NEW ZEALAND POLICE
Ngā Pirihimana o Aotearoa

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J Montgomery
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Dear J Montgomery

Request for information

Thank you for your Official Information Act 1982 (OIA) request of 10 June 2023, in which you requested the following:

> *Can you please provide the following police manuals.*
>
> *Traffic crashes*
> *People with mental impairments*
> *Criminal disclosure*
> *Crash scene photography*
> *Alcohol and drug impaired driving*

Please find attached copies of the following chapters released in full:

- Crash Scene photography
- Traffic crashes
- People with mental impairments

The two other chapters you have requested are publicly available:

- The Criminal disclosure chapter is accessible here: https://www.police.govt.nz/about-us/publication/criminal-disclosure-police-manual-chapter
- The Alcohol and drug impaired driving which has now been superseded by the Impaired driving chapter is accessible here: https://www.police.govt.nz/sites/default/files/publications/phase-1-impaired-driving-police-instructions-as-of-20-03-2023.pdf.

As these are publicly available, this part of your request is refused under section 18(d) of the OIA.

I trust this information provided is of use to you.

Yours sincerely

Ian Barnes
Manager Police Instructions
Assurance Group

Crash scene photography

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Policy statement and principles

What

Crash scene photography provides vital evidence in serious crash investigations. This chapter details the procedures on how crashed vehicles (which may have been taken to a yard) and crash sites, should be photographed, when forensic photographers should be deployed, and how photographic evidence should be presented for court.

This chapter must be read in conjunction with the Photography (Forensic imaging) chapter of the Police Manual. See in particular the "Digital imaging guidelines" in the chapter detailing procedures for the preparation, capture, protection and use of digital imaging to ensure images are accepted by the courts.

Why

The aim of crash scene photography (forensic imaging) is to:

- record the evidence
- assist in determining how the crash occurred.

How

The photographer should liaise closely with the crash investigator attending the scene as in many crashes it may become necessary to vary these procedures to cover the unexpected.

A crash investigator is usually in attendance when a Police forensic photographer arrives at a crash scene. However, if the investigator has not arrived or is busy, the photographer should not wait. Work should start as soon as the equipment is unpacked.

Images should always be taken at the scene before the vehicles and other moveable evidence are shifted and the road is opened. Once the road is opened, much of the evidence will be destroyed and analysis will become difficult.

Recording the damage to the vehicle before the victims are removed and the vehicle is recovered gives the analyst the best possible view of the vehicle and greatly simplifies making energy-type calculations based on vehicle deformation.

Caution: Do not let this principle delay the extraction of victims or intrude on the need for rescue service personnel to minimise suffering.

Scene images of vehicle damage are important, but rarely provide the information that can be obtained from high-quality images taken at the crash yard. In the yard, the photographer can work in safety and, if indoors, control the lighting conditions. The necessity to re-open roads promptly after a crash may require the photographer to make a judgement call on which vehicle images must be taken at the scene and those which may be left until later.

Staff must adopt procedures that maximise safety and minimise risk. The damaged vehicles may divert the attention of motorists passing a crash scene, increasing the risk to people working on the road. It is essential that employees observe these guidelines and use TENR (Threat, Exposure, Necessity, Response), Police's operational threat assessment tool, to assess risks to Police and others at a crash scene and when photographing/recording evidence.

For health and safety considerations refer to the 'Roadside incidents' chapter of the Police Manual.

Use of specialist forensic district photographers

Difficulties associated with crash photography

Crash photography can yield information of significant evidential value if recorded correctly.

Crash photography requires accurate recording of scale, distance and perspective to depict a roadway or scene as the driver may have been confronted with. Being able to record spatial information correctly requires a high degree of technical knowledge, skill, equipment and training.

Crash photography is inherently challenging due in part to:

- the technical requirements:
    - high end DSLR cameras with interchangeable lenses must be used in manual mode to ensure spatial accuracy
    - auxiliary flash and lighting systems are often required to compensate for poor lighting conditions or darkness
- a number of environmental factors that usually impact on the photography, for example:
    - time of day (often at night in total darkness)
    - weather (often in adverse weather where poor driving conditions have contributed to the crash), and
- often evidence is difficult to see due to fuel and oil spills, water on road, harsh lighting conditions (either partial or total darkness, or bright or direct sunlight).

These factors all combine to make crash photography one of the most technically challenging and difficult situations to record evidence.

Failure to record a scene technically correctly, and therefore spatially accurately, can be very misleading making objects or distance appear much closer or further away than they actually were.

When should district forensic photographers be used?

In all situations where scale, distance and perspective are important, a properly trained forensic photographer should be used to ensure evidential reliability of the recorded images. All Police forensic photographers are also trained and equipped to capture 360 degree virtual reality scene reconstructions.

Situations when district forensic photographers should be used include:

- fatal and serious crashes
- crashes involving fleeing driver incidents resulting in death or serious injury
- public transport crashes, and
- crashes with high public and/or media interest.

(See more detailed information on deploying district forensic photographers in the Photography (Forensic imaging) chapter).

However, note also Police responsibilities for minimising road closures and delays in this chapter. See What happens when no photographer is immediately available.

Road closure

Minimise road closures and delays

As all districts have forensic photographers, it is preferable to have them carry out the crash scene photography. (See Use of specialist district photographers'). However, a delay in the photographer's arrival is not sufficient reason to keep a road closed or delay the clean up. Police attending crash scenes must at all times be mindful of the delays road closures cause, and work as efficiently as possible to re-open the road (refer also to 'Highway incident management protocol').

What happens when no photographer is immediately available

If no Police forensic photographer is immediately available; and

- heavy traffic is causing unreasonable congestion; and
- the evidence is likely to be important for major charges; and
- the road closure duration is likely to exceed 60 minutes

then the Incident Controller or O/C Scene shoulddecide whether to use other employees attending the scene to record the moveable evidence.

Refer also to incident controller's responsibilities in the 'Roadside incidents' chapter of the Police Manual.

Crash investigators usually carry cameras and these can be used for immediate scene work if the forensic photographer is delayed. The important consideration for the Incident Controller is how to minimise the duration of the road closure without destroying the forensic evidence needed by the investigator.

Strategies for photographing the scene

Overhead photographs

Take overhead photographs where possible of both the scene and the vehicles as part of the scene photography process. These photographs may reveal details not captured by other means.

Aerial views of the scene illustrate the general scene location but are not a substitute for a scale plan or normal scene photography.

(Pre-recovery overhead view)

Timing

If necessary and if you have time, wait for better light conditions before taking the photographs; for example, when an overcast sky has cleared or the sun has lowered in the sky.

This overhead image taken with oblique late afternoon sunlight reveals details in tyre marks that were almost invisible earlier in the day.

(Scuff marks)

Orientation at the scene

Record all moveable evidence

The purpose of at-scene and immediatephotography is to record all the moveable evidence. This includes the position of debris, the relation of vehicles to each other and to fixed objects in the background.

To achieve this purpose, all images taken at the scene, whether general shots or close-ups, must include references that make it clear which area of the scene is being photographed and what the orientation is. If a close-up view of a gouge or scrape has no orientation, or the object has not been included in a general shot, the viewer cannot determine which way is up, down or sideways, or where the object was located.

Orientation markers

One way to show orientation is to use colour and shape-coded identification placards. You will need at least 24 alpha marked A to Z and another 20 numbered 1 to 20.

(Photographic placards)

Another way to orient viewers is to insert a compass rose or arrow in the image to show north. This technique is especially useful for close-ups. It also helps to include a background feature such as a tree, marker post, crashed vehicle or road sign.

Place placards facing the same way on the road to ensure that when you walk through the scene from each direction, viewers can orient themselves by the colour and shape. Do not shift the placards between each series of images.

If you follow these procedures, you will be able to counter legal arguments about areas of road not being photographed and clear up any confusion between placards and plan items.

The "walk-through" procedure

What is a "walk-through"?

Start at one end of the scene and walk through it along the centre line, taking a series of overlapping images. This will ensure that the general location of all significant items is recorded.

Procedure

Follow these steps for a "walk-through".

Step	Action
1	Leave your camera lens on the infinity setting and do not alter it during the walk-through.
2	Do not restrict the walk-through to the area of the debris only. Begin photographing about two seconds travel time before the first visible evidence; that is: - 30m in a 50kph area - 40m in a 70kph area - 60m in a 100kph area. These distances are roughly the points where drivers should have had a clear view of the incident and begun starting to react.
3	Take photographs at no more than 10m (10 paces) spacing. The white bars of the centre line are generally spaced at 10m centre to centre and are convenient reference points. For non-evidential photographs the distance may be increased.
4	Ensure that each image has a prominent background object in it that will be referenced on the investigator's plan. For example, use a power or telephone pole or roadside marker post.
5	When you reach the far end, turn around and take another series of shots as you walk back again. As before, walk. on the centre line to provide a constant reference point. Although this is not exactly the view that the approaching driver would have had in either direction, adopting this procedure provides consistency and eliminates cross examination as to whether the view is correct or not.
6	It is then possible to place on the scale plan the photographer's position when the image was taken. This process can be useful if it is alleged that a particular part of the scene was not photographed.

Individual features of crash scenes

Before you start

Once you have completed the walk-through, photograph the individual features. Before taking any photograph, ask yourself:

- Is the placard visible?
- Can the orientation be determined?
- Is a scale included where necessary?

Once you are satisfied that the object and orientation are clear, stand on the centre line at a right angle to the object and photograph it.

Then move up to the object and take a vertical photograph, looking directly down on it. Make sure that the marker remains visible.

Glass

Photograph the spread of glass from the windscreen and headlights onto the road surface. Look to see if there is a centre to the debris field. If so, photograph the spread to allow this information to be noted.

Fixed objects

Photograph any fixed roadside furniture objects (such as Armco barriers, road signs, power-poles, etc.) that have been hit. Note whether they contain parts of the vehicle.

If the vehicle came to rest against a bank, ensure that the bank and car damage is recorded prior to and after the vehicle is removed.

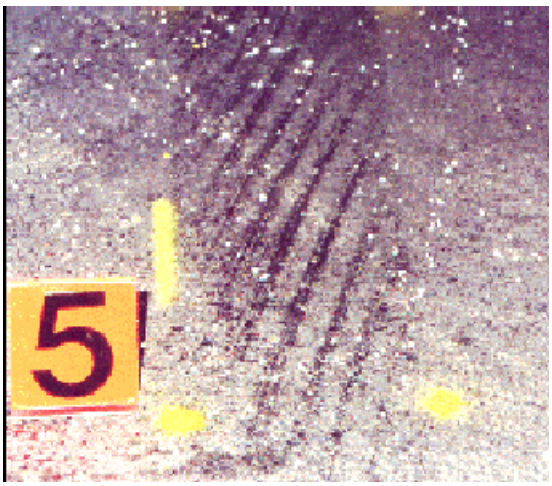
Road gouges and tyre friction marks

As well as photographing a tyre friction mark from the centre line and from immediately above, also photograph looking directly along it in the direction that shows the mark clearest. This is usually the direction the vehicle was travelling. These images are important evidence.

It is often difficult to determine from an image where tyre friction marks begin and end. Place a placard alongside each end and, if necessary, at intermediate points.

If you are concerned that the marks will not show up in your image, try marking their alignment with small 90mm traffic cones. They have the advantage of being light, low to the ground, a contrasting colour and reasonably resistant to wind. They are easily carried, placed, and retrieved and do not leave marks on the road surface.

Speed estimates based on tyre friction marks are dependent on the type of mark so it is critical to be able to prove the type of mark. Ensure that the photographs capture the patterns and angles of any stripes or striations.



(Striations on yaw mark)

The pattern of the mark may be key to disproving an allegation that the tyre was flat and, therefore, caused the crash.

ABS tyre scuff marks

Cars with ABS braking systems leave a distinctive tyre mark. Typically ABS braking marks appear as a series of short (0.5 metre) skids separated by unmarked gaps. As these short 'skids' can be very difficult to see a polarizing filter may be advantageous.

Skid marks on wet roads

Skid marks may appear as light grey or whitish marks on a wet surface. Mark and photograph these marks the same way as for dry road surfaces.

Documenting the scene photographs

Follow these steps when documenting the scene.

Step	Action
1	Document the objects photographed. You can do this using a dictaphone or your notebook. Often, it will be obvious what the object is, but close-up photographs of road surface debris, tyres, tyre marks or other marks on the road can be confusing.
2	Because the analyst reconstructing the crash will not always have visited the scene, it is helpful to create a legend for each image. This can be a transcription of your notes recorded at the scene.

See also: Presenting photographs in this chapter.

Working in adverse conditions

At night

Effective photography at night requires specialist techniques and equipment. Police forensic photographers have the necessary equipment and capability to use such techniques as 'filling or painting with flash'. If forensic photographers are not available, use any available light source to illuminate the scene or object being photographed.

Establish priorities as it is not essential to capture every last detail. At the least, capture the fragile removable evidence and mark the important areas.

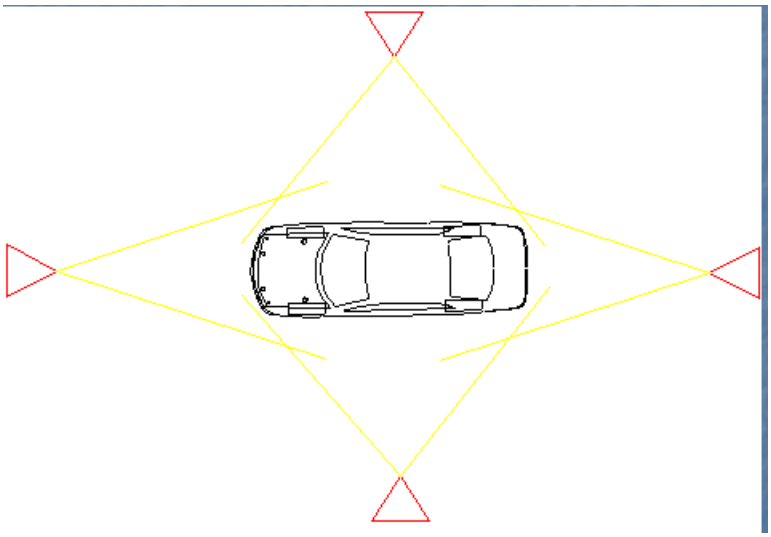
In bad weather

While rain or snow can make photography particularly difficult, it is not permissible to wait for the weather to clear before taking your scene photographs (unless the road has been closed by the adverse weather). It may be possible to postpone some photography until the weather changes. If not, you can reduce the reflection problem by positioning the flashgun at least 30cm in front of the camera lens. Your approach will be determined by the circumstances of the scene.

General vehicle shots

Angle and bodyline

Take general shots of the vehicle at right angles to the vehicle, with reference to its natural bodylines.

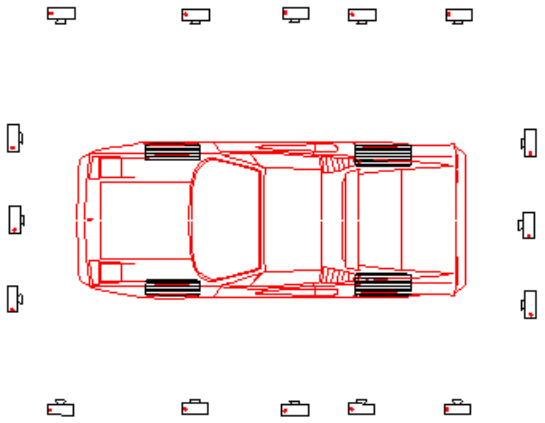


(Minimum vehicle photographs)

The primary reference points for photographing vehicles are:

- the A pillar, which supports the driver's door
- the B pillar, which supports the rear passenger doors (if any)
- the C pillar, which is usually directly above the rear wheel, supports the roof and often forms part of the rear mudguard assembly.

To fully capture a vehicle photographically at least 16 photographs are required along all body lines.



(16 photographs required along body lines)

Where possible obtain an overhead photograph as it is invaluable evidence.

(The side on photograph)

(The overhead photograph)

Photograph the **entire** vehicle. An image of the undamaged side may be as important as the damaged side. It may prove that the undamaged side did not hit something else and it will show what the damaged side should look like.

Where extensive deformation has occurred, additional close-up images will likely be required. Ask the crash investigator if there are any items of particular interest that must be photographed.

All images should be taken from a **constant distance** from the vehicle, using a tripod. This allows horizontal images at a**constant height** and lens distance between the camera and target. It is recommended that you set the camera lens at door-handle height.

When photographing a vehicle at a crash recovery yard, the goal is to portray the vehicle as closely as possible to the position and condition it was in when it came to rest. To achieve this, you should replace the roof and close any doors that were removed to extract the victims. Replacement of these items allows the crash investigator to determine the alignment of the vehicle during the impact sequence and assess the extent of the compression. Both of these are vital for an advanced analysis.

By keeping to a standard procedure, the investigator can explain all damage in terms of impact damage and recovery-related damage.

Photographs of specific areas of the vehicle

Specific areas of vehicle may need particular attention

Take close-up and overhead photographs of areas and items that need particular attention. The crash investigator will usually give advice on this but some of the common areas are:

- wheels
- tyres, including deflated tyres
- headlights including bulb filaments
- interior.

Wheels

If any of the wheels have been shifted or displaced during the impact, carefully record this by taking the photographs at right angles to the natural body lines.

Tyres

Photograph any foreign material deposited on a tyre or tyre wall, such as paint from a traffic island, rubber marks from another vehicle or similar. This material may be critical.

Ensure that you include:

- the wheel identification labels
- the detail words on the sidewalls
- all aspects of the damage
- the vehicle tyre tread.
- **any** unusual marks.

Deflated tyres

Sometimes a deflated tyre is found after a crash. Photographing the wheel/tyre will enable an analyst reviewing the photographs and the tyre scuff marks to determine tyre deflation prior to impact and decide whether heavy braking was occurring.

You may need to photograph the wheel assembly at the studio.

(Inside face view of tyre)

Photograph the **wheels**. This is particularly important if the tyre marks are in any way irregular. If you do not have an inside view of the wheel, make sure that the location of the tyre valve is visible.

Ensure that the image shows the edges of the mark on the tyre. This can assist the crash investigator in determining the state of the tyre pre-crash.

(Tyre run flat and showing casing damage)

Photograph both sides of the tyres and wheel rim. These photographs will show whether possible rim distortion on the inside of the wheel caused a loss of inflation pressure.

You may need to photograph the inside of the tyre. Damage to the inside of the tyre is essential evidence in assessing what destroyed the integrity of the pressure chamber and may be critical to establishing the cause of the crash. Check with the crash investigator about the need for an "expert" tyre examination before the tyre is removed from the rim.

(This image shows the overheating, abrasion and sidewall ruptures consistent with prolonged "flat" running)

Finally, look for an object that may have caused the tyre to deflate. If it is found, take careful photographs of the object and the damage.

ABS brake marks on tyres

The cyclical action of ABS braking systems results in three types of tread marks, constituting evidence that the brakes were applied before the crash.

The marks are faint and fragile, so take great care when searching for and recording them. Photograph them **before** the vehicles are moved from the crash scene. Even towing the vehicle onto a trailer will eliminate them.

This picture illustrates the three types of marks caused by ABS braking.

(Incipient, scuff and full lock up)

The speckling at location **1** is an indication of incipient lock up. It indicates that the driver was applying full emergency braking. This type of tyre stress mark is easily destroyed, disappearing after one or two tyre rotations, yet it is distinctive when fresh.

Location **2** shows that the tyre has been sliding and has developed clear tread polishing. It indicates that the tyre has almost locked. This is caused fractionally before lock up occurs.

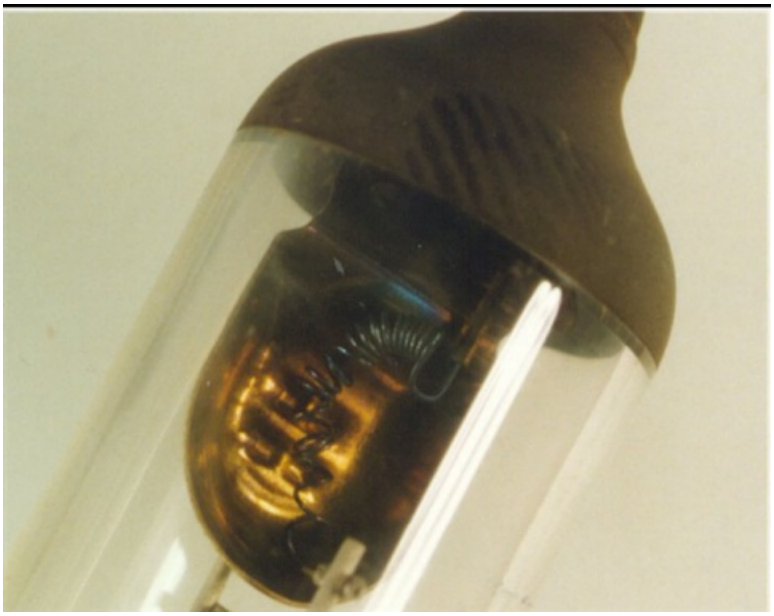
Location **3** shows the conventional melt mark. It indicates that the wheel has been held locked. The red arrow indicates tread damage.

Headlights

If the headlight mounting pans have been displaced, obtain right-angle images of the front corners so that displacement can be determined.

(Displacement of headlamp pan)

Try to photograph the lamp filaments. You may need to do this in the laboratory. The crash investigator will probably require the lamp for first-hand evidence.



(Headlamp filament damage)

(Motorcycle filament intact post-crash)

Follow the same procedure for rear lights.

Interior

Photograph inside the car. Record the position of the driver controls, including the gear lever. If the crash occurred at night, record the position of the lights switch. Make sure that this evidence has not been interfered with **before** the photograph is taken.

Note: Damage to the steering wheel may prove that the driver was not wearing a seat belt.

Dealing with crashes involving pedestrians

Police photographer required

Pedestrian crashes must be attended by a Police photographer because the forensic evidence is minimal and frequently requires careful exposure to record.

Procedure

Follow these steps when you have to photograph crashes involving pedestrians

Step	Action
1	As with a vehicle crash, if necessary, close the road but exercise some caution. On a multi-lane road where all evidence is in one lane, it may be appropriate for the other lanes to continue to flow. Protection of the scene is important. Otherwise, well-meaning members of the public will pick up items held by the victim and place them tidily on the footpath while vehicles driving through will destroy evidence on the road.
2	Locate items such as clothing, particularly shoes, and articles the victim was carrying. These may be critical in determining the area of impact. When photographing, remember to mark the items so that their location and orientation is captured.
3	Look for a faint smudge or scuff mark made by the shoe as it was initially knocked across the road surface by the impact. Take careful and precise photographs, with the orientation clearly shown. This shoe scuff mark will establish the area of impact beyond all argument.
4	Examine the road for evidence. If the victim has torn clothing or extensive grazes caused by road surface contact, somewhere on the road surface there will be clothing or flesh fibres. Such evidence is extremely fragile and readily disturbed by passing traffic.
5	Examine the vehicle for evidence. This may be at the scene or after removal to a secure site. Try to identify and record skin and clothing abrasion marks on the vehicle. In particular, make sure the leading edges of the striking object are photographed.
6	Pedestrian related dents on car panel work are often minor and difficult to record. You may have to vary the exposure rate.

(Overhead view of dented bumper, leading edge and bonnet from pedestrian impact)

Dealing with crashes involving motorcycles

Follow these steps for crashes involving motorcycles.

Step	Action
1	Examine the road for evidence.
2	Photograph marks created by the sliding motorcycle.
3	Look for scrape marks made by the rider's clothing and photograph those.
4	Identify and photograph any object that may have caused gouge marks on the motorcycle. Photograph the object and any mark on it.

Motorcycle photographs

General photographs

Photograph the motorcycle at right angles to its natural body lines and with it standing on its wheels where possible.

If it is clear that a primary force of impact has come from a particular direction, take a photograph from that direction at the height from which it approached. Take an overhead photograph.

Photographs of specific areas

Handle bars

Photograph any damage in the handle bar area. This is particularly important if the rider has gone over the handlebars as it is possible to cross reference the rider's injuries with the motorcycle damage, and thereby help distinguish between the rider and the pillion passenger.

Engine

Often, a motorcycle slides along the ground before it becomes stationary. Photograph the end covers on the crank case. The angle and depth of any gouge marks will indicate the direction of travel and rotation.

Tyres

ABS-type marks are also found on motorcycle tyres and may be the only evidence that the motorcyclist was braking heavily.

Even if brake marks are absent, it is important to record the width of the polishing to the tyre. The tyre in the following image has been subjected to maximum braking. Images of this type of evidence are invaluable to the crash analyst.

(Motorcycle front tyre shows locked wheel scuff and incipient lock up speckling)
This image shows braking scuffs on the rear tyre.

(Brake mark - rear motorcycle tyre)

Bicycle photographs

The analyst needs to know which 'cogs', front and rear, the chain was on when the bicycle crashed. By counting the teeth it is possible to determine the ratios and calculate a probable range of speeds. Carefully photograph the chain ring (front) and casette cogs, recording the chain position and number of teeth. All equipment fitted to the bicycle (including brakes levers, cables and pads) should be photographed.

(Top - bicycle rear cassette and derailleur detail.
Bottom - bicycle chain and chain-ring detail)

Photograph any other damage as per the procedure followed for a motorcycle.

Taking photographs of victims

Victims inside a vehicle

If possible, photograph the locations of vehicle occupants in the vehicle; but remember common decency and the need to preserve life are the primary concerns.

It is important to photograph **all** the bruises on the victims. This may assist in determining the impact sequence and the victim's position within the vehicle.

Victims outside a vehicle

For crash analysis purposes, it is not necessary to keep the body at the scene and photograph it "in situ". All the analyst needs to know is where it was, which way it was oriented and who it was.

After removing the body, record **where** the body was located. Mark the road with a line at the feet and an arrow at the head pointing the way the victim laying.

(Preferred method of recording body location)

Important: Never paint an outline of the body on the road.

Pedestrian victims

Record the evidence on the victim's body. When a person hits the ground after being struck by a vehicle the victim will sustain abrasions when sliding to a stop. Passengers jumping out of moving vehicles have the same characteristic grazing. Search for and record these marks (which may include skin or other body tissue or clothing fibres) on the road surface.

Photograph damaged clothing that the person was wearing and record the items in the written file. You may need to explain to ambulance and hospital personnel that you need to photograph the clothing before it is disposed of (also refer to pedestrian crashes).

Motorcycle victims

As with pedestrian crashes, a motorcycle rider will hit the ground and slide some distance before coming to a stop. Examine the clothing for scrape marks. As with a pedestrian crash, you may need to explain to ambulance and hospital staff your need to photograph the clothing before it is disposed of (Refer also to motorcycle crashes).

Photographic equipment

Cameras and lenses

You can take excellent photographs with a very simple camera. The best lens is the standard 50mm type. Do not use wide-angle, telephoto or macro-type lenses as these can result in distorted images.

Digital cameras are the most widely used and accepted. To preserve the ability to obtain clear enlargements, it best to have the highest pixel resolution available and have the camera set to that figure.

Flash requirements

Many crashes occur at night and often during rain, so flash equipment and special procedures are necessary.

If you do not have the equipment, get it or delegate the task to someone who has. It is unacceptable to keep roads closed until daylight, and requests to do this for photography reasons only should be disallowed. Excellent results can still be obtained at night.

Tripods

Though tripods can be cumbersome, they are good insurance against technically bad pictures as they:

- reduce the chance of camera movement spoiling a picture
- allow slower shutter speeds and smaller aperture settings.

Note: For technical crash investigation photography, a tripod is the only way to get constant lens height and distance from the vehicle.

Placards

You need at least 24 placards marked A to Z and another 20 numbered 1 to 20. They should have a square face, an inverted triangle rear and a border on both sides.

The letters/numbers and borders must be reflectorised and colour coded - that is, a different colour on each side. One common colour should be used on all the faces and another common colour on the reverse. This picture shows the preferred type.

(Photographic placards)

Labels

Put labels on objects that can be hard to identify if not clearly marked. For example, in the absence of a label, you cannot tell from an image of a tyre or a wheel which of the four tyres or wheels it is.

Important: Use a clear, tidy label. This portrays a professional image.

Presentation of photographs

What you must present

You will need to produce at least three books of images; one is needed for the crash analyst, and one for the judge and/or coroner. Local arrangements may require more. The defence may also require photographic-quality reproductions.

For the crash analyst, produce a spiral-bound book of your best images but also supply a CD ROM of all images. The defence will likely request copies of **all** images taken, so the analyst must see them in case they are brought into evidence in court. It is preferable that you consult the crash investigator when deciding which images to include in the court book.

Ask the crash investigator which format is required on the CD Rom. Generally, JPEG images produce the smallest file, while TIFF files produce the best image. The CD-ROM is a good way to record the images that are excluded from the court book. Remember to include an index.

The judge and/or coroner will need a book of similar-quality images. This copy should be glue bound. Depending on local arrangements, a laser copy may suffice for the defence. All other copies that are needed - for example, for a jury - can be laser printed.

Size

Print images in 5R, which is approximately 180mm by 128mm (5 x 7 inches). This size achieves a good balance between size and detail.

Numbering

Use a consistent numbering scheme for the pages of the book; for example, a small white dot in one of the lower corners with a number hand-written or stamped. Wherever possible, provide a legend. For example, the transcription of your notes recorded at the scene.

Photographs of bodies

It is a good idea to place all images that include bodies in a separate binder. This process provides dignity to the deceased and reduces chances of embarrassment at court or other proceedings.

If it is possible, ask that the above images be removed from the file before it is forwarded to any other party (excluding defence solicitors), unless they are of particular evidential value. Except in the case of pedestrians, motorcycle riders and passengers inside a vehicle, they provide little information that cannot be obtained from the pathologist's report.

Digital imaging guidelines

It is critical in law enforcement that a digital image (photograph) can be verified in court as an authenticated copy of the original digital image.

Frontline employees must follow the guidance in this section which simply outlines the digital imaging process to:

- ensure any images they take will be accepted by courts as reliable evidence
- minimise the risk of legal challenges around whether the image could have been compromised
- supplement more detailed guidelines (the Australasian Digital Imaging Guidelines) used by Police forensic photographers.

Please refer to the Digital imaging guidelines (Taking, downloading and securing images) in the ‘Photography (Forensic imaging)’ chapter.

Aide memoir - crash scene photography

Item	What you should do, or what you should have on site
Equipment	- Still camera with 50mm (full size CCD sensor) lens, tripod and tape measure. - Lens filters - polarising is essential.
Health and safety issues	- Protect the scene and workers. Use crowd control tape, cones and flares. - Maximise safety-Minimise risk by applying TENR, Police's operational risk assessment tool.
Scene preparation	- Place placards/labels on all objects to be recorded, including tyre friction marks. - Place scale tape (if available) on vehicles. - Place scale tape or ruler on road surface objects, if no background scale is available.
Scene action	- Walk through, along the centre line, photographing the scene. Do this in both directions. - Photograph surface objects at right angles to the centre line and from immediately above. - Record the spread of glass and other debris fields. - Ensure that you capture the start of the crash and the tyre friction marks created by the vehicles.
Vehicles	- Photograph at right angles along body lines. - Photograph the tyres. - If any tyres are flat, give extra attention to any tyre friction marks on the road surface. - Replace the doors and roof, if they have been removed. - If possible, take overhead photos.
Victims	Photograph victims - if: - their location or other evidence suggests the occupants were not wearing seat belts - their position or bruising will help prove who was driving - they provide slide-to-stop evidence. - Where applicable, photograph pedestrian, cyclist and motorcyclist clothing to record slide-to-stop evidence. - Exercise great care and sensitivity.

Traffic crashes

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Policy statement and principles

What

Investigation and reporting of traffic crashes is important for understanding why crashes happen.

This chapter applies to all Constables, Authorised Officers (authorised under the Land Transport Act 1998), and Police employees who may attend, report, or investigate traffic crashes.

Why

Attendance, investigation and reporting of vehicle crashes is used to reduce road trauma, for the planning and implementation of crash-reduction programmes, and for designing improvements to vehicles and roads.

How

Police will ensure that:

- Police attend, investigate and report all fatal and injury crashes, and report all fatal crashes within 24 hours after the first fatality;
- Police attend and contribute to sudden death investigations for all off-road fatal vehicle crashes
- all drivers (or people suspected of driving) involved in a crash are tested for alcohol and/or drug impairment, where appropriate;
- traffic crashes involving Police employees are appropriately overseen to ensure that the investigation will withstand external scrutiny; and
- victim follow-up is undertaken to ensure that injuries that may not be highlighted at the time of the crash are still reported.

Definitions

This table defines terms relevant to traffic crashes.

Term	Definition
Fatal crash	A crash, on a public road, street or any other place, involving a vehicle where a person involved in the crash dies within 30 days of the crash.
Off-road fatal crash	A crash, on private property that has been caused by, or involves a motor vehicle (a car, motorcycle, truck, tractor, motorised agricultural machinery), where a person involved in the crash has died.
Serious injury crash	A crash in which a person suffers fractures, concussions, severe cuts or other injuries that require medical attention or admission to hospital.
Minor injury crash	A crash in which injuries are not ‘serious’ but require first aid or cause discomfort or pain to the person injured. Examples include minor bruising, soreness to the neck, and any minor cut or chest soreness from the restraining effect of a seat belt during a crash.
Serious crash	A crash that is a fatal or serious injury crash or that may attract significant interest from the public or media.

Note: It is important to use care in ascertaining injuries when completing the TCR, because TCRs are used to inform:

- the provision of funding for future road construction and repairs; and
- Police enforcement activity.

Suspected injuries can change, so confirm them with appropriate medical personnel if you have any doubt. Refer to ‘Crash reporting’ later in this chapter.

Overview

Introduction

Investigating and reporting on traffic crashes is important to record the details of where, when, how and why a crash happened.

The information gathered when investigating and preparing reports is used not only for prosecutions, but also for planning and implementing crash-reduction programmes and designing improvements to vehicles and roads.

Police supply a copy of every Traffic Crash Report (TCR) to the Waka Kotahi New Zealand Transport Agency (NZTA). If the crash has resulted in a fatality, a trained Serious Crash Analyst (SCA) must complete an additional Serious Crash Analysis Report. The SCA must send an electronic copy of their report to CAS.Administrator@nzta.govt.nz to enter into the Crash Analysis System (CAS). Both the Commercial Vehicle Safety Team (CVST) and a trained SCA investigate fatal crashes involving heavy motor vehicles.

Purpose

This chapter describes the procedures that all Police constables must follow when attending a crash and preparing the various reports.

Police attendance at crashes

Police must:

- attend and report all fatal and injury vehicle crashes reported to them;
- attend and contribute to sudden death investigations involving a vehicle on private property;
- report and should attend any non-injury crash reported to them;
- stop and attend the scene of any crash they come across;
- ensure that any crash Police respond to involving a politician, diplomat, VIP or other high-profile person is overseen by an NCO;
- investigate and report any crash they attend in accordance with this chapter;
- secure vehicles, so electronic data can be downloaded, in accordance with the 'Vehicle crash data recording devices' chapter, if required;
- test all drivers (or people suspected of driving) involved in a crash for alcohol and/or drug impairment in accordance with the 'Alcohol and drug impaired driving' chapter; and
- treat all fatal and potentially fatal crashes as culpable homicides; a SCA who is qualified to advanced investigator (level 3) standard must investigate such crashes.

Refer to the guidelines for traffic crash attendance.

Traffic crash investigation standards

Police investigating crashes must conduct their investigation in accordance with the principles, procedures and methodologies in the specialist crash investigation training programmes. These programmes are delivered by or on behalf of The Royal New Zealand Police College.

Roles and responsibilities for crashes

This table details roles and responsibilities relevant to traffic crashes.

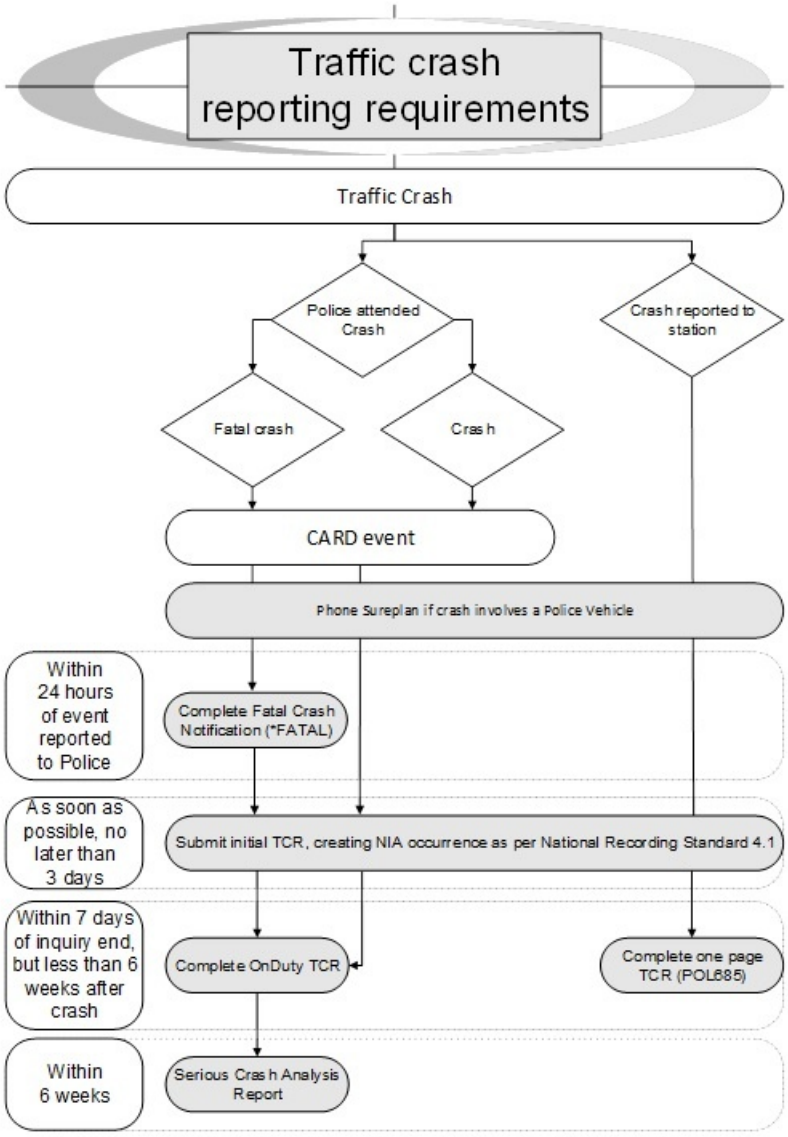
Roles	Responsibilities
District Commander	Ensures: - all TCRs and Crash Analysis Reports are completed and meet the requirements outlined in this chapter; and - sufficient SCAs are qualified to at least advanced investigator (level 3) standard in their district.
District Road Policing Manager (RPM)	- Reviews all Crash Analysis Reports to ensure they meet the requirements outlined in this chapter; and - Can request a Crash Analysis Report be completed for non-fatal serious crashes.

District Road Policing Manager and District Crime Manager	- Reviews sudden death investigations involving a vehicle on private property to determine the ongoing requirement for the Serious Crash Unit to be involved in the investigation into the death, post-initial scene attendance.
Supervisor	Ensures: - constables complete the TCR and Crash Analysis Report within the guidelines of this chapter; - appropriately qualified and technically proficient constables are authorised to complete Crash Analysis Reports; - constables display technical ability commensurate with their level of training; - constables display the highest level of professional conduct; - all TCRs are checked for accuracy and reviewed; and - all TCRs are submitted within the appropriate timeframes.
O/C Case	- Overall responsibility for the crash investigation file. - Obtains a Crash Analysis Report before recommending judicial action; - Retains one complete copy of the Crash Analysis Report with the crash file at all times; - Undertakes victim follow-up to ensure that injury status has not changed; - Undertakes any required follow up with Road Controlling Authorities (RCAs) around any road or environment issues that are identified; and - Advises File Management Centres (FMCs) of new information, (such as blood results or a change in injury status) so that the TCR can be updated and resent electronically to the CAS administrator at NZTA.
Serious Crash Analyst (SCA)	To attend and investigate all fatal vehicle crashes, including: - Attend, investigate and report all fatal vehicle crashes, and report all fatal crashes within 24 hours after the first fatality. - support and provide subject matter expertise on appropriate evidence collection, reconstruction and vehicle inspection for off-road fatal vehicle crashes to agencies and other Police staff, where SCU are not the lead investigation group. - determining which, if any, specialist units should attend the off-road fatal crash, which may be necessary for the sudden death investigation, e.g., Worksafe. - All notes taken at the time are attached to the sudden death investigation file. Ensures the Crash Analysis Report is written and submitted on time. A SCA must: - be authorised by a supervisor to complete the report; - have successfully completed at least advanced investigator (level 3) training; and - have Crash Analysis Reports reviewed as per the 'Serious crash investigation review' chapter. **Note**: Where any crash has resulted in a fatality and is assigned to an SCA for analysis, the SCA is responsible for submitting the Fatal Crash Notification (*FATAL).
File Management Centres (FMCs)	FMCs must amend the NIA traffic crash node, as they are advised of new information (such as blood results) by the O/C Case. Resubmit any updated TCRs to NZTA electronically via the enterprise On Duty portal.

Reporting requirements

Constables and/or Authorised officers should attend and report a crash via the submission of a file in an accurate and timely fashion. All reports must be prepared by a person authorised to do so, and in adherence with the procedures in the 'National recording standard' chapter of the Police Manual.

Reporting timelines



Refer to section 4.1 in the 'National recording standard' chapter.

Types and purpose of reports

This table lists the reports relevant to traffic crash investigations and their purposes.

Report titles	Purpose
Fatal Crash Notification (*FATAL)	This Ten-One notification form is an early notification sent to interested parties. It contains initial information about a fatal on-road motor vehicle crash. It must be completed within 24 hours of the fatality occurring and **must not** contain any information that identifies a party involved. **Note**: It is important the timeline for entering this report is complied with.
OnDuty TCR	Constables must use OnDuty when attending and reporting on a crash. Constables must follow theinstructions on completing a TCR. Crashes that have resulted in an injury and have been reported at Police station counter must be reported using a TCR. **Note**: If directed by the Communication Centre (Comms) to attend a crash, and on arrival all parties have left the scene, an OnDuty TCR must still be completed with as much detail as possible. All events coded 1V must be resulted K6 with Comms.
Crash Investigation Report	This report must be completed for all fatal crashes or at the request of the RPM. A trained SCA compiles this report, which may be used as evidence in judicial proceedings.
Off-Road Crash Investigation	A Serious Crash Unit Crash investigation report may not be required, however, 'notes taken at the time' should be preserved in their original form. These notes should be included in the sudden death investigation file.
Motor Vehicle Crash Report	This report must be completed by phoning SurePlan on 0800 112 323 (always select option 1 for Police and then you have a choice of option 1 for Sureplan or the other options for Custom Fleet).
One Page TCR (POL685)	This is a single-page form that only a Police employee in a watchhouse can use to record non-injury crashes reported at Police station counters. It must **not** be used for crashes constables attend even if they appear minor. Should a member of the public report a crash to a Police station that resulted in an injury, an OnDuty TCR must be completed by a constable.

Audience

When completing a report, remember the potential audience. These reports can be used as evidence in criminal proceedings and may be viewed by victims and their families. Ensure the report is legible and easy to understand.

Timelines for reporting

This table details when the reports must be completed and submitted.

Report title	Timeline
Fatal Crash Notification (*FATAL)	Must be submitted as soon as possible after the crash, but no later than **24** hours after the first fatality. Subsequent fatalities within 30 days must be reported in the same way.
OnDuty TCR	Must be submitted within seven days of the end of the inquiry, but no later than 6 weeks from the time of the crash.
Crash Analysis Report	Must be compiled and submitted within 6 weeks of the crash by the SCA. If this time frame is unable to be complied with, the District RPM must be advised of the reason for the delay.
One Page TCR (POL685)	Must be submitted within seven days of the end of the inquiry, but no later than 6 weeks from the time of the crash.
Off-Road Crash Investigation	'Notes taken at the time' must be attached to the sudden death investigation file as soon as practicable.

Crash reporting

Accurate information to be recorded

Funding for road improvements and new road policing resources is often based on crash risk. The accurate recording of crash locations, causes and injuries increases the likelihood of resources being allocated.

Constables also require accurate information to effectively deploy to road safety risk. It is important that accurate information is recorded on every TCR by following the Reporting requirements mentioned earlier in this chapter. This includes detailing information included in any attachments.

Important: **All** crashes attended by constables or resulting in injuries must be reported using an OnDuty TCR.

Victim injury status follow-up and blood result entry

Once the FMC has created a TCR within NIA, the NIA file must be assigned back to the O/C case for victim follow-up (including with RCAs), blood result entry, and future investigation as required.

Should the injury status of a victim change since the original report was entered, or upon blood results being received, or when additional information becomes available, the O/C case must advise the FMC which will update the TCR through the NIA crash node. The TCR must then be saved and re-sent electronically to NZTA by the FMC.

Heavy motor vehicle crashes

When a heavy motor vehicle (HMV) is involved in a traffic crash, the consequences are often more significant, both in terms of the trauma and damage caused, and the impacts on the wider road network.

Heavy motor vehicle crash investigation

The procedures for dealing with HMV crashes is the same as any other motor vehicle crash. However, if there is a HMV crash where death or serious injury to any person is involved, or is of a high profile or hazard risk, attending staff are to contact the on call CVST member to obtain initial advice and determine if CVST attendance is required. If CVST attend, they will advise the O/C scene and SCU member in attendance.

If CVST attend the crash then the CVST officer will investigate the ‘Operation of the Transport Service’ which will include specialised matters such as Work time and Logbooks, Vehicle Standards, Dangerous Goods, Vehicle Dimensions and Mass, Static Roll Threshold, Load Security, Transport Licensing, and Road User Charges as appropriate.

CVST will identify any offences in the specialist areas and act against any offenders in respect of these.

A written report will be supplied to the O/C file which will detail all the matters investigated above and any offences disclosed as well as any action taken against any of the parties involved with the operation of any of the Transport Services involved.

That report will be submitted to the CVST officer's supervisor and then to the O/C file supervisor for inclusion in the wider crash report.

See the ‘CVST Practical Guide to Commercial Vehicle crash investigation’ below for more detail.

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☒	CVIU_-_A_practical_guide_to_investigating_commercial_vehicle_crashes.pdf	**773.84 KB**

Serious crashes

Reporting

All crash analysis reports should follow the prescribed template and have undergone peer review in accordance with the 'Serious crash investigation review' chapter.

Note:

- All Crash Analysis Reports should align to the format and layout of the template.
- Preserve “Notes taken at the time” in their original form. These notes are key in linking observations and the final report, and they are admissible in court.

Submitting a crash analysis report

Note the following when submitting a report.

Format

Before submitting a crash analysis report:

- ensure at least one copy of the report is printed and signed as the original, and make additional paper copies as required;
- securely bind copies being issued to the judiciary or judicial officials;
- clearly identify the original if more than one printed copy is being issued; and
- use a secure format for electronic copies produced for any other organisation’s use and make sure they are accompanied by at least one printed copy.

Recipients

Submit the crash analysis report to:

- an SCU supervisor for review and verification. Once approved for distribution, send to:
    - the O/C File;
    - the RPM;
    - the CAS Administrator at the NZTA;
    - the National Coordinator: Crash Investigations, PNHQ; and
    - the Coroner, in the event of a fatal crash.

Filing

The report must be readily available until all appeal processes have been exhausted. Police then retain it for at least seven years before disposing of it.

Common pitfalls

Avoid:

- technical language and, where possible, define terms when they are first used
- over- or under-stating the facts; and
- making statements beyond your technical competence or understanding.

Fatal crashes

Key elements of fatal and potentially fatal crashes

This table details key elements of fatal and potentially fatal crashes.

Key element	What is involved
Investigation	Constables must investigate all serious crashes. Under the Coroners Act 2006, all fatal crashes must be treated as suspicious, violent and causing unnatural deaths.
Scene examination	The examination of the scene must be treated as a culpable homicide investigation until proven otherwise. An early assessment will be made as to the criminal liability of any party. All reasonable practicable efforts must be made to facilitate the forensic evidence collection process and the prompt re-opening of the road.
Oversight	A constable who holds the position of Inspector or above must oversee the investigation of all fatal crashes. Detective qualified sergeants/senior sergeants may at the districts discretion, be assigned to oversee the investigation of crashes that potentially amount to culpable homicide in line with general Police policy and practices which apply to serious criminal investigations.
Supervision	Where possible, a sergeant or senior sergeant trained in crash investigation should supervise the investigation and scene attendance of fatal crashes.
Experts	The O/C Scene will call on experts as required (e.g., where a heavy commercial vehicle is involved, a CVST employee will consult and may attend).
Vehicle examination	Vehicles involved in fatal crashes must be examined by specialist vehicle examiners.
Breath/blood testing	All drivers (or people suspected of driving) involved in the crash must be breath tested and undergo a Compulsory Impairment Test (CIT) if drug impairment is suspected. If injured and hospitalised, they must undergo blood testing. If the driver(s) is not readily identified, every occupant of the vehicle can be tested for alcohol under section 68 of the Land Transport Act 1998.
Reporting	Reports must be submitted according to specified timelines.

Procedures

Fatal crashes require constables to follow two sets of procedures:

- general traffic crash procedure
- sudden death procedure.

If a crash has caused death or an injury likely to result in death, then constables should follow the general traffic crash procedure. Follow the sudden death procedure where a fatality occurs.

Caution: Treat all fatal crashes as unlawful deaths until they are proved otherwise.

Media

Do not release the deceased's name to the media until their next of kin is advised. Tell the next of kin to inform relatives as soon as possible.

See the 'Releasing information to the media after a sudden death' chapter.

Completing the Fatal Crash Notification

An SCA who attends a fatal crash must complete theFatal Crash Notification (*FATAL) within 24 hours of the fatality to ensure Police and partner agencies are promptly notified of the event.

Note: This form is subject to Official Information Act 1982 requests.

As at 1 January 2014, all on road fatal cycle crashes are treated as a normal fatality (i.e., treat as if it was a motorcycle crash).

The form must be as accurate as possible and use the best information available but must not identify individuals involved.

Only the SCA who entered the original form can modify it within 31 days. Modifications outside these restrictions have to be made by the system administrator (via helpdesk).

Off-road fatal vehicle crashes

Key elements for attendance at an off-road fatal vehicle crash

This table details key elements of an off-road fatal vehicle crash.

Key element	What is involved
Investigation	The Serious Crash Unit must investigate all off-road fatal crashes under the Coroners Act 2006. Their primary role in attendance is to provide support and subject matter expertise on appropriate evidence collection, reconstruction and vehicle inspection to the primary investigation unit.
Scene examination	The examination of the scene must be treated as a culpable homicide investigation until proven otherwise. An early assessment will be made as to the criminal liability of any party. All reasonable practicable efforts must be made to facilitate the forensic evidence collection process and the prompt re-opening of the road.
Oversight	A constable who holds the position of Inspector or above must oversee the investigation of all fatal crashes. Detective qualified sergeants/senior sergeants may at the districts discretion, be assigned to oversee the investigation of crashes that potentially amount to culpable homicide in line with general Police policy and practices which apply to serious criminal investigations.
Supervision	Where possible, a sergeant or senior sergeant trained in crash investigation should supervise the investigation and scene attendance of fatal crashes.
Experts	The attending SCA will call on experts as required (e.g., where a heavy commercial vehicle is involved, a CVST employee will consult and may attend).
Vehicle examination	Vehicles involved in fatal crashes must be examined by specialist vehicle examiners.

Completing the Fatal Crash Notification

No Fatal Crash Notification is required for an off-road fatal vehicle crash.

Traffic crashes involving Police employees

Police must ensure traffic crashes involving Police employees are appropriately overseen to ensure compliance with the 'Managing conflicts of interest' chapter of the Police Manual (i.e., that the investigation will withstand external scrutiny).

Police must ensure the District Police Professional Conduct Manager (PPCM) is notified of all crashes involving Police employees in their district. The PPCM must ensure:

- crashes are investigated in a timely manner and within statutory limitations
- the investigation is recorded on IAPro (PPCM database)
- early intervention will access this information to identify employees that may need future assistance.

Employee responsibilities: crash scene

If a Police vehicle is involved directly or indirectly in a crash, the driver or, if the driver is incapacitated, the Police employee attending the crash must:

- take steps to ensure the safety of the scene to prevent anyone else being injured;
- notify the Communication Centre, their immediate supervisor or the constable in charge of their station by the quickest means possible and request assistance if required;
- assist any injured people before the ambulance or medical personnel arrive; and
- ensure the supervisor investigating the crash is given all the information required.

Caution: Police employees should **not** admit fault or promise payment to a third party. It is preferable to leave the investigation to determine fault and any subsequent actions that may need taking, such as reparation.

Employee responsibilities: post-crash

If the Police employee involved in a crash cannot complete any of the requirements detailed below, the supervisor must complete them on their behalf.

Step	Police employees involved in a crash must:
1	Notify their supervisor, Area Commander and Police Professional Conduct Manager (PPCM) of the crash.
2	Notify Sureplan, the Police accident management provider, by calling 0800 112 323 (always select option 1 for Police and then you have a choice of option 1 for Sureplan or the other options for Custom Fleet) from the scene or within 48 hours if it is not possible to call from the scene.
3	Answer SurePlan's questions. This takes about seven minutes.
4	Obtain a claim number from SurePlan.
5	Advise their supervisor of the Sureplan claim number.
6	Complete a near miss report if there are no injuries, or an incident report if someone is injured. Both forms are accessed through My Police/SAP>My services>My safety info>Create an incident.

Roles and responsibilities of other employees

Role	Responsibilities

Role	Responsibilities
District Commander	- Advises the Commissioner or the Director: Integrity and Conduct where a Police employee, acting in the course of their duty, causes (or appears to have caused) death or serious injury to any person; and - Reviews the file and considers, if necessary, what course of action will be taken with the driver.
Director: Integrity and Conduct	Liaises, if necessary, with the Independent Police Conduct Authority.
District Police Professional Conduct Manager (PPCM)	- Provides oversight to ensure crash investigations are undertaken in accordance with this policy and the 'Managing conflicts of interest' chapter. - Reviews investigation outcomes for national consistency and requests file reviews or escalates to the Directors Road Policing and Integrity & Conduct if outcomes are deemed to be inconsistent. - Ensures that an appropriate notification is made to the IPCA by entering an event into BlueTeam if the crash has caused serious injury ot death to any person (Sec 13 IPCA Act) or is of such significance that it should be notified pursuant to the MoU with IPCA.
District Road Policing Manager (RPM)	- Reviews all Crash Analysis Reports to ensure they meet the requirements outlined in this chapter; - Can request a Crash Analysis Report be completed for non-fatal serious crashes; - May be consulted as part of the file review or during consideration of the course of action to be taken; and - Supports the District Professional Conduct Manager with specialist advice or resources to support any investigation they undertake, as required.
District Crash Panel	Assists both the RPM and PPCM with advice on the crash as required.
Area Response Manager Or Substantive Sergeant (or above)	- Appoints a Sergeant (or above) as O/C File; - Ensures SurePlan arranges a vehicle examination as soon as possible to estimate repairs; - Ensures the Professional Driving Panel has been notified and received a copy of the file; - Ensures SurePlan's Electronic Claim Form is completed; - Ensures, if an employee has been injured, the accident compensation policy is followed, and the employee or the employee's supervisor completes a near miss report if there are no injuries, or an incident report if someone is injured. Both forms are accessed through My Police/SAP>My services>My safety info>Create an incident; - Submits the completed crash file to the District Commander promptly; and - Submits a report for forwarding to the Commissioner if it is considered uneconomic for repairs to be made or the estimated cost of repairs is in excess of the district authority limit.
Supervisor of the Police employee involved in the crash	- Attends the crash if required; - Notifies the O/C Station; - Considers the welfare of staff and makes relevant referrals as per the Trauma Support policy; - Confirms the driver has notified Sureplan to obtain a claim number; - Ensures an OnDuty TCR is completed; - Sends the completed OnDuty TCR to SurePlan with the claim number noted across the top; - Ensures a near miss report is completed if there are no injuries, or an incident report if someone is injured. Both forms are accessed through My Police/SAP>My services>My safety info>Create an incident; and - Reports the driving incident to the appropriate PDP.
Communications Centre	- To exercise initial command and control of the crash scene until incident control is passed over to the District in accordance with the Radio and Communication Centre Protocols. - In consultation with District Command Centre (DCC), ensures the scene is attended by a Sergeant (or above) or detective (depending on the severity of the crash) and inquiries are made.

Role	Responsibilities
SurePlan 0800 11 23 23	- Arranges assistance at the scene if required by Police, including towage assistance, if required, to the relevant secure lock-up; - Gathers crash data (ECF) from the driver by phone, including any third-party details (this was previously collected on the Motor Vehicle Crash report); - Sends the ECF to required Police employees; and - Arranges collection of the vehicle, if required, and its repair. If there is a third-party claim, the claim process commences, and SurePlan establishes contact with the third party.
Serious Crash Analyst (SCA)	Attends and provides a report on any: - serious crash involving a Police vehicle and/or a Police employee on duty at the time; and - other crash involving a Police vehicle or employee, at the request of the District Commander, Area Commander or RPM.

People with mental impairments

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Police statement and principles

What

Police will encounter people in the community who suffer from some sort of mental health issue. Whilst it is important to be aware of the different types of mental disorder, the behaviour need not concern you unless it threatens the maintenance of the law or presents a danger to the person displaying it, or to others.

The Police operating strategy, Prevention First, requires all staff to consider the use of Police discretion and alternative resolutions in appropriate circumstances. When dealing with a person with a mental impairment, Prevention First means taking a holistic approach to any offending and seeking out opportunities to prevent re-offending. This includes leveraging off community services (e.g. DAO, CAT) to protect vulnerable people. Ensure that incidents involving a person with a mental impairment are resolved through the Mental Health (Compulsory Assessment and Treatment) Act 1992 where appropriate so that health assistance is provided to the people who need it.

Why

Although recent studies have found some association between people with mental disorder and violence, the association is not large. The vast majority of people with a mental disorder are no more likely to commit crimes than anyone else. People with mental disorder are more likely to be victims of violence than the perpetrators. As vulnerable members of the community, people with mental disorder need to receive appropriate and timely intervention and care if they present a danger to themselves or others.

How

The responsibility for providing services under the Mental Health CAT Act 1992 rests primarily with the mental health services but Police provide assistance where legislation provides for Police intervention.

Overview

Introduction

In the course of your duties, you will encounter people who are behaving differently due to an intellectual disability, brain damage or mental disorder.

The behaviour need not concern you unless it threatens the maintenance of the law or presents a danger to the person displaying it, or to others.

Relevant legislation

These are the three principal Acts that govern your dealings with people with a mental impairment:

- Mental Health (Compulsory Assessment and Treatment) Act 1992. This covers people with a mental disorder where their mental condition poses a threat to the health or safety of themselves or others or seriously diminishes their capacity to look after themselves, requiring the state to intervene.
- Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003. This covers people with an intellectual disability who are charged with, or convicted of, an offence. This Act gives the courts appropriate options for their compulsory care and rehabilitation.
- Criminal Procedure (Mentally Impaired Persons) Act 2003. This covers people with mental impairments who commit an offence that is punishable by imprisonment. This Act provides procedures for assessing, trying and detaining such people.

Definition of mental impairment

'Mental impairment' is not defined in legislation. Recent case law has defined 'mental impairment' as including a mental disorder or intellectual disability, and also other mental or psychological disorders such as degenerative neurological conditions, substance abuse or acquired brain injury, low intelligence or impaired cognition (refer *R v H* [2014] NZHC 1423).

The use of TENR

The TENR operational threat assessment tool **must** be utilised to help staff assess the threat, exposure and necessity to act, before, during and after incidents involving a person with a mental impairment. TENR will assist you in deciding whether Police involvement is necessary; and, if so, what the appropriate Police response, roles and responsibilities are during and after the incident (see 'Dealing with people with a mental disorder'). This will help ensure that a person with a mental impairment is detained lawfully, safely, and that any response is appropriate. For more information see 'Operational threat assessment (TENR)'.

Prevention First

The Police operating strategy, Prevention First, requires all staff to consider the use of Police discretion and alternative resolutions in appropriate circumstances. When dealing with a person with a mental impairment, Prevention First means taking a holistic approach to any offending and seeking out opportunities to prevent re-offending. This includes leveraging off community services (e.g. DAO, CAT) to protect vulnerable people. Ensure that incidents involving a person with a mental impairment are resolved through the Mental Health (Compulsory Assessment and Treatment) Act 1992 where appropriate so that health assistance is provided to the people who need it. (See 'Prevention First strategy' below)

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Prevention First 2017	**1.64 MB**

What this chapter covers

This chapter details:

- the legislation and procedures to follow when you deal with a person with a mental impairment
- the procedures to follow when such a person commits an offence
- some background information on the types of mental disorder you might encounter.

People with a mental disorder

The Mental Health (Compulsory Assessment and Treatment) Act 1992 ("the Mental Health CAT Act 1992") provides for the assessment, treatment and care of people who have, or are suspected of having, a mental disorder. The Act also defines their rights.

The Mental Health CAT Act 1992 details Police powers and duties when they help health authorities, find a mentally disordered person wandering at large, or retake a patient absent without leave from a hospital.

Police role under the Mental Health CAT Act 1992

The responsibility for providing services under the Mental Health CAT Act 1992 rests primarily with the mental health services but Police provide assistance where legislation provides for Police intervention.

Memorandum of Understanding

The New Zealand Police and the Ministry of Health have a Memorandum of Understanding (MOU) governing the practical implementation of the Mental Health CAT Act 1992. It:

- covers responsibilities, transportation of patients and use of force, and forms the basis of local agreements with the local mental health service
- provides that the duly authorised officer ("DAO") is the official in charge at any incident that requires the Mental Health CAT Act 1992 to be invoked and a response from Police and the mental health service. The DAO should request Police assistance only when the particular powers and specific expertise of Police are required
- provides that where a person needs to be assessed under the Mental Health CAT Act 1992 that this should take place in the least restrictive environment possible (such as in the community or a health facility like an emergency department)
- states that a person's degree of intoxication should not delay any mental health assessment.

Assessment and treatment procedure

The Act sets out procedures for assessment and, if necessary, treatment of persons who are thought to have mental disorders. The procedure involves the mental health service and the courts. Police provide assistance only when required as statutorily provided for in the Act.

Meaning of 'patient'

A person who becomes subject to the Mental Health CAT Act 1992 is referred to as a 'patient'.

Enquiries

Enquiries about the assessment and treatment of mentally disordered people are referred to the health authorities.

Lists of appropriate contact people are kept in the Communications Centres and in the watchhouses or custody units of all Police stations.

Difficulties in contacting the health authorities should be reported to a Police supervisor or District Command Centre for liaison with local health authorities to rectify any communications issues.

Definition of mental disorder

Role of the DAO, responsible clinician and the court

The legal definition of 'mental disorder' is very technical and may differ from the usual meaning of the term 'mental disorder'. Anyone who believes that a person may be suffering from a mental disorder can ask a DAO for assistance. The DAO is required to investigate and decide whether or not the person needs to have a medical examination, and whether this is required urgently.

The DAO must arrange for a health practitioner to examine the person. If there are reasonable grounds for believing the person is suffering from a mental disorder he or she can be certified for compulsory assessment, and a responsible clinician (usually a psychiatrist or doctor) must carry out a further examination.

If found to be mentally disordered, the person can be compelled, by order of the Court (either through a community treatment order or inpatient order) to undergo treatment as long as that person's mental disorder continues (section 28(1) of the Mental Health CAT Act 1992 refers).

What is a 'mental disorder'?

'Mental disorder' is defined in the Mental Health CAT Act 1992 to mean a person is in an abnormal state of mind (continuous or intermittent) who may be delusional, or their mood or perception may be such that it poses a serious danger to the health and safety of that person or others, or seriously diminishes the capacity of such persons to look after themselves.

Key words in the above definition are:
(i) "…poses a serious danger…", and
(ii) "…seriously diminished capacity…to look after themselves."

Therefore a number of persons that Police likely come into contact with and they perceive as suffering a mental disorder, do not meet the criteria of the Mental Health CAT Act 1992, which Health professionals in considering whether to detain someone must follow.

'Mental disorder' does not include

Section 4 of the Mental Health CAT Act 1992 explains that the Act's compulsory assessment and treatment procedures may not be invoked simply because of a person's:

- political, religious or cultural beliefs
- sexual preferences
- criminal or delinquent behaviour
- substance abuse
- intellectual disability.

Types of mental disorder

A large number of mental disorders are defined in the Diagnostic Classification System of the American Psychiatric Association. These are the more commonly known mental disorders:

- Schizophrenia.
- Bi-polar affective disorder (manic depression).
- Personality disorders.
- Depression.
- Dementia.

Stereotypes

These are common misconceptions about mental disorder:

- "People who suffer from mental disorder are evil, violent or homicidal". The truth is that there is nothing evil, violent or dangerous about people suffering from a mental disorder. Many are frightened and afraid.
- "Mental disorder is an all or nothing affair". The truth is that there are degrees of mental health and mental disorder.
- "A person who is mentally disordered will stay that way without variation". The truth is that mental disorder can vary in the same way that physical disorder does. Treatment can help the person to recover.

Mental disorder and crime

Although recent studies have found some association between people with mental disorder and violence, the association is not large. The vast majority of people with a mental disorder are no more likely to commit crimes than anyone else.

People with mental disorder are more likely to be victims of violence than the perpetrators. Young adult males are a higher risk group, in terms of violence to society, than people with mental disorder.

The strongest risk factors for violence are not attributable to mental disorder. They are:

- a past history of violence
- threatening to commit acts of violence in the future.

An act of violence by a person with a mental disorder may have nothing to do with their mental disorder.

Schizophrenia and bi-polar disorder

Schizophrenia

Schizophrenia is a rare and complex condition with unknown causes. It affects about 1% of the population and most often begins between the ages of 15 and 30.

It may affect the way a person feels, thinks, and acts and can often lead to a withdrawal from the outside world. The term 'schizophrenia' does **not** mean split personality.

People with schizophrenia are generally treated in the community. Inpatient care is reserved for crisis situations where the person's symptoms are endangering the safety of themselves or others.

Symptoms

This table details some of the symptoms of schizophrenia.

Symptom	Explanation
Delusions	Unusual or altered beliefs, such as thinking that the TV has special messages for the person.
Hallucinations	The person may hear, see, feel, smell or taste something that others do not.
Disorganised speech	The person's speech pattern may become different to their usual one; for example, it may be extremely rapid or slow, and disjointed.
Grossly disorganised behaviour	The person may have difficulty in goal-directed behaviour (leading to difficulties in carrying out activities that are part of daily living), unpredictable agitation or silliness, social disinhibition, purposelessness or behaviours that are bizarre to onlookers.

Triggers

An acute psychotic state may result if the:

- person's life situation is too much for them to handle
- person's medication cannot control the symptoms
- person stops taking their medication. Many people with schizophrenia do not believe they are 'ill' and need treatment. Moreover, many forms of medication have extremely unpleasant side effects.

Bi-polar disorder

A person with the bi-polar disorder experiences mood fluctuations, from extremely elated (manic) to very low (depressed), with periods of normal mood in between. Some people experience only the highs, with normal mood in between. Some experience a mixed-mood condition, where they swing from high to low within as short a time as a day. Sometimes episodes occur spontaneously, but more often they are triggered by stressful events and/or the use of drugs such as marijuana.

About 1% of the population experience bi-polar disorder which occurs equally in men and women. If a parent, brother or sister has the disorder, the risk of having it increases to about one or two in ten. It usually starts before age 30 and frequently between 20 and 24 years. The cause of the disorder is unknown.

People with bi-polar disorder are generally treated in the community. Inpatient care is reserved for crisis situations where the person's symptoms are endangering the safety of themselves or others.

Symptoms

The symptoms of bi-polar disorder differ depending on whether the person is depressed (low in mood) or manic (high in mood), and some individuals can experience a mix of both depressed and manic symptoms.

The symptoms of depression in bi-polar disorder include:

- depressed mood
- loss of interest or pleasure in activities
- weight loss
- sleep disturbance
- fatigue
- feelings of worthlessness or excessive guilt
- difficulty concentrating
- recurrent thoughts of death or of committing suicide.

The symptoms of mania in bi-polar disorder include:

- persistently elevated, expansive or irritable mood with inflated self-esteem or grandiosity
- decreased need for sleep
- talkativeness
- distractibility
- excessive involvement in pleasurable activities that have a high potential for painful consequences (e.g. unrestrained buying sprees).

Procedures

Follow these steps when dealing with people with schizophrenia or bi-polar disorder.

Step	Action
1	Try to calm the person down.
2	Turn off anything that may be winding them up or ‘sending them messages’, such as a radio or television.
3	If possible, get the person away from crowds.
4	Do not lie. Gain the person’s trust and, if possible, get help from someone they trust.
5	Speak slowly and clearly and give instructions one at a time.
6	Do not argue with the person about their delusions.
7	Acknowledge the person’s feelings. They are likely to be very frightened.
8	Take threats of suicide very seriously.

Personality disorders

What is a personality disorder?

Personality disorders are defined as ‘ingrained, maladaptive patterns of behaviour’ that are consistent and have become the norm for an individual. They differ from illnesses in that the disorder is stable over time (though behaviours may fluctuate) and there is no specific ‘treatment’.

Causes

It is believed that personality disorders are the result of a combination of genetic and societal factors. The disorder can be triggered in a person with a genetic vulnerability by a traumatic or unstable childhood.

Signs

The person experiences distress and difficulties in behaviour and relationships. The person may display a range of behaviours, including aggressive, manipulative or self-harming behaviours. The disorder is managed using a range of therapies.

At times of crisis, the person may also experience symptoms such as anxiety, sleep disturbance, depression or thought disturbances. Short-term medication is used to treat these.

Anti-social behaviour

Only some kinds of personality disorders, principally ‘borderline’, psychopathic, sociopathic or anti-social disorders, result in behaviours that cause major concerns to others.

People with a personality disorder are not necessarily anti-social people such as paedophiles or other sex offenders, or people who do not cope well with the demands of society.

Privacy

Because management of a disorder requires carefully designed behavioural plans, rather than ‘medical’ intervention, the person may not be admitted to hospital even in what is apparently a crisis.

Although the staff of mental health services cannot provide details of an individual’s management plan (other than as provided for in the Health Information Privacy Code), it is appropriate for Police to be advised that declining to admit that person is part of a planned approach. In some cases, Police may be advised of other actions they could take if that person comes to their attention again. See ‘Privacy issues’.

Criminal behaviour

People who display criminal behaviour should be dealt with by Police in the same way as any other offender.

Mental disorder

At times, a person with a personality disorder will display behaviour or mood changes that fall within the scope of the Mental Health CAT Act 1992.

Depression

What is depression?

Depression is a persistent low mood. When this is combined with other symptoms, it may be ‘clinical’ or ‘major’ depression. Up to one in four women and one in ten men become clinically depressed at some point in their lives. Depression can start from any age but it is common in the 20 to 45 age group.

Depression is not a ‘weakness’. It is thought to arise from a combination of a person’s predisposition to it, whether genetic or biological, which can be triggered by stressful life events such as illness, grief or bereavement, a break-up of a relationship or work or home-life pressures. Sometimes, there is no apparent or logical reason for feeling depressed.

Note: Depression is treated with a range of therapies and medication.

Signs of depression

The signs of depression include:

- persistent low mood
- sadness or emotional numbness
- loss of pleasure in everyday activities
- irritability, anxiety and poor concentration
- feeling worthless and/or guilty
- crying more than usual
- changes in eating and sleeping patterns
- hopelessness and desperation
- suicidal feelings
- experiencing hallucinations and/or delusions.

Post-natal depression

Post-natal depression affects about 10 percent of mothers following the birth of their baby. Some mothers experience mild depression for a short time, but others may experience more severe depression that affects their lives for a longer period. For women who are vulnerable to depression, there is an increased risk due to factors such as significant loss of sleep.

Note: Post-natal depression is also referred to as ‘baby blues’.

Post-natal psychosis

Psychosis is a rare condition that affects a person’s sense of reality and occurs in about one in 500 women who give birth. For women who are vulnerable to depression, there is an increased risk due to factors such as significant loss of sleep.

Dementia and confusional states

What is dementia?

Dementia is a clinical syndrome characterised by progressive losses of memory, reasoning and emotional abilities severe enough to interfere with daily functioning and quality of life.

The most common sign of dementia is progressive memory loss and increasing confusion. While dementia is not confined to the elderly, it is most likely to occur in elderly people (65 years of age and above).

Note: Other conditions, including major mental disorders, can appear similar to dementia.

Dementia as a mental disorder

The features of dementia can come within the definition of ‘mental disorder’ in the Mental Health CAT Act 1992. However, the Act is not often used in managing dementia in the elderly.

Police involvement

Police may be asked to assist with elderly individuals who are wandering at large or who are confused or aggressive.

They may also come across cases where the caregiver of a person with dementia is suspected of committing ‘elder abuse’ or has simply had enough of particularly difficult behaviour.

Dealing with a person with dementia

Communicating with people with dementia can be difficult, because they may have difficulty in expressing what they wish to say or in understanding what is being said. These points may be useful:

- Take a calm, gentle approach.
- Eliminate distractions such as radio or background conversations.
- Maintain eye contact.
- Use short, simple sentences and speak slowly and clearly.
- Use specific words - dementia can decrease the ability to understand abstract concepts.

Confusional states

Confusional states:

- are more common in older people and can be serious
- are usually caused by a medical disorder, or side effects of medication
- in younger people, can occur as a result of a seizure, head injury or drugs
- can look like intoxication
- are characterised by a difficulty in maintaining attention, disorganised thinking and rambling, irrelevant and incoherent speech.

Note: People suffering from confusional states may be seriously ill and a medical examination should be sought without delay.

Dealing with people with a mental disorder

There will be many situations when you will interact with a person who you know, or suspect, has a mental disorder. Here are some guidelines for dealing with people who appear to have a mental disorder and your general duties when doing so, noting that the behaviour need not concern you unless it threatens the maintenance of the law or presents a danger to the person displaying it, or to others.

Note: If you suspect a person with a mental disorder has committed an offence, see 'Criminal procedures'.

Police role

Your role is one of responsibility and authority and you are expected to know what facilities are available in the community. Remember to work appropriately and in a non-discriminatory manner while trying to maximise the person's involvement and, where possible, choice.

Remember: Take your time. Unless there is immediate danger, always assess the situation using the operational threat assessment tool TENR (Threat, Exposure, Necessity, Response) before deciding what to do and communicate your plan.

Initial procedure

Follow these steps when initially dealing with someone who has a mental disorder.

Step	Action
1	Seek help from the DAO, the person's doctor, family, friends and associates. Sometimes it can help the person if they have someone they know and trust with them. The supporter can reduce the person's anxiety, help them communicate with you and help interpret the person's experience.
2	Try to find out whether the person is physically ill or injured. The behaviour may be due to a brain tumour or the effects of medication, for example, rather than a medical disorder. **Important**: Ask the person what they need or want - don't assume!
3	If necessary, ask health professionals for any helpful information about the person and their disorder. If they are reluctant to release this information, remind them of the provisions under which they can do so. For a list of these provisions, see 'Privacy issues'.
4	Take safety precautions by: - taking a colleague with you whenever possible - continually assessing the situation with regard to the safety of all the people involved - not leaving the person unsupervised - removing any weapons or potentially dangerous items, particularly matches and lighters (**do not** allow the person access to these) - having your handcuffs with you and double lock them if they are used - taking suicidal behaviour seriously - remaining alert and remembering that a person may be in distress but unable to communicate it.
5	Eliminate distractions by: - reducing any environmental noise that could heighten the person's confusion and anxiety - turn off anything that may be 'sending messages', such as the radio and television - avoiding making excessive noise yourself - you may need to turn down the Police radio - asking any spectators and unnecessary personnel to leave the scene.

Communication procedure

Follow these steps when communicating with someone who has a mental disorder.

Step	Action
1	Reassure the person as they may be frightened and may not know what is happening. Make sure they know you are there to help and if they ask for assistance, tell them what support you can provide.
2	Show that you are calm, in your comments, gestures and tone of voice. Be careful about what you say and how you say it. Speak in a soft, slow voice and use clear, plain language. Listen and reflect back what the person is saying.
3	Be tactful, courteous and empathetic. Do not meet hostility with more hostility. Never joke about the person or the disorder. Be sincere, honest and open. If you lie or try to deceive the person and you are found out, all trust will be destroyed.
4	Do not 'buy in' to the person's delusions or hallucinations. If you pretend that they are real, you may get into a situation you cannot follow through with. You may also incite the person to further irrational behaviour. On the other hand, do not argue or deny the person's 'reality'. Try to move away from the subject by asking questions designed to bring the person back to reality.
5	Give any instructions **one** at a time.
6	Some people use alternative communication systems such as sign language or pictures. If you are dealing with such a person, find someone, such as a sign language interpreter, to help you communicate. For information on interviewing people with special needs and using interpreters, see the 'Investigative interviewing' chapters of the Police Manual.

How to defuse crisis situations

In crisis situations some people may be so frightened, anxious or agitated that their response is similar to a "fight or flight" (acute stress) response. A person affected by this response perceives everything in the environment as a possible threat to their survival. Everyone and everything is a possible enemy and as a result a person affected by this response may overreact to the slightest comment or stimulus.

Follow these steps to defuse a crisis situation.

Step	Action
1	Eliminate distractions (step 5 of the initial procedure).
2	Avoid any threatening acts.
3	Communicate calmly.
4	Move slowly but deliberately and make no sudden movements.
5	For your safety maintain a safe distance and a strong stance.
6	If the person's level of resistance persists or increases, use these five steps of tactical communication: 1. Ask (make a direct request). 2. Why (explain why you have made the request). 3. Options (tell them what they can expect to gain or lose). 4. Confirm (tell them what is required; make a confirming statement: "Is there anything I can reasonably do or say to gain your cooperation?"). 5. Action (use a tactical option). For further information on the five steps, see the 'PITT training manual'.

Duty to respect cultural identity

When exercising any power under the Mental Health CAT Act 1992, you must have:

- proper recognition of the importance and significance to the person of the person's ties with his or her family, whanau, hapu, iwi and family group, and
- proper recognition of the contribution those ties make to the person's well-being, and
- proper respect for the person's cultural and ethnic identity, language, and religious or ethical beliefs.

See: Section 5 of the Mental Health CAT Act 1992.

Duty to provide an interpreter

If. . .	**and. . .**	**and. . .**	**then. . .**
you are exercising any power under the Mental Health CAT Act 1992	- the first or preferred language of the person is a language other than English, including Maori and New Zealand Sign Language, or - the person is unable, because of physical disability, to understand English;	it is practicable to provide the services of an interpreter,	you must ensure that: - the services of an interpreter are provided for the person, and - as far as reasonably practicable, the interpreter provided is competent.

See: Section 6 of the Mental Health CAT Act 1992.

Duties under the MOU

In exercising your powers, you must act with humanity and respect for the inherent dignity of the person, maintain a flexible approach and be ready to change your course of action.

The MOU also has provisions relating to the use of force. The details are included in the procedures relating to use of force - see 'Procedures for assisting DAOs' and 'Assisting a medical practitioner'.

Compulsory assessment and treatment procedure

Any person can apply to have another person assessed under the Mental Health CAT Act 1992.

Note: Police are not routinely involved in making applications and wherever possible, this should be left to family and health professionals. The following outline of the assessment and treatment procedure is provided for your information.

Applications

The procedure for applications is set out in sections 8, 8A and 8B of the Mental Health CAT Act 1992. These are the process steps.

Stage	Description
1	Anyone can fill out an application form to the Director of Area Mental Health Services for the compulsory assessment of any person who they think is mentally disordered.
2	The applicant must be over 18 years and have personally seen the person within the three days immediately before the date of the application.
3	The form must be accompanied by a certificate from a registered practitioner that states that there are reasonable grounds for believing that the person is suffering from a mental disorder.

‘Proposed patient’

At this point in the process, the person begins to be referred to as a ‘proposed patient’.

Preliminary assessment

The procedure for the preliminary assessment is set out in sections 9 and 10 of the Mental Health CAT Act 1992. These are the process steps.

Stage	Description
1	The Director of Area Mental Health Services must make arrangements for the person to undergo assessment, and give the proposed patient a written notice informing them of the: - time, place and purpose of the examination - name of the health practitioner who will conduct it. **Note**: This must **not** be the person who signed the certificate required under section 8 of the Mental Health CAT Act 1992.
2	Where necessary, the Director must also make arrangements for the person to be taken to the place where the assessment is to be carried out.
3	After the examination, the examining practitioner must complete a certificate of preliminary assessment, which states whether the person is mentally disordered. If not, the person is free to go.

Duly authorised officers

The duties of the Director are usually carried out by a duly authorised officer (DAO) who:

- is chosen by the Director to perform the functions and exercise the powers conferred on DAOs by the Mental Health CAT Act 1992
- must have the training and competence to deal with persons who are mentally disordered (a DAO is usually a psychiatric nurse).

Five-day assessment

The procedure for the second assessment is set out in sections 11 and 12 of the Mental Health CAT Act 1992. These are the process steps.

Stage	Description
1	Note that the person is now referred to as a 'patient'.
2	If there are reasonable grounds for believing that the person is mentally disordered, the examining practitioner must send a notice in writing to the patient stating that they must undergo a five-day period of assessment and treatment. The notice instructs the patient to attend at the place the practitioner nominates. It can be in the community or, if this is not practicable, in a hospital.
3	The patient now has 'compulsory status' and may apply to the District Court for the decision to be reviewed.
4	Before the five days are over, the responsible clinician must complete a certificate of further assessment stating whether the patient is mentally disordered and in need of further care.
5	To complete the certificate the responsible clinician must consider whether a patient is mentally disordered or: - there are reasonable grounds for believing that the patient is mentally disordered, and - it is desirable that the patient be required to undergo further assessment and treatment.

Inpatient and outpatient

A patient who is being assessed in the community is called an 'outpatient', and a patient who is assessed in a hospital is called an 'inpatient'.

If a patient is being treated in the community and needs to be re-admitted, this can occur. Similarly, patients undergoing inpatient assessment can be discharged to continue assessment as an outpatient, or may be granted leave of absence on such terms and conditions as the doctor sees fit.

14-day assessment

The procedure for the third assessment is set out in sections 13 and 14 of the Mental Health CAT Act 1992. These are the two process steps.

Stage	Description
1	If the responsible clinician believes that the person is mentally disordered, the patient undergoes a second period of assessment and treatment lasting up to 14 days. **Note**: This can take place in the community or in a hospital, as appropriate.
2	Before the 14 days are over, the responsible clinician must complete a certificate of final assessment stating whether the patient is fit to be released.

Compulsory treatment order

The procedure for compulsory treatment orders is set out in sections 14, 14A and 15 as well as Part 2 of the Mental Health CAT Act 1992. These are the process steps.

<table>
<tr><th>Stage</th><th>Description</th></tr>
<tr><td>1</td><td>If the patient is not fit to be released, the responsible clinician must apply to the Family Court for a compulsory treatment order. (section 14(4) of the Act)</td></tr>
<tr><td>2</td><td>While the decision is being made, the patient remains subject to assessment and treatment for a further 14 days or until the application is processed, whichever is the sooner.</td></tr>
<tr><td>3</td><td>An order can be either an inpatient order or a community treatment order.
<table>
<tr><th>If. . .</th><th>then. . .</th></tr>
<tr><td>the order is an inpatient order,</td><td>the patient must undergo assessment in a hospital. Leave of absence from the hospital may be granted to the patient for up to three months, which may be extended for a further three months.</td></tr>
<tr><td>the order is a community treatment order,</td><td>the patient undergoes assessment while living in the community.</td></tr>
</table></td></tr>
<tr><td>4</td><td>The order remains in force for six months from the date on which it was made, and can be renewed for further six-month periods.</td></tr>
<tr><td>5</td><td>If, at any time while the order is in force, the patient is considered fit to be released from compulsory status, they must be released immediately and the order is deemed to expire.</td></tr>
</table>

If the person commits an offence

A compulsory treatment order is suspended if the person is charged with an offence that is punishable by imprisonment and the court orders that the person be detained in a hospital or secure facility during the proceedings.

The order ceases to have effect if the person is found unfit to stand trial, found not guilty on the grounds of insanity, or convicted and ordered to be detained in a hospital or secure facility or prison. The provisions of the Criminal Procedure (Mentally Impaired Persons) Act 2003 would then apply.

Powers to assist DAOs

Authority

You have legal powers under section 41 of the Mental Health CAT Act 1992 to assist DAOs.

When you can assist

You can assist a DAO to do any of these three things.

When you can assist	What you can do
If a person is believed to have a mental disorder and needs a medical examination urgently, Police may help the DAO to effect section 38(4)(b) of the Mental Health CAT Act 1992, e.g. enable a medical practitioner to examine the person.	If you are helping a DAO to have a medical practitioner examine a person, you: - may enter the premises where the person is, and - must produce identification/evidence that you are a Police constable if not in uniform - ·may detain the person for up to six hours or the time it takes to complete the medical examination, whichever is shorter. Section 41(2) & (3) of the Mental Health CAT Act 1992 refers.
If the person must go to the medical practitioner for the examination but is unwilling to go, you can help the DAO to take the person and ensure that he or she is examined. Section 38(4)(d) of the Mental Health CAT Act 1992 refers.	If you are helping a DAO to take a person to a medical practitioner to be examined, you: - may enter the premises where the person is, and - must produce identification/evidence that you are a Police constable if not in uniform - may take the person to the place of the medical examination and detain the person there for up to six hours or the time it takes to complete the medical examination, whichever is shorter. Section 41(2) & (4) of the Mental Health CAT Act 1992 refers.
You can also help a DAO take all reasonable steps to take or return proposed patients and patients to places of assessment or treatment if they are refusing to attend or are absent without leave. Section 40(2) of the Mental Health CAT Act 1992 refers.	If you are helping a DAO take or return a person to a place of assessment or treatment, you: - may enter the premises where the person is, and - must produce identification/evidence that you are a Police constable if not in uniform - may take the person to the place they are required to attend and detain the person there for up to six hours or the time it takes to conduct the assessment, examination, review or treatment that the person was refusing to attend for, whichever is the shorter, or - may take the patient back to the hospital. Section 41(2), (5) & (6) of the Mental Health CAT Act 1992 refers.

Note: The preferred action is to have a doctor assess the person in the person's home. Only if this cannot be done should theDAO take the person to another place.

Warrant required

Under section 41(7) of the Mental Health CAT Act 1992, you must not exercise your powers to enter without a warrant if it would be

reasonably practicable to obtain one.

No documentation other than the warrant is required

Only a Police constable or the Director of Area Mental Health Services can apply for a warrant. However, it has been agreed between Police and the Ministry of Health that the warrant may be completed by either the Police constable or the DAO. The Police constable must sign and swear it. Section 113A of the Mental Health CAT Act 1992 refers.

If you are not in uniform

Under section 41(2)(b) of the Mental Health CAT Act 1992, if you are not in uniform when exercising your powers to assist a DAO, you must produce to the occupier your identification card as evidence that you are a Police constable.

Arrest provisions apply

Sections 30, 31 and 34 of Crimes Act 1961 apply to your power to take and detain as if it were a power of arrest, with any necessary modifications. Specifically:

- Section 30 of the Crimes Act protects you from criminal responsibility if you arrest the wrong person in good faith and on reasonable and probable grounds believed the person to be the one named in the warrant.
- Section 31 confers all statutory powers of arrest without warrant on all constables.
- Section 34 confers the power to assist a constable in an arrest on anyone asked to do so.

See: Section 122A of the Mental Health CAT Act 1992 refers.

Using force

Under section 122B(1) & (2) of the Mental Health CAT Act 1992, if you are acting in an emergency when assisting a DAO, you can use such force as is reasonably necessary in the circumstances. Use the operational threat assessment tool TENR (Threat, Exposure, Necessity, Response) to assess whether any use of force is necessary and proportionate, given all the circumstances known at the time.

If you use more than minimal or inconsequential force under this section, you must complete a Tactical Options Report (TOR). This report will be collated and forwarded to the Director of Area Mental Health Services on your behalf.

See: 'Use of force' chapter.

Caution: If you act without statutory authority, you have no protection from civil or criminal liability even if you have acted in good faith.

Procedures for assisting DAOs

Limitations of your powers and assistance

Your powers to enter premises and detain a person can be used only to assist a DAO who is acting under section 38(4) (b) or (d), or section 40(2) of the Mental Health CAT Act 1992. Limit your assistance to that which is necessary to affect a reasonable solution to the problem. Continually assess the appropriateness of the actions requested of you, and tell the health professional if they are proposing that you act outside your powers or ability.

Check credentials

If a DAO asks for your assistance, carefully check the credentials of the person making the request.

Check the certificate

If a DAO asks you to help them to take or return a patient to an assessment or treatment place (if the patient is refusing to attend or is absent without leave), ask to see a copy of the relevant assessment certificate or compulsory treatment order.

Using force to transport the person

In the situation when a person must go to the medical practitioner for the examination but is unwilling to go, you can use force to transport the person in limited circumstances as set out in section 122B of the Mental Health CAT Act 1992.

In the situation when a proposed patient or patient is refusing to attend an assessment or treatment place or is absent without leave, you can use force only if there is an emergency and only as is reasonably necessary in the circumstances. If the person is being transported to attend for assessment and treatment under section 9, 11 or 13 of the Mental Health CAT Act 1992, do not use force unless a health professional has issued a notice under the relevant section and this has been explained to the patient. The notice states the reason for the assessment examination, the time and place of the assessment and the person who will perform it. The person cannot be moved without this.

In all situations, use force only if:

- in your opinion it is justified, and
- the DAO gives you clear instructions to do so, and
- the patient would be likely to suffer harm, or to harm other people or damage property if force is not applied, and
- the force used is necessary and proportionate given all the circumstances known at the time.

You must know which section you are acting under, and be sure of what it says.

If you use more than minimal or inconsequential force, complete a Use of Force report.

For further information on transporting and restraining a person, see Transporting people' and 'Restraining people'.

Indemnity against civil claims

Do not use force unless:

- the district has obtained a general indemnity from the mental health service against civil claims for damage, or
- the DAO has been informed, and has accepted responsibility for the damage and asked you to continue.

Taking the person to a Police station

Using a Police station as a clinic for assessment is unsuitable unless there is absolutely no alternative; for example, there is no nearby hospital or surgery.

If you are asked to take the person to the station, you are not obliged under section 41 of the Mental Health CAT Act 1992 to do so. You can, if appropriate, advise the DAO that the patient can be taken only to a hospital or some other treatment facility.

If the person is violent or the hospital does not have a bed, Police are sometimes asked to detain the person at a Police station. If the person has not committed an offence and is not under arrest, this should be done only as a last resort.

For details on transporting people, see 'Transporting people'.

Six-hour detention limit

Do not detain a person for longer than six hours.

Bill of Rights

If you detain a person, you must comply with the requirements of the New Zealand Bill of Rights Act 1990.

If the DAO is not present

If the person who requested your assistance is not at the scene, do **not** do the job of the health professional. If the matter is not urgent, decline to take further action. Police should not be routinely involved in applications for compulsory assessment.

In some cases, you may act on the verbal instruction of a DAO (such as a telephone request) to transport a person to a place where they can be examined or assessed. These are likely to be cases where a person has an established mental health history and is well to known to mental health authorities. The DAO must be satisfied that the person may be suffering a mental disorder. You should ensure you receive a full explanation from the DAO as to their grounds for this belief before acting.

Remember: It may be appropriate to use (where the circumstances exist which allow the use of those powers) powers provided by other statutes to enter the premises, such as the power to enter premises under the Search and Surveillance Act 2012.

Assisting a medical practitioner

Authority

Your powers to assist a medical practitioner are contained in section 110C of the Mental Health CAT Act 1992.

When you can assist

You can help a medical practitioner do any of these things.

What you can do	Your powers
If the practitioner needs to examine a person who is acting in a manner that gives rise to a reasonable belief that the person is mentally disordered and is urgent or in the interests of self/others, you can assist that practitioner when called upon to do so. Section 110(4) of the Mental Health CAT Act 1992 refers.	In all three situations, under section 110C(1), & (2) of the Mental Health CAT Act 1992, you: - may enter the premises where the person is, - must produce identification/evidence that you are a Police constable if not in uniform **and may at the request of the medical practitioner:** - detain the person where he or she is, or - take the person or proposed patient to a place nominated by the doctor and detain the person or proposed patient there. For each situation, you can detain the person for the time it takes to conduct the medical exam but in any event for no longer than six hours.
If the practitioner issues a certificate that the person urgently needs an assessment examination and believes the person is a significant danger to himself or herself or others and needs to be sedated in his or her own interest, you can help the doctor administer the drug. (i.e. restrain the person for the practitioner) Section 110A(5) of the Mental Health CAT Act 1992 refers.	
When the person is undergoing the assessment examination, you can help the medical practitioner who carries the assessment out. Section 110B(4) of the Mental Health CAT Act 1992 refers.	

If you are not in uniform

If you are not in uniform, you must, under section 110C(1)(b) of the Mental Health CAT Act 1992 produce to the occupier your identification card as evidence that you are a Police employee.

Arrest provisions apply

Sections 30, 31 and 34 of Crimes Act 1961 apply to your power to take and detain as if it were a power of arrest, with any necessary modifications (section 122A Mental Health CAT Act 1992 refers).

- Section 30 of the Crimes Act protects you from criminal responsibility if you arrest the wrong person in good faith and on reasonable and probable grounds believed the person to be the one named in the warrant
- Section 31 of the Crimes Act confers all statutory powers of arrest without warrant on all constables
- Section 34 of the Crimes Act confers the power to assist a constable in an arrest upon anyone asked to do so.

Using force

If you are acting in an emergency, section 122B(1) & (2) of the Mental Health CAT Act 1992 provides that you can use such force as is reasonably necessary in certain circumstances to:

- take or retake a person, proposed patient, or patient
- detain a person, proposed patient, or patient
- enter premises.

Caution: If you act without statutory authority, you have no protection from civil or criminal liability even if you have acted in good faith.

Procedures

Follow these steps if you are asked to assist a medical practitioner.

Step	Action
1	Verify the urgency with the medical practitioner (you cannot use force unless it is an emergency).
2	If necessary, and when authorised under the Act, use force to detain the person, or to take the person to a place nominated by the medical practitioner for an assessment and detain that person there.
3	Advise the person of their rights under the New Zealand Bill of Rights Act 1990 where they are detained.
4	Ensure that you do not detain the person for more than six hours.
5	If you use more than trifling force, complete a Tactical Options Report. Send a copy of the report to the Director of Area Mental Health Services.

Section 110C of the Mental Health CAT Act 1992 refers.

Transporting people

Police responsibility

Mental health services are responsible for arranging the transport of a person under the Act. However, you may be called on to help in situations where your powers and expertise are required and here are some guidelines on how to best do that

Police have a responsibility to assist with transporting violent or potentially violent people. However, it is not the Police's job to provide transport just because that is easier or more convenient for the mental health services.

Agreements with mental health services

Each district should have a memorandum of understanding or service level agreement with its local District Health Board or mental health service, covering matters such as transport. These are drafted in accordance with the national MOU between Police and the Ministry of Health.

Note: Be aware of the provisions in the national MOU.

Things to consider before transporting

Follow these steps before a transport commences.

Step	Action
1	Before using force, you must have clear instructions from the health professional to do so. Be clear which section of the Mental Health CAT Act 1992 you are working under if using force.
2	You must use the operational threat assessment tool TENR (Threat, Exposure, Necessity, Response) to ensure your response to any incident, and any use of force, is necessary and proportionate, given all the circumstances known at the time.
3	Unless it would be unwise to do so, ask the person and caregivers about the best way to transport the person. **Important**: Give careful consideration to their views.
4	Make every effort to reduce the risk of violence before proceeding.
5	Exercise extreme caution to keep the person, staff and others safe.

Type of vehicle

The decision on the type of vehicle to be used must be made by the health professional in charge, in consultation with you. When deciding the most appropriate vehicle to use, consider:

- the clinical condition of the patient or proposed patient, including whether urgent sedation has been used
- the potential or actual violence of the patient or proposed patient
- the types of vehicle available
- the need for restraint and the type of restraint required
- the personnel available
- the distance to be travelled
- any practical alternative ways of transporting the patient.

Using a Police vehicle

If a Police vehicle is to be used, a suitable health professional, such as a DAO, doctor, nurse or ambulance officer, must travel in the vehicle and these rules apply:

- a Police employee must sit behind the driver
- the patient must be placed either behind the front passenger's seat or between the Police employee and another Police employee or health professional in the centre of the rear seat
- where Police numbers are limited, consider getting another suitable person to drive the car
- never leave a restrained person unattended in a Police vehicle.

Positional asphyxia risk factors

See the 'Positional asphyxia' chapter.

Further relevant information

For more information on...	See...
the use of force	- 'Operational threat assessment tool TENR' chapter of the Police Manual - 'Use of force' chapter - 'Arrest and detention' chapter.
holding violent and at-risk people in custody	the 'Managing Corrections Prisoners' and 'People in Police detention' chapters of the Police Manual.

Restraining people

Obtain instructions

Before restraining a person when you are assisting a DAO or medical practitioner, obtain clear instructions from the health professional to do so. You must then follow the instructions and procedures outlined in these chapters:

- 'Operational threat assessment tool TENR'
- 'Use of force'
- 'Mechanical restraints'
- 'Positional asphyxia'.

Note: If you use reportable force, you must submit a Tactical Options Report.

Returning a patient to hospital who is absent without leave

Police role

Mental health services are primarily responsible for recovering patients who are absent without leave. They may call for assistance if the powers and expertise of Police are required particularly in the case of a patient who is considered a threat to themselves or the public.

Two powers to retake

These are the powers conferred on you to retake a person.

Section and application	What you can do
Section 32 of the Mental Health CAT Act 1992. Applies to patients who are subject to an inpatient order (that is, a compulsory treatment order that requires the person to stay in a hospital) and are absent without leave.	If any patient, other than a special patient, who is in hospital under an inpatient order becomes absent without leave, you can under section 32 of the Mental Health CAT Act 1992, at any time within the following three months: - retake the patient; and - take him or her back to the hospital, or to any other hospital. **Note**: If a patient has not been retaken within three months, he or she is deemed to have been released from compulsory status.
Section 53 of the Mental Health CAT Act 1992. Applies to special patients who have escaped from hospital or failed to return from leave.	If any special patient escapes from hospital, or fails to return from leave, you can under section 53 of the Mental Health CAT Act 1992: - retake the patient; and - take them to the hospital from which the patient escaped, or to any other hospital specified by the director. **Note**: There is no time limit with special patients.

Voluntary patients

Note: This **section** does not apply to patients who have voluntarily admitted themselves to a treatment centre or hospital. See 'Mentally disordered person wandering at large'.

Definition of special patient

'Special patient' is defined in section 2 of the Mental Health CAT Act 1992 and covers people who have been ordered to be detained in hospital by the court because they are unfit to stand trial or have been acquitted on the grounds of insanity, or who have been detained for assessment or, following assessment, pending trial.

The term also includes people remanded to hospital after being convicted, acquitted or found unfit to stand trial while decisions are made on their future, as well as convicted people who have been sentenced to prison and detention in hospital.

Offence to assist escape of special patient

You must prove the person:

- rescued any person ordered to be detained as a special patient while that person was being taken to or from a hospital, secure facility or any other place;

or

- being a constable, officer of a prison, security officer or officer of or employee in any hospital or secure facility,
- had in their custody any person lawfully detained as a special patient, and voluntarily and intentionally permitted that person to escape from custody, whether while the person was being taken to or from any of the places named above, or otherwise.

Using force

If you are acting in an emergency, you can, under section 122B(1) & (2) of the Mental Health CAT Act 1992, use such force as is reasonably necessary in the circumstances. Use the operational threat assessment tool TENR (Threat, Exposure, Necessity, Response) to assess whether any use of force is necessary and proportionate, given all the circumstances known at the time. See also: 'Use of force' chapter.

Note: If you use reportable force, you must submit a Tactical Options Report.

If a patient is reported missing

Follow these steps if a patient is reported as absent without leave.

Step	Action
1	Notification. It is expected that Police will be initially notified by phone of the escape of a patient, to be promptly followed by notification sent through electronic means, such as a designated e-mail address. When receiving a call ascertain: - if the patient is considered a threat to themselves or others and the extent of any threat - whether the patient has any weapons - if it is known where the patient may be located or where they may be going; and request a notification to be sent to Police in accordance with the local District/DHB agreement.
2	Forward any documentation to the district File Management Centre who will enter them as 'missing' in NIA and create an alert. **Note**: Decisions on the level of further Police action are made in the same way as for other persons reported missing but with high priority (P1) for those considered to pose a threat.
3	Ensure that the relevant District Command Centre (DCC) is notified that the person is missing.
4	Consult a DAO about: - the action to take - whether a press release is needed - the level of police assistance required - whether the patient is likely to suffer harm - whether the patient is likely to harm other people or damage property - the DAO attending the location when it is believed a patient considered to be a threat can be located.
5	Keep a written record of all consultations with health authorities, taking particular note of the assistance sought and the level of possible threat.

Note: For some patients, escaping from hospital constitutes an offence against the Crimes Act 1961. For details, refer to section 120 of the Crimes Act 1961.

Media releases

If the health authorities tell you that the patient is considered dangerous, you can use the word "dangerous" in the release. If they do not describe the patient in this way but you have concerns because of the patient's previous behaviour, you can say: "Members of the public should not approach this person, but are asked to inform Police urgently of the patient's whereabouts".

See also: 'News releases' chapter

When asked to return a patient

Follow these steps when asked to detain and return a patient to hospital.

Step	Action
1	Check the status of the patient with the Communications Centre or the informant and ensure that the information is recent and accurate.
2	Find out whether: - there is any history of violence - the patient has been taking drugs - there is any likelihood that the patient has any form of weapon - it is considered that the patient poses any threat to themselves or others - there is any indication of where the patient may be going to or may be found.
3	Obtain documentary evidence of the absence without leave before you retake the person.
4	Where the patient is considered to pose a threat or considered dangerous, aDAO should be requested to meet and assist police at the address where it is believed the patient can be located. **Note**: Circumstances may require Police to act before a DAO arrives or if a DAO is unavailable.
5	Before collecting the person, ensure that you are familiar with the procedures on transporting a person and your powers to use force.
6	Advise the patient of their rights under the New Zealand Bill of Rights Act 1990.

Mentally disordered person wandering at large

Authority

If you find a person wandering at large in any public place who you reasonably believe may have a mental disorder, you have powers to apprehend that person under section 109 of the Mental Health CAT Act 1992, which relates to mentally disordered persons in a public place. You should only do this if you think that it would be desirable in the interests of the person or of the public to do so.

Definition of 'public place'

'Public place' is defined in section 2 of the Summary Offences Act 1981.

Note: A person is also in a public place if they are in any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle, which is in a public place.

Making enquiries

Follow these steps if you locate a person and reasonably believe they may be mentally disordered and requiring assessment for inpatient treatment.

Step	Action
1	Check the person's status (QP) - they may have been reported missing from a psychiatric hospital or other mental health facility.
2	If the person has a known psychiatric history, call the local hospital and ask if the hospital has any information about the person.
3	Ask the hospital to find out whether the person is on leave from a psychiatric hospital. If so, their leave may be revoked and the patient returned to the hospital by a DAO, the person who has charge of the person while on leave, or yourself.

Power to detain for an examination

If you find a person in a public place who is acting in a manner that gives rise to a reasonable belief that he or she may be mentally disordered, you can:

- take the person to a police station, hospital, surgery or other appropriate place, and
- arrange for a doctor's examination as soon as practicable.

You can take this action under section 109(1) of the Mental Health CAT Act 1992, if you think it would be in the interests of the person or of the public.

Note: You do not have to assess whether the person is mentally disordered. It is sufficient that the person's behaviour give rise to a reasonable belief that the person may be mentally disordered.

Give person their rights

Advise the person of their rights under the New Zealand Bill of Rights Act 1990 and contact a DAO from the list in the watchhouse. Ask the DAO to arrange for a doctor to examine the person.

Note: In accordance with section 109(5) of the Mental Health CAT Act 1992, you can detain the person for no longer than six hours for the purposes of this examination.

Medical practitioner's examination

If the medical practitioner considers that:

- there are reasonable grounds for believing that the person may have a mental disorder, and

- it is desirable for the person to have an assessment examination urgently in the person's own interests or the interests of any other person,

the medical practitioner must issue a certificate and make an application for a preliminary assessment (sections8, 8A and 8B). If the medical practitioner decides that the person does not have a mental disorder, let the person go (sections 109(2), (3) and (3A) refer).

Power to detain if the situation is urgent

If the medical practitioner deems it desirable for the person to have an assessment examination urgently, you can:

- continue to detain the proposed patient at that place until the examination has been conducted, or
- take the proposed patient to a place nominated by the medical practitioner for the purpose of the examination, and detain the proposed patient there until the examination has been conducted (section 109(4) refers).

Note: You can detain the person for no longer than six hours for the purposes of this examination.

Arrest provisions apply

Sections 30, 31 and 34 of Crimes Act 1961 apply to your power to take and detain as if it were a power of arrest, with any necessary modifications (section 122A Mental Health CAT Act 1992).

- Section 30 of the Crimes Act protects you from criminal responsibility if you arrest the wrong person in good faith and on reasonable and probable grounds believed the person to be the one named in the warrant.
- Section 31 confers all statutory powers of arrest without warrant on all constables.
- Section 34 confers the power to assist a constable in an arrest upon anyone asked to do so.

Using force

If. . .	**then. . .**
you are acting in an emergency	- You can use such force as is reasonably necessary in the circumstances where section 122B of the Act authorises this. - You must use the operational threat assessment tool TENR (Threat, Exposure, Response) to decide whether any use of force is necessary and proportionate, given all the circumstances known at the time.
you act without statutory authority	you have no protection from civil or criminal liability even if you have acted in good faith.
you use reportable force	submit a Tactical Options Report.

See also: 'Use of force' chapter.

Mentally disordered person on private property

Authority

Police have **no** power under the Mental Health (CAT) 1992 Act to enter private property or to detain a person with a mental disorder on private property, unless asked to do so by a DAO or medical practitioner.

When dealing with a person with a mental disorder on private property, use the operational threat assessment tool (TENR), to assess the threat, exposure, the necessity to act now, later or not at all, and to develop an appropriate response. Consider the use of Police discretion and alternative resolutions in appropriate circumstances, as required by the 'Police operating strategy, Prevention First' *(see PDF below)*.

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prevention-first-strategy-20-dec-2011.pdf **1.12 MB**

If action is required, an appropriate response may involve seeking help from the DAO, the person's doctor, family, friends or associates (as explained in the 'Initial procedure' in 'Dealing with people with mental disorders') or using other legislation to enter the premises.

Power to enter premises

Remember that Police officers have an implied licence to enter a property, just like any member of the public. If requested to leave by a lawful occupier of the property, in the absence of a lawful justification to remain, Police must leave. Police can also enter a property if requested to do so by a lawful occupier of that property.

However, if you suspect a person has committed an offence that is punishable by imprisonment and for which he or she can be arrested without a warrant, section 8 of the Search and Surveillance Act 2012 allows you to enter private premises to search for and arrest that person without a warrant. You can only enter the premises if you believe the person will leave to avoid arrest, and/or destroy, conceal, alter or damage evidence, unless you arrest him or her immediately.

You can also enter private premises under section 7 of the Search and Surveillance Act 2012, to search for and arrest a person if you suspect that the person is unlawfully at large, for example, the person is subject to an inpatient order and is absent without leave.

Section 14 of the Search and Surveillance Act 2012 allows you to enter private property or a vehicle without a warrant if you suspect there is a risk to life or safety that requires an emergency response. It also allows warrantless entry if you have reasonable grounds to suspect that your entry will stop or prevent an offence being committed that might injure someone, damage or cause serious loss of property.

Finally, there are other particular circumstances in which you can lawfully enter a property, for example, under section 18 of the Search and Surveillance Act 2012, you can enter a private property if you have reasonable grounds to suspect that a person is in possession of firearms but by reason of a mental condition is incapable of having proper control of them.

Power to prevent suicide

Under section 41 of the Crimes Act 1961, you can use such force as may be reasonably necessary to prevent a suicide or the commission of any offence that would be likely to cause immediate and serious injury to anyone, or serious damage or property, or to prevent an act that you believe, on reasonable grounds, would amount to suicide if committed.

For information on entering property to protect life and property, see 'Suicidal people - Responding to a suicide attempt or threat'.

Trespass

Depending on the circumstances, you may be able to take action under the Trespass Act 1980. See 'Trespass' chapter.

Retaking a patient

If the person is absent from hospital without leave, you may be able to use your powers to retake the person. See Returning a patient to hospital'.

Calling a DAO or medical practitioner

If none of the above apply and you must take action, call a medical practitioner or DAO to the scene.

For procedures on assisting a DAO or medical practitioner, see ‘Procedures for assisting DAOs’ and ‘Assisting a medical practitioner’.

Offences under the Mental Health CAT Act 1992

A guide to categories of offences can be found in section 6 of the Criminal Procedure Act 2011.

Widely understood definitions for 'offence' and 'crime' were repealed as one consequence of major changes introduced by the Criminal Procedure Act 2011. The following informal definition is intended as a guide and has been drafted with assistance from legal experts.

'Offence' and 'crime' are words that are used interchangeably in statute, and there is no material difference between them. They may be described as any act or omission that is punishable on conviction under any enactment, and are demarcated into four categories as defined in section 6 of the Criminal Procedure Act 2011.

Table of offences

This table sets out the offences under sections 114, 115, 115A, 116, 117, 118 to 119 of the Mental Health CAT Act 1992.

Offence	Level of proof required
Assisting patient not to attend for treatment (Section 115 - applies to patients subject to a community treatment order) Category 2 offence	For an employee, you must prove the identity of the suspect and that they: - were employed in or about a place at which a patient who was subject to a community treatment order was required to attend for treatment **and** - intentionally permitted any such patient not to attend, or to attempt not to attend, at the place, or - connived at any such absence or attempted absence. For any other person, you must prove the identity of the suspect and that they intentionally: - instigated or assisted any patient who was subject to a community treatment order not to attend, or to attempt not to attend, at any place in which the patient was required to attend for treatment, or - assisted any patient who was so absent to avoid, or to attempt to avoid, being taken to the place.
Assisting patient to be absent without leave (Section 115A applies to patients subject to an inpatient order) Category 2 offence	For hospital employees, you must prove the identity of the suspect and that they: - were employed in or about a hospital in which a patient who was subject to an inpatient order was detained; **and** - intentionally permitted such a patient to become, or to attempt to become, absent without leave from the hospital, or - connived at any such absence or attempted absence. For any other person, you must prove the identity of the suspect and that they intentionally: - ·instigated or assisted any patient who was subject to an inpatient order to become, or to attempt to become, absent without leave from the hospital specified in the order or to which the patient had been transferred under section 127 of the Mental Health CAT Act 1992, or - ·assisted any patient who was so absent to avoid, or to attempt to avoid, being retaken.

Offence	Level of proof required
Including false or misleading information (Section 119(b) & (c)) Category 1 offence	You must prove the identity of the suspect and that they: - included, or caused to be included - in any notice, statement or entry under the Mental Health CAT Act 1992 - any particular that they knew was false in any material respect; **or** - negligently included, or negligently caused to be included - in any notice, statement or entry under the Mental Health CAT Act 1992 - any particular that was false or misleading in any material respect.
Omitting required information (Section 119(a)) Category 1 offence	You must prove the identity of the suspect and that they: - intentionally omitted, or intentionally caused anyone to omit, - to state in any notice, statement, or entry under the Mental Health CAT Act 1992 - any particular prescribed or required by or under the Mental Health CAT Act 1992.
Doctor providing false or misleading information (Section 118) Category 1 offence	You must prove the identity of the suspect and that they: - included, or caused to be included, - any particular that they knew was false or misleading in any material respect - in any certificate under the Mental Health CAT Act 1992; **or** - negligently included, or caused to be included, - any particular that was false or misleading in any material respect - in any such certificate.

Neglecting or ill-treating patients
 	
(Section 114)
 	
Category 2 offence
	You must prove the identity of the suspect and that they:
	
	- were in charge of a hospital or service at which a proposed patient attended for an assessment examination, or
	- were in charge of a hospital in which a patient was an inpatient; or
	- were employed in any such hospital or service and were engaged in the
	  - conduct of an assessment examination of a proposed patient, or
	  - assessment or treatment of a patient; or
	- was in charge of a home, house or other place where a proposed patient or patient resided;
	
	and
	
	- intentionally ill-treated or intentionally neglected any such proposed patient or patient.

Offence	Level of proof required
Obstructing inspection (Section 117) Category 1 offence	You must prove the identity of the suspect and that they: - were the Director of Area Mental Health Services, or a responsible clinician, or an employee - in a hospital or service being visited by a district inspector or official visitor; **and** - concealed, or attempted to conceal, from the district inspector or official visitor, **or** - refused or wilfully neglected to show to the district inspector or official visitor - any part of the hospital or service or any person detained or being treated in it; **or** - in any other manner wilfully obstructed, or attempted to obstruct, the district inspector or official visitor in his or her duties.
Unlawfully publishing Tribunal reports (Section 116) Category 1 offence	You must prove the identity of the suspect and that he or she published any report of proceedings before a Review Tribunal without the Tribunal's leave. (Patients subject to compulsory treatment orders and some special patients can apply to have their orders reviewed. The Review Tribunal is responsible for considering the condition of the patient and reviewing the order. For further details, see section 102 of the Mental Health CAT Act 1992).

People with an intellectual disability

This part details:

- an overview of how the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 ("the Intellectual Disability Act" in this chapter) works and defines its key terms
- general procedures and duties when dealing with people with an intellectual disability
- the powers and procedures for retaking a person who has escaped from a secure facility.

Offences punishable by imprisonment

If a person with an intellectual disability commits an offence punishable by imprisonment, the Criminal Procedure (Mentally Impaired Persons) Act 2003 provides disposition options for the court and sets out the procedures in relation to the defendant's involvement in the offence, and their assessment, custody and care.

Procedures in the case of an offence

If you suspect that a person with an intellectual disability has committed an offence, see 'Criminal procedures'.

The Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003

This section gives an overview of how the Act works and defines its principal terms. The purpose of the Act and an outline of its provisions are found in sections 3 and 4 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (the "Intellectual Disability Act").

When the Act applies

These are the two ways a person can become subject to the Intellectual Disability Act.

1	By an order made in the course of a criminal proceeding brought against the person. If a person with an intellectual disability is charged with or convicted of an offence, the Intellectual Disability Act gives courts appropriate options for their compulsory care and rehabilitation.
2	By transfer of the person from detention under other legislation to come under the Act. There are two possible transfer situations: - The person to be transferred is a prisoner in the custody of a prison manager under the Corrections Act 2004. - The person to be transferred is a patient or special patient subject to the Mental Health CAT Act 1992.

If it is believed the person has an intellectual disability, the manager of the prison or the Director of Area Mental Health Services can apply to the compulsory care co-ordinator to have the person assessed. The co-ordinator then decides whether to apply for a compulsory care order to bring the person under the Intellectual Disability Act.

Definition of care recipient

A person who becomes subject to the Act is known as a 'care recipient' under section 6(1) of the Intellectual Disability Act.

Secure care

Some care recipients must be looked after in a secure facility. These people are referred to as 'special care recipients' under section 6(2) of the Intellectual Disability Act.

Other care recipients may receive supervised care in a place other than a secure facility. The Ministry of Health has contracted community-based residential and day support services to provide supervised care.

Definition of intellectual disability

Under section 7(1)-(3) & (5) of the Intellectual Disability Act, a person has an intellectual disability if the person has a permanent impairment that:

- results in significantly sub-average general intelligence. A person is considered to have significantly sub-average general intelligence if psychometric tests result in an intelligence quotient of 70 or less, with a confidence level of not less than 95%; and
- results in significant deficits in adaptive functioning, as measured by tests generally used by clinicians, in at least 2 of the skills listed below; and
- became apparent during the developmental period of the person, which generally finishes when the person turns 18 years.

The skills referred to above are:

- communication
- self-care
- home living
- social skills
- use of community services
- self-direction
- health and safety
- reading, writing, and arithmetic
- leisure and work.

‘Intellectual disability’ does not include

A person does not have an intellectual disability simply because the person:

- has a mental disorder, or
- has a personality disorder, or
- has an acquired brain injury, or
- does not feel shame or remorse about the harm that person causes to others.

If a person does not have an intellectual disability, the provisions of the Intellectual Disability Act relating to compulsory care cannot apply to the person, whether or not the person has any other disability. If a person does have an intellectual disability, the Act’s provisions are not prevented from applying to the person simply because the person has one or more of the four characteristics noted above.

Note: It is important to note that some people with an intellectual disability may also be mentally disordered, have a personality disorder, and/or an acquired brain injury. Overseas studies have shown that approximately 30% of people with an intellectual disability have dual disabilities.

Care and rehabilitation plans

A care and rehabilitation plan is prepared for:

- every person who, following a criminal proceeding brought against them, is required to be cared for under the Intellectual Disability Act
- every person with an intellectual disability for whom care under the Intellectual Disability Act is proposed.

Needs assessments

Every care and rehabilitation plan is preceded by a needs assessment of the person.

Wherever possible, the assessment involves consultation with:

- the assessor who diagnosed the person with an intellectual disability
- the person’s lawyer
- members of the person’s family or whanau or others who are close to the person.

The purpose of a needs assessment is to determine the kind of care required, identify the services able to provide it, and prepare a care and rehabilitation plan.

Dealing with people with an intellectual disability

Guidelines for interacting with persons with intellectual disability

Follow these steps when you are interacting with a person who has an intellectual disability.

Step	Action
1	Contact a support person wherever possible. This may be a family member, welfare guardian, or a staff member of an intellectual disability service provider.
2	Speak clearly, using concise and simple language.
3	Be prepared to repeat yourself several times.
4	Deal with one issue at a time.
5	Check that you have been understood by asking the person to repeat what you have said.
6	Avoid yes/no questions. If the person has not understood, he or she may respond just to oblige you. This is easier to do with a yes/no question and you are less likely to detect it.
7	Avoid leading questions such as: “You live here, don’t you?”

Person wandering at large

You have no power to apprehend people solely because they appear to have an intellectual disability. However, you may apprehend a person with such a disability in relation to an offence. In this case, take the person to a Police station. For your procedures, see ‘Criminal procedures’.

Regional Intellectual Disability Care Agency

Your district should have a relationship with the Regional Intellectual Disability Care Agency and supported accommodation services. Contact these services for assistance.

Governing principle when exercising powers

When exercising a power under this Act, the guiding principle under section 11 of the Intellectual Disability Act is that care recipients should be treated so as to protect their rights, and their health and safety and that of others.

Duty to respect cultural identity

When exercising any power under the Intellectual Disability Act, you must properly:

- recognise the importance and significance to the person of the person’s ties with his or her family, whanau, hapu, iwi and family group
- recognise the importance and significance to the person’s family, whanau, hapu, iwi and family group of their tie to the person
- recognise the contribution those ties make to the person’s wellbeing
- respect the person’s cultural and ethnic identity, language, and religious or ethical beliefs
- respect the competencies and autonomy of the person by keeping all procedures, where possible, within the person’s understanding.

Duty to provide an interpreter

If you are exercising any power under the Intellectual Disability Act and:

- the first or preferred language of the person is a language other than English, including Maori, or
- the person is unable, because of physical or intellectual disability, to understand English, or
- the person is able to understand the substance of the matter at issue only if it is interpreted by an interpreter (such as when the person is also profoundly deaf);

and

- it is practicable to provide the services of an interpreter,

you must, in accordance with section 14 of the Intellectual Disability Act, ensure that the services of an interpreter are provided for the person.

Note: In selecting an interpreter, you must have regard to any view the person concerned has on the matter.

For information on interviewing people with special needs and using interpreters, see the 'Investigative interviewing' chapters of the Police Manual.

Retaking a care recipient who has escaped

Powers

The Intellectual Disability Act gives you powers to retake a care recipient who has escaped. Further, section 112 of the Intellectual Disability Act gives you powers to enter, search and remove under warrant and section 113 gives you powers to act without warrant and use reasonable force.

Section 122 of the Crimes Act 1961 makes it an offence to help a special care recipient to escape.

'Care recipient who has escaped'

For the purposes of sections 112 and 113 of the Intellectual Disability Act, a 'care recipient who has escaped' means a care recipient who:

- left their facility without authority; or
- failed to return to the facility after the expiry of authorised leave; or
- failed to return to the facility after the cancellation of previously authorised leave.

With warrant

An application for a warrant is made by the person's care manager or a compulsory care co-ordinator appointed under the Intellectual Disability Act.

The warrant is issued if the District Court Judge or Registrar (if no Judge is available) is satisfied that there are reasonable grounds for believing that the named person is a care recipient who has escaped and is in a specified place. It authorises you to search that place and take the person to a facility.

You can execute the warrant with any assistance from the person's care manager that you request. You and the care manager can under section 112 of the Intellectual Disability Act:

- enter and search the place at any time, and
- remove the person and take them to the person's facility or another facility specified by the co-ordinator, and
- use any reasonable force required to do so. You must use the operational threat assessment tool TENR (Threat, Exposure, Necessity, Response) to decide whether any use of force is necessary and proportionate, given all the circumstances known at the time.

Without warrant

You can enter a place without warrant if there are reasonable grounds for believing that:

- entry is necessary to retake a care recipient who has escaped, and
- the person is endangering, or there is an imminent risk that the person will endanger, the health and safety of themselves or of others.

You can be accompanied and assisted by a compulsory care co-ordinator or the person's care manager. You and any co-ordinator or care manager assisting you can under section 113 of the Intellectual Disability Act:

- enter and search the place at any time, and
- use any reasonable force required to enter and search the place or to take or remove the person. However, you must use the operational threat assessment tool TENR (Threat, Exposure, Necessity, Response) to decide whether any use of force is necessary and proportionate, given all the circumstances known at the time.

Duties

When you enter a place under section 112 or section 113 of the Intellectual Disability Act, you must:

- if you are not in uniform, produce evidence to the person appearing to be in charge of the place that you are a Police employee; and
- explain the purpose of the entry to that person; and
- explain to that person the authority of the entry and, if you are entering with warrant, show them the warrant.

Offence to assist escape

Under section 122 of the Crimes Act 1962, you must prove the identity of the suspect and that they:

- rescued any person ordered to be detained as a special care recipient while that person was being taken to or from a hospital, secure facility or any other place;

or

- being a constable, officer of a prison, security officer or officer of or employee in any hospital or secure facility,
- had in his or her custody any person lawfully detained as a special care recipient, and
- voluntarily and intentionally permitted that person to escape from custody, whether while the person was being taken to or from any of the places named above, or otherwise.

Suicidal people

This part contains information on responding to an emergency call to help a person who has attempted or is threatening to attempt self-harm. It covers the key risk factors in suicidal behaviour and the powers and procedures for preventing self-harm and detaining the person until they can be released into the care of another.

While it briefly covers detaining a suicidal person, a more in-depth discussion concerning custodial management and suicide awareness is found in the 'Operations Support' chapters of the Police Manual.

Key risk factors

Key risk factors for suicidal behaviour are:

- recent loss
- loved ones dying or committing suicide
- isolation
- previous attempts
- depression or bipolar disorder
- serious physical illness.

Suicidal indicators for people in custody

There are additional suicidal indicators for people in custody. For information on these, see the 'Prisoners' chapters of the Police Manual.

Responding to a suicide attempt or threat

Power to prevent suicide

Your power to prevent suicide includes:

- justification for entering property to prevent suicide
- to use force to prevent suicide (under section 41 of the Crimes Act 1961).

You can use such force as may be reasonably necessary to prevent a suicide or the commission of any offence that would be likely to cause immediate and serious injury to anyone, or serious damage to property, or to prevent an act that you believe, on reasonable grounds, would amount to suicide if committed.

Note: Any person, not only Police, is entitled to act under section 41.

Entering property to protect life and property

You may justifiably enter private property only when the entry is 'according to law'. 'Accordingly to law' means under a statutory authority (for example under section 14 of the Search and Surveillance Act 2012 or by way of a search warrant) and where there is a common law right of entry (an implied licence to enter).

Police have a duty to protect life and property. If a situation arises where you believe that the life or safety of a person needs protection, you must exercise your discretion based on the facts known to you. The law gives authority to enter private property based on necessity in limited circumstances (see *R v Fraser* [2005] 2 NZLR 109, 110 (CA)).

The circumstances amounting to necessity were set out in *Dehn v Attorney General* [1988] 2 NZLR 564 580 (HC): "A person may enter the land or building of another in circumstances which would otherwise amount to a trespass if he believes in good faith and upon grounds which are objectively reasonable that it is necessary to do so in order (1) to preserve human life, or (2) to prevent serious physical harm arising to the person of another, or (3) to render assistance to another after that other has suffered serious physical harm."

Action at the scene

Follow these steps if you are the first emergency service at the scene of a suicide attempt.

Step	Action
1	Ensure your own safety first, then the suicidal person's safety and the safety of others at the scene.
2	If the suicidal person is a threat to public or Police safety, you must undertake a threat assessment using TENR (Threat, Exposure, Necessity, Response) before using any tactical option(s). This may involve using a trained negotiator. If you have to use force such as TASER or 'O C spray', restrain the person immediately afterwards. See also: 'Use of force' chapter.
3	Render first aid.
4	Search the person and seize anything they could use to harm themselves, such as pills or weapons.
5	Do not leave the person alone. Try to make them feel more comfortable.
6	If necessary, call an ambulance or doctor, or take the person to the hospital, as appropriate.
7	Obtain the person's particulars and then notify your supervisor.
8	Collect evidence to confirm the attempt, such as any suicide note, verbal admission, preparations, pills, weapons or poisons.

Talking to the person

Follow these steps when talking to a person.

Step	Action
1	If the person is able to talk, encourage them to do so. Use a supportive, calm and empathetic approach that allows them to feel safe and gives them an opportunity to talk about how they think and feel.
2	Do not underrate the importance of establishing a connection with the person. This may be crucial if the person is having difficulty reaching out for help, and it may help them counteract feelings of hopelessness.
3	Acknowledge and respect their distress. Tell them you realise this is hard for them and that you know what they are experiencing is real to them.
4	Ask the person: - what they want or need, and what could assist them - who you should contact, if anybody (for example, a family member or close friend) - whether they are on medication and, if so, what it is for and who is their doctor. Ask this only once you have established rapport with the person.

Informing others

You may need to inform:

- a DAO, if you have reasonable grounds to believe the person may be mentally disordered (suicide risk may be considered reasonable grounds)
- a family member, close friend or health worker to release the person into their care
- their doctor. If medical treatment is necessary the hospital will inform the doctor.

Note: If the person is a child or young person under 18 you must inform a parent or guardian, or make sure it is done.

When contacting a health professional provide information about the person's age (whether the person is young or elderly), ethnicity and social situation. This is so the person can be assessed by the most appropriate DAO. For example, a Maori DAO may be better able

to establish rapport and effective communication with a Maori person.

Police responsibility

When dealing with suspects, witnesses or victims, all Police employees must be alert to any signs of risk displayed in regards to suicidal tendencies.

If you have any concerns for the person's safety you must take steps to minimise the risk. This could include informing aDAO or another suitable person as detailed above. You may also be authorised by a DAO to take the person into custody, or if they are in a public place, to detain them. See 'Mentally disordered person wandering at large' in this chapter for information about your powers to detain.

Detail any concerns you have about the person harming themselves and the action taken to minimise those risks in yournotebook. Ensure you pass any concerns or related information on to other Police or appropriate persons if necessary.

Taking a suicidal person into custody

Taking suicidal person into custody

Taking suicidal person into custody

Refer to the ‘Care and suicide prevention’ section in the ‘Arrest and detention’ chapter.

Supervising suicidal people in custody

For information on supervising suicidal people who are in Police custody, see the ‘People in Police detention’ chapter.

Releasing the person into the care of another

Releasing into the care of others

You must only release the person into the care of another person (the carer) when you are:

- sure the carer is properly informed about how to deal with the person and is able to do so and agrees to do so
- satisfied with the ongoing arrangements for care and that the person is going to a safe environment.

Note: If family or friends feel unable or are unwilling to care for the person, talk to theDAO about arranging care through the local mental health service.

Information for the carer

Provide information to the carer about:

- injuries the person has sustained and whether the injuries have been treated by a doctor
- their medical background, such as medication they are on, who their doctor is
- items seized when the person was searched
- their demeanour and suicidal indicators, such as whether they are violent or depressed
- where to go for further assistance. For example, the carer or the person can seek help from their family doctor, a community mental health service, a Maori community health service, or a phone counselling service such as LifeLine, Samaritans or Youthline.

Give advice about removing ropes, guns, medications and chemicals from the home. Stress that a previous suicide attempt is a key risk factor in further attempts.

Submit a report

Winscribe an incident report to your File Management Centre that outlines the facts and the action you have taken.

Submit Self Harm/Suicidal Tendency safety alert

If you are aware that a person is reasonably likely to commit suicide, has a history of suicide attempts, or has attempted suicide (whether in custody or not), you must enter a “Self-Harm/Suicidal Tendency” safety alert into NIA. To do this, submit a Suicidal Tendencies Notification form, accessed through the Bulletin Board using the Create Notification feature.

See: ‘People in Police detention’ in the Police Manual.

People affected by drugs or alcohol

Alcohol and drugs can have a serious effect on a person with a mental disorder. There are provisions under the Policing Act 2008 that provide you with some powers to deal with these situations.

Taking the person home

If you find a person in a public place who seems to be affected by drugs or alcohol, consider:

- whether medical attention is required, and
- the possibility that the person is suffering from a medical condition, has a mental disorder or is intellectually disabled.

If medical attention is not required, take the person home. If you cannot find out where the person lives or it would not be practicable to take the person there or safe to leave the person there, you can take the person to a temporary shelter or detoxification centre, if one is available.

Detention

Only if these courses of action are not reasonably practicable should you detain the person at the station under section 36 of the Policing Act 2008.

You can detain any person in a Police station for up to 12 hours if that person is:

- in a public place, and
- intoxicated to such an extent that they are incapable of looking after themselves.

Child or young person

If a child or young person is:

- aged up to, but not including, 18 years, and
- found unaccompanied in a situation in which their physical or mental health is being, or is likely to be, impaired,

you can, under section 48 of the Oranga Tamariki Act 1989, deliver the child or young person:

- to the parents, guardians or caregivers, with the child's consent, or
- if the child or young person does not consent to being returned, or the parents or guardians or other persons are not willing to receive the child or young person, to a social worker.

If the person has a mental disorder

If you think the person has a mental disorder, call a DAO so that they can, if necessary, arrange for an assessment examination under section 9 of the Mental Health CAT Act 1992.

Although intoxication complicates an assessment, it does not make an assessment of the person's mental state invalid. Therefore there is no need to wait for the person to become sober. The MoU between the Police and Ministry of Health makes it clear that intoxication does not justify a delay in the attendance of a DAO to assess a person. If the DAO is unwilling to process the person until sober, point out that a delay could mean that the person will be released without assessment when the six-hour period provided for assessment has elapsed. The DAO could consider using the Police Medical Officer to assess the person, or you could make an application for assessment under section 8A of the Mental Health CAT Act 1992 and have the Police Medical Officer complete the medical practitioner's certificate to accompany it.

Try to persuade the DAO to have the person detained in a psychiatric institution before the assessment. If you are unsuccessful, you will have to hold the person in the cells until the DAO considers that the person is sober.

Caution: You cannot hold the person under other provisions before the six-hour period commences.

Effect of drugs on mental disorder

Sometimes alcohol and drugs can exacerbate symptoms of mental disorder. A combination of mental disorder symptoms, not using effective medication, and alcohol or drug abuse might increase the risk of violence. Only some people with these three risk factors will commit acts of violence. Most will **not**.

The strongest risk factors for violence are not attributable to mental disorder or substance abuse. They are:

- a past history of violence
- threatening to commit acts of violence in the future.

Criminal procedures

If a person with a mental impairment commits an offence punishable by imprisonment, they are dealt with under the Criminal Procedure (Mentally Impaired Persons) Act 2003 ("the Criminal Procedure (MIP) Act 2003" in this section).

Use the 'operational threat assessment tool TENR' to assess the threat, exposure, and necessity to act, and decide whether dealing with the person under the Criminal Procedure (MIP) Act 2003 is an appropriate response. Consider the use of Police discretion and alternative resolutions in appropriate circumstances, as required by the '**Police operating strategy, Prevention First**' *(see PDF below).*

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prevention-first-strategy-20-dec-2011.pdf **1.12 MB**

When action is required, an appropriate response may involve seeking help from the DAO, the person's doctor, family, friends or associates as explained in the 'Initial procedure' in the 'Dealing with people with a mental disorder' section.

The Criminal Procedure (MIP) Act 2003:

- addresses the legislative gap that was created with the enactment of the Mental Health CAT Act 1992, which only included people with an intellectual disability if they also had a mental disorder
- provides for:
    - determining whether a person is unfit to stand trial
    - determining whether a person is not guilty on the grounds of insanity
    - sentencing a person with a mental impairment who is convicted
    - assessing a defendant for mental impairment
- contains procedures for assessing, detaining, treating and caring for such people.

Definition of 'mental impairment'

'Mental impairment' is not defined in legislation. Recent case law has defined 'mental impairment' as including a mental disorder or intellectual disability, and also other mental or psychological disorders such as degenerative neurological conditions, substance abuse or acquired brain injury, low intelligence or impaired cognition (refer *R v H* [2014] NZHC 1423).

Mentally disordered people who are suspected of having committed an offence, or are the victim of an offence

Suspects

If you think that a suspect has a mental disorder, you should initially deal with him or her in the usual way. If on the face of it, the prosecution test as detailed in the Solicitor-General's Prosecution Guidelines is met, follow these steps.

Step	Action
1	Arrest the suspect and carry out a QP.
2	Contact your local mental health service and request the assistance of a DAO.
3	**If the offence is** / **then** not serious / it may not be appropriate to file a charge if the DAO arranges, or applies for, an assessment. serious / file a charge regardless. The person may not have been mentally disordered at the time of the offence. This is for the court to determine.
4	Note on the prosecution file the circumstances of the offence and your reasons for thinking that the person has a mental disorder.

Offences punishable by imprisonment

If the person has committed an offence punishable by imprisonment, the defendant is dealt with under the Criminal Procedure (Mentally Impaired Persons) Act 2003. Advise the court of the circumstances of the offence and your reasons for thinking that the suspect has a disorder.

Note: If necessary, recommend that the court obtain an assessment report under section 38 of the Criminal Procedure (Mentally Impaired Persons) Act 2003.

Holding suspects in custody

Follow these steps when holding a suspect in custody.

Step	Action
1	Take special care when searching the suspect. Be sure to remove anything that could be used for self-injury.
2	Keep the suspect separate from other prisoners and visit them at least five times every hour. See requirements for at risk prisoners.
3	When you are taking the suspect to court, keep him or her separate from other prisoners.

Victims and witnesses

If you consider that a victim has a mental disorder, do not 'write off' the complaint and fail to investigate it because of his or her condition. People who have a mental disorder are vulnerable to others and have a right to obtain redress.

Don't ignore the evidence given by the victim or witness. Where appropriate, use the information to direct further enquiries and look for corroboration and further evidence. Investigation may reveal any amount of independent evidence in corroboration.

If you believe that a victim or a witness is mentally disordered, you have a duty to help. Ask a DAO to take action under the Mental

Health CAT Act 1992.

Intellectually disabled people who are suspected of having committed an offence, or are the victim of an offence

Suspects

If you. . .	then. . .
believe that a suspect has an intellectual disability,	you should check their background and talk to family members, a caregiver, or the suspect's doctor. This should help satisfy you whether full and fair communication with the suspect is possible and whether the suspect will understand the nature and reason for an interview.
are satisfied you can communicate fully,	deal with him or her in the usual way. If there is sufficient evidence for a prima facie case, arrest the person and carry out a QP. Ensure an advocate is present during the interview. The advocate could be a family member, a caregiver, or an advocate from a community agency.
believe full communication is not possible,	request the assistance of a DAO, a medical practitioner, or a clinical psychologist with experience in the intellectual disability field to examine the person. **Note**: There is no provision for a formal assessment at this stage.
decide to charge the suspect but the offence is minor,	consider using diversion.
suspect has been arrested but offence is minor	consider a formal warning.

Important: During an interview be considerate and fair and try to gain the suspect's confidence and respect.

Offences punishable by imprisonment

If the person has committed an offence punishable by imprisonment, file the charge as you normally would. The defendant is then dealt with under the Criminal Procedure (Mentally Impaired Persons) Act 2003. Advise the court of the circumstances of the offence and your reasons for thinking that the suspect has an intellectual disability. Recommend that the court obtain an assessment report under section 38 of the Act.

Holding suspects in custody

Always carry out a health and safety assessment using the Electronic Custody Module.

Victims and witnesses

Be aware that victims and witnesses with an intellectual disability may have a desire to please others. Therefore they may give you the answer they think you want to hear, for example always answering 'yes' to your questions.

If the person's emotional response is not as you would expect, do not immediately discount the person's story.

Similar to dealing with suspects with an intellectual disability, before interviewing the person check their background to find out whether they will be able to communicate fully with you. Have an advocate present during the interview.

Fitness to stand trial

At any stage after proceedings commence and until all the evidence is concluded, a court can find a defendant unfit to stand trial. There are legal procedures for finding a person unfit to stand trial and the process is covered in the Criminal Procedure (Mentally Impaired Persons) Act 2003.

Definition of 'unfit to stand trial'

A person is unfit to stand trial if they are unable, due to mental impairment, to conduct a defence or to instruct counsel to do so. The term also refers to a defendant who, due to mental impairment, is unable to:

- plead
- adequately understand the nature or purpose or possible consequences of the proceedings
- communicate adequately with counsel for the purposes of conducting a defence.

Defendant's involvement in the offence

The court may not make a finding as to whether a defendant is unfit to stand trial unless it is satisfied, on the balance of probabilities, that there is sufficient evidence to establish that the person caused the act or omission that is the basis of the offence.

If the question of fitness to stand trial arises and is therefore to be determined before the

hearing of the charge by way of judge-alone trial or jury trial, a special hearing is required to satisfy the requirements of section 9 of the Criminal Procedure (Mentally Impaired Persons) Act 2003.

For the purposes of this determination, the court may consider:

- any formal statements that have been filed under section 85 of the Criminal Procedure Act 2011
- any oral evidence that has been taken in accordance with an order under section 92 of the Criminal Procedure Act 2011
- any other evidence that is submitted by the prosecutor or defendant.

At all other times, the requirements of section 9 are dealt with in the course of the judge-alone trial or jury trial.

If the defendant is not involved

In accordance with section 13 of the Criminal Procedure (Mentally Impaired Persons) Act, if the court is not satisfied of the matter in section 9, it must discharge the person. This discharge does not amount to an acquittal.
Note: The Information may be withdrawn.

Determining fitness

If the court is satisfied that the defendant caused the act or omission that is the basis of the offence, it must receive evidence from two health assessors about whether the person is mentally impaired. If it is satisfied that this is the case, it must:

- give each party the opportunity to present evidence about whether the person is unfit to stand trial, and
- find on that matter, on the balance of probabilities.

If the court finds the person is fit to stand trial, proceedings commence or continue in the usual way.

Body samples

A person found unfit to stand trial is subject to the Criminal Investigations (Bodily Samples) Act 1995. See the definition of 'conviction' and sections 4A(1) and 46(1) in that Act.

Appeals

The defendant can appeal a finding that they caused the act or omission that forms the basis of the offence or is unfit, or fit, to stand trial.

The prosecution can appeal on a question of law against a finding that the person caused the act or omission that forms the basis of the offence, or is mentally impaired, or is unfit to stand trial.

Enquiry into detention options

If a person is found unfit to stand trial, the court must order enquiries to be made to find the most suitable way of dealing with the person. For this purpose, the court must remand the person to a hospital or secure facility, or bail the person subject to them going to a place approved by the court. In deciding whether to grant bail, the need to protect the public is the paramount consideration.

Needs assessment

If the person has an intellectual disability, they must, in the course of these enquiries, also undergo a needs assessment under Part 3 of the Intellectual Disability Act.

Detention in hospital or secure facility

When the court has completed its enquiries, it must consider the circumstances of the case and the evidence of one or more health assessors about whether it is necessary to detain the person in:

- a hospital as a special patient under the Mental Health CAT Act 1992, or
- a secure facility as a special care recipient under the Intellectual Disability Act.

If it is satisfied that one of these orders is necessary in the interests of the public or anyone who may be affected by the decision, it must record that order.

Other treatment and care options

If the court is satisfied that neither of the above orders is necessary, it must order that the person be:

- treated as a patient under the Mental Health CAT Act 1992 (to make this order, the court must be satisfied that the person has a mental disorder or intellectual disability); or
- cared for as a care recipient under the Intellectual Disability Act (to make this order, the court must be satisfied that the person has an intellectual disability); or
- subjected to no order, if the person is liable to a prison sentence; or
- immediately released.

Insanity

At any stage before a judge-alone or jury trial, the issue of whether the defendant is insane at the time of the offence can be raised. There are legal procedures for finding a person not guilty on the grounds of insanity and the process is covered in the Criminal Procedure (Mentally Impaired Persons) Act 2003.

Definition of insanity

No person must be convicted of an offence by reason of an act done or omitted by them when labouring under natural imbecility or disease of the mind to such an extent as to render them incapable:

- of understanding the nature and quality of the act or omission; or
- of knowing that the act or omission was morally wrong, having regard to the commonly accepted standards of right and wrong.

Insanity before or after the time when they did or omitted the act, and insane delusions, though only partial, may be evidence that the offender was, at the time when they did or omitted the act, in such a condition of mind as to render them irresponsible for the act or omission.

See: Section 23(2) & (3) of the Crimes Act 1961.

Agreement on insanity

If, before or at a hearing or trial, the:

- defendant indicates that they will raise a defence of insanity, and
- prosecution agrees that the only reasonable verdict is not guilty on account of insanity, and
- Judge is satisfied, on the basis of expert evidence, that the defendant was insane within the meaning of section23 of the Crimes Act 1961 at the time of the offence,

the Judge must, under section 20(2) of the Criminal Procedure (Mentally Impaired Persons) Act, find the defendant not guilty on account of insanity.

Judge or jury determining insanity

If there is no agreement, the case goes to trial and the Judge or jury will determine whether the defendant is not guilty on the grounds of insanity.

If it appears from the evidence that the defendant may have been insane at the time of the offence, the Judge may ask the jury to find whether the defendant was insane even if the defendant has not raised this possibility themselves.

Detention options

If a person is found not guilty on account of insanity, the court must order enquiries to be made to find the most suitable way of dealing with the person. For this purpose, the court must remand the person to a hospital or secure facility, or bail the person subject to them going to a place approved by the court. In deciding whether to grant bail, the need to protect the public is the paramount consideration.

Needs assessment

If the person has an intellectual disability, they must, in the course of these enquiries, also undergo a needs assessment under Part 3 of the Intellectual Disability Act.

Detention in hospital or secure facility

When the court has completed its enquiries, it must consider the circumstances of the case and the evidence of one or more health assessors as to whether it is necessary to detain the person in:

- a hospital as a special patient under the Mental Health CAT Act 1992, or
- a secure facility as a special care recipient under the Intellectual Disability Act.

If it is satisfied that one of these orders is necessary in the interests of the public or anyone who may be affected by the decision, it

must record that order.

Other treatment and care options

If the court is satisfied that neither of the above orders is necessary, it must order that the person be:

- treated as a patient under the Mental Health CAT Act 1992 (to make this order, the court must be satisfied that the person has a mental disorder); or
- cared for as a care recipient under the Intellectual Disability Act (to make this order, the court must be satisfied that the person has an intellectual disability); or
- subjected to no order, if the person is liable to a prison sentence; or
- immediately released.

Convicted people

Detention options

If the person with a mental impairment is convicted, the court may sentence the person to a term of imprisonment and also order that they be detained in:

- a hospital as a special patient under the Mental Health CAT Act 1992 (if the person has a mental disorder), or
- a secure facility as a special care recipient under the Intellectual Disability Act (if the person has an intellectual disability)

if it is satisfied that the order is necessary in the interests of the person or for the safety of the public or any person or class of person and if the person is not, at the time of the conviction, already subject to a sentence of imprisonment. Section 34(1)(a), (2)-(5) of the Criminal Procedure (Mentally Impaired Persons) Act refers.

Other options

Alternatively, instead of passing sentence, the court may, in accordance with section 34(1)(b), (3)-(5) of the Criminal Procedure (Mentally Impaired Persons) Act, order that the person be:

- treated as a patient under the Mental Health CAT Act 1992 (if the person has a mental disorder), or
- cared for as a care recipient under the Intellectual Disability Act (if the person has an intellectual disability).

Needs assessment

If the person has an intellectual disability, a needs assessment is carried out to determine the kind of care required, identify the services able to provide it, and prepare a care and rehabilitation plan.

Assessing person in custody for mental impairment

At any stage during proceedings, the court can ask for a report on the defendant's mental state.

Assessment report

If there is reason to believe that a person in custody has a mental impairment, the court can order a health assessor to prepare an assessment report on the person. It can do this at any stage of the proceedings, on its own initiative or on application by the prosecution or defence. The report is intended to help the court determine:

- whether the person is fit to stand trial
- whether the person is insane within the meaning of section 23 of the Crimes Act 1961
- the type and length of sentence that might be imposed
- the nature of a requirement the court might impose as part of a sentence or order.

Note: In relation to children and young people, a similar provision exists in relation to the Youth Court in section 333 of the Oranga Tamariki Act 1989.

Detention while report conducted

While the report is being prepared, the person may be detained in a prison, hospital or secure facility, as the court thinks fit, for a period not exceeding 14 days. If the person is bailed, the court may require the person to go to a place approved by it for the assessment.

Needs assessment

If the report finds that the defendant has an intellectual disability, a needs assessment is carried out under section 15 of the Intellectual Disability Act. The purpose of the assessment is to determine the kind of care required, identify the services able to provide it, and prepare a care and rehabilitation plan.

Privacy issues

Provisions to obtain information

Sometimes Police need to obtain information from health professionals about a person's mental impairment in order to work out the best way to deal with the person. Despite the provisions of the Privacy Act 2020, this table lists provisions that you can use to obtain this information.

Source	Provision
Section 22C of the Health Act 1956	This permits (but does not require) the disclosure of health information to Police for the purpose of performing their powers, duties and functions.
Rule 11(2)(i)(i) of the Health Information Privacy Code 1994	This permits (but does not require) the disclosure of health information where this is necessary to avoid a prejudice to the maintenance of the law, including the prevention, detection and investigation of offences, and the prosecution and punishment of offenders.
Official Information Act 1982	This requires health services to make health information available unless there are grounds to withhold it. Protecting the privacy of natural persons is one such ground, but this can be outweighed by an overriding public interest.
Section 59 of the Evidence Act 2006	This places some restrictions on disclosure, but these are limited to evidence in proceedings, not to information sought during an investigation.