the dark chamber, in the eye, we refer to it as the iris muscle, but in the camera however, we refer to it as being an aperture diaphragm.



Both the camera and an eye must be focused or the image will be blurred.

In the eye, your brain automatically controls the lens, however in a camera, the lens focuses the image on the sensor through the iris diaphragm, therefore you can, and should, control the image output by knowing how to use your camera, and the camera itself should not be relied upon to automatically provide useful results.

As an investigator you will be faced with taking photographs under less than ideal conditions at long ranges indoors and out, you will take the portrait, action, and architectural photographs in uncontrolled situations.

**The more camera controls, the more versatility.**

Economy compact models offer no lens attachments, few settings, and camera controls are fixed for "typical" conditions, consider with care what you purchase, the disposable camera has limited use and must only be considered for emergency use.

### 2.1 How Cameras Work

At its most basic level, this is all there is to a digital camera. Just like a conventional camera, it has a series of lenses that focus light to create an image of a scene. But instead of focusing this light onto a piece of film, it focuses it onto a semiconductor device that records light electronically. A computer then breaks this electronic information down into digital data. All the fun and interesting features of digital cameras come as a direct result of this process.

## 2.2 Single Lens Reflex Cameras

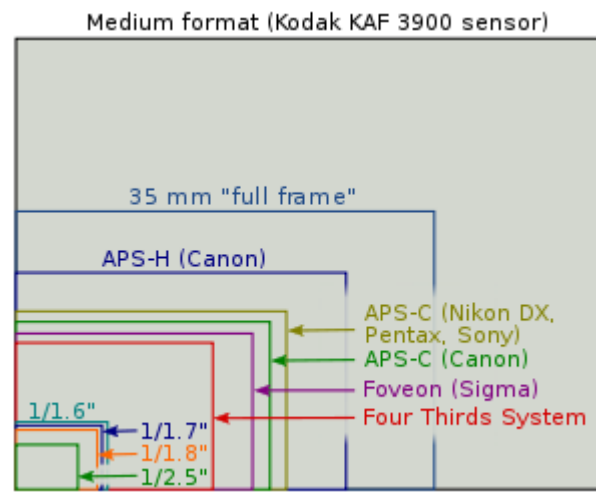
SLR's have a centrally placed dome that houses a glass prism; this allows you to see the image formed by the lens when you look through the viewer at the back of the camera. Seeing the actual image formed by the lens is important for extremely accurate view finding and focusing, allowing you to preview the precise effect of your subjected image and the influencing background, which may detract from the subject.

With video, you may need an auxiliary monitor if the viewfinder is too small.

## 2.3 The Sensors

At the heart of any camera, either still or video, is the material designed to capture light whether that be in the form of film or a digital sensor.

The larger your sensor, the more quality your image will have at higher sensitivities.



Relative size of sensors not to scale

## 2.4 Sensitivity

For digital cameras, an exposure index (EI) rating—commonly called ISO setting—is specified by the manufacturer such that the image files produced by the camera will have lightness similar to what would be obtained with film of the same EI rating at the same exposure.

Digital cameras have far surpassed film in terms of sensitivity to light, with ISO equivalent speeds of up to 102,400, a number that is unfathomable in the realm of conventional film photography. Faster processors, as well as advances in software noise reduction techniques allow this type of processing to be executed the moment the photo is captured, allowing photographers to store images that have a higher level of refinement and would have been prohibitively time consuming to process with earlier generations of digital camera hardware.

## 2.5 Shutter

The purpose of the shutter is to control the length of time that light is allowed to reach the sensor. Generally the shutter speed on a high end DSLR falls between 30 seconds and 1/8000th of a second. The faster the shutter speed the less light falls on the sensor.

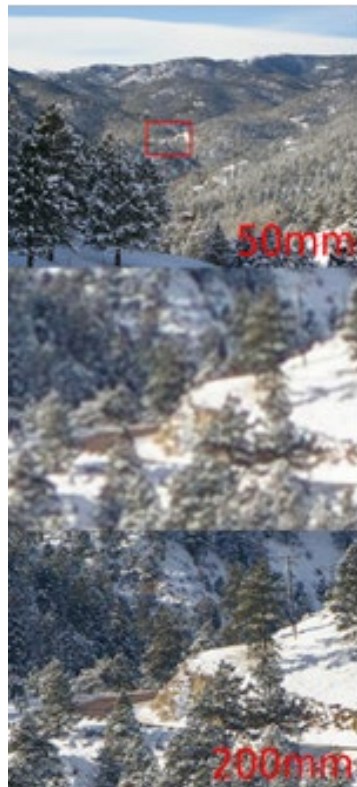
## 2.6 Lenses

The purpose of the lens is to gather light and direct it to sensor. Often, you shoot the subject from far away. A telephoto lens magnifies a subject so they appear closer than they really are. Telephoto lenses are long focal length lenses.

Telephoto lenses are generally divided into three types -- short (85 to 135 mm), medium (150 to 300 mm) and long (500 mm or more). A 1000 mm lens will magnify a subject by twenty; that is a subject 1000' away would appear to be only twenty feet- away in the image/viewfinder.

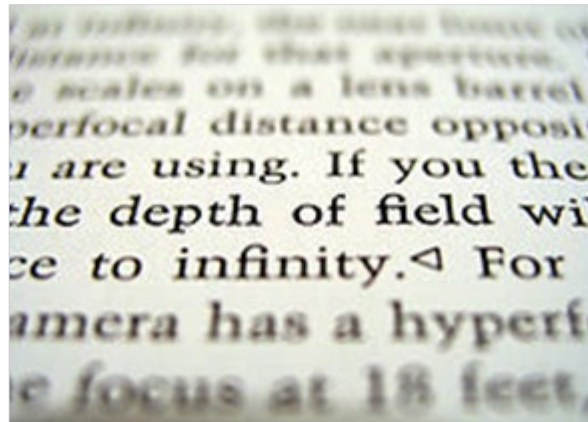
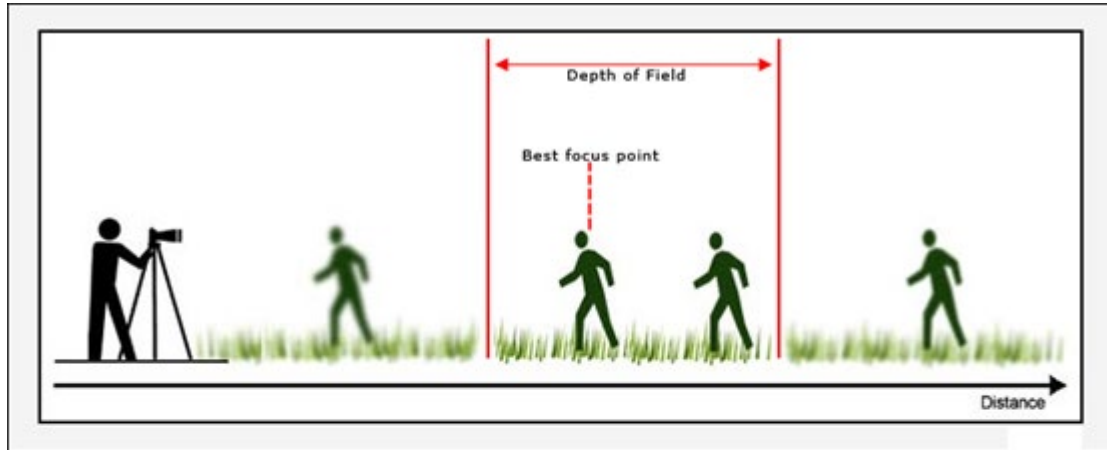
Some digital cameras allow cropping and enlarging of a captured image, in order to emulate the effect of a longer focal length zoom lens (narrower angle of view). This is commonly known as digital zoom and produces an image of lower optical resolution than optical zoom. Exactly the same effect can be obtained by using digital image processing software on a computer to crop the digital image and enlarge the cropped area. Many digital cameras have both, combining them by first using the optical, then the digital zoom.

Image shot with 50mm lens



## 2.7 Depth Of Field

The depth of field (DOF) is the portion of a scene that appears acceptably sharp in the image. Although a lens can precisely focus at only one distance, the decrease in sharpness is gradual on each side of the focused distance, so that within the DOF, the unsharpness is imperceptible under normal viewing conditions.



DOF is approximately determined by the subject magnification and the lens f-number. For a given f-number, increasing the magnification, either by moving closer to the subject or using a lens of greater focal length, decreases the DOF; decreasing magnification increases DOF. For a given subject magnification, increasing the f-number (decreasing the aperture diameter) increases the DOF; decreasing f-number decreases DOF.





At f 5.6 the flowers are isolated from the background.



At f32 the background competes for the viewers attention.

## 2.8 Video Cameras

Video cameras operate in much the same way as a still camera, the difference being that the video camera shoots at a rate of between 20 and 120 frames per second.

Video usually has a much lower resolution than still photography with High Definition being state of the art in 2010 with a resolution of 1920 x 1080 p60, or in other words 1920 pixels by 1080 pixels at 60 frames per second.

Many of the more expensive DSLR cameras will now shoot in HD video

## 2.9 Metadata

Metadata may be loosely defined as data about data. A digital image may include metadata that describes how large the picture is, the colour depth, the image resolution, when the image was created, what type of camera body the image was shot on, what type of lens was on the body, GPS data to show where the image was created and other data.

The advent of this embedded data makes the digital image almost impossible to manipulate without detection, whereas film with the appropriate equipment can be manipulated.

## 2.10 Formats

The following list is by no means comprehensive.

**Joint Photographic Experts Group (JPEG):** is a commonly used method of lossy compression for photographic images. Every time a file is opened and saved data is lost. This is the format that you would use to email an image as you will get the lowest file size.

**Tagged Image File Format (TIFF):** Is a flexible, adaptable lossless file format that can handle images and data in the same file.

**RAW:** A camera Raw image is so called because the data is not yet processed and is therefore not yet ready to print. There are hundreds of different types of RAW which are dependent upon the particular model of camera being used. It is not always possible to save to flash memory as RAW data.

## 2.11 Low-Light & Trial Exposures

Practice taking photographs at home.

Consider interiors at night with below average and bright lighting, close-ups, from a distance and indoors without a flash.

### **Practice outdoors at night.**

Choose subjects under and near outdoor lights; walking out of shadows into brightly lit street scenes, dimly lit parking lots, and out of a nightclub; beneath entrance signs and silhouetted in front of a closed shop's window, subjects lit by street lights and their vehicles in moving traffic, subjects lighting up a cigarette by a or match light, under moonlight, getting out of a car lit up by the vehicle's interior light or under a porch light.

If you know where your subject will be at night, go there the day before and if possible measure the distance, pick the spot where you will take your shots from and you will not have any problem setting your focus at night.

Artificial light profoundly effects and distorts colour in different ways, you must know what to expect to control your work-product, being able to confirm the truthfulness and veracity of your observations with a photograph may be your only affirmative defence in court, especially if you have blown the video footage.

## 2.12 How To Determine Your Dominant Eye

### **Depth effect is best with the dominant eye.**

Point at a distant object.

Without moving finger or head, close one eye; and then the other, the one with the unchanged focus is your dominant eye.

Practice keeping both eyes opens while using your camera.

## 2.13 The Still Photograph, As an Investigative Tool

A good photograph allows clients, courts, and juries to get an accurate and lucid perspective of many situations; they provide a visual record of a crime scene, liability incident and related objects.

You can put photographs into your computer and print them with your Formal Report.

### **In Conclusion**

- The object pictured must be material or relevant to the point at issue.
- Photographs must not appeal to the emotions or tend to prejudice the court.
- The scene or object presented must be free from distortion and **CANNOT** be misrepresented.
- Ensure date and time is recorded on the video or still photo for clarification and authenticity purposes.

Any enhancement of the original, as originally processed, without a court order, may render them as inadmissible and indeed could result in charges being considered relating to the tampering of evidence.

It is better to practice; take back-up photographs to confirm what the video recorded, take extra photographs to get the results you client is looking for and expecting.

And do not provide clients with excuses why you did not get that million dollar shot that they paid you to get, there is no excuse you can offer that would interest them.

### **And one Final Message.**

**MAKE SURE WHEN YOU TAKE YOUR SHOTS YOU REMOVE THE LENS COVER.**

### **SURVEILLANCE DEVICES ACT**

For the purposes of Private Investigators in the course of their duties this Act effectively spells out what Law Enforcement Agencies can do, with proper authorisation and it must be understood that none of the authorities bestowed on Law Enforcement Agencies can transfer to Private Investigators. If that Act says you cannot do it, do not do it, or risk substantial penalties.

### **INTRODUCTION**

The Surveillance Devices Act 1999 came into Victorian operation on 1st January, 2000. The purpose of this new Act is to regulate the installation, use and maintenance of surveillance devices which now include listening devices, optical surveillance devices, tracking devices and data surveillance devices and to restrict the communication and publication of records of private conversations and activities obtained through the use of these devices. The Act also establishes procedures for law enforcement Investigators to obtain warrants or emergency authorisation for the installation and use of surveillance devices and creates offences relating to the improper use or installation of surveillance devices. It

further imposes requirements for the secure storage and destruction of records obtained through the use of surveillance devices.

**Surveillance device** means a data surveillance device, a listening device, an optical surveillance device or a tracking device. [Surveillance Devices Act, s.3]

**Data surveillance device** means any device capable of being used to record or monitor the input of information into or the output of information from a computer but does not include an optical surveillance device. [Surveillance Devices Act, s.31]

**Optical surveillance device** means any device capable of being used to record visually or observe a private activity, but does not include spectacles, contact lenses or a similar device used by a person with impaired sight to overcome that impairment. [Surveillance Devices Act, s.31]

**Listening Device** means any device capable of being used to overhear, record, monitor or listen to a private conversation or words spoken to or by any person in private conversation, but does not include a hearing aid or similar device used by a person with impaired hearing to overcome the impairment and permit that person to hear only human sounds ordinarily audible to the human ear. [Surveillance Devices Act, s.3]

**Tracking device** means an electronic device the primary purpose of which is to determine the geographical location of a person or an object. [Surveillance Devices Act, s.3]

**Private Conversation** means a conversation carried on in circumstances that may reasonably be taken to indicate that the parties to it desire it to be heard only by themselves, but does not include a conversation made in any circumstances in which the parties to it ought reasonably to expect that it may be overheard by someone else. [Surveillance Devices Act, s. 31]

*NOTE:- Private conversation does not include an interrogation.*

Private activity means an activity carried on in circumstances that may reasonably be taken to indicate that the parties to it desire it to be observed only by themselves, but does not include:

- an activity carried on outside a building; or
  - an activity carried on in any circumstances in which the parties to it ought reasonably to expect that it may be observed by someone else.
- [Surveillance Devices Act, s,3]

## **Listening Device**

A person must not knowingly install, use or maintain a listening device to overhear, record, monitor or listen to a private conversation to which the person is not a party unless:

- each party to the conversation has consented; or
- in accordance with a warrant or emergency authorisation; or
- in accordance with a law of the Commonwealth.

## Optical Surveillance Device

It is an offence to knowingly install, use or maintain an optical surveillance device to record visually or observe a private activity (to which the person is not a party) unless:

- each party to the private activity has consented;  
or
- in accordance with a warrant or emergency authorisation; or
- in accordance with a law of the Commonwealth; or
- the occupier of the premises allows a law enforcement Investigator to do so AND the device is necessary to protect any person's lawful interests.  
[Surveillance Devices Act, s. 7]

## Tracking Device

It is an offence to knowingly install, use or maintain a tracking device to determine the geographical location of a person or object unless:

- the person being tracked has consented; or
- the owner of the object being tracked consents; or
- in accordance with a warrant or emergency authority; or
- Devices in accordance with a law of the Commonwealth  
[Surveillance Act, s. 8]

## Data Surveillance Device

It is an offence for a law enforcement Investigator to knowingly install, use or maintain a data surveillance device to record or monitor the input or output of data into or from a computer, unless:

- the person on whose behalf the information is being input/output has consented; or
- in accordance with a warrant or emergency authorisation; or Devices in accordance with a law of the Commonwealth  
[Surveillance Act, s. 9]

**NOTE:-** The offences created under sections 6,7,8 and 9 Surveillance Devices Act are summary offences punishable with a **maximum of 2 years imprisonment or \$24,000.00 fine.**

NOTE:- For the purposes of this Act, a law enforcement Investigator means a member of the NCA who is a member of the Federal Police or of a Force of a State or Territory of the Commonwealth; or

- an authorised Investigator within the meaning of the Conservation, Forests and Lands Act (not for emergency authorisation provisions).  
[Surveillance Act, s. 3(1)]



## 1.1 Commonwealth and State Surveillance legislation

There are two Surveillance Devices Acts that relate to the State of Victoria, the Commonwealth Surveillance Devices Act 2004 and Victoria State Surveillance Devices Act 1999.

The main purposes of the Commonwealth Surveillance Devices Act 2004 are;

- d) to establish procedures for law enforcement Investigators to obtain warrants, emergency authorisations and tracking device authorisations for the installation and use of surveillance devices in relation to criminal investigations and the location and safe recovery of children to whom recovery orders relate; and
- e) to restrict the use, communication and publication of information that is obtained through the use of surveillance devices or that is otherwise connected with surveillance device operations; and
- f) to impose requirements for the secure storage and destruction of records, and the making of reports, in connection with surveillance device operations.

The relationship of this Act to other laws and matters except where there is express provision to the contrary, this Act is not intended to affect any other law of the Commonwealth, any law of a State, or any law of a self-governing Territory, that prohibits or regulates the use of surveillance devices such as the Victoria State Surveillance Devices Act 1999.

The Commonwealth Surveillance Devices Act 2004 is mostly directed to law enforcement agencies and it is the Victoria State Surveillance Devices Act 1999 that we need to study and understand so we can work effectively in our industry. This Act is not just directed to law enforcement agencies it is also directed toward employers and employees with provisions of **workplace privacy**.

**Victoria State Surveillance Devices Act 1999** The purposes of this Act are;

- to regulate the installation, use, maintenance and retrieval of surveillance devices;
- to restrict the use, communication and publication of information obtained through the use of surveillance devices or otherwise connected with surveillance device operations;
- to establish procedures for law enforcement Investigators to obtain warrants or emergency authorisations for the installation, use, maintenance and retrieval of surveillance devices;
- to create offences relating to the improper installation or use of surveillance devices;
- to impose requirements for the secure storage and destruction of records, and the making of reports to judges, magistrates and Parliament, in connection with surveillance device operations;
- to repeal the Listening Devices Act 1969;
- to recognise warrants and emergency authorisations issued in other

- jurisdictions for the installation and use of surveillance devices.
- to implement and enforce new Workplace Surveillance Rules in Victoria.

To have a better understanding of any legislation, code and standard we must be able to summarise the legislation and understand the meaning of key words within the legislation. The meaning of key words in this Act is summarised below.

## Definitions

**building** includes any structure;

**data surveillance device** means any device capable of being used to record or monitor the input of information into or the output of information from a computer, but does not include an optical surveillance device;

**device** includes instrument, apparatus and equipment;

**enhancement equipment**, in relation to a surveillance device, means equipment capable of enhancing a signal, image or other information obtained by the use of the surveillance device;

**install** includes attach

**listening device** means any device capable of being used to overhear, record, monitor or listen to a conversation or words spoken to or by any person in conversation, but does not include a hearing aid or similar device used by a person with impaired hearing to overcome the impairment and permit that person to hear only sounds ordinarily audible to the human ear;

**Optical surveillance device** means any device capable of being used to record visually or observe an activity, but does not include spectacles, contact lenses or a similar device used by a person with impaired sight to overcome that impairment;

**Premises** includes-

- (e) land; and
- (f) a building or vehicle; and
- (g) a part of a building or vehicle; and
- (h) any place, whether built on or whether in or outside this jurisdiction;

**private activity** means an activity carried on in circumstances that may reasonably be taken to indicate that the parties to it desire it to be observed only by themselves, but does not include-

- (c) an activity carried on outside a building; or
- (d) an activity carried on in any circumstances in which the parties to it ought reasonably to expect that it may be observed by someone else;

**private conversation** means a conversation carried on in circumstances that may reasonably be taken to indicate that the parties to it desire it to be heard only by themselves, but does not include a conversation made in any circumstances in

which the parties to it ought reasonably to expect that it may be overheard by someone else;

**record** includes-

- (d) an audio, visual or audio visual record; and
- (e) a record in digital form; or
- (f) a documentary record prepared from a record referred to in paragraph (a) or (b);

**report**, in relation to a conversation or activity, includes a report of the substance, meaning or purport of the conversation or activity;

**surveillance device** means-

- (d) a data surveillance device, a listening device, an optical surveillance device or a tracking device; or
- (e) a device that is a combination of any 2 or more of the devices referred to in paragraph (a); or
- (f) a device of a kind prescribed by the

regulations; **this jurisdiction** means Victoria;

**tracking device** means an electronic device the primary purpose of which is to determine the geographical location of a person or an object;

**use** of a surveillance device includes use of the device to record a conversation or other activity;

**vehicle** includes aircraft and vessel;

## 1.2 Summary of Regulations

### Regulation of installation, use and maintenance of tracking devices

- (1) Subject to subsection (2), a person must not knowingly install, use or maintain a tracking device to determine the geographical location of a person or an object-
  - (c) in the case of a device to determine the location of a person, without the express or implied consent of that person; or
  - (d) in the case of a device to determine the location of an object, without the express or implied consent of a person in lawful possession or having lawful control of that object.

Penalty: In the case of a natural person, level 7 imprisonment (2 years maximum) or a level 7 fine (240 penalty units maximum) or both;

In the case of a body corporate, 1200 penalty units.

- (2) Subsection (1) does not apply to-



## **9 Regulation of installation, use and maintenance of data surveillance devices by law enforcement Investigators**

- (1) Subject to subsection (2), a law enforcement Investigator must not knowingly install, use or maintain a data surveillance device to record or monitor the input of information into, or the output of information from, a computer without the express or implied consent of the person on whose behalf that information is being input or output.

Penalty: Level 8 imprisonment (1 year maximum) or a level 8 fine (120 penalty units maximum) or both.

### **1.3 Workplace Privacy**

On 1 July 2007, the Surveillance Devices (Workplace Privacy) Act 2006 (Vic) came into effect, amending the existing Surveillance Devices Act 1999 (Vic) (Act). The new regime was prompted by the Victorian Law Reform Commission's (VLRC) 2005 inquiry into workplace privacy. In its final report, the VLRC concluded that workers' privacy was not adequately protected by existing legislation and recommended a prohibition on surveillance of private areas in the workplace.

#### **How the new rules affect employers**

The amendments mean that employers cannot use listening devices or optical surveillance devices (such as video cameras) for surveillance of workers in workplace toilets, washrooms, change rooms or lactation rooms. In addition, employers are prohibited from communicating or publishing material obtained through surveillance. These prohibitions apply equally to all public and private sector Victorian employers, regardless of whether they are partnerships, businesses or companies. Contravention of either of these prohibitions may result in imprisonment of up to two years or fines of up to \$132,144.

The prohibitions are not absolute, allowing surveillance in three limited circumstances:

- where a warrant or emergency authorisation has been granted to permit surveillance
- in accordance with a Commonwealth law (e.g. a law relating to national security)
  - where required as a condition of a liquor licence (e.g. in a licensed venue)

In these three circumstances, information obtained from surveillance may only be used in accordance with the relevant warrant, Commonwealth law or licence requirement.

## Continuation of existing surveillance prohibitions

The amendments insert new prohibitions into the Act, but otherwise keep existing requirements intact. The Act continues to regulate the use of listening devices, optical surveillance devices and tracking devices (such as GPS tracking devices used on vehicles). These existing requirements apply generally—not just in the employment context—but it was noted by the VLRC that the exceptions for consent and non-private activities meant that often workers could not rely on these requirements to protect them from workplace surveillance.

In addition to the requirements of the Act, any personal information collected through surveillance must also be handled in accordance with information privacy laws such as the Information Privacy Act 2000 (Vic) (for Victorian public sector agencies) and the National Privacy Principles under the Privacy Act 1988 (Cth) (Privacy Act) (for private sector organisations).

## Comparison with NSW legislation

The amendments to the Act come two years after the Workplace Surveillance Act 2005 (NSW) (NSW Act) was passed in New South Wales, which we wrote about here. However, the Victorian amendments are not a replica of the NSW Act, and the legislative regimes in each state continue to differ in many ways.

While the NSW Act also prohibits surveillance of private areas such as workplace bathrooms and change rooms, it more broadly regulates camera surveillance, computer surveillance and tracking surveillance. The NSW Act does not regulate the use of listening devices as this is left to the separate Listening Devices Act 1984 (NSW).

Under the NSW Act, surveillance is prohibited unless employees are given notice of the intended surveillance 14 days prior, or before they commence work with the employer. Alternatively, surveillance is allowed where the employer has obtained covert surveillance authority from a Magistrate in order to determine whether the employee is engaging in unlawful activity at work.

In Victoria, the Act does not require notification for optical surveillance of non-'private activities', but otherwise requires consent. Either way this differs from the NSW Act. Consent, rather than notification, is also required in Victoria for tracking surveillance. Computer surveillance is not regulated at all in Victoria under the Act.

## Possibilities for future reform

Victoria's Attorney-General Rob Hulls has recognised that the new amendments are just the first stage in developing a more comprehensive regime to protect workplace privacy. This is evident in the fact that the Act only implemented one of the many recommendations made by the VLRC in its final report.

Beyond recommending a prohibition on surveillance of private workplace areas, the VLRC also recommended the introduction of a Workplace Privacy Act containing provisions including: power to establish a Workplace Privacy Regulator

- a general obligation on employers not to unreasonably breach the privacy of workers, while they are working
- restrictions on the ability of the employer to affect the privacy of workers outside of work, and
- a prohibition on employers conducting genetic testing of employees, unless permitted by the regulator.

Meanwhile, voices expressing frustration with the inconsistency of privacy laws between Australian jurisdictions—surveillance and workplace privacy being good examples—are finding their audience. The Standing Committee of Attorneys-General is considering the VLRC's proposed Workplace Privacy Act as the basis of a consistent national scheme.

The issue of national consistency was also noted by Federal Privacy Commissioner Karen Curtis in her review of the private sector provisions of the Privacy Act in 2005. Her review has prompted an inquiry into privacy by the Australian Law Reform Commission (ALRC) which is even reviewing the possibility of changing the Australian Constitution to enact national privacy laws. The ALRC's final report is due in March 2008.

### Definitions relating to Workplace Privacy

In this Part-

**employer** means a person, unincorporated body or firm that-

- (a) employs a person under a contract of service or apprenticeship; or
- (e) employs a person under the **Public Administration Act 2004** or any other Act; or
- (f) engages a person under a contract for services; or
- (g) engages a person to perform any work the remuneration for which is based wholly or partly on commission; or
- (h) engages a person to perform work on an unpaid or voluntary basis;

*firm* has the same meaning as in the **Partnership Act 1958** but does not include an incorporated limited partnership within the meaning of Part 5 of that Act;  
**washroom** includes a room fitted with bathing or showering facilities;

**worker** means a person employed or engaged by an employer, in a manner set out in the definition of **employer**, but does not include

a person who is employed or engaged by another person to perform services in connection with that person's family or domestic affairs;

**workplace** means any place where workers perform work.

## Summary of Regulation

### 9B Prohibition on certain uses of optical surveillance devices or listening devices

(1) Subject to subsection (2), an employer must not knowingly install, use or maintain an optical surveillance device or a listening device to observe, listen to, record or monitor the activities or conversations of a worker in a toilet, washroom, change room or lactation room in the workplace.

Penalty: In the case of a natural person, level 7 imprisonment (2 years maximum) or a level 7 fine (240 penalty units maximum) or both;

In any other case, 1200 penalty units.

(2) Subsection (1) does not apply to the installation, use or maintenance of an optical surveillance device or a listening device-

- (d) in accordance with a warrant, emergency authorisation, corresponding warrant or corresponding emergency authorisation; or
- (e) in accordance with a law of the Commonwealth; or
- (f) if required by a condition on a licence granted under the Liquor Control Reform Act 1998.

## 3. Management and Security of Personal Information Data Quality

### Make sure personal information is:

- Accurate
- Complete
- Up to date

### When recording Personal Information we must be:

- Be specific
- Distinguish fact from opinion
- Check the information provided, particularly if it is old or not provided by the person themselves
- Inaccurate spelling of names and address lead to privacy breaches

## Information Privacy

A record-keeper who has possession or control of a record that contains personal information shall ensure:

- i) that the record is protected, by such **security safeguards** as it is reasonable in the circumstances to take, against loss, against authorised access, use, modification or disclosure, and against other misuse; and
- ii) that if it is necessary for the record to be given to a person in connection with the provision of a service to the record-keeper, everything reasonably within the power of the record-keeper is done to prevent unauthorised use or disclosure of information contained in the record.

## Data Security

You must take steps to protect personal information from

- Misuse
- Loss
- Un-authorised access and modification or disclosure

Personal information should be destroyed or de-identified when it is no longer needed. Destruction should be in accordance with disposal schedules of the Public Records Act 1973.

Review your workplace and take steps to ensure:

## Physical Security

- Locking filing cabinets, restricting access to certain areas
- Positioning computer terminals so they cannot be seen by unauthorised personnel
- Questioning unaccompanied or unrecognised visitors
- Disposing of paper records effectively

## Operational Security

- Changing of passwords, deleting old passwords from systems
- Avoiding collecting information in public waiting rooms where possible
- Using fictitious information for training
- Procedures for dealing with employees who leave

## Security of transmission Fax

- Programming fax machines to avoid the risk of misdialing
- Retaining fax activity history reports
- Controlling the type of information sent
- Telephoning intended recipient prior to transmission

## Email

- Guidelines for use of email
- Encrypting files
- Use Blind Carbon Copying (BCC)
- E-mail privacy notes / disclaimers

## Post

- Take care not to display contents of letters through window envelopes

## Points to Consider

- Once privacy is lost, it can't easily be retrieved. Regularly review the security arrangements for both paper-based and electronic data  
One simple effective way of monitoring data quality is to always ask people, in any correspondence with them, to check the information and advise of updates or corrections.



# Gather information by factual investigation

## CPPSEC3032A

*This page is intentionally blank*



## CPPSEC3032A Gather information by factual investigation

### Introduction

This unit of competency specifies the outcomes required to gather oral, written and electronic information for the carriage of investigation tasks. It requires the ability to plan and carry out factual information gathering activities, analyse and verify information, and present clear and accurate recommendations.

Gather information by factual investigation - CPPSEC3032A		
Element	Performance Criteria	
1.	<b>Prepare for investigative activities.</b>	
	1.1	Client and <b>legislative requirements</b> relevant to conducting and investigation and related information are identified and complied with.
	1.2	<b>Assignment instructions</b> are obtained, reviewed and clarified as required with <b>relevant persons</b> .
	1.3	<b>Resource and equipment</b> requirements including <b>technical specialists</b> are confirmed and organised.
	1.4	<b>Information sources and systems</b> are reliable and used in accordance with assignment objectives.
	1.5	A plan detailing key activities and their sequence is developed taking into consideration all known factors, client instructions and legal requirements.
	1.6	Research and preliminary inquiries are carried out to gather information and <b>evidence</b> in accordance with legislative requirements.

<b>2.</b>	<b>Gather information.</b>	
	<b>2.1</b>	<b>Methods</b> used for collecting information are valid and reliable and make efficient use of resources.
	<b>2.2</b>	Interviews and meetings are conducted using effective <b>communication skills</b> and <b>interpersonal techniques</b> and demonstrating sensitivity to <b>individual social and cultural differences</b> .
	<b>2.3</b>	Comprehensive statements are taken and physical evidence collected to support <b>available facts</b> in accordance with legislative requirements.
	<b>2.4</b>	Information is assessed for relevance and accuracy and additional information sought as required from identified sources.
	<b>2.5</b>	Gathered information is prioritised and organised in a logical manner with regard to continuity of evidence.
<b>3.</b>	<b>Report information.</b>	
	<b>3.1</b>	Report is prepared presenting all relevant facts and observations in appropriate <b>format</b> .
	<b>3.2</b>	Content is evaluated in terms of validity, reliability and relevance in consultation with relevant persons.
	<b>3.3</b>	Client satisfaction with service delivery is reviewed using verifiable data and feedback and recommendations for improvement to service identified.
	<b>3.4</b>	All investigative information and records are securely maintained with due regard to confidentiality.

## Required Skills and Knowledge

### Required skills

- Accurately record, report and document information and evidence analysis
- Communicate using appropriate channels and communication modes
- Diagramming
- Identify and comply with applicable legal and procedural requirements, including licensing requirements, relevant to investigative activities
- Illustration
- Image compilation
- Information technology
- Interpret and follow instructions and procedures
- Literacy skills to understand and communicate information (reading, writing, speaking, numeracy and listening)
- Organise equipment and resource requirements
- Plan and conduct meetings and interviews
- Problem solving and negotiation
- Questioning to check understanding
- Reconstruction of facts
- Relate to people from a range of social, cultural and ethnic backgrounds and of varying physical and mental abilities
- Research
- Risk assessment.

### Required knowledge

- Applicable licensing and legal requirements relevant to investigative activities
- Basic investigation techniques
- Communication channels and modes
- Evidence management principles
- Factual information gathering techniques
- How to safeguard confidential information
- How to use business equipment to present information which may be used as evidence
- Information management systems and methods
- Interviewing, reviewing and debriefing processes
- Legislative requirements applicable to the conduct and reporting of investigations
- Legislative restrictions on the use of recording devices
- Principles of effective communication including interpersonal techniques
- Reliable and verifiable sources of information
- Reliable sources and methods for collecting information
- Reporting and documentation requirements

- Requirements for continuity of evidence.

## PREAMBLE

Many units in this training course cannot be dealt with as a standalone unit and in isolation from the other supporting units. Basic tips will be provided to support this unit but the gathering of information by factual investigation has too many facets to be simply packaged into one unit. What is provided in these manual notes are basic factual investigation information, so as to assist you to move forward to gather the information required to achieve a positive outcome for your client. You will find working for different Investigative companies that they have different styles of writing factual reports.

You must understand what your client wants to achieve. You must evaluate the instructions and plot the most effective and positive course to take to achieve a positive result. You must have an open mind and you must be flexible in your approach and be prepared to change your mind set and actions as the investigation proceeds and you must keep your client informed.

An investigation is like a jigsaw puzzle. You start with a pile of pieces and slowly build the puzzle into an organised and understandable creation one organised and planned step at a time. The investigator has the responsibility of finding and placing the pieces of the puzzle into a logical and evidential sequence which can then be presented to the client.

## Introduction

As an Investigator you will have cause to present many and varied results of enquiries and final reports consisting of facts and circumstances to various authorities, tribunals, clients and even before Courts of Law. The facts and circumstances you present will be closely scrutinised by the Courts or Tribunal who will apply the Laws of Evidence to determine such things as relevancy, admissibility, probity, ethics and credibility. Evidence is given in court by witnesses in testimony. The witness has either heard, saw, touched, smelt, or stated the existence of some fact. This is usually called direct evidence. Other evidence a witness might give, relates in circumstance only, and is not a proof of any fact, but an indication of a possible fact in question. This evidence is called circumstantial evidence or indirect evidence. It is essential that Investigators have a sound basic knowledge of the principles of evidence so as to approach any task in a manner, where paramount in their thinking, is the likelihood that the information, facts or circumstances they disclose may be thoroughly tested in cross examination.

There are only three types of people that are not competent to give evidence in court: those of unsound mind, a child or young person who does not understand the duty of speaking the truth, and a person who is intoxicated by either drugs or alcohol.

**Under the Victorian Evidence Act 2008, a document** means any record of information, and includes—

- (a) anything on which there is writing; or
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (d) a map, plan, drawing or photograph;

A photocopy of a document or photograph is considered to be **secondary evidence** (not an original). Courts prefer originals, or primary evidence, however subject to judicial discretion, admissibility of secondary evidence can be granted.

Some examples of court admissibility regarding the production of secondary documents:

- Where a “notice to produce” has not been complied with and the document is in the possession of an adversary.
- Loss or destruction of the original.
- To be admitted, the witness must satisfy the Court that a strict search has been conducted.
- Inability to produce the original (i.e., Register of Births, Deaths and Marriages, etc), or the original is out of the jurisdiction of the Court.
- A document is produced to a Court through a witness in possession of the document or through the service of various types of subpoenas demanding the document be produced.

The proof of the contents of a document can only be effected by the author, through a person who witnesses the author prepare the document, or through a person who knows the handwriting and can identify it, or through the medium of a handwriting expert.

A doctrine of evidence is applied by a court called '**Judicial Notice**': this allows a court to accept the existence of particular facts commonly known by the average person - without having to establish the existence of facts: example Tuesday is followed by Wednesday etc.

## **The Process of Factual Investigation**

### **1 Take relevant and comprehensive instructions**

To avoid misunderstandings it is important to establish the following facts:

- (a) What the client wants or needs.
- (b) All the information, that is relevant to the investigation.

## 1.1 Establish the steps and action to be taken

This establishes the initial steps of the investigation, in a clear, efficient and logical manner. This also avoids mistakes and unnecessary action. However, it is important to remember not to be locked in on the initial hypothesis, as it could have been wrong. An astute investigator constantly analyses the facts to see if they support the initial hypothesis.

Identify and acquire the relevant equipment by:

- (a) Ensuring that resource and equipment requirements are assessed & obtained in accordance with the requirements of the task.
- (b) Determining the requirements for specialist equipment and technical specialists for the intended task.
- (c) Determining the need for outsourcing any tasks that the Organisation, or any of its investigators, cannot provide due to lack of skills, experience, or due to other commitments that have priority.

## 1.2 Form a hypothesis and identify the evidence required

This is important so that no time and effort is wasted searching for information that is not necessary, and to ensure that no important task is missed.

Know what the client needs, whether it is INFORMATION, such as visual confirmation to support a suspicion, e.g. of an unfaithful spouse, or FACTS to support that suspicion, such as photographs, or, EVIDENCE such as statements and photographs that are required for a subsequent Court case. How an investigation is to be conducted, and what equipment or method will be used, depends on each client's particular needs and budget. Therefore it is at this stage that relevant & appropriate facts and any limitations are established.

Plan the action to be undertaken for the gathering of information by:

- (a) Identifying all the required key people, documents and public records, based on an assessment of all the available information. A list of required evidence will make the investigative process easier, however it is important to remember that the evidence that is required to complete the task may change and an investigator must keep an open mind and be able to adapt to any changes in the investigation.
- (b) Developing a plan detailing the key activities, and their sequence, after taking into consideration all known factors, the client's directions & legal requirements. A plan detailing the sequence of activities to be undertaken in the course of the investigation, will assist with the process, however plans can change & flexibility is essential if a positive outcome is required in a short period of time.
- (c) Assessing all sources of information for the intended use, and checking that the sources chosen are appropriate for the intended task, the client's instructions, and legal requirements.

- (d) Ensuring that any interviews, and access to the information sources, or to the site where the investigation is to be undertaken, are arranged in accordance with the company's procedures.
- (e) Ensuring that authorisation for acquiring information is arranged as necessary. It is important to obtain the relevant authorisation from the client, regarding any information that is required to be obtained during the course of an investigation.
- (f) Procedures for storage and labelling of data are confirmed based on future use of the data, continuity of evidence and in accordance with instructions from the client, and company procedures.

Gather the required information for the task by:

- (a) Conducting meetings with the key persons by appointment.
- (b) Taking notes of any conversation not formalised by statement or digital recording.
- (c) Ensuring that formal statements are prepared and adopted by the interviewee.
- (d) Using recording equipment in accordance with legal requirements.
- (e) Ensuring that any relevant records, and/or the incident site, are examined and any information pertinent to the task is noted & legibly recorded in accordance with company procedures.
- (g) Ensuring that all available information, is sourced, and assessed for relevance, and retained as needed.
- (h) Maintaining contemporaneous notes and a record of the time expended, in the course of the investigation, in accordance with legal requirements and company procedures, as a basis for the reports that have to be furnished as instructed by the client, and as legally required for the evidence to be used in Court.
- (i) Monitoring the progress of the task, and assessing any requirements to change the action plan, based on all the available information.

## **2. Obtaining Banking History, Financial Information, Telephone Call Histories, Utilities Records And Similar Information**

Whilst a signed authority to obtain this information is requested from the person of interest by the investigator it is difficult to obtain. Because of privacy concerns by the organisations concerned and despite the holding of a signed authority to access the information most organisations will refuse to provide the information direct to the investigator.



Therefore the investigator should request that the person of interest obtain and provide the information to the investigator. If the investigation relates to an insurance claim the insured person has no option but to comply and provide all requested relevant information or otherwise the claim may be denied by the insurers on the basis that the insured has failed to provide all reasonable information required to determine the claim. An example of the type of authority to obtain such records follows. There are many versions in existence and this is because each client or investigative firm develops their own tools -:

**AUTHORITY TO RELEASE DOCUMENTS, PERSONAL INFORMATION,  
RECORDS OR EXTRACTS AS REQUIRED AND REQUESTED**

Name.....

Date of Birth.....

Home Address

.....  
.....

do hereby formally give my informed consent to and authorize the release of any and all documents, extracts, records, account details, or any other personal information as possessed by any Agency, Corporation or any employee of the-:

Victoria Police, Any other Australian Police Force or any International Police Force, or Vic Roads TELSTRA or OPTUS or any other Communications Company, Any Municipal Council, Any Doctor, Dentist, Medical Agency, Hospital or other authority Any Bank, Financial Institution, Credit Provider, Credit Union, Business, Retailer, Energy provider, Utility provider, Agency or Corporation, in regard to myself or my property, situated at

.....

in regard to any travel, property or any other insurance claim, enquiry or investigation as may be requested by

.....  
.....

**(Investigator applying for Documents or details) or agent of that person** concerning any Insurance or other claim, investigation or enquiry and I hereby indemnify any Insurance Provider, the State of Victoria, any other person, employee, Government Authority or Business, Agency, Organisation or Corporation acting under the provisions of this authority, its servants and agents, against all liability and against all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made in respect of the release of or use of any personal information, records, documents, extracts, as requested, purporting to either relate to or involve myself, or my property or my motor vehicle(s) registered number(s)

Signed:.....

Print Name:.....

Dated                    /            /

Witness signature:.....

### 3 Motor Vehicle Collision Investigations & Scene Inspection

#### Introduction

Most of the cases handled by the legal fraternity are simple "rear end" or "fail to give way" type of accident; this type of accident generally does not require much investigation and can be handled with a recorded or oral type of statement, photos, and an on scene investigation to determine if there are any tyre marks, obstructions or any other physical features that may prevent a quick settlement of the claim.

The "client / victim" may not tell you, nor admit, that he / she pulled out in front of the other driver before he / she was rear ended however tyre marks left at the scene may tell you or indicate otherwise, the sudden braking, the sudden stop.

What was the cause of the matter, ... no pre-impact skid marks could suggest driver distraction, ... as the investigator you need to determine the cause.

What I will address in this paper is the accident that has involved damage to the vehicle and / or serious injuries sustained by a person be it either to the driver, passenger or a pedestrian as a result of the accident that raises questions of liability.

These are the accidents that will more than likely end up in litigation and be directed to you as the investigator. We will look at documenting the scene and the environment in an attempt to determine the cause of the accident.

#### 3.1 What To Look For; Elements Of A Vehicular Accident:

##### Pre- Impact Information On The Scene.

##### (1) Tyre marks;

Tyre marks can be classified in many ways;

These are the most common tyre marks, and are but a few that will be seen on the accident scene.

- Acceleration marks; self-explanatory.
- Skid marks; marks left by a moving vehicle that has braked and is sliding.
- Scuff marks; usually caused by a flat or under inflated tyre,
- Yaw marks; marks that are in an arc and indicate a sideways movement.
- Yaw marks or an accelerating tyre that is rotating and slipping.
- Tracks; marks left by a tyre travelling through fluids or some loose material.

##### (2) Gouges or Scrapes;

Pre-impact gouge and scrape marks will generally indicate some type of mechanical problem such as a broken tie rod, a frame or other problem that will cause a vehicle to drop to the ground before impact. These marks are important because they will generally indicate a possible product liability case.

### **(3) Obstructions - Man Made or Other;**

Obstructions can be natural or manmade.

Hills, curves and foliage are the most common type of obstruction. Broken down vehicles, signs and construction equipment are manmade. Fog, rain and other elements can be a factor in the accident but may not be present when you conduct your investigation.

The obstructions, whatever type they may be, should be photographed and measured to establish the relationship between the point of impact and the obstruction, which would show that the obstruction may or may not be a factor in the accident.

Determine the weather conditions at the time of the incident.

## **3.2 POST IMPACT INFORMATION ON THE SCENE.**

### **(1) Tyre marks;**

Tyre marks (see above) are very important pieces of evidence that may be found after a collision between two or more vehicles. Tyre marks will tell the speed of a vehicle, and/or the direction, and/or the position of a vehicle before and after a collision. Tyre marks must be measured and photographed to determine the length, location and type of mark that is visible.

### **(2) Gouges;**

Post impact gouges are deep cuts and grooves in the pavement and / or shoulder and are generally caused by some part of one of the vehicles collapsing and contacting the pavement. These marks will sometimes show the point of impact, and will certainly indicate the position of the vehicle at some point in the collision.

A close examination of the under carriage of the vehicles will reveal which vehicle left the mark, ( raise the vehicle for the examination ), look for any shiny marks, scratches any asphalt, dirt or other material including foliage embedded in the metal, wheel arches, etc, also a broken drive shaft requires a very close inspection.

**(3) Measure** the dimension of the marks that you find and measure the distance from the centre of one or both of the tyres to the mark. This is important because when a gouge falls within two skid marks and you can identify what caused the mark, then there is no question where the vehicle was when it left the mark.

**(4) Photograph** and / or video what you find and record the information on a paper for your report. The marks can also show the direction of travel after impact, but most importantly, it can show the position of the vehicle at the time of impact which is critical in accidents involving collisions where one of the vehicles have crossed into the opposing lane of traffic, also photograph and measure the gouges to show the position and size of the gouges.

## **(5) Scrapes**

Scrapes are very similar to gouges except that they are usually light or shallow marks left by a vehicle following a collision and are also caused by contact with some metal surface of the vehicle scraping the pavement or ground. A scrape can be from a few inches to several feet in length, whereas most gouges are short in length but deep. A gouge can also be several feet in length. Scrapes must be documented with photographs and measurements as part of your investigation.

## **(6) Fluid**

Fluid may be found in the roadway at or near the point of impact or off the roadway. It's generally prevalent at the point of final rest; it is usually caused by the rupture of some portion of the vehicle that contains fluid, such as the radiator, transmission, motor, power steering, etc, following the collision between two vehicles or with a fixed object. Fluid also can also be an indicator of the point of impact, direction of travel and final rest of either or both vehicles.

Fluid may also be body fluid from an occupant or driver of a vehicle or of a pedestrian, fluid must also be photographed and measured as part of your investigation.

## **(7) Debris**

Debris is very critical in establishing where a vehicle or pedestrian came to rest and the direction a vehicle was travelling prior to impact. According to Mr. Newton an object travelling in a direction will continue in that direction unless acted upon by some outside force. A passenger on the rear of a motorcycle or object in the back of a truck or object in a vehicle will move in the same direction that it was going before impact, after impact, unless altered by some other force.

I'm not suggesting that you measure and photograph every piece of debris you find but the larger pieces may be very important.

### **3.3 INFORMATION ON THE VEHICLE:**

#### **(1) The Transfer of Evidence – (Factual)**

##### **The Exterior;**

There is as much information overlooked on the vehicle as it is on the accident scene itself. We tend to forget that the information on the roadway must match the information on the vehicle and vice versa; gouges to under carriage, skid marks to tyres, etc. We must also be able to least document the marks on the outside so that they can be matched with marks on the other vehicle. It is not uncommon to find letters and numbers from license plates imprinted on metal panels and bumpers, etc. Smears, both paint and rubber smears will be found and all must be documented.

## The Interior;

Contact points in the interior of vehicles should be noted and photographed. Interior damage can be matched with injuries such as knee injury, head injuries, chest injuries, etc. Hair embedded in the windshield or headliner, in addition to the above damage, can be used to establish the driver in the event that the driver denies that he / she was driving. **Seat belts**, steering wheels, windshields, dashes and other interior parts should be examined and documented for proof.

Seat belts can tell a story of their own and need to be examined in detail.

**Photograph the VIN plate** and odometer for habits sake.

It is easy to write the numbers incorrectly in a rush or bad weather, but a photograph you can just about always read. (Look for any signs of "Re-Birthing" the vehicle)

## Summary:

Before we progress from the what to, to the how to phase, let us review what we were looking for and why we were looking for it.

We should have gone to the accident scene with a copy of the accident report, and or a witness, together with any photographs taken soon after the accident; however it is not uncommon to go to the scene by yourself with nothing but a basic understanding of the events surrounding the incident in your hands and directions from the client.

When, not if, that occurs you will need to sketch what you find to get at least a partial picture of how the accident happened, graph paper and a good tape measure is as essential as a good camera in these circumstances.

As the investigator you will need to re-construct the events, both Pre-impact and Post-impact, look at the environment, consider the terrain, the weather conditions at the time of the incident, the time of day acknowledging day light saving which may affect the position of the sun, have any obstructions been removed since the incident, has anything new been introduced that would differ from the scene presented at the time of the incident, document everything, you will need to put the vehicles on skids, against trees, on fluid, and so on until you get a picture of how those objects ended up on the roadway or off the roadway.

### 3.3. How To Document What You Find:

#### (1) Documenting The Accident Scene

##### (A) Tyre Marks

Tyre marks in all of the above categories should be preserved in the same manner; photographed, measured and painted.

First photograph the tyre marks using a reference point / mark.

Paint the beginning and ending of the marks, I suggest you use a simple spray paint, either orange or white in colour, (available at most paint stores and often used by landscape gardeners in the planning of a lay-out), it is environmentally friendly and will fade away with heavy traffic and the elements in a short space of time.

While you are at the local hardware store purchase an 8m metal retractable measuring tape and use this shorter metal tape to lie across any visible tyre marks at the scene before photographing the width of the marks and include it in your shots for later reference and evidence purposes.

Photograph the tape and tyre marks to show the distance from the tyre mark to the fade line or centreline and to show the width of the tyre mark.

This is a good backup for hand-recorded measurements. It is usually a good idea to paint the entire length of the marks. Spot painting will do. As the skid marks begin to fade it is difficult to distinguish where the marks begin and end and they will blend in with other skid marks on the road.

Painting will separate the marks for examination at a later date.

**Note**, it goes without saying of course that your report will need to show the distances using the metric system of measurement,

### **(B) Gouges And Scrapes;**

Gouges and scrapes can be preserved in a similar manner as tyre marks. Photograph them then paint them and photograph them again. Use the measuring tape as mentioned in the paragraph above to establish the relationship between the gouge / scrape and edge or centre of the roadway or some other reference mark.

Also, measure the distance from the centre of the gouge / scrape to the centre of the nearest skid mark; photograph both ends of the rule over the gouge.

Hopefully you will be able to match the gouges with damaged parts on the undercarriage.

### **(C) Fluids And Debris:**

Fluid should be photographed and measured and also painted around the perimeter of the stain because it shows the rest position and sometimes the point of impact. Debris should be indicated in your notes but not necessarily measured. Debris is subject to being moved by road machinery, wind, water and other means and for that reason each individual piece does not have to be measured. A good practice would be to measure the general area if any debris is concentrated. Large pieces such as batteries, grills or other large objects should be photographed and documented on your field sketch and measurements.

### **(D) OBSTRUCTIONS: (Natural Or Introduced)**

Occasionally we will get a case where a truck or piece of equipment was improperly parked and blocked the view of a driver causing the driver to pull into the path of another vehicle. Your client may be the driver of the vehicle that pulled out or may be the other driver. In either case an attorney will look to the owner/driver of the equipment for damages. Chances are, when we get to the scene the equipment has been moved and there is not even a track to document. Take whatever information is available and measure and photograph that. Always try to get a good witness to go to the scene with you to show you where the equipment was at the time of the collision. That information on a scale drawing can be very useful. Foliage should be noted on your sketch if it is near an intersection or driveway if you think it may have been a factor.

### **(E) Other:**

The strangest things will cause an accident; potholes, animals, blowouts, insects and I have even been told that poles have jumped out in front of the drivers. The point is that we are instructed to investigate and find out how the accident happened and one of those strangest things may have really been the cause of the accident. Keep an open mind and your eyes open when you go to the scene and gather what facts are available to determine how the accident occurred.

### **(F) Measurements:**

My preference in equipment to take field measurements is the roll-a-tape, 300-foot tape and a 30-foot tape. ( A digital roll-a-tape that stores your input and will calculate some areas may be a consideration as you become more involved in this area of investigation, they seem to be accurate on and off the highway and there are many products on the market that are available.

The most accurate are the small, two wheel roll-a-tapes often used by local Councils and various Sporting Clubs.) The 300-foot Surveyor Tape is great for measuring a large curve, just anchor one end at a point where the curve begins and stretch the tape to a straight line to whatever distance you need. Measure at least every 10 feet, perpendicular, to the edge of the roadway. When you plot this, you will have a very accurate curvature.

Speaking of plotting, consider Auto sketch software, it is a poor man's AutoCAD. Auto sketch is made by Autodesk, which makes AutoCAD. The program is user friendly, whatever that means, after you read the instructions a few times. It is accurate and produces a very professional looking drawing.

You can also make your drawing by hand, but this is where you need to ensure you use good graph paper and everything is to scale, a proportional representation.



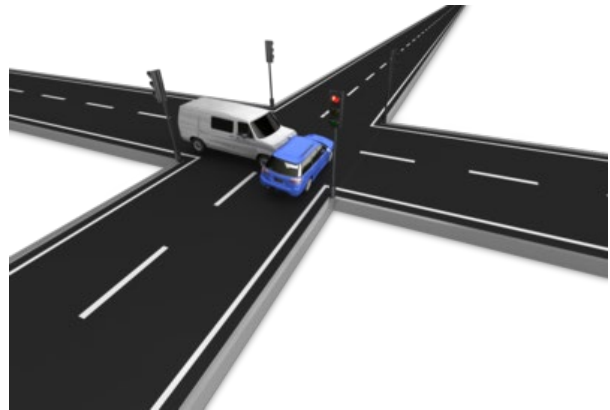
## **(G) Photographs – The Scene.**

Photographs are the cheapest part of our investigation. Take enough photographs to present more than one view of the subject of your photos. ( I believe you can never take too many ). Skid marks are particularly touchy about being photographed. Skid marks are usually best photographed late in the afternoon. When photographing physical evidence always use a reference in the background, such as a tree, crack, pole or some permanent object. If it becomes necessary to return to the scene for further investigation and the evidence (skid marks, scrapes or other marks) are not there you can locate where they once were by locating the reference, sometimes even when the pavement has been resurfaced.

You can also use objects as a reference in someone else's photographs to locate evidence when you return to the scene later. Pan the accident scene from the perspective of each driver to show what they could see and sometimes what they could not see when they approached the scene and the point of impact.

Have some zip lock bags as they are useful in storing small pieces of evidence that you may need to collect such as busted lamps / globes and other small items found at the scene and / or in the vehicle itself.

(More on that in the vehicle section.)



## **(H) Documenting The Vehicle – Photographs**

### **Exterior**

First take your eight basic shots of the vehicle -  
\* (Refer to previous handouts – (Assignment)).

After the basic shots walk around the vehicle and photograph the damaged area. Don't assume that because the damage is concentrated to one section of the vehicle that is the only part involved in the accident. A secondary impact may leave light or heavy damage to a different area on the vehicle. It is important to photograph the entire vehicle for credibility. Photograph rubber transfers, paint transfers and other imprints that show contact with a specific part from the other involved vehicle. Marks such as letters and numbers off license plates and raised lettering from tyres are not uncommon to find transferred to sheet metal.

It is a tremendous help in determining how vehicles came together.

Also, photograph fabric and detailed items with a close-up lens or macro lens. A good digital camera may not require the purchase of a separate lens as there are built in controls and adjustments that can be automated by the operator, however some Digital SLR models are purchased as a "Body Only" with the choice of lens to be made at the point of sale dependant on the needs of the user, for standard SLR cameras a close-up lens can be purchased from most photo stores for a very reasonable price, they usually screw into the front of the lens of the camera.

Digital images can be enhanced to suit and present an image that can be challenged as there is no negative image that will attest to the validity of the shot.

The close-up lenses are very good in photographing the filaments of a lamp. If there is any question as to whether or not lights were on, brakes or turn signals were operating at the time of a collision,

Firstly and always photograph the lens, (the cover) then remove the tail light lens cover and photograph the filament with a close-up lens. Photograph the lens then the lamp and finally the filament and identify which side and which lamp was photographed.

Be sure to photograph all of the lamps, if you photograph one, photograph them all in the same manner. A distorted or stretched filament may be an indication that the lamp was incandescent at the time of collision; it can give an indication as to the braking system being applied or not by the driver(s) at the point of impact.

However, that opinion / determination must be made by someone that is qualified to testify to that, an expert in the discipline of Forensic Science, you as the investigator need only to present the evidence to allow that determination / opinion to be formed.

Remember that a picture is worth a thousand words, and it's easy to check the photographs if you need to check a measurement that was not written down as it was overlooked or you wrote notes on a bad day in inclement weather conditions or the dog ate your notes. You should take as many shots as possible.

Remember this; everything will have changed in some way tomorrow.

The vehicle, or one of the vehicles involved may be scrapped, the scene may become contaminated in some way and evidence removed by a third party, whatever it may be you can be assured of one thing, it will deteriorate your investigation.

### **Interior: – (Apply OH&S Standards)**

Photograph all contact damage in the interior, such as steering wheel, windshield, etc., to establish what may have caused injuries and where the occupants were seated at the time of collision.

Document the VIN plate, mileage, light switch and anything incidental to the elements of the collision.

Do not overlook the importance of the Seat Belt and other restraining devices, they have a story to tell, extend all retracted seat belts and examine them in detail, wear gloves, surgical gloves are fine for general use, however I strongly suggest that if you search under a seat you should consider using a set of gardening gloves, you never know if there is going to be broken glass or even worse there may be a syringe that you don't want to discover unexpectedly, look for fibres, splinters of glass, and blood stains, using tweezers gather evidence that will assist, document the item detailing if it was from the driver side and / or the front or rear passenger position, place the item into a protective container to preserve the evidence and then catalogue it, work systematically so not to overlook any area you need to consider.

Again these items of evidence, although gathered by you the Investigator, may need to be further examined by Forensic Experts to determine the validity of the evidence you have gathered and presented.

#### **(I) Measurements;**

Record all measurements, with additional notes if needed.

Take enough measurements so that you, or anyone else, may take your notes and make a scale drawing of the vehicle. Shade in the damaged area on the form and make the notes concerning the location of the paint and rubber transfers or any other mark that you may think is significant to the accident. It is also a good idea to make any vertical measurements which may be significant to a contact with another vehicle or person, for instance the bumper height should be equal to a break or abrasion to a persons' leg or some contact on a vehicle.

A simple device can be prepared in your own garage, a small block of wood used as a base with a hole drilled in the centre to support a curtain rod in a vertical position, using a white plastic covered rod as the measure stick seat the rod in the block and from the base of the block mark off the rod in increments that can be easily seen and photographed, ( ok, so do we use inches or centimetres here ... the one I have is old and yes it is in inches ) this will give you the height from the surface and may assist in determining the Transfer of Evidence.

A pad of Graph Paper with a plastic sheet insert is available at any stationers and is a must to have with you when attending the scene.

## Summary

You don't have to be an engineer or artist to record measurements, just be able to write, you don't have to be a professional photographer, just have a good camera and produce quality images, then take enough photos to completely document what you find in your investigation.

You have been provided with documentation previously detailing photography and the use of photographic equipment, refer to them for technical support regarding suitable settings of your equipment, it is important you know your equipment and understand that quality equipment will produce quality results, you may only have one opportunity to collect the evidence required for your investigation, take as many shots as you feel necessary to support your investigation, with practice it will become second nature to you and you will become the expert.

## Conclusions;

All of these things may seem to be redundant and you may come to the conclusion that some cases are not worth the time and effort to work in this manner that is a decision you must make on each case, it is a challenge and at times frustrating to investigate the matter when there is very little to work with in the first instance, however by discovering the facts concealed by the Silent Witness the effort will provide its own rewards to the diligent investigator.

Accident scenes don't last forever and therefore we must preserve what we find when we find it, so does it now, we need to gather what is needed as evidence and document it as soon as is possible to do so.

---

We will now look at what is referred to as being the Direction of Force.

## **The Direction of Force. Motor Vehicle Accident**

### **Determining Principal Direction of Force – (PDOF)** (Direction of Thrust)

Determining the principal direction of force vector when examining a vehicle damaged in a motor vehicle accident is extremely important for a number of reasons and they are all to do with Newton's third law.

Here are some of the issues upon which a correct quantification may depend:

- Seat belt usage
- Pre-impact occupant positioning
- Alignment at impact
- Injury magnitude and prediction

When examining a damaged motor vehicle, one often has a difficult time in correctly assessing the principal direction of force vector. Cosmetic damage inspection can be very misleading, nearly always the correct assessment is made following a thorough inspection of all damage components and understanding in which direction all of those components have moved.

It is important to understand when inspecting a damaged motor vehicle, for the purposes of determining the principal direction of force that impact force has direction but also has sense.

As the impact force begins to be absorbed by the motor vehicle, the direction in which the force enters the vehicle sometimes can be associated with the structural strength of the components in the damaged zone.

Some of the lighter components, especially in a front-end assembly, on being deflected rear wards from a frontal impact, can move sideways when those components strike a more heavily constructed component. This includes frame rails, firewall bulkhead, etc. Lighter components will then shift sideways. If the investigator was to establish the principal direction of force based on the post-impact position of these lighter components, it could be an error.

Therefore, the most accurate direction of force assessment would be based on more heavily constructed components if the impact was of sufficient magnitude. For example, if one was able to specify the initial position of the front of one of the vehicle's frame rails or uni-body frame rails, and draw a line between that point and the post-impact position of that components, it would likely be the principal direction of force vector, as opposed to noting the pre-impact position of a headlight assembly and the post-impact position of a headlight assembly.

The line between those two points might not necessarily be an accurate representation of the principal direction of force vector, as the headlight assembly may have been deflected into that position by a stronger component.

There are many ways to gain a stronger visual perception of the \* PDOF.

One of the more handy tools to use is a 35 x mm camera with a telephoto lens.



Align the datum line of the lens when taking the photograph, with an undistorted line of the vehicle. The developed photo will allow the investigator to get a more magnified understanding of the way that the damage components have moved in relation to an undistorted plane of the vehicle.

Another way commonly used by investigators is to get an elevated perspective of the damage profile.



In almost all cases, this photograph will reveal the direction the damage has entered the vehicle. The photograph below shows a direction of force that has entered the vehicle essentially laterally, but has a somewhat rear-ward component which is visible only from the elevated perspective.

Therefore the principal direction of force in this circumstance would probably be assessed at -70 to -80 degrees. The ground level perspective indicated it was more like -90 degrees.

( \* ) PDOF IS IMPORTANT ...  
(\* Principle Direction of Force.)  
Learn and understand it.

Skills will only be enhanced with practice – take every opportunity to enhance your skills, practice your craft; become the one that is in high demand, the investigator that is recognised as being the ultimate professional.

Before we leave this discipline / unit we should give consideration to a topic and an activity that as an investigator we may encounter, although the complete investigative process may and probably would involve Forensic Science and Expert Witnesses it is the act itself that we will look at as it is more likely to be one encountered by us mere mortals and we need to look at the motivation behind the act. The average Investigator is not considered to be an expert unless qualified in a particular field and for expert opinion the matter should be referred to an expert in the field for an expert opinion which would be accepted in a Court of Law if the matter goes to that ultimate conclusion.

The information presented to you by this writing is simply to assist in the understanding of the matter and is by no means intended to suggest that it be considered on its own, it should be considered in conjunction with all material and examples directed to you throughout your investigative learning process.

### 3.4 VEHICLE FIRES; (Deliberate or Otherwise Initiated)

Vehicle fires are a frequent occurrence and in the present financial climate the burning of vehicles for profit is an ever-increasing lucrative undertaking.

Insurance companies insure the actual cash value of the vehicle and Insurers depreciate the value of a vehicle and its accessories when they estimate the payout figure of a policy. With a high priced resale market for car parts, it's not uncommon for stolen vehicles to be stripped, burnt and the parts sold for extra profit.

It is often referred to as **Re-Birthing**; it may simply apply to single component or may extend to all of the components including the interior of the vehicle.

Motives behind the act itself may include but are not limited to;

- Concealment of the crime, in the instances where the thief has set fire to the vehicle it will generally be for the reasons of concealment of crime or for straight-out vandalism.
- Financial Problems through the owner becoming unemployed and unable to meet repayments, gambling debts, business failures, and the owner living beyond his means.
- Domestic Problems as a result of separation and divorce and all those matters associated with general financial problems as described above.

The motives discussed above are equally applicable to all vehicle fires and persons who set fire to vehicles is either generally the owner or the thief.

In the instances where the owner of the vehicle may be subjected, some additional motives come to mind,

- Dissatisfaction with the vehicle through mechanical problems
- The owner paid more for the vehicle than it is worth
- The insurance company will pay more on the value of the vehicle than it is worth

- The car does not suit the needs of the owner;
- The owner no longer needs the vehicle.
- There has been an addition to the family, birth of a child.

During the course of these investigations, you will find that many of the vehicles reported stolen are later recovered completely burnt out and you will have to inspect and photograph these vehicles.

Generally speaking, the exterior of a vehicle does not burn under ordinary circumstances and detailed tests conducted in a variety of situations have established that accidental vehicular fires generally burn very slowly, if at all, are easily controlled and minimal damage is caused.

It happens that people drop cigarette butts on seats or flooring, or, through some mechanical fault petrol will leak onto hot engine parts. The tests referred to above have established that it is highly unlikely that cigarette butts will cause a significant fire that engulfs and destroys a vehicle.

Similarly, leaking petrol onto a hot engine will ignite but only cause localised damage with little likelihood of totally engulfing a vehicle to the point where it will be destroyed.

With these factors in mind, vehicular fires where extensive damage or total destruction is caused can be strongly suggested to be acts of arson where an accelerant has been used.

Your inspection of the vehicle, for this reason, is important. It may be possible to identify if parts or accessories have been removed and substituted with non-standard fittings. The colour of the wheel rims may be different to the colour of the vehicle or they may not have been fitted correctly or not be original. This indicates substitute tyres were fitted.

Expensive stereo equipment may have been removed. Seats, console fittings, dashboard assemblies and steering columns may have been dismantled. Ignition locks and door locks will generally not burn and any evidence of tampering should still be identifiable.

Your inspection of the vehicle should be closely compared to the description given to you by the owner and other witnesses. Local Police, from the area where the vehicle was recovered, should be canvassed to ascertain if burnt vehicles are regularly recovered from that area and whether there are any known or suspected car thieves operating within their district.

These matters are all salient points to be included in your final report to the responsible insurance company. Your suspicions of arsonist activity involving the owner, a person acting on their behalf or some other unidentified party should also be included together with the recommendations in this regard. Enquiries with the mechanic regarding the mechanical condition, the neighbours for suspicious activity, the local service station for any fuel purchased in small containers, credit card activity to pay for the fuel, bank account activity to pay the arsonist was a taxi used to leave the scene, or was there a friend in another vehicle. Has the insured purchased another vehicle, was the burnt



vehicle recently advertised for sale, did it have a notice on the window and was not sold. Was it left on a road side position recently to try to sell it.

Again use your imagination, explore all avenues of enquiry and then some.

### **3.5 Staged Motor Vehicle Collisions**

A 'staged' motor vehicle collision has become the preferred tool for usually ethnic groups who in collaboration with unethical motor body repairers conspire to defraud insurance companies. Many boutique insurance companies are off spins from the larger insurers trying to attract clients who are looking for 'something different' in the way the policies are offered and usually under the guise they are cheaper. Whilst larger insurers see these spin off insurers as a marketing tool they in fact leave these smaller companies exposed to fraud by under resourcing them and by promising quick claim settlement with no or little oversight of the circumstances of the collision or the persons involved.

Recent investigative activity discovered that the same persons from the same ethnic groups are claimants against all major insurers and the same names kept cropping up when the names of claimants were compared across insurance groups. Unfortunately this type of co-operation between individual insurers or their investigators is rare and difficult to achieve on the basis of 'commercial confidentiality' or 'privacy' concerns' when in fact they are being ripped off consistently by people who make a lifestyle out of fraudulent activity against insurers.

In point form and not in any particular order the following provides some insight into the methods used and the techniques employed to clearly show that the claims are fraudulent and the collisions staged. This has developed into a complex and demanding area where the participants in the activity are cunning, experienced, devious and determined and they are aided and abetted by recovery agents and recovery solicitors who act on their behalf and provide a shield against intensive investigation by refusing to co-operate with any investigation. Unfortunately they cannot be compelled to co-operate and insurance companies are frankly too weak to stand up to them and demand co-operation. If the investigator cannot provide solid evidence that the claim is fraudulent and the collision is staged then the insurers just pay.

- The starting point for any staged collision or fraudulent claim is the taking out of an insurance policy with an insurer by a person complicit in the intention to at a later stage lodge a fraudulent claim.
- The vehicles so insured are very often purchased from Mannheim Fowles Auctions or Pickles Auctions at well below market value and may well already be damaged.
- The insurers offer agreed value insurance over the phone without inspecting the vehicle and this agreed value is always well in excess of the money paid for the vehicle.
- The conspirators in the criminal venture agree the 'stage' a collision at an intersection or location where there is no witness overlooking or it is in a remote industrial area. The vehicle may never in fact be at the location. They may never come into collision with each other but a claim is made

against the insurers and there is substantiated evidence that the damage is caused by or exaggerated by unscrupulous vehicle repairers.

- The damaged insured vehicle is made available to the insurers for damage assessment and inspection but the third party vehicle, invariably uninsured, if it exists, disappears and the recovery agents or solicitors and the alleged driver refuse to produce the vehicle or co-operate with any investigation, as is their right, and they simply demand compensation for the damage to their unsighted vehicle. Usually both vehicles are total losses. Often the third party vehicle is allegedly repaired immediately according to the repairers when perhaps it was never damaged nor did it even exist. Therefore inspection of the allegedly damaged third party vehicle cannot occur.
- Some recovery solicitors will provide a very narrow window of opportunity to inspect the damaged third party vehicle and usually too late for the insurers to react to it. Then they face the dilemma, which do you send, an assessor, an investigator or a forensic collision investigator?
- The investigator (on behalf of the insurers) is left with only the insured driver to interview and the damaged, insured vehicle to try to prove the fraudulent claim. Often the insured vehicle is not even owned by or registered to the insured. This needs to be explained by the insured.
- The insured person may have previous traffic convictions or licence suspensions or previous claims that were not disclosed to the insurers when the policy was incepted (taken out). This can provide reason to refuse the claim.
- The damage to the insured vehicle may not be consistent with the alleged event and Forensic Collision Investigations (specialist and expert collision investigators) may be utilised to prove that the damage is not consistent with the alleged event.
- Telephone records provided by the insured may show that he was elsewhere making calls when this collision was alleged to have occurred.
- Enquiries at the auction houses may result in photographs of the insured vehicle showing the same damage prior to purchase of the vehicle that is now being presented as damage as occurring in the claimed collision.
- Paint transfer colors on the insured vehicle may be inconsistent with the paint color of the third party vehicle allegedly collided with.
- Enquiries with Towing Allocation may reveal that the vehicles that are now a total loss were not towed from the scene. It is amazing how many of these vehicles are total losses but were able to be driven from the scene.
- The third party vehicle or the insured may have been involved in a previous collision and is recorded on the Police Traffic Collision system as being so involved.

### 3.6 FURTHER AVENUES OF ENQUIRIES – MOTOR VEHICLES AND BURGLARIES

- There are examples of where a vehicle is registered to an unlicensed grandmother who insures the vehicle at a lower premium on behalf of the true owner, her grandson, and the vehicle is fitted up with mag wheels and boom-boom sound systems. This needs to be explained.
- It is prevalent for parents to insure vehicles owned by their children at a lower premium when the vehicle is clearly owned by their children and they have 100% use of the vehicle. This can result in claim refusal or a demand for full premium payment before accepting the claim.
- The Forensic Locksmith can be utilised to examine locks on allegedly stolen vehicles and expert evidence can be given to say if the key to the vehicle was used to start and drive it or the lock was forced. The forensic locksmith can also interrogate the immobiliser and computer system of the vehicle to determine if the vehicle was started with the key or by some other means.
- Expensive motor vehicles such as Mercedes or BMW can have as many as four keys provided with the vehicle (ignition by two, a flat pocket book key and a service key). All of these keys can start the vehicle so it is important to establish where all the keys are or were. Invariably you will find the service key is left in the service book in the glove box and when an offender breaks into the vehicle he finds the key and drives away. The forensic locksmith can establish which key was used to start and drive the vehicle.
- The car payment history for vehicles on finance should be obtained to establish arrears and demands for payments. Some persons prefer to torch the vehicle and report it stolen when monies are owed on a now decrepit vehicle.
- Many thefts of motor vehicles are committed by the teenage children of the insured who have access to the keys. This does not prevent the claim from being paid but many parents refuse to involve their children despite them knowing the truth.
- Cash Converter records can be accessed with the consent of the insured when they have reported property stolen in a burglary that may have been sold to cash converters.
- Mortgage stress maybe behind burglaries being reported and the insured wants a cash settlement which is not the way insurance companies operate. They operate on a replacement regime not cash settlement.
- Substantiation (proof of ownership) of goods reported stolen in a burglary is required. That can be invoices, receipts, manuals, boxes, software, credit card records, valuations, photographs etc. And if substantiation cannot be provided the report is considered suspicious.
- A small percentage of any claims that can be demonstrated to be fraudulent can result in refusal of the total claim.

These are just a few examples of how information can be gathered when confronted by the possible scenarios involving motor vehicles in particular or burglaries generally.



# Compile investigative report

## CPPSEC3028A

*This page is intentionally blank*

## CPPSEC3028A Compile investigative report

### Introduction

This unit of competency specifies the outcomes required to organise and present information gathered by surveillance or factual investigation. It requires the ability to organise and evaluate gathered information and data and prepare and present reports and attachments in a format suitable for review and dissemination.

Compile investigative report - CPPSEC3028A		
Element	Performance Criteria	
1.	<b>Organise information.</b>	
	1.1	Investigative information is obtained within the specified time and budget constraints in accordance with client and <b>legislative requirements</b> .
	1.2	Information is assessed for relevance and accuracy and is consistent with client terms of reference, reporting and legislative requirements.
	1.3	Investigative <b>information</b> is gathered, prioritised and organised with regard to continuity of evidence in accordance with <b>assignment instructions</b> .
2.	<b>Compile investigative report.</b>	
	2.1	Report is prepared presenting all relevant facts and observations from <b>investigation</b> in an appropriate <b>format</b> according to client requirements.
	2.2	Content is reviewed and additional information relating to the investigation is sought as required.
	2.3	Content uses clear and concise language is supported by information gathered and verifiable evidence.
	2.4	<b>Attachments</b> are relevant and consistent with references made in body of the report.

<b>3.</b>	<b>Complete report.</b>	
	<b>3.1</b>	Report printing and collation is negotiated and organised to meet identified timelines.
	<b>3.2</b>	Report including all attachments is forwarded safely and securely to <b>relevant persons</b> in accordance with legislative guidelines.
	<b>3.3</b>	<b>Feedback</b> is sought and any areas of client dissatisfaction promptly rectified.
	<b>3.4</b>	All information relating to the investigation is safely and securely maintained in accordance with client confidentiality and legislative requirements.



## Required skills and knowledge

### Required skills

- Basic analysis
- Complete workplace documentation and reports
- Evaluate diverse or conflicting pieces of information
- Identify and access relevant information from reliable sources
- Information technology
- Literacy skills to understand and communicate information (reading, writing, speaking, numeracy and listening)
- Make discretionary decisions
- Numeracy skills to estimate time to complete work tasks and resource requirements
- Personal skills to relate to people from a range of social, cultural and ethnic backgrounds and varying physical and mental abilities
- Prioritise work tasks and complete activities within designated timeframes
- Problem solving and negotiation
- Questioning to check understanding
- Research
- Verify information for accuracy and relevance.

### Required knowledge

- Basic investigation techniques
- How to safeguard confidential information
- How to use business equipment to present information
- Information gathering methods and techniques
- Information management systems and methods
- Legal and ethical obligations with regard to the gathering and distribution of information
- Legislative requirements applicable to the conduct and reporting of investigations
- Methods to ensure validity and reliability of gathered information
- Occupational Health and Safety (OHS) requirements
- Operational principles and capabilities of investigative equipment
- Reliable sources of information
- Requirements for the presentation of investigative information
- Standards and procedures for client service.

## 1. Written Communication

An important part of your duties as an Investigator is that you will need to convey your message and communicate with others in writing on a regular basis. The most usual reporting method employed will be the formal report in relation to Travel Claims, General Insurance Claims, Personal Injury claims, Vehicle collisions, Arson Investigations or Traffic Accident Commission Investigations.

Remember that written communication may also include other than words, for example you may also have to include diagrams, photographs, or graphs in a report and on that basis good computer skills are essential.

No matter how efficient you are at your job as an Investigator there will be occasions when incidents occur at a work place and your client may call you in to deal with it in a reporting and investigative sense and possibly in conjunction with emergency or their services. Not only will you be expected to deal professional with such incidents, you will also be required to write a report for your employer or immediate Supervisor on the incident, a copy of which may be forwarded to the senior management, police, insurers or other interested parties.

**Remember - all written documents could become evidence in a court of law.**

Someone will have to read and understand what you write, these days hand written reports other than basic preliminary reports and your scribbled notes are un-acceptable mainly because they are unprofessional and cannot be transmitted electronically by email. Therefore all your formal reports will have to be computer generated.

Any report or documentation compiled as part of an investigation could become admissible as evidence in a Court of Law. Most, if not all investigators reports are endorsed as being submitted in contemplation of legal proceedings, or are endorsed as being 'privileged' and therefore not subject to discovery by other parties..

What this all means is that communications between a client, the investigator and their solicitors are **'Privileged'**.

That means the communication cannot be elicited or disclosed asked about in legal proceeding and used against the client in order to protect the client.

## Reporting Guidelines

- When, Where, What, Who, Why, and How. That is what people want to know and you must ensure that all of that information is in your report and preferably in chronological order.
- Record information in your notebook as soon as is practicable.
- Ensure the information is accurate and supported by evidence.
- Transfer information from your notebook to the required reporting medium as soon as is practicable.
- Use appropriate language. No derogatory or defamatory comments or descriptions.
- Be precise and concise.
- Use correct grammar, spelling and punctuation.
- No slang or clichés.
- Be factual, accurate, and use complete sentences.
- Be aware of any particular format demanded by your client. Several examples of different formats are included in your notes.
- Remember your client does not know what you are thinking therefore if you are thinking it then put it in your report if it is supported by evidence.
- If it takes ten words to describe a certain passage in your report then use ten words, do not try to save time or effort by not expressing yourself fully or explaining the situation in total.
- A comprehensive and properly formatted final report professionally produced may mean the difference between you getting more work off this client or being your last job for this client. .... That is the way it works.



### 1.1 Note Books

Investigators should carry a notebook, or day book, or diary and a pen. The notebook / day book should have numbered pages, should not have errors corrected by white out fluid, but crossed out, and should be compiled in chronological order including shift times and dates and should have numbered pages to prevent allegations any pages have been removed.

Details of any incidents, and the names and addresses of any persons involved or spoken to in the course of an investigation should be recorded so that this information can readily be included in your official and final report. Conversation should be recorded in the ...' I

said' ... 'He said', manner, in the first person when dealing with subjects. This is not so critical when talking to witnesses and you are simply getting their version of the events or incidents.

If the details of the incidents, the persons involved, and the conversation are recorded contemporaneously (at the time or as soon as possible) then the Investigator may refer to the notes when giving evidence at a subsequent court hearing instead of having to rely on their memory.

- See notes on presenting evidence ...

### **1.2 There are obvious advantages in using written communication;**

- Facts can be clearly stated
- Provides a permanent reference
- Can be planned prior to transmission
- Can be used as proof of communication
- Can be used as evidence in a court of law
- Can act as proof that duties have been carried out

### **1.3 However as with anything there can also be disadvantages:**

- It is more time consuming and lacks the spontaneity of verbal communication
- There is no immediate feedback
- You cannot be sure that your communication has been read in full and Understood
- Documents provide the opportunity for unwanted third party scrutiny when not secured properly

Remember there are some basic rules for writing a report that will assist you and if followed, will make the task of writing reports straightforward.

Formal written reports should generally follow the same format –

- Date and place the report is originating from.
- Who the report is directed to, and that is usually your first line supervisor or client.
- The subject or issue briefly stated.
- The background of the matter being reported, usually in chronological order.
- Details of the incident, WHEN, WHERE, WHAT, WHO, WHY, HOW.

- The details of every person spoken to in the course of the investigation and a précis of what they said. This is essential because even though you may have a written and signed statement from that person there are no guarantees that a busy claims Investigator at the insurance company will read the statement. They expect all information in your final report with the option to read the attached statement if necessary.
- Claims co-ordinators at insurance companies are quite likely to be young, inexperienced and not worldly and they rely on you to provide them with advice and recommendations.
- Action taken.
- Recommendations (if any)
- Signature and typed name of the Investigator submitting the report.
- Details of any attachments such as photographs or statements.

## **2. Example Reports**

Whilst it is not set in stone that the same format should be followed for claims co-ordinators, you can usually expect the final reports to be in the same preferred format by different companies, every time, simply because that is the way it has always been done.

Formats vary from job to job and client to client but the required content does not. Trainees will be expected to produce a number of final reports to industry standards as part of this course.

The report examples provided differ in the format as do they all, however they all have one thing in common, they all tell the full story, and they offer the reader a clear and concise understanding of what has happened.

There are many ways to convey a message, by providing your client with a good report you are also sending a message that is embedded in the actual presentation, it is not immediately visible but it is there to a trained eye, that message is ... you know what you are doing, you have covered everything, you have acted in and displayed your professionalism.

You will be judged on your presentation of each and every report, both by your client and in some cases those that will raise questions as you stand in a witness box at court.

We will be addressing in more detail by way of assignments given the importance and presentation of your reporting and communication skills throughout the course, in particular we will address the importance of good reporting and the need to keep notes / logs in the units aligned to the undertaking of Surveillance and Conducting Interviews.

## 2.1 Basic Reports For Discussion

### The Stolen Vehicle – Insurance Report (**Example**)

#### Policy Details (Vehicle Claim)

Policy Number: MOT139999524

Expiry Date: 10/07/06

Claim Number: SPE2447335500

#### **Incident Summary - (Brief but concise version of events)**

On the 8th of July, 2006, at approximately 9:00pm, the insured, XXXXXXXXXX, of XXXXXXXXXX returned home with his house-mate /girlfriend, XXXXXXXXXX. They had both been to XXXXX's parent's house for dinner. The insured parked his vehicle in the usual spot in his driveway, adjacent to his house. The insured locked the vehicle and went inside.

The next morning, the 9th of July, 2006, the insured was getting ready for work at approximately 5:45am when he walked outside and noticed that his car was not in the driveway. He realised that his vehicle had been stolen. The insured got into his work vehicle and drove around neighbouring streets for approximately 10 minutes in search of his car and possible offenders. When he did not locate his car he drove to Epping Police Station to report the theft of his vehicle. Just after 7:30am he returned home and informed XXXXX that his car had been stolen.

#### **Insured Details –**

##### **Full Particulars would need to be recorded**

**Name:** Mr.XXXXXXXXX XXXX xxxxx

**Address:** X XXXXXX XXXXXX

**Telephone:** Home: 9402 0000; Mobile: 0421 0000000

**Date of Birth:** 24th October, 1966

**Occupation:** Truck Driver / Road Construction Worker – XXXX  
Constructions Reservoir, 9462 XXXX.

**Financial Status:** The insured earns approximately \$90K per annum and stated that he has no major debts or mortgages. He believes that his financial position is good.

**Licence details:** The insured holds a full Victorian State Heavy Articulated Driver's Licence, number xxxxxxxx, which expires on 21/08/2008. There are no conditions on his driver's licence.

**Criminal History:** The insured has given consent and signed a Victoria Police Criminal History Check Form, which has been forwarded to Victoria Police.

**Driving History:** The insured has given consent and signed a Vic Roads Form authorising his information to be passed on to us.

**Insurance History:** The insured advised that he lodged a previous claim for another vehicle for an accident that was his fault. The claim was for vehicle registration SLY-XXX that was settled 3 months ago. The insured stated that he has never had cover or a claim refused or cancelled.

**Subject Vehicle - Full Details**

**Make:** Mercedes  
**Model:** SLK 55 AMG  
**Year:** 2005  
**Registration Number:** SLK – 55A  
**Engine No:** Unknown  
**VIN No:** Unknown



**Purchase Details:** The vehicle was purchased in 2004 from a car yard in Keilor. The insured cannot recall the name or location of it. He initially saw an advertisement for another vehicle in The Age but when he arrived at the yard it was sold. He then saw this vehicle and eventually purchased it. Although the car was bought from a yard, he insured recalled that the initial ad was for a private sale. The insured stated that the total price was \$160,000 on road. He traded in a BMW X5, which he was given \$78,000. The insured paid the balance in cash.

**Finance Details:** There was no finance on the subject vehicle.

**Drivers and Percentage Usage:**

The insured used the vehicle mostly but in recent times had advised AAMI that his girlfriend XXXXX xxxxxx would be a regular driver.

**Condition of Vehicle:**

According to the insured, the vehicle was in excellent condition and according to the insured required no work. No photographs of the insured's vehicle were available.

**Service History:** The insured is a qualified engineer and serviced the vehicle himself. He claims that the oil was changed every 5000 kilometres and every 10,000 kilometres the filter was changed.  
The insured stated that when it came to cars he was very particular.

**Odometer reading:** Unknown

**Modifications/Extras:**

The insured stated that he made some modifications to his vehicle after purchase and purchased some accessories. He stated that AAMI were contacted with all the relevant information. He listed the following modifications:

New 18-inch AGM rims  
Low Profile Yokohama AAA Tires  
Tinted Windows  
Aero Spot Lights  
Boot Spoiler  
Headlight and Bonnet Protectors

**Valuables in Vehicle:**

The insured stated that he had 18-20 CD's and a Mercedes/McClaren Jacket in the vehicle. His girlfriend Xxxxxx had left a number of schoolbooks from her employer also in the vehicle.

**Alarms:** The vehicle was fitted with a factory supplied alarm system with remote central locking.

**Steering Locks:** Factory Fitted

**Keys (including Spares):** Two keys were provided by the insured.

**Insured's Version – XXXXXX xxxxxxx (The Full Story – (Not his Statement))**

The insured, XXXXX xxxxx, was interviewed on the 16th of July, 2006 at his residential address. During the interview the insured was extremely co-operative and answered all questions consistently. During the interview, he offered the following information:

On the 8th of July, 2006 the insured woke up and got ready for work at approximately 5:45am. He went outside to start his work truck at let it warm up. His vehicle was parked in his driveway. He left for work in his truck at about 6:20am. The insured stated that he left a set of his car keys for Xxxxxxxx who was going to use the car that day.

The insured returned home from work that day at approximately 4:30pm and noticed that his car was not in the driveway as Xxxxxx was using it. Xxxxxxx arrived home at 5:30pm and parked in the driveway.

At 6:00pm the insured and Xxxxxxx drove to her parent's house in Clonbinane for dinner. The drive is approximately 20 minutes from the insured's house. At approximately 9:00pm the insured and Xxxxxx returned home. The insured drove and parked the vehicle in the



driveway of his house. The insured locked the doors and went inside. Both the insured and Xxxxx went to sleep at 10:30pm.

The next morning, the insured went outside to start his work truck but immediately observed that his car was not in the driveway. He instinctively looked up the driveway and then out on the street. The insured then realised that his car was stolen.

The insured got into his work vehicle and drove around looking for his car for approximately 10 minutes with no luck. He then drove to Epping Police Station to report the theft. He arrived at the police station at about 6:30am. Once he filled in the theft report he returned home and informed Xxxxxx that his car was stolen. The insured also telephoned his Boss, Xxx, 0411 000000, and informed him that he was going to be late and that he would explain why later.

The insured then reported the theft to AAMI.

The insured claims that the vehicle was in excellent order and required no work.

The insured has recently separated from his wife who has retained all of the insured's personal papers. The proof of purchase and receipts for the modifications may still be with her if she has not thrown them out. The insured stated that if required he would make contact with her to try and locate any relevant paperwork. He stated that he does not think that she would have kept that information.

The insured received his insurance renewal and had contacted AAMI to inform them that he would bring his car in for an inspection soon and to pay the premium. No date was set but it was something that he was going to do.

The insured is currently driving his work vehicle to get around and also a hire car that is also being driven by Xxxxxxx.

The insured has another vehicle insured by AAMI, which is a HSV 2000 VT Commodore, registration SLY- 000. This vehicle was parked and locked up in his garage at the time of the theft.

The insured stated that he has never made any attempts to sell his vehicle. The insured claims that he has no idea who would have stolen his car and had no involvement in the theft.

He has no finance on the vehicle and is financially sound.

The insured mentioned that his car's badges were ripped off last year at Epping Plaza Shopping Centre. No report was made as he purchased new badges for \$100.00.

## 2.2 Witness 1 – XXXXXX Xxxxxx (The Housemate / Partner)

XXXXX Xxxxxx resides with the insured. She was nominated by the insured as another driver for the subject vehicle. When spoken to, Xxxxxx XXXXX offered the following details:

XXXXXXX was driving the insured's vehicle when required. She is currently completing a traineeship with Charlie's Quick Learning for teaching.

On the 8th of July, 2006, XXXXXXXX was driving the insured's car to get to work and back home. She arrived home at approximately 5:30pm that day and parked the vehicle in the driveway. She then stated that she was going to her parents place for dinner that evening and that the insured was also delivering a boat motor for his boat which is stored on her parent's property. A trailer was attached by the insured. The insured drove to her parents and arrived at approximately 7:00pm.

Once they had finished dinner, XXXXXXXX and the insured returned home at approximately 9:00pm. She recalled that the insured drove and he locked the vehicle. She went to bed at 10:30pm.

The next morning she found out that the vehicle was stolen when the insured came home after approximately 6:30am and told her that the car was stolen.

XXXXXXX could not recall seeing anything or anyone suspicious observing her whilst she was in control or possession of the insured's vehicle.

## Witness 2 – Mr. and Mrs. XXXXXX (The Parents of the Housemate)

We spoke to Housemate/ Partner's parents to ascertain their version of events. Mrs XXXXX, XXXXXX's mother stated the following:

XXXXXXX and the insured attended their house in Clonbinane on the evening of the 8th of July, 2006. She recalled that the insured was delivering a boat motor for his boat, which is on their property. Mrs. XXXXXX did not see the motor on the trailer or the insured's vehicle that evening because it was too cold to go outside and assumed that the insured simply unhitched his trailer and left it next to the boat.

Mr. and Mrs. XXXXXXXX cannot confirm the condition of the insured's vehicle as they both remained indoors during the visit. They claim that the insured and XXXXXX left around about 9:00pm.

No other information was recalled by the Mrs XXXXX'.

## Scene Visit – (The Last Known place where the vehicle was)

The scene of the theft was the driveway of XXXXXXXX Avenue, Lalor. At the time of our visit, no obvious sign of broken glass or forced entry was observed.

## Neighbour Inquiries (Who and where they reside – The Triangle)

The insured's neighbours were contacted after our interview with the insured on the 16h of July, 2006.

We spoke to an elderly female, name refused, at number XXXXXXX Street. She advised that she had not heard or seen anything and that she usually goes to bed after 8:00pm. She does not know the insured and cannot recall his vehicle.

Contact with residents directly across the road at number x was made. CCCCC informed us that he too did not see anything but did recall that the insured had the "nice red Holden." CCCCC's wife mentioned that two weeks earlier, thieves pulled into their own driveway and stole all the contents from their shed in the backyard.

No other information was obtained by the neighbours.

## Police Inquiries

The insured has given consent and signed Victoria Police Consent to Criminal Record Enquiry form.

We spoke to Constable ZZZZZ from Epping Police Station who remembered the insured. Constable ZZZZZZ stated that the insured came into the police station and reported his car stolen. According to Constable ZZZZZ, the insured's behaviour was typical of a person who has had his car stolen. The insured was upset but showed no unusual behaviour to suggest or imply any suspicion.

The police have no reason to treat this theft as suspicious unless the vehicle is recovered and reveals fingerprints or other evidence to identify an offender.

The car remains un-located.

---

## 2.3 Further Inquiries made

### ABC Engineering, Reservoir, 9462 00000

On: (Date & Time)

We contacted the insured's employer, ABC Engineering and spoke to Ms. TTTTT, the office administrator.

Ms. TTTT confirmed that the insured is employed by ABC and she also confirmed from timesheets that the insured attended work the day prior and the day of the theft of his vehicle. The insured works on site from anywhere from 6:30am until required. He often works overtime. She was not aware that the insured's vehicle had been stolen. She did say, knowing the insured's feelings towards his cars that he would not be happy about the theft.

A message was left for Mr. NNNNNNN, the insured's site manager. Ms. TTTTT from ABC called back on behalf of Mr. NNN who advised that NNN instructed her to assist with our inquiries and that he was too busy to talk to us. Ms. TTTT relayed this message from Mr. NNN and added that the insured called Mr. NNN on the morning that his car was stolen saying that he would be late. According to them, they have no reason to doubt the insured and did not think anything of it.

No further information was provided.

## **Summary**

The insured voluntarily provided a statement.

Most details of the insured's statement have been supported by available witnesses.

Documentary evidence of purchase details have not been supplied as the insured has separated from his wife and he believes that she would have thrown out his personal papers. He will attempt to retrieve relevant documentation.

The insured contacted AAMI and the police on the morning of the theft.

The insured's housemate / partner, XXXXX, has supported his version of events.

XXXX's parents have corroborated the insured's version although the insured did not ever mention that he was taking a boat motor, on a trailer, to their house.

Purchase details of the subject vehicle are unknown and the insured believes that his estranged wife may have those records.

The insured has no service records as he is a qualified engineer and serviced the vehicle himself.

There does not appear to be any suspicious findings as a result of the investigation to date.

## **Recommendations**

Our inquiries reveal that the insured's version of events is correct.

All witnesses have corroborated the insured's version and there appear to be no anomalies or available evidence that affects the claim.

The police do not have any evidence to suggest any involvement in the theft by the insured.

We believe that no further inquiries are necessary.

## Signed Statements

We attach the following signed statement:

Statement of XXXXXXXX Xxxxxxxx, taken on the 16th of July, 2006.

## Additional Attachments

- Copy Victoria Police Report – Notice to Victim
- 2 x Keys with alarm pads for XXXX- XXXX.

## Pending

Signed Victoria Police Consent Form and Vicroads Consent Form have been submitted and the results are pending.

The insured will forward his mobile telephone records once he has received them from his employer. The mobile is a work phone. No calls were made from the home telephone.

## Conclusion

According to investigation surrounding the disappearance of the insured's vehicle, we believe that the circumstances are not suspicious.

All movements by the insured have been confirmed although there are not that many witnesses available. The insured does appear to be particular about his vehicles and according to him has maintained contact with AAMI with every change relating to the condition of his car.

At this stage there is no evidence to support the denial of his claim. To date, the vehicle has not been recovered.

## Investigator: (That Would Be You)

Signature: .....

Date: .....

As you can see the **Report is presented in a particular format**, it clearly gives the reader a full picture of what has taken place, the full story surrounding the incident, the history of the vehicle, the history of the claimant, sworn Statements were obtained from the relevant parties involved and others that may have witnessed the incident, it is compiled and presented in a logical format and addresses the issues.

*(Consider this example when undertaking your Assignment pertaining to the missing or stolen motor vehicle that will be required to be presented for assessment purposes)*

Of course this report would be presented to your client with a well constructed covering letter from you as the investigator, exhibits would be indexed and presented in a manner that would allow them to be admitted as evidence should there be a need to do so.

## Spare Keys,

When receiving the spare or second key to the vehicle it is important that you note the condition of the key itself,

- is it worn,
- is it a copy that has been cut recently,
- Is it an original key provided by the vehicle manufacturer?

The inability or reluctance of the insured to provide the Spare Key may change the direction of your inquiry; it has the ability to change your course of thinking.

If there is no spare key presented you need to ask yourself where is it, who has it, who had access to it, where was it kept, who knew it was there, etc...

Perhaps the person who removed the vehicle without the insured's permission had access to it, or was given it, and may still have it, ... it may explain how they entered the vehicle in the first instance because you found no evidence at the scene to suggest entry was gained by breaking a window, or did you?

It will assist you to study the format used in this particular matter and refer to it during your assignments.

2.4 The following example is another report that is a different format but as you will quickly note whilst the format may differ somewhat to that above the information reported is presented in a logical sequence, is full in detail, it tells the story and is easily read and understood.

Again you are advised to study this format as it will assist you in another matter directed to you by way of an assignment by your trainer.

It should be remembered both examples provided are just that, examples, however we do assure you that they are based on Industry Standards and should be adopted.

## The Work Safe – Injury Report. (Example)

Our Ref: 1234B

### **PRIVATE & CONFIDENTIAL**

You're Ref: 007/02

**Date:** 10 November 2003

The Work Safe Manager  
Work Safe Division  
Bond Insurance Pty Ltd  
98 Lonsdale Street  
**MIELBOURNE VIC 3001**

Attention: Mr. XXXXXX

**Re:** Circumstance Investigation

**Work Safe Claim No:** 04020033581 / B4

**Employer:** XXXXXXXX Hotel

**Claimant:** Mrs. xxxxx XXXXXX

**Date of Injury:** Progressively over time of employment at Watergardens Hotel.  
Since approximately August 2002.

We thank you for your instructions in relation to this matter and our report is as follows:

**Employer:** XXXXXXXX Hotel  
4 Kings Road  
Taylors Lakes Melbourne 3038

**Contact:** Mr XXXXX

**Telephone:** (03) 9300 6666 0400- 998671032

### **Business:**

The XZXXX Hotel operates bars, gaming machines and a restaurant which is a smorgasbord style where diners pay a set price and are able to choose any foodstuff on display including hot and cold dishes, salads, hot vegetables, desserts and beverages.

**Previous Insurers:** GIO Australia

**Claimant:** Mrs. xxxx XXXXX

**Address:** 56 Perl Crescent  
Taylors Lakes 3038

**Telephone:** Work: (03) 9300 6888 Home: (03) 9990 9999

**Occupation:** Kitchen Assistant

**Date of Birth:** 23/02/1959

**Nationality:** Maltese Citizen

**Dependants:** Claimant has three children aged 10, 9 & 6

**Description:** Claimant is described as being female, approximately 1-49cm, 60kg, slim build, short dark brown hair and brown eyes.

**English Language:**

The Claimants native language is Maltese.  
She speaks English but is difficult to understand due to a speech impediment (lisp.)

**Domestic Situation:**

The claimant states that she resides at 56 Percy Crescent in Taylors Lakes in a house that she has lived in for the last 12 to 18 months.

The Claimant stated that she lives with her husband to whom she has been married to for 12 years and her 3 children who are aged ten, nine and six.

The claimant states that she arrived as a resident in Australia in approximately 1987.

The claimant states that she is a Maltese citizen, and has not the opportunity to become and Australian citizen as yet.

The claimant states that in late February 2002 she began working as a Kitchen Assistant at the XXXX Hotel in Taylors Lakes.



### **Claim Details – Claimants Medical Condition.**

The Claimant states that approximately after one month of working at the Hotel she noticed her right wrist getting sore and would sometimes get pins and needles in her right hand, especially in her middle finger. Claimant states she saw the family doctor. He referred her to a specialist. The specialist examined her right wrist and said that there was nerve damage in both wrists with the right wrist being a lot worse and they would both require an operation.

#### **Injury:**

The Claimant is alleging that she incurred the injury to her right wrist as a direct result of performing her duties for the Employer, (XXXX Hotel)

#### **Date of occurrence:**

Progressively over the period of time of employment at XXXX Hotel. It was reported on 4th of August 2003.

#### **Time:**

The Claimant could not inform of a time of injury.

#### **Place:**

The Claimant stated the injury occurred at the XXXX Hotel in the kitchen area of the Hotel.

#### **Report of injury:**

The claimant states that she reported the injury to Mr Mc XXX, the Executive Chef for the Employer but could not recall the exact time she reported the injury.

The Claimant states that Mr. Mc XXX helped her to fill in her Work Safe claim because her comprehension of English is not very good.

In early August 2003, Mr. Mc XXX informed Mr. XXXX who took over his position as Executive Chef that Mrs XXXX has a muscle problem with her right wrist and was not to do any scrubbing or any task that she did not feel comfortable in performing.

Ms. ZZZZZ who is the Administration Investigator for the Employer stated that on or about 4th of August 2003 she was informed by Mr.XXX that Mrs. XXX had reported that she had been experiencing pain in her right wrist throughout the day.

He also stated that she had visited a medical practitioner on the 2nd of August 2003. The Claimant had also informed Mr. McXXXX that she had been receiving ongoing treatment for a medical condition known as Carpal Tunnel Syndrome.

The Claimant also informed Mr. McXXX that she had Carpal Tunnel Syndrome prior to commencing work for XXX Hotel and that her condition had become worse after commencing employment with the Company. The Claimant also stated that she had first become aware of this problem in approximately 2002 and had previously had pain and experienced numbness in her right wrist.

**Dates of cessation and resumption:**

The claimant has not taken any time off work.

**Employment details:**

The Claimant commenced work for the employer in late February 2002. The Claimant was employed as a Casual Kitchen Assistant.

Duties:

In her position as a Kitchen Assistant, the duties she performs include taking the trays out of all the bay-maries and placing them on the trolley and pushing the trolley into the kitchen area, cleaning all the bay-maries metal and glass surfaces, putting dirty plates into racks, rinsing off dirty plates with the industrial rinse hose, pushing the racks of plates into the dishwasher and then placing the plates on to the trolley once they are washed.

**Hours:**

The Claimant works approximately 35 hours per week from 5.00pm  
Until 12pm Monday to Friday.

The Claimant does not work regular overtime, however if it is busy or someone is sick then she will work overtime.

**Wages:**

The Claimant receives an hourly rate of \$14.78 and a weekly gross income of approximately \$611.15.

**Absentee & Tardiness Record:**

The Claimant has always been punctual and reliable. The Claimant has not required any disciplinary action since commencing employment at the Hotel.

**Training:**

The Claimant has received no training by the Employers in Occupations Health & Safety or any training in her job.

Concurrent Employment:

The Claimant states she had no concurrent employment while working at the XXXX Hotel.

**Light or alternate duties:**

On the 4th of August 2002, Mr. McXXX instructed the Claimant not to do anything that she felt could hurt her wrist. Since then Claimant has not done any scrubbing but has still been able to do her job and wipe things.

**Scene of accident:**

The accident scene was inspected on the 1st of October 2003. It is located in the XXXX Hotel in and around the kitchen and restaurant area that is situated in the western end of the Hotel.

The wash up and sink area where Claimant performs the majority of her duties, is an area that is approximately six meters long, three meters wide and is used as a cleaning point for plates, bowls, cutlery and plastic containers.

The walls in this area are covered with stainless steel splash plates and the flooring is of a non-slip pebble coat design that is in good condition and is free of pits, holes or cuts.

There are two rubber industrial non-slip mats in the area for staff to stand on to eliminate stress to their ankles and to provide extra non-slip protection for the staff.

The area has good drainage that allows any water spillage to run away quickly to a drain situated in northwest corner of the washing section.

There is a Hobart industrial dishwashing machine on the rear wall that has full stainless steel benches on either side and the sink area is constructed from stainless steel and consists of two wash approximately 700cm deep and the right hand sink is fitted with an Encore stainless steel hot water rinsing hose that has a flexible mounting that allows the hose to be moved easily in any direction for approximately one meter.

Squeezing a handle approximately ten cm long and two cm wide activates the hot water hose. The handle can be held in place by placing a securing O ring over the handle.

There is a stainless steel bench approximately four meters long, 70cm wide and 900cm in height to the right of the sinks. This bench is used to stack plates on and to scrape food leftovers into plastic refuse bins.

Three 1.5 meter double fluorescent lights that supply good lighting to the area illuminate the area.

The trolley that the Claimant uses to transport crockery and Bain Marie containers is approximately 800cm high and 1 meter in length.

The trolley is constructed of stainless steel and plastic is fitted with four multi directional wheels that provide for the trolley to be pushed fully loaded with little effort.

The Bain-Maries and salad bars in the restaurant that the Claimant is required to remove containers from are on average approximately 900cm high and 70cm wide of varying lengths and configurations.

The access for the trolley to be used to empty these Bain-Maries and the flooring is well designed to allow the trolley to move freely.

**Photographs: (Exhibits)**

Photographs were obtained and have been indexed and attached for your perusal.

### **Interview with claimant:**

Mrs xxx XXX was interviewed on 2nd of October 2003 at 10.30am and provided the attached signed statement in a willing and co-operative manner. In her statement the claimant provided information in relation to her knowledge of her personal injury, prior claims, salary, medical history, work history with the Employer and details of the injury. The claimant has provided signed authorities to obtain financial and medical records and they are attached hereto.

### **Witnesses and informants: (Interviews – Record of Conversations obtained)**

#### **Witness 1: Mr xxx XXXX**

Mr. Gregory Charles Freeman is the Executive Chef at the Watergardens Hotel. He was interviewed on the 14th of October 2003 at 4pm and provided us with a signed statement in a willing and cooperative manner. In his statement Mr. Freeman provided information relating to the Company Policy, Claimants job description, work ethic and report of injury.

#### **Witness 2: Ms mmm WWWW**

Ms. mmm WWWW is the Administration Investigator at the XXX Hotel. She was interviewed on the 14th of October 2003 at 9am and provided us with a signed statement in a willing and cooperative manner. In her statement she provided us with information about the Company structure, report of injury, policies and procedures.

#### **Witness 3: Ms ddd MMM**

Ms. ddd MMM is a Casual Kitchen Assistant employed by the XXX Hotel. She was interviewed on the 10th of October 2003 at 3pm and provided us with a signed statement in a willing and cooperative manner. In her statement she provides us with a job description, her employment conditions and details about the Claimants character and work performance.

### **Contribution and Recovery:**

In her statement the Claimant has admitted that she has had previous problems with both her wrists and has been receiving ongoing treatment. She also advised Mr. Xxx Mc XXX of this same situation and she has admitted the injuries may have been cause at her previous occupation as a machine operator at XYZ Clothing Manufacturers Melton Highway Melton.

Her specialist, Dr Nyles CAIANA of 425 Holmes Road Moon Ponds Ph. 9375-4444 has advised her that both wrists are damaged, and that both wrists are in need of surgery. Dr CAIANA has confirmed this diagnosis with me based on the medical report authority signed by the Claimant.

It is obvious that the Claimant has only claimed that her right wrist has been injured at XXX Hotel simply because that is the wrist aggravated by the rinsing hose. Enquiries reveal the insurers for XYZ Clothing are Invincible Insurance Collins St Melbourne Telephone 9666-8888. They have refused to confirm or deny any previous claim by this person.

Invincible Insurance may bear some pro-rata cost in regard to this claim.

**Legal Representation:**

None at this time.

**Summary:**

Our investigations confirm that Mrs xxx XXXX did have a pre- existing injury. The Claimant did inform me us that she had Carpal Tunnel Syndrome prior to commencing work at the XXX Hotel. She had been receiving ongoing treatment for the medical condition, which is caused by repetitive movement.

The claimant stated that she had first become aware of her problem in approximately the year 2000 and had previously had pain and experienced numbness in her right wrist.

The Claimant reported the injury to the Executive Chef. The Claimant was put on light duties as a result.

On the 6th of September 2003 the Claimant submitted a Work Safe Claim form.

The Claimant provided information stating that two doctors had examined her in relation to her injury.

The Claimant did not take any time off work. The Claimant states she only submitted a Work Safe Claim forms because her doctor had advised her to do so.

The Claimant did not require any medical or first aid treatment at work and it is evident that the injuries Mrs xxx XXX sustained were not caused by the duties in which she performed at the XXX Hotel.

The Claimant's specialist examined her wrists and diagnosed that she would need an operation on both wrists.

The Claimant has only stated a problem with her right wrist.

In conclusion I believe that the James Bond Insurance Company Pty Ltd should not solely be responsible for payments of any medical treatment related to this injury. Clearly Invincible Insurance may have the major responsibility for any costs arising from this matter but further intra-company enquiries will have to be made.

We hope this information will be of assistance to you in your ongoing investigations

Yours Faithfully

Michael Spillane  
Investigator

**ATTACHMENTS:**

\*Statements by:

- A: Mr. AAA
- B: Ms. BBB
- C: Mrs. CCC
- D: Ms DDD

\*PHOTOGRAPHS / Exhibits ( Indexed and Identified )

Employment Records for xxx XXX obtained and attached are outlined below.

1. Copy of entry in the accident injury report book
2. Employment records
3. Wage records
4. Leave records
5. Medical certificates
6. Group Certificates for the last 3 financial years prior to incident



## 2.5 Claim No: 04020033581 / B4

### STATEMENT

**Name:** Ms ddd MMM D.O.B: 1/4/1973  
**Address:** 4 - 19 Waterfall Street Taylors Lakes Victoria 3038  
**Home Phone Number:** (03) 9393 5566  
**Business Phone Number:** (03) 9390 8888  
**Occupation:** Kitchen Assistant (Casual)

### STATES:

My full name is Ms ddd MMM, I am 30 years of age and I live at 4 -19 Waterfall Street, Taylors Lakes Melbourne Victoria.

I work at the XXX Hotel as Casual Kitchen Assistant. I think all Kitchen Assistants are employed as casuals.

I began working at the XXX Hotel in May 2002. xxx McXXX was the Executive Chef and my direct supervisor up until the beginning of September 2003 when he ceased employment at the Hotel. Mr AAA who is xxx McXXX's brother in-law was then promoted to Executive Chef.

xxx XXX and I take instructions from Mr AAA and the instructions of all other chefs employed at the XXX Hotel.

I work Monday to Friday from 9am and finish at 5pm. I earn \$14.50 per hour and \$600 per week gross. I do not do any regular overtime, however if a staff member is sick or the restaurant is busy I will help out by working extra hours.

I have a 30-minute meal break and 2 ten-minute tea breaks per shift.

I occasionally work with xxx XXX, but only if either one of us are doing overtime.

I have not yet been provided with OH&S training or training in my job. However, Management regularly advises all staff to work safely.

I was provided with a copy of the Employers Staff booklet when I began working at the XXX Hotel. I had to read through it and sign it agreeing to the terms and conditions of employment.

I find the XXX Hotel and their kitchen an excellent place to work in. It is a very friendly work place. The Staff and the Management are easy to get along. I believe that Management is approachable at any time there is a need to discuss an issue with them.

Work is usually very past paced. We prepare lots of meals every week, I'm not exactly sure how many but I'm guessing thousands of them.

Our job doesn't require much manual lifting because we are provided with trolleys to place plates and containers on.

I do the same duties as xxx XXX. She began working at the XXX Hotel before me and during my time here I have found her to be a very nice person and I find her to be very hard working.

I was told that xxx had hurt her wrist, but I do not know the circumstances surrounding the injury.

xxx is a small petite lady and I think she might find holding in the handle of the rinsing hose a bit more difficult than I seem to find it.

By the end of most shifts I have a sore right wrist. I have not yet spoken to the direct supervisor about my problem with the rinsing hose and the effects that it is having on my right wrist.

I have not received any medical treatment for my right wrist.

I believe that if a foot activated switch for the rinsing hose was installed then this problem of having sore wrists would be eliminated.

I have read and understood this statement and agree that it is true and correct to the best of my recollection and ability.

Signed: .....  
ddd MMM

STATEMENT taken and signature witnessed by Michael Spillane at 4.00pm on Thursday 15th of October 2003 at Taylors Lakes Victoria.

Signed:

Michael Spillane.

.....  
*You are advised to study this format as it will assist you in another matter directed to you by way of an assignment by your trainer.*

*It should be remembered both examples provided are just that, examples, however we do assure you that they are based on Industry Standards and should be adopted.*

**2.6 Another Report Example – Theft**

**INVESTIGATION SERVICE,  
Victoria**

**All correspondence to:-  
P.O. Box 555  
Smithville  
VICTORIA. 3456.**

**Telephone: (61 3) 9600-5555  
Mobile: 0408 562 345  
Facsimile: (61 3) 9600-6666  
Email: is@bigpond.net.au**



-----  
25 April 2003

Our Ref: 666/VIC

Your Ref: 7778899

**This report is privileged and is prepared for Company's Solicitors in contemplation of litigation**

**Privileged**

**Attention: Jane Doe**  
Invincible Insurance Ltd  
Claims Department  
Locked Bag 6767  
Sydney  
NSW 2059

**Re: Runningdale Golf Club Policy:  
Theft of Members Sporting Equipment.**

**Claim No: 7778899**  
**Insured: Mr. Richard Jones**  
**Address: 7 Cranbury Court, Toorak**  
**Victoria 3142**  
**Date of incident: 29 November 2002**

-----  
Thank you for your instructions and the documentation that you provided in this matter.

In accordance with your instructions, an investigation has been conducted. We report accordingly.

**The Theft**

It is alleged by the Insured that on 29 November 2002 after playing golf at Runningdale Golf Club with Chris Nott and Ben Nalley finishing at 6:00 p.m.

He placed several items of sporting equipment in the boot of his car, but he put one set of golf clubs and a sports bag, which are the Risk Items, into the back seat of the vehicle. He then drove to 24 Hinch Street Malvern, the residence of Ben Nalley and parked in front of the house.

The Insured stated that after changing at the Nalley residence he, Nott and Nalley left at approximately 9:00 p.m. and went into the Central City to various nightspots finishing at

approximately 3:00 – 4:00 a.m. and he then went directly to his home at Cranbury Court Toorak.

Chris Nott rejoined Jones at approximately 9:00 a.m. and they both took a taxi to 24 Hinch Street Malvern at approximately 12:00 p.m.

The Insured stated that upon opening his car driver's door, he found glass inside the vehicle and discovered that the rear passenger door window had been smashed. The Insured alleges that stolen from the vehicle were his golf clubs in a golf bag and sporting gear and clothing belonging to Chris Nott and the Insured.

In the golf bag were the following;

- Taylor Made Driver R510, Graphite
- Taylor Made 300 Series Irons, forged, 3-SW, Steel
- Taylor Made RAC Wedges 52` + 60` , Steel
- Taylor Made Rossa Tour Putter, Steel
- Taylor Made Stand bag

The Insured stated that he then proceeded to the Malvern Police Station to report the theft.

The Insured stated that he was not aware at the time that his membership of Runningdale Golf Club covered him for loss of his Golf Clubs, but that Ben Nalley had informed him of this.

**Interview With The Insured**

We interviewed the Insured on 3 April 2003 at Sports Property 666 Ridge Road Richton, his place of employment.

During the interview we obtained a detailed statement, at the conclusion of which he read it out aloud, agreed it was true and correct and then signed it as such. A copy of the Insured's statement is attached hereto which should be read in conjunction with this report, as it articulates the circumstances alleged which surround the subject theft.

**CHRONOLOGY OF EVENTS: ( Time Line / Occurrence )**

<b>Date / Time</b>	<b>Event - Occurrence</b>
September 2002	Taylor Made Golf Clubs are ordered and delivered to Chris Nott
29/11/02	Nott, Nalley & Jones play golf at Runningdale Golf Club
29/11/02 6:00 p.m.	Nott, Nalley & Jones leave the golf club and drive to 24 Hinch Street Malvern. Jones parks his car in front of that address.
29/11/02 9:00 p.m.	Nott, Nalley & Jones leave 24 Hinch Street Malvern to travel into the city for a night out.
30/11/02 3:30 a.m.	Jones travels to his home at 7 Cranbury Court Toorak
30/11/02 9:00 a.m.	Nott arrives at Jones' residence
30/11/02 2:00 p.m.	Nott and Jones catch a taxi to 24 Hinch Street Malvern and discover that Jones' car has been broken into and golf clubs are missing
30/11/02 1:45 p.m.	Jones reports theft to Malvern Police
24/02/03	Jones claims for golf clubs through Runningdale Golf Club

**Conclusion:**

Our enquiries tend to confirm that the theft of the golf clubs is likely to have occurred in the manner alleged by the Insured.

It would appear, however, that the Insured cannot claim for the loss of these golf clubs through the Australian Golf Union Personal Insurance Plan, because he can provide no proof of purchase or ownership of the items.

The Insured has also failed to comply with Section 1, Paragraph 6, of the Insurance Regulations, that requires two quotes for replacement of sporting equipment to be provided with each claim.

It is also noted that the Insured has failed to comply with Section 4, Paragraph 10, which states that all reasonable precautions to avoid loss or damage must be taken by members for a claim to be honoured.

From our investigation it would appear that the Insured has failed to take reasonable precautions to prevent the loss of the golf clubs. It would appear reasonable for a person of the Insured's knowledge and experience to know that golf clubs are a highly sought after and commonly stolen item, and that leaving such items in the rear seat of a vehicle, in full view of the general public could constitute their loss.

In support that the Insured was not the owner of the golf clubs represented in this claim, our enquiries with Shane, a worker at the House of Golf in Bundall, Queensland, informed that he had heard Chris Nott had informed Jim Raines, the Queensland representative of Taylor Made Golf Clubs, that his entire golf clubs and bag had been stolen from his friend's car in Melbourne.

It would appear likely, given that the Insured has no proof of purchase, or any record or evidence to substantiate his alleged purchase of the golf clubs, that this information appears correct, and therefore the Insured has submitted a fraudulent claim in an attempt to have Invincible Insurance pay for and replace golf clubs belonging to Chris Nott, who is not a member of the Runningdale Golf Club, and not covered for loss by their insurance policy.

To further substantiate our thoughts along this line, it is apparent from the statement provided by the claimant that he believed the golf clubs sale price from Taylor Made Golf Clubs was \$2369.00. However, Chris Nott informed that he believed he had paid \$3000.00, when the actual price was \$3800.00.

Given this information, it appears that the Insured had, and still has, no knowledge of the true price of the golf clubs and therefore it would seem highly unlikely that Chris Nott had given the Insured the golf clubs as part payment for an unexplained debt.

We thank you for your instructions in relation to this matter and await your further comments or instructions.

We trust this information has been of assistance.

Yours Faithfully,

Michael Spillane.



# Conduct surveillance

## CPPSEC3030A

*This page is intentionally blank*

## CPPSEC3030A Conduct surveillance

### Introduction

This unit of competency specifies the outcomes required to gather information through surveillance operations. It requires the ability to select appropriate surveillance methods, plan and organise the sequence of activities, and use specialist equipment appropriate to the task. It also requires compliance with legislation applicable to surveillance processes.

Conduct surveillance - CPPSEC3030A	
Element	Performance Criteria
1.	<b>Prepare for surveillance operation.</b>
1.1	Applicable provisions of <b>legislative requirements</b> relevant to <b>assignment instructions</b> are identified and complied with.
1.2	<b>Surveillance methods</b> are identified and <b>background enquiries</b> conducted in consultation with <b>relevant persons</b> .
1.3	<b>Resource and equipment</b> requirements are confirmed and organised in accordance with client requirements.
1.4	Equipment is checked for operational effectiveness and faulty or damaged equipment reported or replaced as appropriate.
1.5	Inspection of surveillance site is conducted to identify and record <b>factors</b> which may impact upon assignment instructions.
2.	<b>Conduct surveillance operation.</b>
2.1	<b>Surveillance</b> is conducted in accordance with assignment instructions and legislative requirements.
2.2	Surveillance equipment is positioned and operated in accordance with manufacturer's instructions.
2.3	Individuals or groups behaving in a suspicious or unusual manner are identified and monitored.
2.4	Alternate plans are implemented where surveillance integrity is threatened or compromised and reported to relevant persons.
2.5	<b>Evidence</b> of surveillance is completed and processed in accordance with assignment instructions.

<b>3.</b>	<b>Complete surveillance operation.</b>	
	<b>3.1</b>	Report is prepared presenting all relevant facts and observations in appropriate <i>format</i> .
	<b>3.2</b>	Opportunities for improvement are identified and recommendations provided to inform future surveillance.
	<b>3.3</b>	Surveillance records are securely maintained with due regard to confidentiality.
	<b>3.4</b>	Surveillance equipment is checked, cleaned and stored in accordance with manufacturer's instructions.



## REQUIRED SKILLS AND KNOWLEDGE

### Required skills

- Advanced driving
- Communicate using appropriate channels and communication modes
- Covert observation
- Defensive driving techniques
- Framing digital or video image collection
- Identify and comply with applicable legal and procedural requirements, including licensing requirements, relevant to investigative activities
- Interpret and follow instructions and procedures
- Navigation
- Operate basic investigative equipment
- Organise equipment and resource requirements
- Participate in meetings and interviews
- Record, report and document information
- Relate to people from a range of social, cultural and ethnic backgrounds and of varying physical and mental abilities
- Risk assessment
- Source, collect and organise information
- Use and interpret maps and street directories.

### Required knowledge

- Applicable licensing and legal requirements relevant to investigative operations
- Communication channels and modes
- Evidence management principles
- Information gathering techniques
- Interviewing, reviewing and debriefing processes
- Investigative service options
- Legislative restrictions on the use of recording devices
- Observation and monitoring techniques
- Operational functions of a range of investigative equipment
- Principles of effective communication including interpersonal techniques
- Reliable and verifiable sources of information
- Reporting and documentation requirements
- Surveillance equipment, techniques and listening devices.

## 1 SURVEILLANCE

There are many books available to the budding investigator regarding surveillance, various techniques will be discussed and the author will probably include some case studies by way of examples, however, having read two or three of them you will soon come to realize that a constant message emerges from between the lines regardless of the author, the image of the investigator dressed in the trench coat, collar up hanging around the dark corner, is long gone, today's investigator may be the person standing beside you at the supermarket checkout or the person pulling the golf buggy up the same fairway as you at your golf club, in fact the most skilled operator is a person who simply is not there, he or she simply blends in and becomes part of the surroundings.

Surveillance is considered by many to be the most important method used by an investigator to gather information and evidence, the evidence gathered from just one hour of surveillance undertaken by a skilled operator may alter the course of events that could otherwise take weeks to determine.

By our observations of, and the following of people we obtain information about their activities, their movements when meticulously recorded tell us, and our client if the subject could be involved in activities that may cause some concern to them, it may be of a serious criminal nature, or, that of a more personal nature, whatever the issue is a competent investigator will soon learn the answers to the many questions asked by the undertaking of surveillance.

### 1.1 Preparation & Planning

Preparation and planning are essential since, once the operation has commenced, opportunities to re-organise it are extremely difficult.

**A good surveillance operator will carefully plan every mission in a logical and disciplined manner well before the surveillance commences.**

**“Failing to prepare is preparing to fail”**

Working as an Investigator your experience and knowledge will grow extensively. You will devote time to conducting covert surveillance. You may at times be confronted by **Person(s) Under Surveillance or Subject (P.U.S or Subject)** whilst on the job. Through a good cover storey (which you will have thought up prior to every surveillance job) and good planning will assist you in the integrity of the surveillance. Also knowing when to **'back off'** during surveillance can be a great advantage to the entire job and investigator.

Backing off is a very important skill that needs to be learned just as much as the general technique used by the investigator in the mechanical side of the overall surveillance itself.

Investigators are generally very competitive by nature and they may well feel that by letting the subject go for the time being is the same as failure; **nothing could be further from the truth**, knowing when to back off may very well allow you to preserve the operation... by continuing to blindly follow the subject until they become suspicious simply because you want to report a successful result to your client may influence the P.U.S. into acting in a deliberate manner by altering their activities simply to present an entirely different picture to you to report to your clients, in simple terms, **you will have blown it**.

A client does not enjoy having the subject call them in an irate manner demanding an explanation as to why someone has been watching them, ask yourself **who have you compromised when this happens, your client would be one person, and then, what of your own reputation**, I can also assure you that when this happens, it will probably be the last case you receive from that client. By deliberately letting the person go and to discontinue the surveillance the undertaking may not be compromised and will remain "intact", remember there is usually "another day" to nail it.

Most "rookie" investigators when learning how to conduct a surveillance are (*as would be expected*) somewhat anxious to impress, this is quite normal and expected, consider it as part of the learning stage, it's quite normal to think that every time you follow someone that the person "is on to you", it can be quite a daunting experience, always remain calm, become invisible.

## 1.2 The Surveillance – Plan & Positioning.

### Planning

It is important that the Investigator spends time in the planning of the surveillance, you may not be able to claim the cost of the planning as a direct itemised cost to your client when invoicing but I'm sure that it will be covered by you in the overall return; perhaps it may form part of your reconnaissance.

Planning the operation is just as important as the execution;

Consideration must be given to ...

- **The Location:** Is it a Shopping Centre, a Nightclub, a Court in a quiet suburb,
- **The Environment:** What, if any, is the dominate culture in the area,
- **The Timing:** Daylight hours, After Dark, a Weekday, a Weekend,
- **The Attire:** What should I wear so that I will blend in

Apply the "**S.M.E.A.C**" principle when planning the Surveillance.  
Know and Understand ...

- the **S**ituation, Briefing the situation,
- the **M**ission, What we need to achieve,
- the **E**xecution, How we achieve what we need,
- the **A**dministration, Who's involved, their roles, their responsibilities,
- the **C**ommunication, Call signs, the Silent Communicator, Signals

Set the Agenda – Work that Flow Chart – Cause & Effect – The Ripple.

**SMEAC** is widely used by the Police and is compulsory on all operations to avoid confusion, provide advice and information to all persons controlling or taking part in the operation, talk with them, allocate responsibilities, you'll be working with them and it is important everyone understands what is required of them.

You must gather all the information about the subject's habits and haunts before you attempt surveillance, ask the right people the right questions, get the answers you need to bring in a satisfactory conclusion.

**Cover yourself by preparing an alternative plan you can put into action should things suddenly go wrong. If you've done your homework well you will bring the surveillance to a satisfactory conclusion.**

**The more research you do the better.**

Find out where you can sit, where you can be, look for the most practicable spot that gives you the advantage of concealment from the subject yet still providing you with a good line of vision, and, you're going to have to be patient, you're going to have to learn how to operate within the environment; otherwise it won't be too long before that little old lady in a cardigan and slippers starts knocking on your car window wanting to know why you're parked outside her place.

What are you going to say ...? " Ahh.. nothing, I'm just sitting here ..."

It just happens that the little old lady has a son who is on duty at the local police station, and she's going to call him, and he is going to come out, and he's going to want to know why you're parked outside his mothers place, now everyone in the neighbourhood knows you're there, its game over.

*OOOOPPPSSS.- Blown it ...your client will not be impressed.*

Did you inform the local police that you would be working in the area, did you give them your details, you don't need to tell them the full details as to the nature of your investigation, surveillance, but talking to them before you take up your position will certainly reduce the risk of having a car pulled up behind you with flashing red and blue lights.

Consider this, one technique is to sit on the passenger's side and not the driver's side, it looks as if you're waiting for someone, ... the driver, ... your spouse.

### **1.3 Positioning:**

This will be determined by the area in which you'll be working.

You must secure a position of advantage from which you can observe, photograph, and record what transpires, one that will give you what you are looking for to produce a successful outcome and not compromise the client in any way.

In a quiet neighbourhood, you are always more conspicuous than if parked, walking, or standing on a busy city street. In a run-down section of the city, nothing but old cars parked on the street, your shiny new BMW will stand out and attract attention.

Think about renting an older car to blend in with what's acceptable to the residents, something that doesn't scream ... " Look at me, ... I'm over here ", curious residents will notice you sitting in your shiny BMW with tinted windows parked between the ten year old Ford and the bashed in Holden Ute, it also works in the reverse, blend in.

Perform a reconnaissance to familiarize yourself with the area before beginning the surveillance / sit-off, wear comfortable clothing that will blend in, is the tracksuit in the boot, a towel, gym shoes, clothes that will alter not only your appearance but purpose of your presence in the area, you may want to become a jogger, or a sales rep, remember if you return to the area on a regular basis make the changes to fit in. If the subject has noticed you he / she may recognize you by body shape, colouring or other features and traits - even if you are fully disguised ... be aware of this.

Surveillance takes time, so relax and learn to be patient, but remain alert. You may be sitting in one spot for a long while, so be comfortable as well as being alert, by the way, minimize eating and drinking ... a lone operator cannot break the surveillance to locate a "Bathroom ", ... oops, subject gone, again its game over.

#### **1.4 The Cover Story: You will need one and it'll need to be believable or plausible.**

Prepare a cover story in case you're spotted, identified and questioned. The cover story you stammer over and blurt out to a suspicious neighbour, or to your subject if he / she confront you unexpectedly will need to be convincing.

This session is closely aligned to the module CPPSEC3031A – Organise and Operate a Surveillance Vehicle, additional information will be delivered throughout the course and will be re-enforced by practical assignments.

The attitude associated with "losing" or "tossing" the P.U.S. (person under surveillance) is one of the first obstacles the "rookie" has to overcome; it is part of maturing as a good investigator.

The **general public** actually has no idea how surveillance is conducted and they pay very little attention to their surroundings.

Think of it, ... can you remember the vehicle that was behind you the last time you were driving somewhere, describe it and the driver if you can.

Unless you stay glued to the person's bumper like a caravan or make some type of irregular or erratic movement weaving in and out of traffic with squealing tires, the subject will more than likely have no idea you're around.

**There are those times, however, when even the best investigator will feel compromised; tailing a vehicle within an unfamiliar residential area can become a real disaster. Try and imagine what you would do when the P.U.S. makes an unexpected turn into a court or a dead end street and you follow blindly because you did not pay attention to the signage. Have no doubt that you will be confronted by a very distressed driver demanding an explanation.**

What if the subject **deliberately lured** you off the highway and into a dead end street where you had no way out and approached you ... what are you going to do or say ...

think of a reason why you are in that area of town, the old excuse of .... " I'm lost " ... I won't hold much weight I can assure you ...."

How would you explain the video camera sitting on the seat beside you, the open file face up on display?...think about it for a minute ...

So, let's pause and consider what it could be like out there not knowing how to "pull the plug" and preserve the mission, how would you deal with the confrontation if it were to happen, it would be wrong for us to simply brush over something as important as this, ...

Using the space provided below write down what action you would take to ensure you could preserve the integrity of the mission if you were confronted by the P.U.S. in these circumstances.

Some investigators get into the bad habit of just following the subject without **thinking ahead**, they become somewhat blasé about it, and if you do this you are setting yourself up for a fall.

**What Pre-Text could work for you ...** and what "props" you would need to support your cover story ...

---

---

---

---

---

---

## 2 Thinking ahead

Investigators need to think ahead when following a subject, know and understand the area where you are, read the signage on the side of the road, on the lamp-post, we do it so we comply with speed limits, look, read the sign to see if it is a court or a no through road, simply think ahead.

As an example, as you're driving on the freeway, think of the exits coming up and try to determine where the P.U.S. may be going, and then start forming a mental picture of the area taking into consideration the traffic flow to provide the necessary stream you may need to cover you.

**Never panic** even though you may be feeling you have been "burned", the chances are remote, **remain calm** and look for signs from the P.U.S. that may give you some indication as to the worth of your cover, ... learn to read the situation first, then take the action you think is appropriate at the time, you, and only you, know for sure why you are there, the P.U.S. is always uncertain.

There are characteristics to watch for such as, how often the person looks in the rear-view mirror and or side mirrors, slowing their vehicle uncharacteristically, changing lanes without indicating or maybe pulling over to the kerb and leaving the motor running with the brake lights glaring a bright red, if this happens perhaps it could be time to make the decision to leave it for another day.

The inside of most vehicles can be viewed from a distance and the investigator should pay attention to the activities of the driver, for instance, are they putting on make-up while driving, drinking coffee, eating, singing to the radio ... If so, they will be less likely to be paying attention to you and this should be a factor in your decision to back off or to stay with them.

When following a subject, you should always try to act like you are just anyone else heading to work. If you get stuck in traffic behind the subject, look off to the sides so that they can't get a good look at your face and make it appear as if you are interested in something you see nearby. You can also drink coffee, act like your singing, and or adjust a contact or something similar that would make the person believe you are not interested in them.

As obvious as it sounds, never, never talk on a radio when close enough to the subject for them to see. In fact, I wouldn't even like to talk on a cellular phone when they can see.

When all of your tactics have been used to keep up with the person and you still feel "naked," then back off, there is nothing wrong with backing off, I know it doesn't look good in a report if you were to suggest the person was suspicious of you so you "tossed it" because you felt compromised, your client doesn't want to read that, **and I'm sure** it would cause enough concern to generate some lengthy conversations between you and your client as to your continuance in the matter.

You may have to choose your words carefully when compiling your report, remember **you are a professional** and your client assigned you the case, maybe to suggest you lost the vehicle in heavy traffic rather to suggest you backed off because you felt somewhat compromised by the subject who kept looking in your direction would serve you better, and thus in turn, **preserve your professional standing with the client.**

Remember the objectives of a surveillance operation

- Obtain evidence of an offence.
- Locate a person, his residence or place of employment.
- Gather information about a person's activity.
- Obtain information about the activities of a Business or Organisation.
- Gather vital information for use later by some other source such as a Court, an employer, insurance companies, a spouse, a parent or other interested party who has engaged your services for a specific task.
- Identify person's associates.
- Confirm subjected activities.
- Safe guard the interests or assets of the client engaging your services for this task.

Surveillance can be carried out on foot, by vehicle, through static observation, by electronic means or a combination of several of these, in all instances there are governing rules and regulations that must be taken into consideration, amongst them being...

- The Private Security Act - Regulations.
- The Privacy Act.
- Surveillance Devices Act.
- The Evidence Act and others ...

The majority of surveillance conducted is done in a **Covert** manner whereby the Investigator basically operates in an 'undercover' situation, maintaining **secrecy, anonymity and discretion**.

The Investigator is required to maintain contact with the subject without compromising him / herself and running the risk of detection thereby, limiting the opportunities of fulfilling the task as requested by the client and creating suspicions in the mind of the subject, which may compromise the client and put them in a situation of potential danger depending on the circumstances.

Surveillance may also be conducted in an **Overt** fashion whereby deliberate efforts are made to make the subject aware that he is under surveillance.

This type of surveillance is generally done as a defensive tactic to divert the attention of the subject from some other activity or to create a false impression, it is a rare move and not usually practiced by Private Investigators, the instances of its use is a tactic utilised by Police, Customs Agents and Immigration Investigators as they have the resources and the force of law to protect them, it would be foolish to even consider this practice in the private sector, the **"Rookie or Novice"** Private Investigator should steer well clear of this tactic.

### 3 DESIRABLE QUALITIES FOR SURVEILLANCE OPERATIVE:

1. **Ordinary Appearance** - average height and weight without unusual or outstanding physical characteristics and no obvious mannerisms.
2. **Ability to act naturally** - under all Circumstances adopt any role or explanation when confronted with the unusual, expect the unexpected, be prepared.
3. **Alertness** - when a subject is lost it is usually due to a lack of concentration by the operator, the attention of the surveillance operator should always be on the subject.
4. **Resourcefulness** - make the best of a situation, if necessary ad lib a conversation, have a cover story prepared if confronted, always remain calm.
5. **Powers of observation and recall** - it is vital for an investigator to perceive and remember all that occurs during his surveillance, you may have seen it but did you observe it.



6. **Patience and endurance** - often an Investigator has to wait for long periods or follow a subject over great distances. Impatience will readily bring you under notice and lack of concentration may result in you losing the subject.
7. **Anticipation** - if the Investigator can anticipate the subject's movements, he can plan a suitable strategy for himself and optimise the opportunities of achieving the desired results and retain the advantage of a covert exercise.
8. **Enthusiasm** - surveillance can be boring and often stressful, particularly with an active subject. These factors can cause mental strain which can be physically draining. Investigators involved in surveillance must remain positive and not let adverse factors, over which you have no control, affect your approach and your task.
9. **Decisiveness** - Investigators involved in surveillance are entirely at the 'mercy' of the subject and as such, need to make the most of every opportunity that presents itself, a delay in your decision making process or any uncertainty that you exhibit may result in a lost opportunity for that one photograph or observation that may not arise again.
10. **Common Sense** - Investigators must have the maturity to recognise a situation that may compromise the surveillance or a situation that may place themselves, the subject or some other party in danger, common sense will tell you when to either back off or cease surveillance completely.
11. **Confidence** - Investigators must have confidence in their own ability to deal with a variety of situations many of which they have no control over or are unable to predict, if the situation is there it will need to be dealt with, use common sense, be confident and decide what to do, then and there.

We have touched on the need to plan the surveillance and introduced you to the SMEAC system of planning, we have gained an understanding of what we should consider by way of the environment and our approach so to minimize the risks of being comprised and can assure you that your trainer will address much more throughout the course, you will undertake assignments compiled to introduce you to the practical as well as the administrative side of surveillance, as investigators you will need to develop a skill set that will encompass both to ensure professionalism.

Let's now look at some of the techniques used, we offer these for your consideration, they are the techniques used by experienced surveillance operators and have proven to be effective, whilst each surveillance undertaken will differ from the last in some way or another the objectives remain the same, by adopting and applying the following techniques to commence with you will have the foundation to build on and alter to suit the circumstances.

Theory is one thing ... experience in the field is another altogether.

**Remember this .... People are creatures of habit.**

Think about this ... how long have you worked at that place? ... Now, how many different routes do you take to drive to work? ... I'll bet one ... maybe two at most.

This is true for most people, although I'm sure there are people who use an alternative or multiple routes to get to and from work depending on the traffic, but I would wager that even if they do they are very similar and close to one another.

Let's say that you lost the subject at the corner of Bank St and White St at say around 8:38 AM during the working week. There's a very good chance that he will be passing by there the next day at 8:38 AM, so be there. If he's there the next day and you lose him again, be where you lost him the next day, and so on until you reach your goal.

### 3.1 Techniques used in Surveillance.

Surveillance is very difficult to perform successfully, it is one of the more difficult and at times frustrating tasks directed to an investigator for undertaking, it may be the cheating spouse, and it may be that you have to undertake surveillance as part of an insurance or personal injury claim, whatever the matter, it is always a challenge.

You have to have the patience of a saint, a keen sense of human behaviour and use your own common sense based on prior knowledge of the subject matter and the environment in which you are working, by sound planning and adopting the right attitude a difficult surveillance will become less difficult to conduct.

Before we discuss various surveillance techniques in detail there are some things and some actions that are common to every form of surveillance you will undertake as an investigator / surveillance operator and you will need to consider them before you embark on your mission; to ignore or neglect to address them would be foolish and could prove to be disastrous.

Ensure that you are fully equipped to undertake the surveillance. Your vehicle should be reliable and should always have a full tank of petrol, your basic equipment should include such things as a street directory, recording device, a pen, a note pad, cameras (both still and video), binoculars, mobile phone, torch, a carry bag of some description, spare batteries, food and water at the very least, you need to be equipped before you leave the office.

What else do you think you may need to have with you as you walk to your car, prepare your own ‘ **Grab Bag** ’, write down a few things that you would consider as being essential to have with you, break the items into three main groups or areas.

- The Glove Box.
- The Cabin Area.
- The Boot.

My Glove Box	The Cabin Area	The Boot
Spare Batteries	Client Instructions	Change of clothing

List at least five other items in each area, you believe you should take with you before you commence your surveillance, your trainer will require you to furnish a ‘**Grab Bag List** ’ as part of your surveillance assignment and your understanding of this discipline.

## 3.2 SURVEILLANCE TECHNIQUES – VEHICLE

### Appearance in general:

The majority of the principles as outlined apply equally to both foot and vehicle surveillance, the importance of selecting an appropriate vehicle has already been discussed as has the changing of the appearance of the vehicle itself and the surveillance operator, by having a child restraining capsule sitting on the rear seat gives the appearance of the surveillance vehicle as being a family car, grocery bags also present the same scenario to the inquisitive, especially if surveillance is to be undertaken in a shopping centre or public car park facility.

When undertaking vehicle surveillance it is very important to quickly assess the driving attitude of the subject with particular emphasis to traffic law and the condition of the subject vehicle ...

### Factors such as ....

- How fast does the subject drive
- How slow does the subject drive
- Does the subject drive erratically and use indicators when turning
- Do the indicators on the subject vehicle work
- Do both brake lights work ... what makes the vehicle stand out

They all contribute in some way to your decision making process.

Use common sense, obey the local traffic rules, and try to keep as much distance between you and your subject as possible, while still maintaining a close tail. Try to keep at least one vehicle between you and your subject. If you lose your subject you will just have to start over the next day.

### Multiple Vehicle Use as opposed to Single Vehicle Use for surveillance.

Single vehicle surveillance is always difficult, the restraints on the operator are obvious, flexibility is somewhat diminished and the ability to remain within touch of the subject without being compromised becomes more and more difficult over longer distances travelled especially in light traffic conditions.

The ideal situation of course is the use of more than one surveillance vehicle and a second even a third operator, this technique provides the flexibility denied to the single vehicle operator, you can both follow your subject and change places as you see fit, the **Follow Car ( A )** could remain behind the subject while the **Lead Car ( B )** could be closely in front of him, **car A** could simply change position with **car B** as traffic conditions alter, or if it is thought either car has been compromised at any stage, one simply disappears for a short distance keeping in touch with the other and re-joins the pursuit a little later.

Of course, the more vehicles and investigators you have the more efficient you will be, but you will need to consider the cost involved and make sure your client understands the reasoning behind using more than one vehicle, perhaps you could suggest that as you may only get one shot at it you need the assurances of a strong back-up team so to maximise the chances of success, after all the purpose of the surveillance is to have the subject lead you to a destination, not for you to lose him at the next turn off.

### Try this ...

On the way home tonight pick a subject, anyone, put in say 15 minutes or maybe 15 kms with them, observe them, tail them, lead them, read the traffic, pay attention to the environment, their vehicle, then pick up another and do the same thing, you will be surprised how quickly you will be able to note small but significant differences between drivers, their general road behaviour will usually reflect their driving skills and they will become more apparent to you as you observe them; it does not take too long before you read each driver and anticipate their reaction as you both approach the set of traffic lights ahead. *(I still practice doing this when I'm heading out to nowhere in particular, my wife also gets involved, but she usually screams out such things as .. "Look at that idiot ... and I find that not quite as constructive).*

There are four basic vehicle surveillance techniques which, when practiced should bring you the desired results, practice them at every opportunity. In particular I have given more emphasis to the single vehicle use; however it applies to all vehicle surveillance whilst in pursuit of the subject.

**Caravanning** – This is the basic form of surveillance utilised in the majority of instances. It simply involves you following the subject from the rear and responding to his / her moves as he / she makes them, it does not mean however that you stick that close it is obvious to the subject.

**Leap frogging** - This type of surveillance is usually conducted when the destination of the subject is known to you from given or gathered information, your client may provide you with an address, or you may have gained knowledge of a location he / she is heading to and as such you are able to pre-empt his / her movements somewhat, by **leap-frogging** you simply spend some time in front of the subject and some behind, it is important to remember when doing this type of surveillance not to overdo it, each time you pass the subject increases the risk of you being noticed, again practice this activity at every possible opportunity.

**Front running** - This type of surveillance can be thrust upon you by circumstances such as heavy traffic, you may become stranded and may be forced to pass your subject, and then have to conduct your surveillance from the front utilising your rear vision mirrors, if this happens remain vigilant to any moves that the subject makes so to maintain a visual contact, if you are with a partner avoid the temptation to turn and look over a shoulder trying to get a clearer view, rely on the rear vision mirrors, and resume the caravanning technique at the earliest opportunity.

This technique however, is very effective in those instances where you have established and identified a particular route or pattern used by the subject on a frequent basis; it allows you to lead the subject to his home or place of work and means that you are not constantly in his rear vision mirrors.

**Paralleling** - this is also a very useful technique and could be effectively utilised in areas that you know well or in instances where you have been able to study the subjects movements and his / her own area.

It simply entails you using parallel running streets to those that are used by the subject which will break up the scenery in the subject's rear vision mirrors and keep you on the same course that the subject is travelling on. You will ultimately end up at the same place and you have not constantly been in his / her rear vision mirrors, the subject will, hopefully, not take any notice of your presence as you just happened to be there.

There are other techniques that experienced surveillance operators' use, and I have no doubt you will develop your own as you gain experience, you need only to take advantage of the everyday situation and utilize the opportunity to practice this discipline to become proficient and develop your skill set.

Remember that all basic principles and techniques remain the same in the way surveillance is conducted.

### 3.3 Surveillance on foot:

**One - up Foot Surveillance** is relatively ineffective and the chance of success is limited, however as private investigators, this type of surveillance is generally the situation you will find yourself in, you need to be prepared for any unexpected or sudden changes to a situation and adjust accordingly.

It is most frustrating to have your subject disappear into some gymnasium, health club or some such place you cannot enter because there is a difference in the gender between you and your subject, or there are restrictions imposed because it is a members only venue, this is the time you wish you had that partner with you that may at least gain access.

Only by you gaining experience and by developing those attributes as already detailed and explained to you by your trainer throughout the course will the chances of success improve.

**Create** the opportunity to improve your skills, again use that trip to the local supermarket to practice your surveillance skills, simply pick-up a subject, spend some time following them around, 15 minutes or so should be enough, then move on and pick-up another ...and so it goes on, it won't take long before your confidence soars as your skills and your technique develops, you will soon learn how to become invisible, you can also profile the subject simply by observing them, do they chose known brand names or a generic brand that is on special that week.

Ideally, foot surveillance should be run in a team situation but the client may restrict you from engaging another operator due to a limited budget, insurance companies more often than not only allow for one operator in the field, however, every effort should be made by you to the client to cover a second operator, explain to the client the risks involved by a limiting budget, point out the advantages of having that extra "**Back-Up** ", sell the idea, but look at the area in which you will operate before you make the approach to them.

Again, use common sense. If you have to follow someone during a lunch hour, dress as your subject would dress, he / she might go into a nice restaurant for lunch; you will need

to get into the restaurant as well to sit at a table where you can see and observe your subject.

This may be the one time to use that change of clothing you have in the car, nothing elaborate is needed, a change of a shirt, pants, shoes, pair of glasses and yes a fake moustache or a wig if you are inclined that way, but don't go overboard, just think of how many people you encounter on a daily basis. Can you remember what they all look like ... I don't think so, he / she is there looking for something / someone else, the subject is not looking for you.

If pedestrian and vehicular traffic is light, it is advisable to walk on the opposite footpath and to the rear of the subject. You must stay alert to changes of direction or where the subject enters a building.

If you are aware of where the subject is walking to, you may be able to walk ahead of them, being mindful of course that they may do the unexpected requiring you to react accordingly.

### **The Two – Up Foot Surveillance:**

The risk of detection or loss of the subject, especially in a crowd, is greatly reduced in a two-man operation. Where the streets are crowded, both Investigators should be on the same side of the street with the first operator closely behind the P.U.S. whilst the second, is some distance back where he / she can readily see his / her team mate but not necessarily the subject and always ready to take over as the "lead" when called on to do so.

In less crowded areas, one can walk on the opposite side of the street about abreast or slightly behind the subject, whilst the other Investigator would be on the same side as the subject but further back maintaining visual contact with his / her team mate.

Always use the props that are there for you, glass reflects images, use doorways, and take advantage of any other prop or fixture that is there if need be, those red postal mailboxes are everywhere, I'm sure there is one opposite the shop the subject entered.

**The two Investigators should change position periodically using perhaps a change of direction by the subject for this purpose.**

Of course we can go on and discuss a three man team, and even a four man team, the principles will not change; the advantage of greater coverage must be weighed against the cost involved, sure if you knew the subject was taking an unknown other person to the football match at the MCG and then move on to Crown Casino after the match you probably need as much assistance as you could muster.

Incidentally, it is handy to know the mobile telephone number of the subject, if you lose him in the crowd ring it, he may just answer it, or you may even hear it ringing off to the left in the distance, you just maybe able to spot him.

It worked for me once in the car park at Crown Casino ... the joys of a One – Up.

Let us now consider what is generally referred to as being the Fixed Point Observation or Surveillance, the Sit – Off.

### 3.4 Fixed Point Observation – Surveillance:

#### The Sit – Off

We have briefly discussed the importance of positioning yourself to observe the subject of your surveillance, the subject of course could well be an immovable object such as a monument or indeed a building that has become the subject of vandalism or, your job is to monitor and report the activities of attendees, visitors, curious sightseers, gangs of youths and anyone else that may be responsible for causing the damage to the property, be it the monument, building, vehicles in the used car lot or it may be you need to observe the flat where the client thinks his / her spouse regularly visits, it matters very little what the situation or the circumstances are, you are there on a surveillance and you may be there for hours.

Patience and powers of observation are extremely important.

The observation point is as equally important as it must be a place or location that provides you with the optimum vantage point so as you can observe all activity.

Before establishing your observation point you must satisfy yourself that it is the best advantage point available in the area by comparing several points. The observation point that provides you with the greatest advantage, whilst at the same time providing you with the greatest degree of cover and the lowest percentage chance of discovery, is the best point. Ideally, this point should also provide you with an escape route.

Often, you will find that the best observation point is probably the hardest to maintain from the point of view of concentration, patience and endurance.

It may be that you will have to spend hours looking through your rear vision mirrors, through a crack in a fence, through trees or bushes, over the top or through the windows of other cars or from a position that provides you with an uncomfortable sitting position. All things considered, if this is the best position you find, this is the position you should take.

Once you have established your observation point avoid unnecessary movement or conduct that will draw attention to yourself, and remain alert.

Remember that little old lady is still lurking somewhere, her son is still a Police Investigator.

#### **The observation point that you choose will vary greatly depending on weather conditions and the time of day.**

Night time observations are far more difficult to maintain and requires a position that may not be used in daylight. At night, descriptions are more difficult to obtain, colours are more difficult to perceive, as is speed and distance, movement also is more difficult to detect and concentration will wane as we are not nocturnal creatures.

All these factors should be taken into account when conducting night time surveillance and your attitude and approach should alter accordingly to ensure maximum effect.

Many suburban areas are covered by Neighbourhood Watch programs so any extended surveillance may result in you being confronted by a concerned citizen or the local Police.



If confronted by a concerned citizen have a cover story prepared and remember that this person, unbeknown to yourself, may be associated in some way with the subject that you are observing.

If approached by the Police always identify yourself and without going into great detail, advise them that you are working in the area for a specific purpose. There may be times where your presence in a particular area may compromise an ongoing Police operation and if you are asked to leave the area for this reason, do so, should this situation arise, note all relevant details including the Investigators Name, Rank and Member's Number, end your surveillance with the time.

When leaving an observation point ensure that you do not leave anything behind that indicates or suggests that surveillance has been conducted, leave the area as you found it, as if you were never there.

Secrecy is important, the average person is curious and every action of the investigator must appear natural in the environment.

Do not establish a fixed surveillance point that will be used for lengthy periods in the immediate vicinity of schools or children's play-grounds, you can count on being confronted by the Police, or some very concerned parents, and for sure your description and vehicle details will be recorded.

Similarly, the immediate area of banks, or other financial institutions should be avoided.

#### **4 Surveillance – Photography:**

On most occasions you will be required to produce photographic evidence of your surveillance. Specific instructions of this nature will or should be given to you prior to commencing any surveillance and these instructions will identify to you what is specifically required, check with your client.

To effectively conduct surveillance you must be equipped with both a still and video camera, the type of equipment that you choose is a personal choice but consideration should be given to the features and capabilities of the camera itself, the ease of use, the size and weight, all play an important role in the selection process, chose your equipment carefully, ask the expert for advice, buy at a reputable outlet, ask to be shown the features, ask for a demonstration, don't feel intimidated by technical jargon, and buy quality, pay the price for quality, a good camera will earn many dollars in the right hands, the adage .. " A picture is worth a thousand words " rings true to the Investigator, get to know your cameras, learn how to load them in the dark, keep them in good order and always protect the lens with a clear lens cover, a dirty or scratched lens will ruin that perfect shot, you can bet on it.

**A Tip:** Digital SLR cameras are available and can be used according to the needs of the investigator.

Video cameras all have built in zoom capabilities, technology is fast changing and digital units are now common, think of what your needs are, look to the future when making your

purchase, ask for advice, look for a unit with at least 20 x zoom capabilities or greater, but it is your choice.

It must be remembered however that some cameras with extended digital zoom capabilities often produce inferior end results with distorted or very grainy pictures.

Useful features on your video camera which can alter the operation of the camera automatically to cater for circumstances should include sports and landscape settings, and also provide night vision facilities.

Generally your client will specify how the finished evidence is to be provided to them (along with the completed written report and findings), so it is important to limit your equipment purchases when you start out until you are established and have regular work and know what the industry is currently using. Failure to do this may be costly with outdated, unnecessary or inappropriate equipment being unable to be used on a daily basis.

From time to time, you will be required to obtain video footage of your subject in circumstances where it is necessary to keep the camera secreted, preparation and construction of a bag of some description for this purpose which enables the camera to remain hidden but still easily operated should be considered and should form part of your equipment in a surveillance operation, it should fit in, like an accessory to compliment your attire, and above all be somewhat bland to avoid detection.

The extent that you go to in building on your photography equipment is purely a matter of personal choice, a new lens or additional equipment is expensive and can become rather cumbersome; keep it relatively simple but effective.

As with video cameras, your still camera and its functions are all a matter of personal choice, some prefer fully automatic whilst others prefer manual operation.

At the outset keep your equipment basic but functional for your requirements; get to know your equipment and always have it ready at the commencement of any surveillance operation.

We have covered much thus far in this session; techniques have been discussed that when put into practice should give you a sound foundation to build on and enhance as you gain experience in the field, as part of this module you will be required to undertake a number of surveillance assignments that will provide you with the opportunity to apply the theory and techniques discussed into practice in the field.

## 5 COMMUNICATION:

### 5.1 THE PHONETIC ALPHABET:

The phonetic alphabet (and the 24 hour clock format) is used in surveillance operations to ensure clarity and understanding and as a basic code to maintain a level of secrecy. It is used worldwide by Police and the Defence Forces.

The phonetic alphabet is as follows:

**A – Alpha**  
**B – Bravo**  
**C – Charlie**  
**D – Delta**  
**E – Echo**  
**F – Foxtrot**  
**G – Golf**  
**H – Hotel**  
**I – India**  
**J – Juliet**  
**K – Kilo**  
**L – Lima**  
**M – Mike**  
**N – November**  
**O – Oscar**  
**P – Papa**  
**Q – Quebec**  
**R – Romeo**  
**S – Sierra**  
**T – Tango**  
**U – Uniform**  
**V – Victor**  
**W – Whisky**  
**X – Xray**  
**Y – Yankee**  
**Z –Zulu**



**The 24 Hour Clock**

1AM	0100HRS
2AM	0200HRS
3AM	0300HRS
4AM	0400HRS
5AM	0500HRS
6AM	0600HRS
7AM	0700HRS
8AM	0800HRS
9AM	0900HRS
10AM	1000HRS
11AM	1100HRS
12 MIDDAY	1200HRS
1PM	1300HRS
2PM	1400HRS
3PM	1500HRS
4PM	1600HRS
5PM	1700HRS
6PM	1800HRS
7PM	1900HRS
8PM	2000HRS
9PM	2100HRS
10PM	2200HRS
11PM	2300HRS
12MIDNIGHT	000HRS

## 5.2 Hand Signals: The Silent Communicator

Develop a set of meaningful hand signals and gestures to use when audible communication may compromise the mission or alert the subject of your presence.

Work with your partner to develop a meaningful and effective set of hand signals.

The reality is that surveillance presents its own unique set of difficulties and problems to overcome as no two undertakings will be the same, as conditions change you will need to make changes to your planning and technique, it's for sure your subject knows where he / she is heading and the purpose for him / her being there, you may not, so be flexible in your thinking and planning and expect the un-expected.

We have by no means been able to cover all that relates to surveillance in this session but believe we have been able to provide a solid foundation on which to build on in the future, we have developed a number of assignments that will truly reflect the conditions and situations you will encounter as an investigator undertaking and conducting surveillance, you will be required to undertake the assignments and submit them when advised to do so for assessment purposes.

### Some simple rules:

- Don't hang around kinder gardens or schools for too long.
- The same goes for Banks, TAB's and other Financial Institutions.
- Be aware of local parking and traffic regulations.
- Be aware as to what is going on around you.
- Know your cover story must be convincing.
- Draw up a plan ' B ' just in case you need one.
- Expect the un-expected.
- Act naturally, don't draw attention to yourself.
- Avoid wearing strong perfume / aftershave.
- Avoid direct eye contact with the subject.
- Blend into the surroundings, become invisible.

Your trainer will discuss a number of other problems you may encounter when conducting surveillance and discuss the strategies and techniques associated with each situation, Public Transport, Crowded Areas, Hotels and Bars, Restaurants, clubs and Shopping Complexes present the surveillance operator with some restraints that may include such things as Privacy and OH & S issues.

**Some common terms used in surveillance:**

- PUS – Person under surveillance.
- Visual – You have spotted the subject.
- Burnt – The subject has spotted you.
- Eyeballed – You have had direct eye contact with the subject.
- Left Hook – The subject has turned left
- Right Hook – The subject has turned right
- Flip – The subject has done a U Turn
- Loc Stat – Location Status
- Sit Rep – Situation Report
- Game Over – The surveillance has ended

These are but a few of the most common terms used.  
Develop your own – it's you that is out there.

**You will be required to undertake a number of Assignments to demonstrate your understanding of this unit.**



*This page is intentionally blank*



# Organise and operate a surveillance vehicle

## CPPSEC3031A

*This page is intentionally blank*



## CPPSEC3031A Organise and operate a surveillance vehicle

### Introduction

This unit of competency specifies the outcomes required to select a suitable surveillance vehicle to perform required investigative duties. It requires the ability to operate a vehicle to perform both static and mobile surveillance functions while following road and traffic laws and assignment instructions. It also requires the ability to use surveillance equipment to gather information and evidence.

Organise and operate a surveillance vehicle – CPPSEC3031A.	
Element	Performance Criteria
1.	<b>Select vehicle</b>
1.1	<b>Assignment instructions</b> and <b>relevant information</b> is used to identify vehicle requirements in accordance with client and <b>legislative requirements</b>
1.2	Vehicle is selected based on assessment of all <b>factors</b> and confirmed with <b>relevant persons</b>
1.3	Routine <b>pre-operational checks</b> are conducted in accordance with <b>manufacturer's instructions</b> and <b>Occupational Health and Safety (OHS) requirements</b>
1.4	Faults and malfunctions are reported and action initiated to rectify problems or seek replacement as appropriate
1.5	<b>Consumables and spares</b> are obtained to allow for contingencies in accordance with investigation objectives
2.	<b>Equip and maintain vehicle</b>
2.1	<b>Suitability of vehicle</b> is checked against required <b>surveillance</b> activities
2.2	Internal layout of vehicle is arranged for full use of <b>surveillance equipment</b>
2.3	Surveillance equipment is safely secured to maximise comfort and minimise risk in accordance with OHS requirements
2.4	Accessibility to <b>stores</b> is maintained during surveillance in accordance with OHS requirements

<b>3.</b>	<b>Operate vehicle</b>	
	<b>3.1</b>	Vehicle is used for surveillance operation in the manner intended in accordance with manufacturer's instructions
	<b>3.2</b>	Driving hazards are anticipated, identified and controlled through the application of safe and defensive driving techniques
	<b>3.3</b>	Vehicle is driven in a safe and controlled manner to avoid damage to persons, property or the environment
	<b>3.4</b>	Vehicle is positioned to enable surveillance of person or asset and information gathered in accordance with assignment instructions

## Required skills and knowledge

### Required skills

- Advanced driving
- Apply advanced driving techniques as applies to following from in-front or behind another vehicle and anticipate its movement
- Communicate using appropriate channels and communication modes
- Covert observation
- Identify and comply with applicable legal and procedural requirements, including licensing requirements, relevant to investigative activities
- Interpret and follow instructions and procedures
- Navigation
- Operate basic investigative equipment
- Organise equipment and resource requirements
- Participate in meetings and interviews record, report and document information
- Relate to people from a range of social, cultural and ethnic backgrounds and of varying physical and mental abilities
- Risk assessment
- Source, collect and organise information
- Surveillance
- Use and interpret maps and street directories
- Use listening and recording devices.

### Required knowledge

- Applicable licensing and legal requirements relevant to surveillance
- Body's reaction to exposure to prolonged heat, cold and confined spaces (vehicle) and strategies to increase endurance
- Configuration and operation of information gathering equipment used from a vehicle
- Information gathering techniques
- Interviewing, reviewing and debriefing processes
- Laws of trespass
- Legislative restrictions on the use of recording devices
- Observation and monitoring techniques
- Operational functions of a range of investigative equipment and vehicle
- Principles of effective communication including interpersonal techniques
- Range of surveillance activities likely to involve use of a vehicle
- Reliable and verifiable sources of information
- Reporting and documentation requirements
- Surveillance techniques.

## Introduction

Broadly speaking, there are three features that must come under consideration when selecting and equipping a vehicle for surveillance work. Firstly, it must be roadworthy; secondly, it must blend as much as possible into the environment; and thirdly, it must afford reasonable comfort for the operatives, and facilitate the use of equipment.

A surveillance vehicle can be used in a number of different types of operations. A stationary unit is one from which the operative observes a location and records, by one means or another, the activities of a person at the location.

A mobile surveillance occurs when the vehicle is used to follow another vehicle. You may just be interested in the person aboard or you may also be interested in goods or items aboard.

The vehicle may be used to support foot surveillance. On occasions a surveillance vehicle will be used for all of the above.

A well-selected vehicle will allow the surveillance to stay on station, without being compromised, for an extended period. It will also facilitate the effective gathering of information.

### 1 Vehicle Preparation identifying surveillance activities

Before deciding what is required in the way of a surveillance vehicle you must establish what type of task it is needed for, the environment in which it is to operate, and all other relevant information. It must also fit within the client's terms of reference.

Experience from previous operations will be a good guide to selecting a vehicle and the operation should be discussed with colleagues and other members of the company before you make a final choice.

#### 1.1 Vehicle suitability

The environment in which the vehicle is to operate is probably the first consideration when making a selection. If it is to be a static surveillance the vehicle must blend in with, as much as possible, the surroundings and thereby minimise its notice ability. The factors that come into play here are the geographical conditions and the socio-economic environment.

The geographical conditions are those which will influence the operation of the vehicle, particularly if the surveillance is likely to become mobile. For instance traffic density, pedestrian density, building types road and street conditions.

In high traffic densities where the streets are narrow, a small vehicle could be the best choice, whereas in a location with high pedestrian density a vehicle with a height advantage, such as a van, would probably be the best choice.

If you've been hired to monitor the activities of someone on a skiing weekend then a four-wheel drive could be most suitable.

With mobile surveillance you should also consider how the operational environment could change. While it may begin in an outer suburb it may move into the city, or even into a rural situation.

The socio-economic factors are those which would make some vehicles suitable for some locations but inappropriate for others. For instance, a new SS Commodore would stand out in a street where most of the locals drive older model Falcons, Commodores, Toyotas and Nissans.

People are going to look at this vehicle parked in their neighbourhood; they are going to wonder who and why the person(s) is, sitting in it all the time. It will cause speculation among friends, and so on. In other words, this vehicle would last a very short period before being compromised.

By the same token, the same vehicle would be ideal in an area where twenty per cent of locals drive BMW's and where ninety per cent own vehicles less than three years old.

Other factors can make a vehicle noticeable. Heavily tinted windows, numerous aerials, special wheels or other modifications, bright or distinctive colour schemes, personalised or interstate number plates. Even a clean and polished vehicle will draw people's attention.

Anything that causes people to glance at your vehicle endangers your operation, because as soon as it is looked at you will be noticed in it. Someone sitting in a parked vehicle will raise interest, even suspicion, since there are very few valid reasons for people spending time idly sitting in a vehicle.

It may be reasonable to believe you are waiting for someone but if you're still there in an hour then that explanation becomes unreasonable and your presence is then definitely suspicious.

In a mobile surveillance some of these factors may not be as critical but since most mobile surveillances will be static until the subject moves, they will all usually come into consideration.

As with the geographical factors, the socio-economic environment may change and this must be taken into account.

During the extreme heat periods, if you can keep the windows of the vehicle away from the beating sun, you can usually reduce the uncomfortable heat to a minimum by utilizing a few simple techniques.

## 1.1 (a) Equipping a Surveillance vehicle

### **SAFETY - PLEASE NOTE:**

Your car Insurance must be contacted and informed of your intention to modify and / or install CCTV Surveillance equipment prior to installing any accessories. You may find that your current Insurance Policy won't allow you to affix equipment and it might be the case that it will not cover you if you need to make a claim. There are Insurance Policies that provide coverage; you might have to shop around for the best deal that might suit your budget. All Electrical modifications to your vehicle must be fitted by an authorised Auto Electrician to avoid any damage done to your vehicle's electrical wiring and / or other electronic components.

- If your vehicle is under factory or any other warranty, please seek the advice of your dealer in regards to modifying your vehicle or attaching any after-market accessories, as this might affect your Warranty.
- Before installing these devices in your vehicle one must read and adhere to the State's Transport Acts & Regulations, so none of the equipment interferes and/or distracts the operator of the vehicle.
- NONE OF THE SURVEILLANCE EQUIPMENT MUST BE OPERATED BY THE VEHICLE'S OPERATOR WHILST DRIVING THE VEHICLE.
- Do not affix cameras or other equipment where the vehicle operator's vision is obstructed.

The trainer will suggest how the investigator should set up the surveillance vehicle that has been chosen for the task once the legislative steps have been followed. There are a few ways that would be recommended.

- Permanent CCTV set up
- Temporary CCTV set up

### **Permanent set up of Mobile CCTV Cameras**

This particular set up is suggested to those investigators that intend to perform surveillance on a permanent basis. This would constitute installing colour CCTV cameras, capable of zooming in and out, the ability to have manual and auto focus adjustment with low LUX capabilities for night time operation and many more functions. These cameras will have to record on a mobile Digital Video Recorder (DVR) which would be set up in the luggage compartment of your vehicle. Your instructor will demonstrate how to install and wire up a surveillance vehicle by simulating this activity in class on a smaller scale using real time equipment.

Fixed CCTV cameras would require brackets to be mounted in position. These brackets are not readily available and would have to be designed, manufactured and fitted to the particular device. The Camera and bracket assemblies are to be affixed to the interior of the vehicle's glass pointing in the outward direction with heavy duty double sided tape. Wiring to the vehicle's 12 Volt DC power system should be left to an Auto Electrician so that one does not compromise the safety of the vehicle. Cabling the CCTV cameras to

the DVR should be done by utilising premade cables and socket assemblies that are readily available on the market unless one chooses to manufacture their own cables. To manufacture your own cables, one must have sufficient knowledge and understanding of 'cabling' and how to crimp BNC sockets and plugs.

Footage retrieval from the DVR and storing on a computer file is explained and demonstrated in class. This footage will be 'burnt' onto a disc media and presented to the customer. All files stored on discs are appropriately labelled and presented to the customer.

The most advantageous place to affix these CCTV cameras is on the inside of the front and rear windscreens, and rear side windows. If your vehicle has rear quarter windows, this area would be ideal. Side mounted cameras would have to be mounted on a 45 degree angle opposed to 90 degrees. The reason for this is because if you record footage at a 90 degree angle to your direction of travel, when you come to view the footage, you would only see a blur.

The side mounted cameras can be facing forward and / or backward. The Trainer will demonstrate these angles on the whiteboard and physically in class.

In regards to fitting a vehicle with hidden CCTV cameras that record the inside or outside activities of the vehicle, they can be installed and are only limited by the Installer's imagination. Cameras can be installed in the front grill of the vehicle, in the rear view external mirrors pointing outwards, inside the rear tail lights and to the undercarriage of the vehicle under the bumper bar around the tow bar area. Remember that if a camera is installed on the outside of the vehicle, it must be a water proof camera.

CCTV cameras aren't just mounted in vehicles; they can be mounted just about anywhere. They can be mounted on a bicycle, motorbike and on any vehicle. They are even mounted on motorbike helmets, so it's all up to your imagination as to how you are to capture 'the money shot'.

### **Temporary Setup of cameras**

It would be ideal if your surveillance cameras are temporary mounted on the vehicle rather than permanently installed. This would give the investigator the opportunity to swap vehicles in a short time if necessary. However the temporary fitted surveillance cameras won't have the capability of zooming in and focus adjustment. These units would have on board recording capabilities 'SD cards' which can be transferred to a computer for downloading and the battery level has to be monitored before running out of power. Another advantage of temporary mounted cameras against fixed cameras is the mounting method. One can use suction cup holders which are readily available at a low cost to mount these units which can be affixed to the interior glass of the vehicle. Your trainer will demonstrate how these cameras are mounted and adjusted to gain the optimum position.

## Equipment required for in class demonstration

- 240Volts to 12 Volts DC Power supply (10 Amp)
- DVR & Hard Drive
- DVR Software
- Hard Drive reader
- Mouse
- Keyboard
- 4 x CCTV Cameras
- 1 x FM Wireless Microphone transmitter and receiver (50 meters)
- Power cables
- 4 x Camera cables & BNC connectors
- 4 x Suction holders
- LCD Monitor (12 Volts DC)
- USB Stick 8 GIG

Your trainer will explain in class each component's function and capabilities. The Trainer will assemble and explain the circuit which will be set up as per manufacturer's instructions. The recording functions, footage downloading and searching for timed footage will be demonstrated in class.

## 1.2 Vehicle Preparation

### Keep Windows Opened:

This might seem obvious and it actually is. Keep as many windows opened as you can.

**Vent:** The inside of a vehicle can get very hot in the heat of the summer. Venting the inside of the vehicle as much as you can will keep the greenhouse effect and heat build up to a minimum.

**Install Fans:** You can go to just about any electronics store and obtain small fans that run off of separate batteries and install them inside your vehicle. It's important to get the kind of fans that have guards around them so you don't accidentally stick your head, hands or arms in the blades. It's important to run them off a separate battery. You don't want the subject to come out and have no battery power to start your engine for the actual tail.

Having some of those little portable flashlight battery fans around you that you can point at your face is also helpful.

### Outside Shade:

It's not always possible but when you can, get your surveillance vehicle in the shade as much as you can, this, of course, keeps the sun from beating down on your surveillance vehicle and helps keep the inside of your vehicle cooler.

In planning your pre-surveillance of the area, always look for places in which the surveillance vehicle can be stationed in the shade and make note of course of the times of the day that the surveillance will likely take place.



**Window Shades:**

Use window shades that completely block out the sun. By doing this, you can keep the sun blocked from your windows as much as you can this reduces the greenhouse effect of interior heat up. One of the best shades to use is a black curtain with black mesh behind them as black tends to block the sun the best. The mesh adds protection when you need to have the actual curtain open, of course it may draw attention to your family sedan, but vans are viewed differently.

**Window Tinting:**

Tinted windows are fine but there is a trade-off here. The darker your windows are tinted, the more problem you will have shooting through them to obtain good quality surveillance video footage or stills.

**Insulate:**

Your typical van has little insulation in it, a stripped van has none. That is, the only thing between you and the sun beating down on the top and sides of your van is the metal, any type of insulation you can install in the van will help reduce the inside heat, many place thick carpeting on the sides and roof of their surveillance van, this helps somewhat, but there are other forms of insulation you may consider.

### 1.3 Vehicle Configuration

Once you have identified the type of vehicle with the most appropriate appearance, you must consider the internal operational requirements and those of the personnel.

- How many operatives will be in the vehicle?
- How long will it be on station?
- What surveillance equipment and devices are to be carried?
- How is this equipment to be stored and retrieved?
- Will the vehicle facilitate the use of equipment?
- How the equipment and the operation to be disguised?
- What are the comfort requirements?

If your surveillance requires nothing more than the use of your notebook and log then the only other considerations will be those of personal comfort and the longevity of the operation. But if you need to operate a video recorder, camera with long lens, binoculars, etc, then the storage, camouflage, and use of this equipment becomes a major logistical exercise. A camera with long lens, sitting on the dashboard would arouse interest.

The first step in equipping a vehicle is to identify what equipment will be required, what consumables will be used, what the operatives will need in the way of refreshments, personal hygiene and other items to ensure a satisfactory standard of comfort. A major factor in these provisions will be the expected duration of the surveillance.

When this has been established you will be in position to work out how they are to be stored, ready for use and how they can be disguised. As well, when considering the

storage of these items you must keep in mind safety factors, for the operatives and/or the equipment.

For instance, equipment that could fly about under heavy braking is a threat to the operative and may suffer damage. Mobile phones should be fitted for hands free use, etc.

Consumables such as batteries should be available for quick replacement.

**Internal vehicle surveillance equipment may include:**

- Consumables and spares. (batteries etc)
- Digital and video cameras.
- Telephoto lenses.
- Binoculars.
- Disguises.
- Torch.
- Mirrors.
- Measuring tape.
- Voice recorders.
- Mobile phones.
- Other communication equipment.
- Diary, notebook, log and pens.
- Telephone directory.
- GPS, Maps and street directories.
- Night vision equipment.
- Special clothing (e.g. raincoats) and/or a change of clothing (to change Disguises).
- Consumables.
- Food and drink.
- Money, credit card/s.
- First Aid Kit .....Work Safe requirement for investigators working for contracted Inquiry Firms

In addition, there may be a need for certain other types of provisions. In cold weather, keeping a vehicle idling to keep the heater running would be suspicious. In this case, special clothing, even blankets may need to be supplied. The operatives should be consulted and informed about all these matters and their suggestions and desires given full consideration. Always seek the advice of experienced people, consult company policy and adhere to client requirements when preparing a vehicle for surveillance.

**Vehicle selection**

When all of the above has been completed you are in a position to determine just what type of vehicle(s) will need to be used. Budgetary constraints, either from your employer or the client, may also have a bearing on the selection.

**Vehicle safety**

There are two aspects to vehicle safety: the roadworthiness of the vehicle and the driver.

At all times vehicles must be roadworthy, well maintained, registered and appropriately insured.

Maintenance checks must be carried out on a regular basis and these will vary from a daily check of such things as water, oil, tyres, clean glass (inside and out not only for driving safety but also for camera use), tools and lights; to less frequent checks of such things as suspension and exhaust emissions. Routine vehicle maintenance by qualified mechanics needs to regularly address the vehicle's braking systems, tyre tread depth, wheel balancing, windscreen wiper rubbers, front end steering and suspension.

Investigative companies should have a vehicle maintenance schedule that must be followed. When faults and malfunctions are identified they should be reported to the relevant department and rectified in accordance with company procedures, the manufacturer's specifications and legal requirements.

For instance, the law requires that a blown headlight globe be replaced as soon as practicable, even if you're only going to be using the vehicle during daylight hours.

Before you set out in any vehicle you must reassure yourself that it is in a roadworthy and serviceable condition. Even if you've been told that everything is OK, for your own safety and protection carry out your own checks.

If you get halfway through the day and run out of fuel you will need to locate a refuelling station, and in the process lose your subject. It will go against your name if a random roadworthy check discovers that the windscreen washers are empty.

The driver of a surveillance vehicle must be suitably licensed and must drive in accordance with local traffic laws and regulations. The driver must also adjust to prevailing traffic and weather conditions.

Never succumb to the temptation to break the law, which might be particularly tempting during a mobile surveillance. If the subject vehicle is exceeding the speed limit do not do the same in an attempt to keep it in view. If you can direct another surveillance vehicle into a position to take up the pursuit, then do so, but if your only legal option is to lose contact with the subject, then do so.

Refrain from illegal parking and any other infringement that may, at the time, seem harmless even though convenient.

Company procedures for vehicle use must be followed. These will vary between organisations but usual procedures will include signing for vehicles, logging start and finish times, and odometer readings, recording fuel usage, reporting faults.

### **Positioning a surveillance vehicle**

Before you set out on surveillance the location and environment should have been checked out by at least the person who is to lead the operation. Of course, it would be better if everyone involved had an opportunity to reconnoitre the area beforehand.

The selection of a position for a surveillance vehicle will result from a compromise between the best observation position and the position least likely to be noticed.

The most suitable position for observation would be at the front of the subject's residence or place of activity. But this position would be the one most likely to be compromised.

The ideal position to prevent detection would be around the corner and out of sight but obviously this would make observation impossible.

The environment will determine the best compromise. In a busy area with lots of pedestrians and bumper-to-bumper parking, it would be feasible and necessary to park quite close to the subject location. In an open street with just the odd vehicle parked and moving it may be necessary to park as much as a hundred metres away.

The surveillance vehicle should be positioned so it has the ability to follow a moving subject, without being obvious. Making a U-turn to follow would probably be noticed and would mean the chase could only be undertaken for a short distance before a break-off would be prudent. Sometimes these situations cannot be avoided.

The use of equipment will also have an influence on vehicle location. If the client requires video recordings it may not be feasible to park a hundred metres away if your camera lacks the capability to record detail at that distance. It's pointless recording a subject if the camera cannot clearly identify that subject.

The weather can be a major consideration when determining the surveillance position, particularly in summer. As stated previously, an idling vehicle is likely to be noticed and thus compromised, so running air conditioning may be out of the question. On a thirty-eight-degree day operatives will not last long in a vehicle parked in the sun. Shady locations will need to be found and, as these are constantly moving, so must the surveillance vehicle.

### **Operating a surveillance vehicle**

While operating from a stationary vehicle requires one set of skills, driving a surveillance vehicle calls for an additional set of skills.

To competently drive a surveillance vehicle you must be able to:

- Remain unnoticed but keep subject in sight.
- Adjust your distance according to changing traffic densities and road conditions.
- Move from a position behind to in front.
- Use lanes effectively.
- Position yourself to take up surveillance.
- Give directions to other vehicles.
- Follow pre-planned strategies.
- Break-off and pick-up.

Street directory and map reading are essential elements on mobile surveillances and you must have a clear understanding of them and a capacity to read and interpret them quickly.

It is illegal and impractical to read a map while you are driving. Although not normally necessary, you may need to refer to a map if you are to move to a pick-up point, or to direct another vehicle to a pick-up point. . If you must read a street directory while mobile you must stop the car. Most modern GPS (Global Positioning Systems) provide locations to within 20 metres as well as time/distance and latitude/longitude data for location purposes. It is highly recommended that your vehicle is equipped with such a device, or that you have the availability of a portable GPS Unit to plug into the vehicle's cigarette lighter or power outlet.

If you are a passenger in a mobile vehicle you may need maps to:

- Keep all operatives abreast of your position.
- Direct the driver along possible alternative routes.
- Decide on a possible pick-up point of a lost subject.
- Ensure you do not follow a subject into a cul-de-sac or dead end.

Again, modern GPS Units will generally enable you to cover all of the above points without too much concern. You should keep the GPS maps updated with the latest version by downloading the relevant software as appropriate. Often you may find that an intersection has been replaced by a roundabout, or a new subdivision has been created since the last GPS update was available. An additional resource may well be your mobile telephone which usually has facility for GPS location with an up-to-date Map version. In any event, you should always keep your latest version Street Directory handy as a “back-up”

*This page is intentionally blank*



# Prepare and present evidence in court

## CPPSEC3009A

*This page is intentionally blank*



## CPPSEC3009A Prepare and present evidence in court

### Introduction

This unit of competency specifies the outcomes required to prepare and present information which may be used in a judicial or quasi-judicial environment as evidence. It requires the ability to gather and manage information, prepare and give evidence in court, store evidence and complete documentation.

Prepare and present evidence in court – CPPSEC3009A.		
Element	Performance Criteria	
1.	<b>Gather and organise evidence.</b>	
	1.1	Applicable provisions of <b>legislative</b> and <b>organisational requirements</b> relevant to the preparation and presentation of <b>evidence</b> are identified and complied with.
	1.2	A summary of the case history and other <b>relevant information</b> is gathered and organised.
	1.3	Information to be used as evidence is confirmed for reliability and relevance in accordance with organisational procedures.
	1.4	Evidence is organised in accordance with <b>evidence management</b> principles.
2.	<b>Prepare for court proceedings.</b>	
	2.1	Briefing sessions are held with relevant persons to confirm <b>court arrangements</b> , role and involvement.
	2.2	Information to be presented as evidence and negotiation parameters is discussed with <b>relevant persons</b> .
	2.3	Briefs of evidence are submitted in a logical sequence appropriate to jurisdictional requirements and comply with the relevant rules of evidence.
	2.4	Material to be used or referred to in court proceedings is thoroughly reviewed prior to presentation in court to ensure familiarity, completeness and availability.
	2.5	<b>Documentation and exhibits</b> are prepared to ensure their acceptability for use in court in accordance with procedural requirements.

<b>3.</b>	<b>Present evidence.</b>	
	<b>3.1</b>	<b>Rules of evidence</b> , procedures and <b>protocols</b> relevant to the jurisdiction involved are observed and adhered to throughout proceedings.
	<b>3.2</b>	Personal presentation, manner and language are consistent with court protocols.
	<b>3.3</b>	Evidence is admissible and presented in a clear, concise and unambiguous manner and complies with rules of evidence.
	<b>3.4</b>	Specialist opinion within own level of qualification and expertise is provided on request in accordance with organisational procedures
	<b>3.5</b>	Outcomes of proceedings and associated documentation and evidence are noted, filed and stored in accordance with legislative requirements.

## Required skills and knowledge

### Required skills

- adhere to court protocols and procedures
- check and review documentation for accuracy, spelling and grammar
- communicate effectively with people from different social, cultural and ethnic backgrounds and of varying physical and mental abilities
- communicate verbally and non-verbally in a clear and concise manner
- identify and comply with applicable legal and procedural requirements, including licensing requirements
- identify relevant and valid information as admissible evidence
- maintain, store and preserve evidence
- prepare documentation using appropriate structure and language
- read, analyse and interpret information
- record and accurately report information
- research, select and organise information
- select and use information technology appropriate to task
- store and preserve evidence
- use a range of business equipment and technology appropriate to meet task requirements.
- verify validity of information
- write reports using formal structure and language.

### Required knowledge

- briefing, documentation and preparation requirements
- court protocols and procedures relevant to the jurisdiction
- document and evidence management systems
- evidence preparation and presentation requirements
- general principles regarding the admissibility of evidence in courts
- organisation policies and procedures relating to own role and responsibilities and providing specialist opinion
- principles of effective communication
- privacy and confidentiality requirements
- procedures for handling and managing evidential exhibits
- relevant industry code of practice and legislation including 'rules of evidence' and 'continuity of evidence'
- requirements for handling and managing evidential exhibits
- storage requirements for information that is susceptible to spoil or damage (film, computer tapes)
- techniques to verify and validate information.

## 1 Introduction

When preparing evidence to present at court there are rules to be followed that govern the admissibility of such evidence, the validity and the method used to gather the evidence will often be tested by way of argument by the defence and prosecutor in a proceeding be it a criminal, and or, a civil matter and rulings may be made that could exclude that evidence that you as the investigator worked so hard to obtain, as well there are protocols and procedures that need to be observed.

Evidence may be deemed inadmissible for any number of reasons, it may be deemed as having being obtained illegally, it may have become contaminated in some way or another whilst in your care and under your control, it may also be argued that the Statement / Interview you have tendered is flawed as it was not duly prepared or signed in the correct format, whatever the reason counsel may argue, it is to you as the investigator to ensure any such argument would not reflect poor conduct on your part by your involvement in such matters.

We have already discussed the Gathering of Information by factual investigation, **Refer to CPPSEC3032A** and Store and Protect Information, **Refer to CPPSEC3012A**, and in doing so provided you with an understanding as to what is regarded as being evidence, you will have been made aware of the existence of legislation that governs just what is, and what criteria must be met to determine the worth of the evidence gathered by you during the course of our investigation, remember that everything that you tender as evidence is subjected to the **Rules Of Evidence – YOU** need to become familiar with them.

As covered in Work Effectively in Investigative Industry. Legislative requirements as related to workplace documentation, means that documents compiled within the workplace may be required for purposes of investigation, and evidence in court proceedings.

### 1.1 Care of diaries, day books and notebooks

It is GOOD PRACTICE to:

- Keep your notebook in a secure and safe place and not permit perusal by unauthorised persons. Loss of a notebook should be reported to your supervisor/manager immediately.
- File completed notebooks in consecutive order with ALL other completed notebooks.
- Ensure that NO notebook is destroyed without prior approval of your supervisor/manager (or as per company policy)
- When attending court relative to a recorded incident, ensure that the notebook is in your possession.

## 1.2 Making of notes

When you investigate an incident make notes of observations and conversations with persons connected with the incident. Being aware of the fact that you may be called as a witness and because it is dangerous to rely on unaided memory, you must record the facts contemporaneously or while the facts are still fresh in your memory.

YOU are expected to be an expert or professional witness and therefore the quality of your notes will reflect on your credibility.

It is vital that the investigator records the actual conversation in the first person e.g.:

I said, ".....?"

He said, "....." and not a generalized or narrative account such as....

"He said that he carried the bucket over to the well",

The only acceptable method for recording this conversation accurately is as follows:

I said, "What did you do with the bucket?"

He said, "I carried it over to the well"

**Exact words are to be used wherever possible, even obscene language, as this gives a true account of not only what was said but the manner in which it was said as well. This may be important later in court when a magistrates, judge or jury has to decide the facts.**

## 1.3 Collaborating in making notes

It has been held that it is proper for investigators to collaborate in making notes. In one case Goddard C.J. observed inter alia, "It seems to us that nothing could be more natural or proper, when two persons have been present at an interview with a third person, than that they should afterwards make sure that they have a correct version of what was said. Collaboration appears to be a better explanation of almost identical notes than the possession of super-human memory"

There is nothing wrong in discussing your evidence (collaborating) with a person (probably another investigator) who was present during an incident, the surveillance or the interview. The natural response to being asked 'have you discussed your evidence with any other person' is to say NO. You are allowed to discuss your evidence (before the matter commences in Court) with the person who was present with you at the time of the incident or interview and you should just say that yes you did discuss it with that person. You cannot CONSPIRE to tell untruths but you are certainly allowed to COLLABORATE with that person and discuss the evidence to be given.

## 1.4 Corroboration

The role of participants in the interview should be addressed as part of the planning. Having decided who is to conduct the interview, the corroborator's role is then to: -

- Take notes of admissions made during the interview and include times such admissions were made. The meter readings at these times should be noted;
- Note times of commencement, suspensions, resumptions and conclusion;
- Note description of exhibits and the order in which they are addressed during the interview;
- Note points overlooked or not pursued by interviewer for additional questioning at appropriate times (without interrupting the flow of questioning);
- Ensure all recording equipment is not interfered with or damaged in any way;
- Maintain a log of interview time and warn interviewer when recording is nearing completion so the text is not lost;
- Facilitate interview in the event of unexpected responses or conditions.
- Attend Court and give 'corroborative' evidence in regard to what was said or occurred.

## 1.5 In the Criminal Law, all offences are prosecuted by the Crown

This means that any person who is victim of a crime does not have to bear the expense of prosecution. To make this legal and effective, the Law implies that all offences are committed against the Queen (the rationale is probably that an offence against a subject of the Queen causes Royal intervention).

When a charge is laid against an offender, it is therefore listed as R - V - Smith. This means that "R" –i.e. Rex (King) or Regina (Queen) is taking Smith before a Court to answer to a charge laid by the Public Prosecutor.

In Victoria, the majority of Criminal Law is contained in the *Crimes Act 1958* and the *Summary Offences Act 1966*.

These acts describe offences, give the elements of the offence and show penalties. An investigator needs to know the elements of any offence under investigation.

Crimes usually have a more severe penalty attached to them because they can threaten the smooth functioning of society, whereas a breach of contract does not usually have implications for the State.

The main difference between civil and criminal negligence is the standard of proof required to win the case.

## 1.6 The Burden of Proof (Onus Probandi)

Essentially this means that “he who alleges a fact must prove it”. It is not enough to say that a person committed some act without tangible proof to back up the allegation. The burden of proving the allegation always rests with the accuser. The principle implies that an accused person does not have to prove his or her innocence.

## 2 The Presumption of Innocence

This principle follows on from the Onus Probandi. It means that a person is presumed innocent until the contrary is proved. During the arraignment of an accused person he or she is only asked to plead “Guilty” or “Not Guilty” as innocence is presumed.

### 2.1 Proof Beyond Reasonable Doubt

This principle requires that any accusation must be proved to be true beyond reasonable doubt. The jury is left to decide what is, or is not, reasonable. The Judge can assist the Jury with this determination if asked.

### 2.2 Ignorance of the Law is no Excuse

The Common Law did not allow a plea of ignorance as an excuse for a breach. If it did, then no one who claimed ignorance could be prosecuted and it would be a standard plea, making the law unenforceable. It can, however, be used as a defence. Whilst it is not expected everyone be aware of the law, ignorance of it does not excuse. It follows that individuals should acquaint themselves with the law relevant to the activity being engaged in.

This applies as much as to the investigator as to everyone else.



## Information to be used as evidence is relevant

Information to be used as *evidence* is to be relevant, recorded and organised to ensure accurate and timely identification in accordance with *organisational requirements*. Relevant documentation is to be completed in accordance with professional obligations in the case and organisational requirements must be prepared in accordance with *organisational requirements*.

The security and integrity of evidence and associated information must be maintained to prevent evidence from being contaminated, destroyed, lost or altered. Professional and consistent response to the use of evidence is crucial to meeting duty of care obligations relating to investigations. A knowledge and understanding of your responsibilities to investigations is fundamental for investigators.

## 2 Definitions:

### 2.1 What is evidence?

**Evidence is TESTIMONY whether ORAL, DOCUMENTARY or REAL which maybe legally received in order to prove or disprove some facts in dispute. (Ref: PHIPSON ON EVIDENCE)**

This refers to information supplied or given directly to a Court by a witness, the Court listens to and uses it because of its form, substance and source comply with certain legal requirements. These *legal requirements* are known as '**RULES OF EVIDENCE**'.

Physical evidence does not need to be visible to the naked eye and can include but is not limited to such evidence as fingerprints, footprints, footwear impression which may need to be enhanced in order to be recorded, compared and analysed.

**2.2 Rules of Evidence:** The rules of evidence governs the means and manner in which a person may substantiate his or her own case, or refute his or her opponent's case.

### Evidence may include:

- facts
- testimony
- documents
- physical exhibits
- Photographs (including video)

Operational records and reports are to be prepared in a timely manner, presenting all relevant facts and information in regards to the proceeding, and in accordance with organisational requirements, assignment instructions, and in accordance with legislative requirements.





### 2.3 Sources of evidence may include:

- searching the scene of an accident or crime scene
- interviewing witnesses
- information received from members of the public
- inspection of official records
- interviewing subjects or offenders

### 2.4 What is the approach to investigating an offence based on?

It is based on a balance between the people and things involved. The people include victims, complainants and witnesses who may know something about the matter as well as the alleged offender who knows all about it. The things include the physical means of committing the offence.

### What are the two traditional legal principles operating in favour of individuals subjected of committing an offence?

Legal principal are the Common Law principles based on our English traditions and form the fundamentals of the Westminster system of law which our law operates under. The presumption of innocence (everyone is presumed innocent until proven guilty) and the rule against self incrimination (the right to silence).

## 3 Types of evidence

### There are several different types of evidence:

- Direct Evidence
- Real Evidence
- Documentary Evidence
- Expert Evidence
- Circumstantial Evidence
- Hearsay Evidence

#### 3.1 Direct Evidence

Evidence of something that has been directly perceived by a witness through one or more of his or her five senses - for example, has been seen, heard, smelled, felt or tasted. Direct evidence is given by the witness in oral testimony in court.

Material objects, other than documents, which are produced for inspection by a court, are commonly called real evidence. This, when available, is probably the most satisfactory kind of evidence because it generally does not require testimony or inference unless its authenticity is in dispute.

### 3.2 Expert Evidence

Evidence of someone's opinion is generally inadmissible. An exception to that rule is the opinion of an expert. Such evidence is only accepted when it is in the witness's field of expertise. The witness must first prove to the satisfaction of the court that he or she is qualified in that field - for example, a doctor giving evidence of a medical matter or a pilot giving evidence of the ramifications of low flying.

### 3.3 Circumstantial Evidence

Evidence from which a fact may be inferred as a natural or probable conclusion from such evidence, it is usually made up of a series of items that point to the same conclusion.

### 3.4 Hearsay Evidence

This is an extremely complex area of the rules of evidence due to its various inclusionary and exclusionary rules, however at our level, it can be summarised as something said out of court (but now in court) to the witness who did not have direct knowledge of by some other person, not being the person present in court. It is hearsay and generally not admissible under normal circumstances as the person who is being spoken about was not present at the time to state his side of the story. (It may be admissible in the Coroner's Court or the AAT.)

#### **All information to be used as evidence is original material**

All information to be used as evidence is to be original material (it is the best evidence as it is the original) when available and certified as such in accordance with organisational requirements and legal requirements.

All areas or pages that may be needed in the original documents should be marked and tagged for easy reference. You should hold onto your portfolio, which contains the copies of all the evidence for your own reference.

Your portfolio can be taken with you into the witness box however you must not read it or refer to it unless you are asked by council or the presiding authority. You should not need to refer to the portfolio you should be converse with all the details. This is why as a witness we prepare and study the evidence before Court.

#### **All material is managed in accordance with evidence management principles,**

All material is to be managed in accordance with *evidence management* principles, continuity of possession and other legislative requirements. Such principles and procedures provide assistance for investigators handling evidence / exhibits. Investigators are responsible for the handling evidence / exhibits and need to follow strict procedures to ensure that information is manage correctly from start to finish. Procedures will vary from investigation to investigation.

### 3.5 Opinion Evidence

Evidence of what the witness thinks, believes, or infers in regard to a fact in dispute, as distinguished from his or her personal knowledge of the fact.

## 4 Evidence management principles

In addition to continuity of possession other management principles are essential. As an investigator you are responsible for the handling evidence and need to follow strict procedures to ensure that this information is manage correctly.

### 4.1 Maintaining integrity of evidence

The continuity of possession and other management principles are important for maintaining integrity of evidence. Investigators involved at any stage of an investigation may be required to gather evidence in order to provide proof for the case they are working on.

In the process of gathering evidence, investigators may handle various articles that may be required as evidence in various proceedings. It is important that the integrity of these potential exhibits be preserved.

## 5 Prepare for court proceedings

### 5.1 Briefing sessions are held with appropriate person(s)

Briefing sessions are held with appropriate person(s) to confirm court arrangements, role and involvement in proceedings. This will generally involve a pre-hearing conference with the Prosecutor or Legal Counsel.

In the investigation industry the main reason you will called up to court for is to give evidence as a witness in a criminal trial in regard to your observations of an incident, surveillance observations or an interview you conducted.

**Generally, the main reasons a person may be required to attend court and give evidence are as/for:**

- Witness — to a crime or have evidence in of a crime
- Victim Witness — this is where you are the victim in a crime
- Witness — in a civil matter or have evidence in civil matters
- Defendant — criminally charged(the accused, remember a person is innocent until proven guilty)
- Defendant — civilly sued

## Courts may include:

- County
- Supreme
- Federal
- Tribunals
- Magistrates
- Criminal, coronial and civil
- Industrial Relations Commission
- Human Rights and Equal Opportunity Commission
- Land and Environment Court
- Royal Commissions

## 6 What is a witness?

A witness is a person who has information which is evidential and relevant to a case being heard in a Court. This information is called evidence. Giving evidence is sometimes called testifying.

You may be asked to be a witness in court if you have seen 'or heard about an event which is related to a case and you are able to say how it happened. In criminal trials, a witness' evidence is important in helping determine if a person charged with an offence is guilty or not guilty. Witnesses may also be required to give evidence in civil matters involving disputes between individuals or corporations on issues such as breach of contract, a dispute over a will, or a claim for damages following a motor vehicle accident.

Most criminal trials take place before a magistrate in the Magistrates Court. More serious charges are heard in the County Court before a judge and in most cases, a jury. In civil cases, a jury is not usually required. Cases are heard and determined by either a magistrate in the Magistrates Court or a judge in the County Court.

### 6.1 Decision on what information is to be presented as evidence is made

Decision on what information is to be presented as evidence is made in consultation with appropriate person(s). The appropriate person would usually be the lawyer for the person who wants you to give evidence, your client's lawyer, or the police officer whose job it is to prosecute an offender.

Your client could also be an appropriate person and may not have a lawyer of their own for this particular case, thus you will need to consult and make decisions with your client directly.

You may have to consult with your employer or other members of the firm you work for. If you are self employed you may enlist specialty services to assist you in making the right decision such as your own lawyer, another private investigator, or ex-police detective or prosecutor that can offer the appropriate advise.

### Arrangements, role and involvement may include:

- confirmation of time
- date and location of proceedings
- confirmation of evidence required to be presented
- documentation requirements

Similar to - Decision on what information is to be presented as evidence is made; the same appropriate person(s) could include:

- lawyer for the person who wants you to give evidence
- your client's lawyer,
- police officer whose role it is to prosecute an offender
- your client direct
- your employer or other members of the firm you work for
- specialty services
- your own lawyer, another private investigator, or ex-police detective or prosecutor

In addition to the persons above you may have to consult with witnesses you have interviewed in relation to the case to define negotiation parameters and to ensure effective evidence preparation prior to proceedings.

### All material to be used or referred to in court proceedings is thoroughly reviewed

All material to be used or referred to in court proceedings are to be thoroughly reviewed prior to presentation in court to ensure familiarity, completeness and availability. As a part of your investigation you will compile a portfolio or brief of evidence.

After compiling your portfolio you can study and review the evidence prior to presentation in court to ensure familiarity, completeness and availability. Study and review should be done in the weeks prior to giving evidence, this will give you time to reflect on the evidence, confirm time lines, and it can jog your memory on parts you may have forgotten.

Arranging to be interviewed by a lawyer or prosecutor before the hearing to go through the case is one way of reviewing your evidence. This again is useful and will give you an idea of the type of questions you will be asked at the hearing.

At times a hearing could occur six or twelve months after the event, so it is reasonable to say that a person may have trouble remembering some specifics and time lines. This is why throughout all our courses we stress that;

- Reports and other relevant documentation are prepared in a timely manner presenting all **relevant facts** and **information** in accordance with organisational requirements and assignment instructions.

*All material is managed in accordance with evidence management principles; materials are to be managed in accordance with evidence management principles, continuity of possession and other legislative requirements.*

Such principles and procedures provide assistance for investigators handling evidence / exhibits. Investigators are responsible for the handling evidence / exhibits and need to follow strict procedures to ensure that information is managed correctly from start to finish.

Again any relevant documentation should be compiled and completed using the appropriate reporting techniques covered in *CPPSEC3001A Prepare & present security documentation & reports*.

Material objects, other than documents, which are produced for inspection by a court, are commonly called real evidence. This, when available, is probably the most satisfactory kind of evidence because it generally does not require testimony or inference, unless its genuineness is in dispute.

## 6.2 Documentation and exhibits may include:

- reports
- affidavits
- transcripts of conversation
- evidence logs
- photographs and video footage
- items of evidence
- media footage
- reports of incidents
- radio / telephone records or logs
- running sheets, surveillance logs
- witness statements

## 6.3 Documentary Evidence

Under Section 51 of the Victorian Evidence Act 2008, the original document rule has been abolished.

The principles and rules of the common law that relate to the means of proving the contents of documents are abolished under this section.

***Under the Victorian Evidence Act 2008, a document*** means any record of information, and includes—

- (a) anything on which there is writing; or
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (d) a map, plan, drawing or photograph;

## 7 Present evidence

### Personal presentation, manner and language are consistent with court protocols

Personal presentation, manner and language are consistent with court protocols and organisational requirements. There is no difference in presenting yourself to a client, to presenting yourself in court.

#### Court protocols may include:

- punctuality
- voice clarity and language
- examination and cross-examination procedures
- impartiality
- forms of address
- respect for people and offices held
- standards of dress, physical appearance
- readiness of self and evidence
- general demeanor

Anyone who **behaves or dresses inappropriately can be removed from the courtroom**. You must ensure mobile telephones and pagers are turned off before entering the courtroom. Video or other cameras, recorders, two-way radios or other electronic equipment are not allowed in the courtroom without the prior consent of the judge, president or magistrate.

Personal dress and presentation is to be maintained — Such as a notable difference in dress, investigators **should wear a suit to court**. You must appear to be clean cut and professional.

- Your **suit** should be clean and pressed
- Your shoes clean
- Your hair under control and tidy
- Shave before going to Court

In order that you provide an image of a professional, we must ensure that the presentation of the investigator is of the highest possible standard.

### 8 A professional investigator must remember;

- **Himself** - Self promotion, advertising himself as a professional to the Court
- **The Court** - Promoting a professional attitude, and a high standard
- **The Firm**- A direct reflection of the professionalism of the firm you work for

#### Personal Hygiene; this is an important factor, and includes issues such as;

- Washed and clean
- Hair neatly cut and brushed, or investigators with long hair to wear their hair back

- neatly
- Shaved or neatly trimmed beard or moustache
- Brush your teeth
- You may consider your breath
- Use deodorant
- Clean and pressed clothes

### **Punctuality;**

You should arrive at least half an hour before the time you are due to give your evidence. You will find a list of cases being heard that day on a notice board at the Court. When you find the courtroom where the case will be heard, tell the court officer that you have arrived.

You should then find the person or the lawyer who asked you to come to Court. You may be told approximately what time you will be giving evidence.

### **Attitude;**

- You must have the right approach to the case — **do not be biased**
- Your behavior must not only indicate honesty but must be honest
- You must have the right level of fairness and tolerance towards the people
- Your overall approach must be ethical

### **Knowledge**

You must also have a comprehensive understanding of the investigation and your evidence.

### **Responsibility**

An investigator must be prepared to take actions based on his knowledge, and operational requirements, within investigative principles, and the law.

### **Body language must be appropriate for court;**

- Don't be sloppy
- Don't lean against the wall
- Always keep a straight back
- Keep your tie tight and your shirt buttoned all the way up
- Keep your hands out of your pockets
- Don't cross your arms
- Look alert
- Try not to yawn
- Don't talk on your mobile phone

You will give your evidence from the witness box, which is near the desk of the court officer and Magistrate are formally referred to as “Your Honour”



## 8.1 Parties involved in criminal or civil cases;

- **Accused:** The person charged with committing an offence
- **Prosecutor:** A person who presents the prosecution case. In the Magistrates Court this is usually a specially trained police officer, a lawyer or representative from the agency initiating the prosecution. In the Supreme Court, this is usually a lawyer from the State or Commonwealth office of the Director of Public Prosecutions.
- **Defendant:** A person, company or organisation against which a civil case has commenced.
- **Claimant or Plaintiff:** A person, company or organisation that commences a civil case.
- **Defence counsel:** A lawyer employed by the accused or defendant to represent them in court.
- **Witness:** A person called to give evidence on behalf of one of the parties in a criminal or civil case.
- **Judge:** Presides over trials in the County and Supreme Courts
- **Magistrate:** Hears trials in the Magistrates Court and Children's Court without a jury.
- **Associate:** Sits in front of the judge in the Supreme Court, and the president of the Children's Court, and assists in the running of the court.
- **Judicial support officer:** Similar to an associate but this person sits in front of a magistrate in the Magistrates Court and Children's Court.
- **Orderly:** Assists the magistrate or judge to keep order in the court and calls each case. The courtroom

## 8.2 Courtroom conduct

When entering and leaving a courtroom, it is customary to bow towards the judge, resident or magistrate sitting on the bench.

You should enter and leave the courtroom quietly so you do not disrupt proceedings. Talking, smoking, eating and chewing gum in the courtroom are not allowed.

## 8.3 Being sworn

Your name will be called when it is time to give your evidence. The orderly will show you into the courtroom and to the witness box and ask you whether you prefer to take an oath to tell the truth or to make an affirmation to do so.

An oath has religious significance and an affirmation does not. Your evidence will be considered in the same way regardless of the choice you make and telling lies under oath or an affirmation is still perjury, a very serious criminal offence.

The Koran is always available in Courts if you are Muslim and do not wish to swear on the Bible.

## 8.4 Oaths and Affirmations (As per the Evidence Act 2008)

### Oaths by witnesses

I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that the evidence I shall give will be the truth, the whole truth and nothing but the truth.

### Affirmations by witnesses

I solemnly and sincerely declare and affirm that the evidence I shall give will be the truth, the whole truth and nothing but the truth.

## 8.5 Tips on Testifying In Court

### One

Appear and behave professionally. This applies both on the witness stand and off. Obviously this influences the jurors, but you never know who is "sizing you up," for the other side, while you're waiting outside the Court to be called to give evidence.

### Two

Before the trial/cases starts, walk in to the courtroom and familiarize yourself where the witness chair is located and the path you need to take to get to it. This enables you to walk directly to the stand in a forthright manner and be sworn in.

### Three

Dress professionally. Studies have shown that blue for men and black for women are the most appropriate colours for "looking believable." Men and women should dress in a conservative fashion, if you are a peace officer, your uniform helps your enhance credence. Avoid flashy colours, no Rush Limbaugh ties, and minimal jewellery.

### Four

When you are sworn in be sincere in taking the Oath. Follow the lead of the person swearing you in and use the exact words.

### Five

Once you are seated, sit up straight and look at the questioning lawyer, when answering make eye contact with the jurors or Magistrate.

### Six

Answer all questions verbally and clearly, do not nod. If you nod this will cause the court reporter and the judge to tell you to answer audibly and make it look like you're not sure what you're doing.

### Seven

Keep your hands in your lap. Keep them away from your mouth. Do not fidget.

### Eight

If you need to ask the judge/magistrate a question, look at the judge/magistrate and say "Your Honour" wait till the judge/magistrate gives you permission before you ask the

question. This maybe and will probably only be when your memory is exhausted and you are requesting permission to refer to your notes.

**Nine**

Listen very carefully to the question. Make sure you understand it before you answer. If you do not understand the question ask that it be repeated.

**Ten**

If either attorney objects, stop talking, let the judge rule on the objection and then continue.

**Eleven**

Avoid being combative. Let the opposing Barrister get as nasty as they want. They're more than likely trying to "bait you." You stay cool and answer the questions.

**Twelve**

If you make a mistake, admit it or say you don't know if you cannot answer a question. Don't try to cover it up. Nobody is going to hold it against you that you made a mistake, but they will certainly hold it against you if they think you're lying.

**Thirteen**

Know your facts, and try to give evidence word for word. You may look rehearsed but you should look natural during your testimony and then you will be able to handle cross examination, where the questions are out of sequence.

**Fourteen**

If the other side asks a question that you think is objectionable, pause before answering and give your lawyer a chance to object. If he doesn't, answer the question. If either Barrister objects, stop your answer and wait for the judge to tell you to proceed.

**Fifteen**

Avoid looking at your attorney when answering questions. This looks like you're asking for help and jurors might interpret this as a damaging question, even though your answer makes perfectly good sense.

**Sixteen**

Most important of all, tell the truth, the whole truth and nothing but the truth. Avoid temptation to embellish the truth just a bit. It's not necessary and if you're caught it makes your whole testimony subject.

**8.6 How will I give my evidence?**

The Prosecutor cannot lead you through your evidence except if the consent of the opposing Barrister or Judge is given. You will be expected to give your evidence from memory to the best of your ability and therefore should be prepared to do so. The Prosecutor may guide in the direction of your evidence but cannot lead you or prompt you in any way that takes away from you giving your evidence in a spontaneous manner.

You will then be subjected to “cross-examination” of your evidence by the opposing party. You may then be subjected to “re-examination” by your own Counsel on matters that have only arisen through the cross-examination process and not on matters already stated in evidence in chief.

If you can demonstrate the notes were ‘taken at the time’ you will be given permission to refer to the notes to enable you to give evidence.

### **8.8 What happens in a cross-examination?**

Cross-examination is when a witness is asked questions by the other person or lawyer in the case. One reason for cross-examination is to test the witness' evidence. Another reason is to obtain evidence which the witness did not give and which may favour the other person.

When the cross examination is finished, re-examination may be made, you will then be asked to stand down from the witness box.

### **8.9 Do I have to stay in Court after giving evidence?**

Once your evidence is finished, the person or lawyer who called you to give evidence will ask the Judge to excuse you from staying at Court. Once the Judge gives permission, you are free to leave the Court or to stay in the public gallery.

The evidence that you have given is publicly available (except in rare situations) and you can tell others what evidence you have given.

However, it is important not to discuss your evidence with someone who has not given their evidence yet so that there is no suggestion that that person's evidence has been influenced by discussions with you.

## **APPENDIX**

### **ACTUAL INVESTIGATION FILES**

(FOR TRAINEE INFORMATION AND KNOWLEDGE)

The following files are presented for information of Trainees on the Certificate III in Investigative Services CPP30607 Course. They consist of factual investigative files which have been conducted at the request of actual Insurance companies in relation to various Insurance Claim files.

All dates, names and addresses of witnesses have been deleted for Privacy purposes, but Trainees will be enabled to see the TYPE of investigation with which they may be presented on a daily basis. A hard-working Factual Investigator ought to be able to produce ONE REPORT PER DAY to this standard. Five detailed reports, per week, would put the Investigator on a six-figure annual salary.

Each file originally had individual Statements attached, as well as photographs where appropriate. The statements etc have been deleted from these files for the sake of

privacy, but Trainees could attempt to reconstruct these statements as an exercise, noting what the statements ought to have contained, in order to come to the conclusion reached in the report. Alternatively, Trainees could consider what else could have been included into the files, or what other enquiries could have been made, which would have led to a different conclusion by the writer.

Trainees should note the method of investigation, the style of reporting, and how the case unfolds, as well as several “techniques” which bring evidence to light for the Insurer as to whether or not the injury actually occurred as suggested, whether or not the claimant can be trusted, and whether or not the claim ought be accepted, defended or outright denied.

**APPENDIX 1 - A Compulsory Third Party (CTP) Claim.**

**APPENDIX 2 - A Work Cover Claim**

**APPENDIX 3 - A Public Liability Claim**

**APPENDIX 4 - A Burglary Claim**

**APPENDIX 5 - A Transport Accident Commission Claim**

**APPENDIX 6 - Some Practical Exercises**

## APPENDIX 1

Reference Number: ABCDEFG

1<sup>st</sup> September

Dear Sir,

### RE: Compulsory Third Party Claim, Mr. XXXX

**INSURED DRIVER:** Mr. XXXX date of birth 17/5/1960 of Flat XX No XXX Elizabeth Street Richmond Vic 3121, Telephone XXXX XXXX

**Licence No** XXXXX

**Years Driving Experience:** Approx 1 year 4 months

**Endorsements:** None

**Traffic Offences:** None

**INSURED VEHICLE:** 1972 Ford Cortina Sedan, Reg No XXX XXX Private

**Comprehensively insured with:** RACV

**Owner:** Mr. XXXX of XXXXXXXXXXXX 3121

**Phone No** XXXX XXXX

**NATURE OF CLAIM:** A Melbourne City Council Motor Cycle Traffic Officer is claiming personal injury as a result of your insured's driving activity.

**REPRESENTATION:** The Third Party Mr. XXXXX is represented by Galbally & O'Bryan

**CIRCUMSTANCES:** **Pre Accident.** The insured driver, a young and relatively inexperienced person, had just driven from his home in Richmond to the RMIT to drop off his younger brother and was then returning towards his Richmond flat. He had his mother as a front-seat passenger. The road was dry, and the weather was fine, there were apparently no restrictions to visibility. As he approached the intersection of Lonsdale and Spring Streets, driving towards Richmond on Lonsdale Street, the insured driver noted that the traffic lights were on amber. He said that he proceeded into the intersection, travelling at about 40km/h. He does not know if the lights turned to Red prior to his crossing over the stop line.

**Accident** As he was well into the intersection, a City Council Motor Cyclist Traffic Officer came across from the Insured driver's right and when this cycle was directly in front of the Insured driver's car, the two vehicles collided. It would appear that the impact was not great, as the motor cycle had little damage, and there was little damage to the Insured driver's vehicle. Additionally, it seems that the motor cyclist fell off his motor cycle and landed on the roadway not very far away. He was seen immediately after the accident to be sitting on

the roadway surface, not very far from his motor cycle. The Police were notified and they attended.

**Post Accident.** The Police attended the scene and took down details. They spoke briefly to all parties concerned, and did not advise the Insured driver that they would be proceeding against him. The Insured driver did not see the motor cyclist go away; he was told by the Police that he could drive home. He drove home.

**DESCRIPTION OF SCENE:**

Not Required

**INTERVIEW WITH DRIVER:**

In his statement (attached) the driver advises that he has been involved in one previous accident since he obtained his driver's licence, and this accident related to his failure to give way to his right. He had to pay for the damage to another car, but no Police attended, and the matter was settled privately. He has been driving now for just over 12 months. He admits that the lights may have turned Red before he entered the intersection, and he is willing to admit that the accident may have been caused by him. He does say that when he looked to his right after hitting the motor cyclist, he noted that no more vehicles had entered the intersection from the direction of his right, and this leads him to believe that perhaps the motor cyclist jumped the lights to get away quickly.

**Credibility.** The Insured driver would be a credible witness, although he is softly spoken and appears not to understand. It is doubtful if he would withstand strong cross-examination. It appears as though he admits the accident was his own fault.

**WITNESSES AND INFORMANTS:**

XXXXXX of XXX Elizabeth Street in Richmond. Is the mother of the Insured driver and was sitting in the front passenger seat at the time of the accident. There were no other passengers. This witness says in her statement that she was not paying attention and she did not know where the motor cycle came from. She only knows that it was suddenly in front of their car, and it was "sitting" on the ground, with the rider "sitting" next to it. She only felt a slight "bump". She says that she does not drive and knows only a little about the road rules, such as Red and Green lights, Stop Signs and so on. She knows that the lights were Amber when her son entered the intersection, but she does not know if they changed to Red or not, as she was not paying attention. She does not know who caused the accident.

**Credibility** This witness would be a very credible witness as she does not seem to support anyone in particular. However her knowledge is limited and her potential as a witness would be limited. She speaks absolutely no English, and any examination of her would have to be done through a Vietnamese interpreter. Her statement was taken through us, by an independent Vietnamese interpreter, and is attached hereto.

**THIRD PARTY:** We have not been able to interview the Third Party motor cyclist, as he is legally represented.

**POLICE ENQUIRIES:** Not required.

**SUMMARY:** It seems that the Insured Driver may well have run a Red Light at the intersection of Lonsdale and Spring Street. Alternatively it may be that the motor cyclist was travelling down Lonsdale Street toward the city, and right turned in front of the insured driver, or accelerated across the path of the vehicle in order to get away early from the lights. He probably did not expect a vehicle to come through the intersection on the Amber light. Determination of these matters will depend on the version of the motor cyclist.

**ATTACHMENTS:** Statement: Insured Driver  
Statement: Passenger in insured vehicle

We trust that the above is sufficient for your present requirements. If any further information is required, we shall be pleased to receive your instructions.

Yours faithfully,



## APPENDIX 2

Reference Number: XYZ1234

2<sup>nd</sup> May

Dear Sir,

### **RE: Worker's Compensation Claim No XXXXX – Miss XXXXXXXXXXXXX**

We refer to your instructions received in our office and advise that we have completed our enquiries and report as follows:-

**THE INSURED:** XXXXXXXXX of Macedon Street, Sunbury 3429  
Telephone XXXX XXXX  
**Contact person:** XXXXXXXXXXXXX

**THE WORKER** XXXXXXXXXXXXX date of birth 14/2/1958  
Of XXXXXXXXX Sunbury Vic 3429, Phone: XXXXX

**Description:** She is said to be approximately 163cm tall and weight about 65kg. She is of medium build with fair skin and fair reddish hair of shoulder length. She is quietly spoken, apparently of pleasant disposition and is known to be approximately 8 months pregnant at this time. She is of upright stance with no noticeable deformities.

**Dependants:** She is a sole supporting parent, and presently has a daughter aged 8 years who is fully dependant. As mentioned earlier, she is presently 8 months pregnant. It is believed that until recently she was living in a de-facto relationship with a young man who presently works at the ESSO Service Station in Sunbury, however nothing further is known of this union.

**LEGAL REPRESENTATION:** The worker is not legally represented at this time.

**NATURE OF INJURY:** Ear infection, Glandular Fever

**TIME, DATE AND PLACE OF INJURY:** Allegedly around September XXX whilst at your Insured's premises at the Sunbury Leisure Centre.

**DATES OF CESSATION AND RESUMPTION:** We understand that she lost time from the 27<sup>th</sup> August until the 3<sup>rd</sup> September, and again from the 1<sup>st</sup> October, until the 18<sup>th</sup> December. She subsequently lost time from 16<sup>th</sup> January until 7<sup>th</sup> February. She was again off work between

19<sup>th</sup> February and 22<sup>nd</sup> February. It seems that she again went off work on 26<sup>th</sup> February and did not resume.

**DUTIES:** She was employed under the Community Employment Programme as a Community Activities Worker. This was a position of 12 months' duration only.

**HISTORY:** **Personal.** Whilst we have made several attempts to contact the worker, we have been unable to do so. We do understand that she is very fond of animals, and does in fact keep several dogs, notably two Jack Russell Terriers and a German Shepherd Dog. We also understand that until recently she kept a Goat. She is an unmarried mother, and has been or is currently in receipt of Social Security (Centre Link) benefits. She is presently 8 months' pregnant.

**Medical.** Records at your insured indicate that she lost an initial three days (due to an "illness") between 27<sup>th</sup> and 29<sup>th</sup> August; that she again lost time from 1<sup>st</sup> October to 15<sup>th</sup> November, having been diagnosed on certificate as having glandular fever; she lost some 14 days from the 16<sup>th</sup> January due to acute Viraema and LOM, that she lost time on 30<sup>th</sup> January due to an upper respiratory tract infection, and a lower respiratory tract infection; she lost further time on the 4<sup>th</sup> February to the 6<sup>th</sup> February due to a throat infection; and lost a further one week from 19<sup>th</sup> February due to a "medical condition" .

**PAST EMPLOYMENT:** We have been unable to ascertain details of the prior employment of the claimant, however it is understood from your insured that she was at one stage working part time as a shop assistant in an aquarium or pet shop near Essendon. Due to the fact that she was employed under the Community Employment Programme, we do understand that she must have been unemployed for at least 18 months prior to coming to work for your insured.

**EMPLOYMENT:** **General:** Records indicate that she commenced at your insured on the 18<sup>th</sup> June XXXX under the Community Leisure Time Programme (C.E.P.), and that she was regarded as a friendly person who was very caring and was reasonably well-liked.

Whilst your insured have nothing detrimental to say concerning the manner in which she conducted her duties, they did indicate that they were less than satisfied with her refusal to resign, thus preventing them from re-advertising the position or replacing her. We note that as a result of pressure from your insured, she did in fact resign her position on 22<sup>nd</sup> March.

**Wages:** At the time of her last cessation she was entitled to a wage of XXXX Gross per week. Her average wage for a period three months prior to the date of last cessation was \$XXXX, and for a period six months prior to the date of her last cessation was \$XXXX. The current wage applicable to her if she was still working is \$XXXX per week. We understand that her annual salary was \$XXXXX per annum gross.

**Hours:** She was required to work usually between 9AM and 5PM but occasionally between 10AM and 6PM Monday to Friday (38 hour

week), with a 30 minute luncheon break daily and a ten minute tea break in the mid-morning and afternoon. She was entitled to no further rest or recreation breaks. She worked little overtime if any.

**Absenteeism, Tardiness:** We note that as a result of the alleged illnesses which the claimant suffered, she had in fact used all her available sick leave and a considerable amount of unpaid time as sick days off.

**Past WorkCover Claims:** Your insured have no record of any prior compensation claims from this worker. Our independent enquiries have failed to reveal the existence of any prior claims.

**Past Insurers:** We understand that your insured were covered for Workers compensation by the State Insurance Office until some 18 months ago, and that Manufacturer's Mutual Insurance have been "on risk" at all relevant times during the course of the claimant's employment.

**CIRCUMSTANCES:**

**Pre-Injury.** Your insured is in the business of XXXXXX and as such they provide community leisure time activities for the ratepayers of XXXXXXX. The claimant was in fact employed under the Community Employment Scheme as a Community Activities Worker, and her duties were many and varied, mainly she was required to publicise club functions, investigate funding sources, and give advice or assistance re the development of meetings, agendas, or the conduct of meetings for struggling organizations. Additionally she was supposed to work with the Leisure Centre staff to plan and implement new programmes and expand and administer existing ones after market assessment. Such programmes might be the Rap Dancing course or After School Programme. She was required to monitor and administer the operations of council's recently established community equipment pool, and in co-operation with the Community Activity Worker to update

the XXXXXX Recreation Inventory. She had to develop a XXXXX public relations brochure outlining recreational opportunities within the Shire. However, emphasis on a particular duty may change dependent upon a variety of factors including the claimant's skills and the agency's changing goals, etc.

We understand that the claimant commenced duties on the 18<sup>th</sup> June XXXX, and was working quite well in her capacity as Community Activities Worker until she started to take time off from the 1<sup>st</sup> October XXXX. It was not immediately known why she took time off, but it was suggested that at that stage she became pregnant.

We understand from the witness XXXXXXX, that the condition was initially diagnosed as being measles, and was then changed to glandular fever, and finally back to measles with a reversal to glandular fever.

**Injury:** Whilst it cannot be ascertained that the condition was brought about as a result of her employment with XXXX, we do understand that at about that time, there was a child care co-ordinator at the XXXXXXX, by the name of XXXXXXX, who had a 14-year-old son named XXXX who was ill with some glandular condition (not glandular fever). Apparently his symptoms were very similar to glandular fever and whilst they never found out exactly what was wrong, there may have been some discussion around the XXXXXXX that the boy had glandular fever or that glandular fever was subjected.

Apparently everyone at the XXXXXX knew that glandular fever was subjected. We do note that XXXX never came to the Leisure Centre and no-one at the XXXXXX could have contracted anything that he had. He was apparently given numerous tests which all proved negative. The reason for these tests is that his sister had died from a Lymphoma some 2 years earlier.

It was suggested by all of the witnesses at your insured's namely XXXXXX, XXXXXXX and XXXXXXX that no-one else in the Centre had contracted glandular fever, and that in fact the claimant had less contact with anyone who may have suffered such a disease, than did the other workers. It seems to be the general consensus of opinion that if anyone was going to get glandular fever as a result of ill children or other causes, it would have been the witnesses XXXXXXX or XXXXXXX, not the claimant.

As we understand it, glandular fever, or infectious mononucleosis is called “the kissing disease” and is mainly transmitted through saliva. It generally affects young people and is basically an excess of white corpuscles in the blood which may last several weeks causing the person’s glands to swell and then to appear tired and listless. It may affect the liver or give the victim a jaundiced appearance. However we understand that the only treatment is bed-rest and adequate diet. Since the means of transmission of this disease is allegedly through the saliva we would understand that the only real way in which the claimant could contract such a disease if it were present in the Leisure Centre, would be through kissing persons in the Centre, or through sharing used cups or glasses which had traces of saliva on the rim.

As mentioned earlier, it appears that no other person had ever suffered glandular fever whilst at the centre, and in fact no one else came down with the disease apart from the claimant.

In relation to the alleged ear infection, we have no certificates which will confirm that she did in fact suffer an ear infection as a result of her working environment. If it is alleged that this was contracted through the swimming pool at the Leisure Centre and whilst it is possible that such a thing could occur, we understand that generally public swimming pools are much better cared for than public

beaches or backyard pools, and that the likelihood of obtaining or contracting ear infections through these pools would be remote.

**Post Injury:** We have been unable to ascertain the post injury circumstances insofar as the claimant simply went off work, resumed for a short while, and then went off again. Apparently she eventually resigned as a result of pressure being brought to bear upon her by your insured. We do note from the witnesses conversations, that almost no-one at your insured is prepared to stand up and say a good word for the claimant, and they indicate that she is the sort of person who would “bleed the system” for every penny to which she was entitled. They advise that she was the sort of girl who would simply advise everybody of their rights under the Social Security Act, and possibly any other means where they could obtain monies without undue effort.

**Medical:** Whilst we are unaware of what continuing medical treatment the claimant is presently receiving, we do

understand that she did have a medical appointment in the City on 30<sup>th</sup> April. The nature of this appointment is not known.

**ALTERNATE DUTIES:**

These are not available, as the claimant has resigned her position, and your insured are of the opinion that they would not re-employ her.

**SUPERVISION AND INSTRUCTION:**

If in fact this disease was contracted as a result of the claimant's employment at your insured, we doubt that it could in any way be related to a failure to supervise or instruct by members of your insured's staff, as all workers were equally at risk. The fact that no-one else has suffered from a similar condition would appear to indicate that the claimant may not be genuine in her claim.

**DESCRIPTION OF SCENE:**

We have examined the XXXXXXXX, and have found it to be a modern brick walled and concrete floored building, which had carpets and timber panelling extensively used throughout as well as mirrors and other ornamental décor.

The first impression upon entering the Centre is of entering a place of health and fitness. We note the extensive use of disinfectants and deodorants, and that the place appears clean and health-inspiring.

We understand that cleaners are through the building at least daily, and that there are extensive washing up and bathing facilities including saunas and showers. If someone was to be put at risk as a result of working within the centre, we feel sure that the risk would emanate from the Child Care Centre where the Child Care Co-ordinator is required to handle upwards of 800 children per month and these children are of pre-school age having a requirement for their nappies to be changed, their noses to be wiped, and the like. It is interesting to note that no other person has complained of having contracted any such disease, and in fact there is no recorded incident

of any child coming into the Leisure Centre in a diseased or infected state.

We have also examined the initial residence of the claimant at XXXXXXXX in Sunbury, and we note that even at the present time it is in a somewhat dilapidated and run down condition. The exterior of the building is in poor condition, and it appears to be on the verge of a slum area.

We have spoken to the present resident of the house, Mr. XXXXXX, and he has indicated in his statement that when he

took over the tenancy, he had to scrub the floors and disinfect them as the floors were black and filthy. He said he had to disinfect the house and have it treated for flea infestation. Additionally, we called at the present residence of the claimant at XXXXXXXX in Sunbury, and whilst this is a brick residence and in reasonably good condition, we note that the yard has been allowed to go to seed, and there is a considerable amount of rubbish and debris left outside the house. We note that there are two small Jack Russell Terriers running loose in the front yard and a German Shepherd dog secured in the back yard. The claimant was not home at the time of our calls, and whilst we did not see inside the house, we would class the exterior of the premises to be less than hygienic. As a result of our observation of both these premises and the Sunbury XXXXX, if in fact the claimant has suffered glandular fever, we would suggest there would be more chance of her contracting such a disease from her personal or domestic habits rather than out of her employment situation.

Photographs: We have taken photographs of your insured's premises, as well as several of the front yard of the claimant's present residence. These are attached hereto.

**INTERVIEW WITH WORKER:**

We attempted to interview the worker on two separate occasions. On each occasion she was not available (even though appointments had been previously set). We left a note for her to contact us in relation to an interview. If in fact she does contact us (which we doubt) we will attempt to obtain from her a signed statement and signed medical authorities.

**Observation of capabilities:** Not applicable.

**WITNESSES AND INFORMANTS**

(Statements attached)

XXXXXXXXXX Pay mistress  
XXXXXXXXXX Assistant Shire Secretary  
XXXXXXXXXX Leisure Centre Supervisor  
XXXXXXXXXX Supervisor  
XXXXXXXXXX Leisure Centre Supervisor  
XXXXXXXXXX Receptionist/Admin Officer  
XXXXXXXXXX After School Activities Tutor  
XXXXXXXXXX Child Care Co-ordinator  
XXXXXXXXXX Present occupant of Claimants old home

**Other Witnesses:** We were unable to locate any other witnesses to the alleged communication of glandular fever to the claimant.

**SUMMARY:**

Our investigation has shown that the claimant was employed as a Community Activities Worker with XXXXXX for some 4

months prior to falling pregnant. We understand that as a result of her duties with the Centre she had very little close contact with children and certainly not as much contact as other personnel there.

The insured's premises at XXXXXXXX would seem to be a clean, healthy environment, and no other person has contracted a similar disease there being no knowledge of any infected person having come to or remained in the Leisure Centre. However a rumour of glandular fever was being circulated at the time of the claimant falling ill. We do know the claimant was fond of animals, keeping several dogs and a goat. Her previous residence had to be treated for flea infestation and scrubbed and disinfected prior to a new tenant taking up residence. Her present residence is in less than a neat and tidy condition, and may be a source of disease.

It seems that the claimant was well aware of her rights to various forms of compensation and/or social security benefits, and was not backward in advising others of their similar rights.

None of the witnesses spoken to are able to confirm that the claimant contracted the disease whilst at your insured's employ, and they all suggest that the claimant's veracity should be doubted.

**LIABILITY:**

**Work Cover:** The evidence was presented to us does not support the premise that the claimant contracted any communicable disease as a result of her employment with your insured. If in fact she did contract such a disease, our observations of the claimant's past and present residences and living conditions would indicate to us that it was more likely that she would have contracted such a disease as a result of her social or domestic arrangements than as a result of her working conditions.

If you were to accept this claim, we would consider it akin to the opening of "Pandora's Box" and would suggest that you could have a run of claims for such things as head colds, or influenza. We can only recommend that you deny the claim, but would suggest it may be in your interests to have the claimant medically examined before so doing.

**Common Law Negligence:** We do not see where your insured could be held to have been negligent under these circumstances.

**SUBROGATION &**

On the basis of our enquiries, not applicable



## CONTRIBUTION

### MEDICAL

#### AUTHORITIES

Not obtained as we have not interviewed the worker

#### ATTACHMENTS:

Photographs: XXXXXXXXX

Photographs: Claimant's old residence

Photographs: Claimant's new residence

Photocopies: Claimant's employment Records

We trust the above is sufficient for your current requirements. Should further investigations become necessary, we shall be pleased to receive your instructions.

Yours faithfully,

(File Notes: "Subrogation" refers to a case where an Insurer has (for example) paid out the value of stolen goods to a claimant. If those stolen goods are eventually recovered by the Police, they then belong to the Insurer, and not the Claimant. The ownership of the property has been "subrogated" to the Insurer.

"Contribution" refers to an injury which may have been sustained over a prolonged period, and where an earlier Insurer may have been "on risk" during that period, thereby having a liability to contribute to part of the costs of the claim)

## APPENDIX 3

Reference Number: 23456ZYXW

18<sup>th</sup> February

Dear Sirs,

**Re: PUBLIC LIABILITY CLAIM XXXXXXXX Mr. XXXXXXXXX**  
**Your Reference: 850090(MMI) RA:jw**

Thank you for your letters of 14<sup>th</sup> January and 30<sup>th</sup> January. We advise that on 12<sup>th</sup> February we attended at Geelong and investigated the claim on your behalf.

**INSURED:** XXXXXXXXXX  
XX Little Fyans Street South Geelong ph XXXXXX  
**Contact** Mr. XXXXXXXX

**POLICY NUMBER** To be advised

**CLAIM NUMBER:** To be advised

**CO-DEFENDANT:** Mr. XXXXXXXXX of  
XXX Brassey Avenue Highton

**THIRD PARTY** XXXXXXXX of Bellpost Hill

**NATURE OF LOSS:** Alleged personal injury to XXXXXXXX

**LIABILITY:** Yet to be determined

**RESERVE:** Yet to be determined

**PREAMBLE:** St Joseph's College at XXX Aphrasia Street in Newtown is a Catholic Boys Secondary College catering from years 3 to 12. The proprietors of the College are the Trustees of the Christian Brothers, St Patricks Provence, St Treacy College at 156 The Avenue in Parkville 3052

In early 19XX they entered into a contract for the construction of a multipurpose hall (basketball courts, volleyball court, gymnasium, etc) with the insured Company XXXXXX. This was a lump sum contract, Edition 5B, copyrighted in the name of Royal Australian Institute of Architects and the Master Builders Federation of Australia Incorporated. In turn XXXXX sub-contracted some portions of the original contract to other companies, in this case notably the roofing was sub-contracted to XXXXX for a firm price of \$42,800. A letter of

**THE CLAIM:**

acceptance was dated 15<sup>th</sup> February 19XX. We understand that work on the site was completed on 24<sup>th</sup> September. Is that XXXXXX, an employee of XXXXXXXX Pty Ltd had been working on the roof of St Josephs College on 13<sup>th</sup> April, and in order to descend from the roof at about 3PM he had utilized a ladder which belonged to your insured. It is claimed that whilst descending the ladder, the said ladder collapsed under Mr. XXXXXXXX and he subsequently suffered personal injury by falling to the ground. It is alleged that your insured had been negligent, amongst other things, by providing an unsafe ladder for MR XXXXXX to descend.

**THE INSURED:**

XXXXXXXXXX are Registered Master Builders in the Geelong area. As their business, they regularly contract for construction work in and around the Geelong area.

For the purposes of construction of the multi-purpose hall, the insured company occupied the site at St Josephs College, and had control over construction work on the site. However, they had no control whatsoever over the employees of their sub-contracted company XXXXXXXX.

Whilst full particulars of the contract have not been made available to us, we understand that you may obtain a copy of the contract from the Royal Australian Institute of Architects. We have also been informed that it is normal for contractors and sub-contractors to provide their own tools-of-trade with which to work, however, in this particular case there was an exceptionally high roof, and XXXXXX did not have his own ladder of sufficient size to gain access to the roof. We have been further informed that it is usual that contractors may borrow the equipment of other contractors in order to get the job done. It would seem that there may have been an implied or tacit consent from XXXXXX Pty Ltd to allow XXXXXX employees to use their extendable ladder.

**THE SCENE:**

Whilst we have not visited the scene, we understand that the multi-purpose hall, whilst it was being constructed, was situated on dry and firm hard packed clay. We understand that there were no slippery substances or liquids situated in the immediate vicinity of where the ladder was placed against the roof. The roof of the multi-purpose hall was some 8.5 metres high from the ground.

**THE LADDER**

The ladder referred to is an "EZI-LIFT" aluminium extension ladder, measuring 6 metres 140mm long (folded) and has two rubberized foot pads, each 110mm long at the base. These foot pads are moveable and are fixed to the base of the ladder with a single bolt through each pad. The pads are

thick, in good condition, and did not apparently contribute to the ladder falling. The ladder is manufactured by BRADLEY BROS LIMITED in Sydney under license to R.D> WERNER CO INC in U.S.A. The sides are 75mm wide by 25mm thick and there are 20 rungs in each extension, each rung of patent non-slip aluminium surface 110mm in diameter and located some 330mm apart. The ladder has two easy lift spring loaded brackets on the base of the extension, and these brackets lock into position once the ladder has been raised and lowered to the next available rung. The ladder is raised up by a 40mm diameter nylon rope which is attached to the spring-loaded brackets, when the rope is pulled, the brackets spring open and allow the ladder to be raised to the fully extended position. We understand the ladder will extend to some 10 metres. The ladder is in an extremely good condition, has not deteriorated, is not worn or otherwise damaged, and at the time of our inspection there was apparently no oily surface or other foreign substance located on any of the rungs of the ladder. We tested the ladder on several occasions ourselves at varying heights, and on each occasion we found that once the spring-loaded clips had locked into position on the various rungs of the ladder, the ladder appeared to be safe and suitable for use with no sign of any slipping of the clips.

**Photographs:** We have taken several photographs of the ladder and these indicate the locking clips, and the various dimensions of the ladder. These are attached hereto.

**CIRCUMSTANCES:**

Pre-Injury. It would appear that on the day of the injury, XXXXX had ascended the roof to work on the roof, and in doing so he had used the ladder belonging to XXXXXX. We note that the Foreman of XXXXX had also ascended the ladder, and in fact he was on the roof with several of XXXX employees. It seems that upon ascending the roof, another sub-contractor XXXXX from XXXXXXX, had requested to borrow the ladder in order to carry out some welding work on another part of the building. XXXX had given permission to XXXXX to remove the ladder and carry out his work, on the understanding that he would return the ladder to approximately the same position once he had completed that work. XXXX further states that shortly before 3pm the same day he was working across the roof about 80' away from where the ladder was to be located and he looked up and saw the top rungs of the ladder coming up from below. He said it was in almost the identical place as it had been when they ascended the ladder earlier in the afternoon, and whilst he didn't see who had put it there, he assumed it had been XXXXXX.

Whilst he was watching, he saw the Plaintiff take hold of the top of the ladder and pull the top of the ladder upwards with

both hands so that a good 800mm to a metre of the ladder protruded above the line of the roof. He assumed that since the Plaintiff had all his tools on the roof behind him, he intended to descend the ladder. XXX then continued with his work and paid no more attention to the activities of the Plaintiff. Please note that IF the ladder had been properly positioned and IF it had been “locked into position” correctly, the mere act of pulling up on the top of it by the Plaintiff, would have been sufficient for it to unlock and become unsafe.

We spoke also to XXXXXX the man who had borrowed the ladder, and he advised that at about 3PM he had returned the ladder as requested by XXXXX. He further advised that prior to returning the ladder he had just ascended and descended it himself and found it to be working perfectly. He advises also that when he positioned the ladder against the roof, the ladder was locked in position and in his opinion was safe. He tells us that when he placed the ladder, a man on the roof (the Plaintiff) had asked him to stand the ladder up against the roof so that he (the Plaintiff) could come down. XXXX says that he did lean the ladder against the wall at what would be called a normal angle, the ground was dry and firm and as he leaned the ladder up he ensured the base of the ladder was secured in the dirt properly. He suggests that the man on the roof wasn't happy where the ladder had been put, and he saw the Plaintiff grab the top of the ladder and pull it up from the top extending it slightly. XXXX says that he definitely heard the clicking of the locking devices as it clicked over the rungs on the ladder. He says that the Plaintiff moved the ladder over to one side probably six to eight feet to the right to line up with where the Plaintiff wanted to descend. XXXX then took the base of the ladder and moved it over the same six to eight feet to line up with where the man on the roof had positioned the top portion of the ladder. He says that he ensured the base was secured properly, and then he left. He says that he got into his Ute in order to leave the site and he seems to recall that the man on the roof was starting to climb onto the ladder when XXXX was leaving the scene.

**Injury.** The next anyone knew was that they heard the sound of a ladder falling. They heard the ladder hit the ground with a loud thump. XXXX stopped his car, looked around and saw that the Plaintiff was lying on the ground near the ladder. He says that he got out of his car and ran over to see what had happened. At this stage, other workmen were surrounding the Plaintiff, who was on the ground apparently in some pain. XXXX indicated that when he looked at the ladder, it had compacted all the way to the unextended position. A man on the roof heard another employee call out “Mario's fallen”

or something similar. This man walked across the roof and looked down, seeing the Plaintiff laying on his right side on the dirt, conscious but in some apparent pain. XXXXX clambered down the wall girt and got to the ground.

**Post Injury.** XXXXX stated that he asked the Plaintiff how he was, and the Plaintiff indicated that one of his knees was injured, and that he didn't have much feeling in his right side. However, XXXX says that the Plaintiff did not appear to be all that discomforted and was making as light a thing of it as he could under the circumstances. It appears that no-one actually asked the Plaintiff what had happened as it was obvious that the ladder had fallen down with the Plaintiff at or near the top of it. XXX looked at the ladder and says that nothing was broken, it was in good order and there were no obvious signs as to why the ladder had fallen down. It seems that the Plaintiff was then taken away by ambulance and was discharged from hospital after several hours observation. The Director of XXXXX Pty Ltd, Mr. XXXXXX same onto site, and together he and XXXX put the ladder away, out of sight, where it could no longer be used, and could not be tampered with. The Newtown Council was contacted later on in the day and a Building Inspector came onto site to inspect the ladder on Tuesday 17<sup>th</sup> April 19XX.

Apparently the Building Inspector reported the ladder to be safe and in proper condition. We understand that XXXX had ensured that no-one had used the ladder up until it had been inspected and he had locked it up with a chain to one of the columns of the building.

No-one thought any more about the matter until XXXXX was interviewed on 26<sup>th</sup> October by a Mr. Graham ERVIN, Loss Assessor apparently acting on behalf of the insurers of XXXXXX Pty Ltd. The ladder has been retained by your insured in a safe place and is available for production if necessary.

## **INTERROGATORIES**

We have obtained a statement from XXXXXX, Director of XXXXXXX, in which he makes answer to the Interrogatories as provided by you.

## **PARTICULARS OF NEGLIGENCE**

The foreman at the site, Mr. XXXXXXXX has made answer to all the Particulars of Negligence as contained in the Supreme Court Writ.

**LIABILITY:**

Our enquiries would tend to suggest that the ladder was in safe and proper working condition, and that the cause of the accident may well have been the Plaintiff's lack of attention in not ensuring that the ladder was locked properly into position before he attempted to descend it. We believe it to have been effectively locked prior to the Plaintiff pulling up deliberately on the top of the ladder, which would tend to unlock it. Thus we think this is a classic case of the Plaintiff attempting to blame everyone else for an injury sustained as a result of his own inattention or negligence. We do not think that your insured would be liable.

**ATTACHMENTS**

Statement XXXXXX Foreman  
Statement XXXXXX Director  
Statement XXXXXX Witness  
Photocopies: Foreman's Report, Director's Report.  
Photocopies: Letter of Acceptance; Lump Sum Contract;  
Photographs: Ladder

We trust that the above is sufficient for your current requirements. Should further information be required we shall be pleased to receive your instructions.

Yours faithfully,

## APPENDIX 4

Reference Number: 78904321

10<sup>th</sup> October

Dear Sirs

**RE: BURGLARY CLAIM, Mr. & Mrs. XXXXXXXXXX**

We refer to your instructions dated 8<sup>th</sup> August, and advise that our enquiries in regard to the matter are now completed. The following report is forwarded, together with our recommendations on settlement of the claim.

**POLICY HOLDER:** Ronald and Susan XXXXXXXX  
XXXXXXXXXXXX Street Sunshine, Vic 3020  
Phone: XXXX XXXX

**POLICY NUMBER:** HH85784 3 lapses on 26<sup>th</sup> April 19XX

**CLAIM NUMBER:** HH 16402

**COVER:** Contents Cover - \$10,000

**MANNER OF LOSS:** Break, Enter and Steal/Burglary

**DATE OF LOSS:** In the daytime of 30<sup>th</sup> June, between 7:45am and 4:15pm

**NATURE OF LOSS:** Electrical Goods, Jewellery, Personal Property

**VALUE OF LOSS:** Claimed - \$6,975-00  
**Recommended Settlement:** \$5,301-65

**PAST INSURERS** Not previously insured

**PAST CLAIMS:** None admitted

**I.C.A. LOSS REGISTER:** Not recorded

**CREDIT ENQUIRIES:** Not adversely recorded (Dun and Bradstreet)

**MORAL RISK:** Mr. & Mrs. XXXXXX have been married for only 6 months, having married in April this year. Ronald XXXXX is employed as a Fitter & Turner, manufacturing shock absorbers at XXXXXXX Pty Ltd, in Macintyre Road Sunshine. We checked with the employer and they advise that he has been employed there for the past 5 years and is a competent tradesman who is well thought of. Mrs. XXXXX is a public servant with the State Transport Authority (previously Vic Rail). We checked with the Spotswood Depot where she works, and they advise that they consider her to be



**SITUATION:**

an industrious worker and a woman of good repute. The couple have no children

XXXXXXXXXX Street in Sunshine is an old white-painted concrete-fronted house situated on a narrow block. The yard is well maintained. The house consists of three bedrooms, only one of which is being occupied, the remainder being used for storerooms for wedding gifts and the like.

**Security:** The security of the dwelling, prior to the break-in, could be described as being below-average. The side of the house is located close to the adjoining boundary fence, leaving some 4 feet for a narrow walkway between the house and the fence. This walkway is not blocked from the roadway by any barrier, and it was possible for an intruder to walk straight from the street into the back yard, or in fact, right around the house without hindrance. It is this side of the house which was broken into. When an offender stood at the windows on this side, he was shielded from view of passers-by, by the bushes in the front garden, and he would be able to get about his business without fear of detection. All the windows were fitted with simple cabin-latch locking devices, but it was an easy matter to break a corner of the glass and unlatch the small slide bolts on the sides of the lower sliding window. We note that security has been upgraded considerably since the time of the break-in; the yard has now been fully enclosed, there are double locks on all the external doors, and a security screen has been mounted to the front door, with key-locks on all windows. Additionally, Mr. & Mrs. XXXXXX have purchased a bull-terrier dog to protect the yard. Although this dog is still a puppy, and would probably be more inclined to lick than to bite, he will eventually be a deterrent to a would-be thief.

**CIRCUMSTANCES:**

At about 7AM on the morning of 30<sup>th</sup> June, Mr. XXXXX left the house to go to work in North Sunshine. At about 7:45AM, Mrs. XXXXXX also left the house to go to her work in Spotswood. Neither of them comes home for lunch. When she left the house, Mrs. XXXXXX locked the front door. She did not check the back doors as she knew them to be already locked, as she has never opened them. When she returned from work at 4:15PM, she opened the front door and walked into the house. The first thing she noticed was that her bedroom light was on. She thought this strange, as she was certain that she had switched the light off when she left that morning. Upon entering the bedroom, which is at the front of the house, she saw that the wardrobe doors had been thrown open, and that all of her personal belongings had been strewn about the room. She says that she did not touch anything, but that she immediately went next door to number XX Withers Street and used the telephone in that house to call the Police.

Upon arrival of Police, an inspection was carried out and it was found that the point of entry was the window of the second bedroom which faced onto the previously mentioned walkway along the side of the house.

A small corner of the window had been broken, just sufficient for the perpetrator to reach in and un lock the slide bolt on the window, which was clearly visible from outside the window. The window had then been thrown open, and entry gained. The house had been thoroughly rifled, with the thieves checking all wardrobes, the linen closet, and bureau drawers in both the lounge and kitchen. Everything which was not wanted was spread out all over the house. Mrs. XXXXX immediately noticed that her jewellery was missing. The Police checked for fingerprints but were unable to lift any latent useable prints.

**POLICE ENQUIRIES:**

We contacted the Sunshine C.I.B and they confirmed that they were investigating the report of a burglary/break-in offence at the said premises. Enquiries to date have not located the property of the offenders. The value of property reported stolen is recorded as being \$6,975 Police state that they have no reservation in regard to either the fact of the entry or the stated value of the loss.

**QUANTUM:**

Attached is a schedule of the items allegedly lost as a result of the burglary/break-in. Our inspection of the house and bedroom tended to confirm that the claimant had in fact possessed the said jewellery, as she was able to show us containers for watches and several empty jewellery boxes. The claimant stated that most of the jewellery was sent from Italy from her grandparents, as wedding gifts, baptism and engagement gifts and the like. She says that the remainder was jewellery which had accumulated over the years, the oldest piece being 21 years old and the rest being about 6 years old. The Policyholder stated that the Red Fox Fur was in excellent condition and was 3 years old. We have obtained a discount of 10% on replacement cost. Attached is a letter from the Policyholder describing the jewellery items, and a very short Statutory Declaration concerning ownership? Unfortunately, the Policyholder was unable to provide more exact proof of ownership of dates of acquisition. On the attached schedule, we have itemized the replacement costs which were obtained by the claimant, and we have verified those priced. Whilst the total claimed value is \$6,975, we have taken the cheapest price quoted and incorporated discounts where applicable, arriving at total amount of \$5,351-65. We recommend settlement be effected on either a cash or replacement basis up to \$5,301-65 (incorporating the \$50 excess).

**SUMMARY:**

Our inspection of the subject claim indicates a forced entry has occurred in a dwelling house located at XX Withers Street in Sunshine owner by the Policyholders. Entry was effected by forcing a small corner of a glass window which led into an unused second bedroom, such window facing onto a small walkway about 4 feet from a boundary fence line, and being hidden from the view of passers-by. The perpetrator/s had then unlatched the small slide-bolt which was on the inside of the window, and clearly visible from the outside, and had thrown open the window, gaining entry. It would appear that exit was made through the same point. Our enquiries show that the Policyholders are both respected in their work places, and would appear to be persons of integrity. There is no indication that Mr. or Mrs. XXXXXXXX has in any way inflated their claim.

We recommend the claim be settled to a maximum of \$5,301-65.

**ATTACHMENTS:**

Statement Mr. XXXXXXXXX  
Statement Mrs. XXXXXXXXX  
Statutory Declaration as to ownership  
Letter describing jewellery items  
Copy of Police Report  
Schedule of items and replacement values

We trust the above is sufficient for your current requirements, should further investigation become necessary, we shall be pleased to receive your instructions

Yours faithfully,

## APPENDIX 5

Reference Number 34/789/abc  
24th November

Dear Sirs,

**RE: XXXX XXXXX and XXXX XXXX Motor Vehicle Accident**

Thank you for your instructions received at our office on the 21<sup>st</sup> October. We advise that we have completed our enquiries, and now report as follows:-

**FIRST APPLICANT:**

XXXX XXXX, is a 34 year old Turkish male, short in stature, of medium build, weighing approximately 85kg. He wears glasses, speaks limited English, is of upright stance with short cropped black curly hair, and a heavy five o'clock shadow. He is softly spoken, and moves without apparent restriction. Before a Jury, he could very well appear to be a believable witness, and would play on the sympathy of the jury. We note that when we interviewed him, he freely burst into tears, and complained to us that he was a very sick man, and that he was not getting paid.

He has held a Victorian Driving Licence No XXXXXXXX for five years. He has been in Australia for 10.5 years, and admits that he has been involved in one other accident. This first accident was on the 30<sup>th</sup> May XXXX according to the applicant, and whilst he is not sure of the date he advised that he stopped at a stop sign in High Street Reservoir, and another car hit him in the back. He advises that the matter was handled by his solicitor XXXXXXXX of Devenish and Coy in Melville Road, Brunswick and he freely admits that he got money from that accident. He says he was awarded some \$3,500, but the solicitor got \$1,500 for himself. He admits that he was off work for nearly six months. It may be that the application number is 85/47962.

Following that accident, he advises that he went back to work at the Ford Motor Company in the Car Assembly Plant (his employee number being XXXXXXXX/XXXX). He said he was able to work for six months until he had the second accident on the 26<sup>th</sup> May XXXX

In relation to the accident under review, the applicant confirms that he was wearing a lap/sash inertia reel seat belt, and he suggests the impact was "a big crash", but he cannot advise further than that, because he "lost conscious" and does not know what happened for maybe one or two minutes. He

suggests he got pushed forward in the car sort of to his side toward the steering wheel, but he doesn't think that he hit his head on anything, or got hurt. He was not immediately in pain, and his wife allegedly came running out of his house and helped him to get out of the car.

Following the accident, he advises he was able to go to work on the Tuesday, but on the Wednesday following the accident, he was too sick to go to work, and he stayed home. He says on the Thursday he went to go to work because he thought he would be alright, but his back was "sore too much", so Friday he went to his doctor, who we understand is Dr XXXXXXXXXX.

Dr XXXXXXXXXX is well known as a medical entrepreneur who is highly regarded in Greek and Turkish circles in the Northern suburbs, and who has on past occasions been known by this office, to provide medical certificates for three months off work whilst the recipient of those certificates was out of Australia and visiting Greece.

We were unable to obtain 8-point photographs of the repaired vehicle number (Vic) XXXXXX as the Applicant suggested he could not drive the vehicle to a position where it could be properly photographed. We did take several photographs of the vehicle, and attempted to get the applicant in the photographs, but we noted that he was particularly evasive, and whenever he noted our camera pointing in his direction, he stepped out of range of the viewfinder. Mr. XXXXX could not advise us of the frequency of his visits to Dr XXXXXXXXXX, and could not advise us when he next intends attending at that surgery.

Upon our request to be shown the tablets that he alleges he was taking on a regular basis for the control of his pain, he presented us with two folded cardboard packets of medication. These were for Digesic and Codral tablets, as well as an unfilled script from the Fordgate Pharmacy in Barry Road for Panadeine Forte tablets. On none of the packets provided us was any indication that they had been prescribed for Mr. XXXXXX, and upon our request, Mr. XXXXX could not provided any used or partly used bottles of tablets or other medication. His suggestion was that he had "just run out" of tablets. We suggest that, he is, in fact, not taking ANY medication for his supposed pain and suffering. We obtained Mr. XXXXXXXXXX's written statement (attached hereto) and we also obtained his recent Medical Authority.

**SECOND APPLICANT:**

Mrs. XXXXXXX is a 45 year old Turkish female, standing approximately 148cm tall, weighing around 65kg. She is of medium to thin build, with red curly collar length hair, a thin face, brown eyes, and crooked teeth with gold caps. She speaks virtually no English, is of upright stance, and whilst she moved slowly she has no obvious deformities. However we would like to suggest that she was displaying obvious discomfort for our benefit. No doubt this is in her interests to do so.

She suggests that she has had no prior claims on either compensation or the Transport Accident Commission. She advises that she was sitting in the rear passenger seat of the vehicle at the time of the collision and the vehicle (Vic XXX XXX) was being driven by her husband,xxxxxxxx.

She suggests she was holding her baby daughter, and had been feeding the 18 month old child some milk. She suggested that when the accident occurred, the impact caused her to move violently forward in the seat, and she said that her daughter hit the top of her head against the back of the front seat. Her baby started to cry, and her baby's legs went blue. She does not know why, but she advises that she, herself, did not strike any part of her body on any part of the vehicle. She says that upon impact, she "went straight away to sleep". She said she was "feeling dizzy straight away". She remembers nothing else. She advises she had no blood pressure problems, or anything like that, but says she woke up at the hospital in Preston, believing that the ambulance took her there.

Apparently she went to the P.A.N.C.H. Hospital by ambulance, with a friend, whose name she cannot now recall, and whose address she does not know, and this friend brought her home. The friend is allegedly called "Houda".

The claimant advises that she was working at either EL FAIHA SWEETS at 160 Rathdowne Street in Carlton, or FAISAL WAZZE SWEETS. We have not been able to find a listing of these companies. She advises that she was a part-time employee, but we have not been able to confirm that she was ever employed.

After visiting the P.A.N.C.H., the applicant suggested that she started to visit Dr XXXXX at 97 Johnston Street in Collingwood. Collingwood is quite a way from Campbellfield, and there appears to be no valid reason why she would travel so far to visit a Medical Practitioner, when there was an ample supply of

practitioners in closer proximity to her home, even speaking her language.

We first called on the applicant on the 17<sup>th</sup> November, and she was not at home. We note that she has a prescription dated the 17<sup>th</sup> November, and whilst the script is somewhat indecipherable, it would appear that the Doctor prescribed “DYANI, VOLTAREN 50mg, SMONLIL 25mg, and FINAGALRE tablets. Thus far the script remains unfilled.

The applicant advises that she has been very sick, has been unable to work, and has been taking BRUFEN tablets four times daily, ever since the accident, to alleviate the pain. We asked her to present us with bottles of Brufen tablets, (or any bottles of medication), and after some searching of her cupboards, she managed to find in the fridge, a bottle of BRUFEN 400 tablets which had been prescribed on the 9<sup>th</sup> August XXXX to a person named Ivy BROWN.

We asked her what this meant, and she suggested that her friend gave her the tablets, because she had run out. We noted that the tablet bottle was full, and it was quite apparent that no tablets had been used from that bottle.

We find it amazing that a person taking medication four times daily (as suggested by the applicant) could not readily locate the medications she was taking, and that when she did locate some medication, this was a full bottle, over a month old, which had been originally prescribed to some other person. We doubt the applicant's veracity.

The applicant insisted that she was also taking other medication, and was being massaged nightly by her husband with a cream, but she could not produce any evidence to confirm this. She could not give us old cream bottles, half-used cream bottles or tubes, or anything of like nature, which would indicate to us that she was in fact taking medication.

Of course, the applicant did indicate to us that she had a sore mid low back, and a sore mid upper back. If we were to believe her, we would have no alternative but to believe she was in severe pain and restriction of movement. The applicant suggests that she has to go back and see Dr XXXX on the 28<sup>th</sup> November, and can tell us nothing further. We think the applicant would not be a very believable witness, certainly we do not believe her.

**SECOND APPLICANT'S  
DRIVER,**

XXXXXXXX, husband of XXXXXXX is a 43 year old male, approx 172cm tall, weighting around 90kg, solidly built, Turkish man, very clean cut with balding black hair and a black moustache. He is well presented, well spoken, and would make an excellent witness. He plied us with numerous cups of Turkish coffee, and bent over backward to assist us with our enquiries. We interviewed him with a view to establishing what had happened in the car accident, and we obtained his written statement.

In his statement, he describes the circumstances leading up to the accident, and advises the seating arrangement in his vehicle Vic XXX XXX. He says he was driving at about 35kph down Norwich Crescent, but admits in his statement that he stopped when he saw the vehicle XXX XXX "parked" on the street in front of him. He made the decision to overtake the vehicle, and that is when MR XXXXX turned in front of him.

He suggests that the speed of his car at the time of impact was probably very slow, and says there was not much of a crash, but his car had "big damage" to the front bumper bar, grille, and left had headlight. He didn't strike his head or anything on impact, and didn't get hurt at all. He wasn't shaken around in the car, and he got out of his car. We note that Mr. XXXXX works at the Ford Motor Company, as does Mr. XXXXXX. He advises that he has seen Mr.

XXXX at the Ford Motor Company before, and has said hello to him, but says that he did not really know him before the time of the accident.

Following the accident, Mr. XXXXX drove his car away, and says that a friend of his helped him to fix his car. He said the friend helped him to push the front bumper bar bit off the front wheel, which was pushing on the wheel and made the car hard to drive. His friend who helped him to do this is called "Derbas, or something like that", and lives somewhere in Dunstan Parade. When pushed for more explicit details of the address of this "friend", Mr. XXXX was evasive.

Mr. XXXX suggests that it cost him nearly \$1600 to repair his car. He did it himself. He did not get a smash repairer to fix his car; he had to buy a new bumper bar and a brand new grille. He did not get second hand parts, but he cannot now remember where he got the parts from. He cannot recall the name of the place he got them from a smash repairer who lives "somewhere in Reservoir". He could not produce receipts for the parts, and does not now know where they are. This makes his story highly suspicious to say the least. When absolutely



pushed for a name, he has come up with the name of Muhammed AGAR, or “something like that”, a Lebanese man. It was quite clear to our Investigator, that Mr. XXXXX was not expecting to be asked this type of question, and we believe that we “had him on the run”.

Once again, we were unable to obtain 8 point photographs of the vehicle, due to the difficulty of getting his vehicle into a position where it could properly be photographed. He lives on Barry Road which is a major feeder street, for the Hume Highway. However, we did obtain several photographs of the vehicle, and we did obtain those photographs incorporating Mr. XXXX in the frame.

**OTHER WITNESSES: XXXX Auto Repairs**

**Mr. XXXXXX Smash Repairer**

This witness declined to make a written statement, but confirms that he raised XXXX Auto Repairs quote number 932 for a total amount of \$1304, there being \$658 worth of labour on that quote. The quote was in relation to Mr. XXXXX's vehicle Vic XXX XXX and, according to this witness; the damage was all from one impact. The witness suggests that he has been in the motor repair game for some 7 years, and if pressed for an estimate, would suggest that the impact would have occurred at about 40kph or less. He says that he has seen people hurt in less impact than that, although not very often. We gained the impression that Mr. XXXXX was attempting to support his repair bill, and support the fact that injuries did occur.

Mr. XXXX spoke at length about the fact that Mr. XXXXX's car wheels may well have been turned to the right at the time of impact, and suggested that this may well have increased the impact damage.

**Campbellfield Police**

**Constable XXXXXX No XXXXX**

We interviewed this witness, who advised that she had raised Police Report No 54/XXX and had issued Traffic Infringement Notice No AXXXXXX against Mr. XXXX for the offence of overtake without safety. Constable XXXX confirms that the accident occurred and suggests it was a very minor accident as far as accidents go and doubts very much as to whether persons were hurt in the accident. Although she does admit that Mrs. XXXXX was taken to hospital by ambulance, as she was “carrying on a bit”.

**Near Neighbours, Norwich Crescent**

**Mr. XXXXX No XXX Norwich Crescent**

We spoke briefly with this witness, who advised that he was at home at the time of the accident occurring, he did not see the accident, but he went out in the street as a matter of interest to see what happened. He saw the ambulance arrive, he saw the police arrive, and he believes that somebody was taken away in an ambulance, although he does not know who. In his opinion it was only a minor accident, and not really worthy of mentioning. He did not wish to give an opinion as to whether or not people were hurt, and said it may be people suffered injuries “post-accident” (in that they later “decided” that they had been hurt).

**Mrs. XXXXX, No XX Norwich Crescent**

We interviewed this witness briefly, and she lives directly opposite the crash scene. She confirmed also that she was at home at the time, and that she heard the crash. She also went out on the street to see what had happened, as apparently did everybody else in the street. She and her children enjoyed watching the coloured flashing lights of the emergency vehicles, and suggests that the accident was “one of those interesting things that happen in streets now and again”. She did not think it was a major accident, or incident, considered there was very little damages, and doubts if anyone would have been seriously injured as a result.

When we advised her that parties in BOTH vehicles have allegedly sustained injuries so severe that none of the three persons were able to work since the accident, she threw her head back and laughed.

**THE ACCIDENT:**

From all of the above witnesses, we have confirmed that the accident did occur as suggested by both parties. In essence, Mr. XXXX had been driving southbound in Norwich Crescent, and had slowed to a virtual stop with the intention of turning directly across Norwich Crescent into his driveway at No XX

At about the same time, Mr. XXXXX in his vehicle, was also travelling southbound in Norwich Crescent, slowed when he saw Mr. XXXXX’s vehicle stopped, then upon determining that the roadway was clear, commenced to accelerate with the intention of overtaking a row of three cars. At the time of his overtaking, Mr. XXXX turned in front of him and the collision occurred.

From all accounts, it appears to have been a minor impact, and whilst injuries are always possible, we find it absolutely amazing that both Mr. XXXXX and Mrs. XXXX either “lost

consciousness” or “immediately went to sleep” as a result of this impact.

The ambulance and police attended, the police charged Mr. XXXXX with a motoring offence, and the ambulance apparently conveyed Mrs. XXXXX to the PANCH Hospital for either treatment or observation, where she remained for some six hours before being driven home by a friend allegedly named “Houda”.

It would seem that neither Mr. XXXXX nor Mrs. XXXXX have been able to work since that accident – now some 12 months ago.

**RECOMMENDATIONS:**

Bearing in mind that neither party can produce actual evidence of their continual taking of medication, that Mr. XXXX cannot verify the alleged repairs to his vehicle, and that from all other accounts the accident appears to have been relatively minor, we would suggest that either Mr. XXXX and/or Mrs. XXXX are attempting to obtain financial advantage by deception, and we would recommend that you refer the matter to the Fraud Squad for investigation.

**ATTACHMENTS:**

Statements:            XXXX 2<sup>nd</sup> Applicant Driver  
                              XXXX 2<sup>nd</sup> Applicant  
                              XXXX 1<sup>st</sup> Applicant  
Medical Authorities: Mr. XXXXX  
                              Mrs. XXXXX  
Photographs.

We trust that the above has been sufficient for your current requirements, should further information be required we shall be pleased to receive your instructions.

Yours faithfully,

## PRACTICAL EXERCISES

### ( names altered for Privacy purposes)

*You are the Investigator assigned to the cases below. Read the facts (as given) and then prepare your report to the Insurer (inserting the names and relevant details as you see fit) so that the case for (or against) the claim is validated. Include any statements as appropriate, and refer to any documentation which has come into your possession, as well as photographs and measurements where appropriate, and any other data which lends credence to your case.*

1. Lucy is a process worker employed by Yates Seeds Company in Thomastown. She alleges that her duties at work, where she sits all day on her stool and in front of a gravity-fed hopper, dispensing a series of 10 gram quantities of flower seeds into packets for retail distribution, have contributed to (or caused her to have) a spinal condition, which has now caused her to cease work and go onto benefits. Your investigation reveals that several fellow workers have noticed she has always worn a substantial back-brace, even before she complained of injury. Your follow-up with the claimant shows that in her home she has numerous pictures of horses, books of horses, horseshoes and equine ornaments and trophies, etc. She admits to having been a previous member of a pony club, but says she has resigned her membership, and does not own any horses now. You obtain medical authorities which reveal she was in the Alfred Hospital Spinal Unit some years ago in full "traction" as a result of a riding accident, although she will not admit to this. You instruct surveillance and find her visiting stock feed shops, purchasing bales of hay, and also travelling to a Whittlesea property where she unloads these bales of hay from the boot of her car, and physically throws them over a fence to a horse in that property. Subnote: Some 12 months after you have prepared your report, you are called to the Court to give evidence, because ALL of your witnesses have allegedly turned "hostile". What do you do?

**OR**

2. Whilst you are investigating Mendo, a process worker at the Ford Motor Company, for injuries allegedly sustained as a result of a very minor motor vehicle accident, which has caused Mendo to be unable to work again, you receive information that Mendo has been seen by a witness one Sunday morning, jogging around Northcote (close to his home). It was raining lightly at the time. This same witness, who also works at the Ford Motor Company, saw Mendo the next morning on "sick parade" coming into work with a fresh medical certificate for presentation to HR Department, so that his benefits could be extended. Mendo, at that time, appeared to be a virtual cripple. Prepare your report, with statements as appropriate).

OR

2. Josh has been off work for over 12 months as a result of an alleged accident at work when he supposedly picked up a very heavy object on a Friday evening. His claim was accepted, and he has been on compensation for the last year. But Josh has now become greedy and has briefed his lawyers to sue the Company in Minyip for negligence. Josh hopes to get a couple of hundred thousand dollars by way of lump sum (on top of his wages). The original claim may not have been investigated adequately, but now it is time to get serious.
  
3. As a Fraud Investigator for the Government, you travel to Minyip for a few days, and interview witnesses. You find, amongst other things, that whilst Josh may have hurt his back on the Friday, his witness now says that he didn't actually see anything; Josh worked all day Saturday as an overtime shift, and then went off to his second job as a "chicken catcher". On Sunday (Josh's day off) an ambulance was called to the city dump, where they conveyed Josh to hospital, after his having lifted a 205 litre barrel of scrap metal off the back of his Utility. Your enquiries also reveal that whilst allegedly unable to work (because of the back injury), Josh is alleged to have been contracting with residents to paint their houses, and to install high gain television aerials on their roofs. This requires him to ascend tall ladders, even though in his claim papers, he suggests that he has difficulty in climbing up one single step. It appears that Josh might be telling lies. Submit your full report.

OR

4. Michael is a Fire fighter at Richmond No 10 Station of the Metropolitan Fire Brigade. It is alleged that when he started work on Dayshift at 8AM on Monday morning, he was called to muster, and whilst coming down the stairs at the Fire Station he tripped and fell, causing him to severely injure his ankle. As a result he has not been able to work since, and is receiving fortnightly benefits. He has three independent witnesses (all fellow fire fighters), all of whom allegedly saw the accident happen. You interview everyone, and find that the three witnesses cannot corroborate each other as to what they did or did not actually see. You also find out that Michael plays full-forward for a VFL Club in the Diamond Valley League. On the previous Saturday, it was their Grand Final, and whilst it was a hard game and Michael's club won, there is some indication that Michael was taken "off field" mid game with some form of injury. Your enquiries further show that the Club for which Michael plays had not renewed their insurance coverage for players sustaining injury during a game. Prepare your report, including any aspects of negligence you might discover relative to the stairs at the Fire Station. Make reference to any documents you have obtained to justify your position.