

**IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

**ATTACHMENT WS AH-11 TO JOINT STATEMENT OF ASSISTANT COMMISSIONER
WENDY MAREE STEENDAM AND SENIOR SERGEANT AILSA CAROLINE HOWARD**

Date of document: 3 August 2015
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This is the attachment marked '**WS AH-11**' produced and shown to **WENDY MAREE STEENDAM** and **AILSA CAROLINE HOWARD** at the time of signing their Joint Statement on 3 August 2015.

Before me:

An Australian legal practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)

Attachment WS AH-11

Victoria Police Manual – Procedures and Guidelines

Notification of offences

Source Policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- Information Privacy Act 2000
- VPMP Disposition of offences

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and ethical standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. General considerations

1.1 Legislative authority

In certain circumstances members may consider it appropriate to notify the employer or regulatory authority of a person coming under their notice. In accordance with Information Privacy Principle 2.1 (d) and (e), *Information Privacy Act*, Victoria Police may disclose personal information if it:

- reasonably believes that the disclosure is necessary to lessen or prevent either:
 - a serious and imminent threat to an individual's life, health, safety or welfare
 - a serious threat to public health, public safety, or public welfare.

- suspects that unlawful activity has been, is being or may be engaged in, and discloses personal information as a necessary part of its investigation or in reporting its concerns to relevant persons or authorities.

1.2 Privacy considerations

- Due to the personal impact that a notification may have on a person, care should be taken to ensure that the notification is supported by legislation, is in the public interest and the details are factual. Notification is not to be used as a form of penalty.
- Only in exceptional circumstances should consideration be given to notifying a person's employer or regulatory authority where they have not been charged.

1.3 Approval

Notification is to be approved by:

- Persons charged – Work Unit Manager
- Persons not charged (includes receipt of an official caution or drug diversion) – Inspector.

1.4 Making and recording the notification

- When making the notification, the recipient of the information is to be informed of their responsibilities regarding security of the information. This includes advising that the privacy of the individual and confidentiality of information is to be maintained.
- Work Unit Managers are to maintain a record on their correspondence register of all notifications considered for release. The correspondence register should capture sufficient information to ensure an audit can be conducted to identify who, what, when, where and how information/data was released and on whose authority.

2. Procedures for when the employee is charged

2.1 Investigating member responsibilities

- Ask the person about their employment in order to assess whether the charge brings into question their ability or capacity to properly perform their duties. Members should consider their responsibility to prevent offences in this assessment.
- If it is in the public interest and provided for in Information Privacy Principle 2.1(d) and (e) that the employer and/or regulatory authority be notified of the offence, forward a report of the circumstances to the Work Unit Manager recommending notification.

2.2 Work Unit Manager responsibilities

- Assess whether notification is in the public interest and provided for in Information Privacy Principle 2.1(d) and (e). Consider:
 - nature and seriousness of the charge; the mere fact that the person has been charged is not enough to justify notification
 - the duties performed by the person
 - the nature of the charge as it relates to the business of the employer or regulatory authority
 - the potential for the notification to harm the interests of the person.
- Approve or otherwise the recommendation.
- Unless there is a likelihood that notification would interfere with the effective conduct of a pending prosecution, advise the person that their employer and/or regulatory authority will be notified before making the notification.
- Where necessary, make discreet enquiries with the employer or regulatory authority to ascertain the appropriate person to be notified, e.g. Manager, Human Resources.
- Notify the appropriate person in a short report of the circumstances, marked 'in-confidence'.

3. Procedures for when the employee is not charged

- Obtain authority for any notification from an Inspector.
- Any decision to notify requires careful:
 - balancing between a serious breach of personal privacy against the likelihood of significant risk to the public interest/welfare
 - consideration of the possibility that civil action may be taken against all persons involved in the disclosure and Victoria Police.

4. Procedures for specific employees

4.1 Medical practitioners

- Where the employee is charged – notify the Medical Practitioners Board in line with section 2.
- Where there are concerns about their suitability to practice – send a report to the Clinical Forensic Medicine Division, VIFM. VIFM will then inform the Medical Board of Victoria. If necessary, seek prior advice from VIFM.

4.2 Teachers

Sexual offences, violent offences and drug offences – to comply with s.2.6.31 (4), *Education and Training Reform Act 2006*:

- immediately notify the Victorian Institute of Teaching if a registered teacher has been:
 - charged with or committed for trial for a sexual offence, violent offence or drug offence; or
 - convicted or found guilty of a sexual offence, violent offence or drug offence
- notification may be by e-mail, fax or phone; confirm phone notifications in writing.

Incidents related to violent offences and drug offences must be those referred to under s.2.6.31 (4), *Education and Training Reform Act*.

Other offences – apply sections 2 and 3.

4.3 Employees of the Department of Human Services (DHS)

Notification by Victoria Police to DHS of allegation/s of criminal conduct – apply sections 1, 2 and 3. If it is necessary to notify DHS, adopt the same method as when DHS report alleged criminal conduct to Victoria Police (detailed below).

Department of Human Services' reporting alleged criminal conduct to Victoria Police –

- DHS staff or any outside organisation engaged to conduct an internal review are not 'investigating officials' under s.464, *Crimes Act 1958* and as such are not immediately authorised to conduct a criminal investigation. Their role is to facilitate an internal administrative inquiry relating to employment. They are expected to notify the Station Commander before commencing any internal departmental process.
- Criminal and discipline inquiries can be conducted at the same time. DHS is required to notify Victoria Police if an internal discipline matter could potentially be a criminal matter. To avoid compromising any criminal investigation, DHS will keep Victoria Police abreast of progress throughout the misconduct inquiry, as specified by Victoria Police. Victoria Police should also notify DHS of emerging developments in any ongoing criminal investigation so that DHS may adjust their internal inquiry accordingly, or cease if necessary. The Station Commander is responsible for liaison with the DHS contact during any further investigation or hearing phase.
- For guidance on information exchange, see **VPMP Information sharing** or contact the Local Area Commander for advice.
- The Manager, Privacy Unit may also refer DHS to the appropriate regional contact.

4.4 Sex Offenders

See **VPMG Registered Sex Offenders**. For further information concerning an individual's sex offender status, consult with the Sex Offenders Registry.

4.5 Victoria Police or other police employees

See **VPMG Offences by or service of process on employees**.

5. Notifying the Department of Human Services Office of Housing

5.1 Purpose of making a notification

A notification to the Director of Housing may be made by a member when there is reason to suspect that illegal activity has occurred in a Director of Housing owned or managed premises or on a common area of a Department of Human Services (DHS) housing estate. The notification is made with the aim of preventing or lessening the serious threat to public safety, public health or public welfare.

5.2 Legislative authority

- The *Residential Tenancies Act 1997* (RTA) allows the Director of Housing to give a tenant notice to vacate if the tenant has:
 - used or permitted the use of a premises for any purpose that is illegal at common law or under an Act (RTA s.250)
 - engaged in specified drug activity in a premises or on a common area of a DHS housing estate (RTA s.250A).
- In line with Privacy Principle 2.1(e) of the Information Privacy Act 2000, members may notify the Director of Housing when they become aware of a tenant that has engaged in or permitted the use of a DHS premises for an offence, including specific drug activity, as outlined below.

5.3 General offences

Members may make a notification when there is enough evidence demonstrating that there is a serious threat to public health, public safety or public welfare because:

- a tenant or another person present has been charged or convicted with an offence that has occurred inside a DHS premises or where the premises has been used for the commission of the offence
- a tenant has knowledge or has allowed a DHS premises to be used for an offence.

5.4 Specific drug offences under the RTA

Members may also make a notification when a warrant under the *Drug, Poisons and Controlled Substance Act 1981* has been executed on a DHS premises or DHS housing estate common area, which has resulted in charges laid or a conviction for the following offences:

- trafficked or attempted to traffic a drug of dependence
- supplied a drug of dependence to a person under 18
- possessed a preparatory item with the intention of using the item for the purpose of trafficking a drug of dependence
- possessed without lawful excuse, a tablet press or precursor chemical
- cultivated or attempted to cultivate a narcotic plant on the rented premises or in a common area (see s.250A, RTA).

5.5 Subject information

- 'Subject information' is information linking the illegal activity to the Director of Housing premises or common area within a DHS housing estate and may include:
 - name of the tenant and any other persons present
 - address of the premises
 - the tenants role in the household (e.g. mother of offender, son of offender)
 - name and address of any other Director of Housing tenant present when a search warrant has been executed (only in circumstances where Victoria Police has evidence to indicate that the tenant has knowledge or is aware of the illegal activity)
 - charges laid
 - summary of offences committed which should include the location of tenant inside the premises when a search warrant has been executed (e.g. tenant located in bathroom, tenant located in kitchen)
 - a brief summary of the relevant evidence linking the illegal activity to the premises, which should include location of where the illegal activity is situated within the premises (e.g. traffickable quantity of drugs found in kitchen, selling a traffickable amount of drugs on a common area of an estate, selling/dealing stolen goods from inside the premises)
 - informant's details.
- Where a tenant has not used the rented premises themselves for the illegal activity, subject information may include information which shows the tenant:
 - had knowledge or should have had known the offending was occurring
 - had the power to prevent the offending.

5.6 Approval and making a notification

- Complete Notification of Illegal Activity [Form 1423] and forward to the Work Unit Manager for approval.
- If the notification is approved the Work Unit Manager is to forward the completed Form 1423 to the appropriate Director of Housing Regional Manager in one communication by mail.
- The summary of charges form and/or LEAP reports are not to be included.
- The informant may be contacted by DHS to have further discussions about the subject information already provided.
- New subject information or documentation (e.g. briefs, summary of charges forms) can only be provided to DHS by way of a subpoena. For further information refer to section 9, **VPMG Court processes**.
- Members may be subject to a subpoena to provide evidence in a VCAT hearing.
- Notification should occur when a charge has been laid, however if this did not occur, a notification may also be made when a conviction has been recorded.

5.7 Recording the notification

Work Unit Managers are to maintain a record on their correspondence register of all notifications as detailed in Section 1.4. For further information refer to **VPMP Information sharing**.

Further Advice and Information

Where any doubt exists about whether a notification should be made, or for general further advice and assistance regarding these Procedures and Guidelines, contact the Privacy Unit or Legal Adviser's Office.

Update history

Date of first issue	22/02/10	
Date updated	Summary of change	Force File number
16/07/2012	Section 4.3 expanded to include guidance for when DHS notify Victoria Police of employees' [alleged] criminal conduct. Criminal and discipline enquiries may be conducted at the same, with liaison and appropriate information exchange between agencies.	046707/06
24/09/12	Section 5 - inclusion of guidelines for making a notification to DHS Housing.	069936/11
18/11/13	References to redundant instruments following IMSSD review have been updated with corresponding new instruments.	069562/11