

**RSPCA INSPECTORS**

**STANDARD**

**OPERATING**

**PROCEDURES**

(EXISTING)

**INDEX**

Chief Executive Officers Statement	Page	2
Aims and Objectives	Page	3
Code of Ethics	Page	4
Behavioural Standards	Page	6
Conduct	Page	7
Statements of Duties and Accountabilities	Page	9
Chain of Command	Page	18
Powers of Arrest	Page	19
Motor vehicles	Page	22
Laws of Evidence	Page	27
Confessions	Page	33
Notebook Entries	Page	37
Use of the Media	Page	39
Briefs of evidence	Page	40
Exhibits	Page	49
Prevention of Cruelty to Animals Act, Inspectors Powers	Page	57
Search Warrants	Page	68
E.E.O. Grievance handling service	Page	71
Personnel Assessment	Page	74
Occupational Health & Safety	Page	77
Complaints and Investigations	Page	90
Firearms	Page	104
Forced entry to premises	Page	108
Radio and Telephone Procedures	Page	110
Recruitment criteria	Page	114
Stopping and Detaining of Vehicles	Page	115

## STANDARD OPERATING PROCEDURES

### **1. DIRECTORS STATEMENT**

- 1.1 The guidelines set out in the Standard Operating Procedures established the **MINIMUM** requirements to provide an efficient and effective professional investigation service to the RSPCA.
- 1.2 It must be remembered that these procedures are guidelines only and not hard and fast rules which are applicable to ALL operational situations, which may be encountered by Inspectors.
- 1.3 Circumstances shall dictate certain courses of action, which shall be the responsibility of the Inspector to assess at the time, and this flexibility is incorporated herein,
- 1.4 Accordingly, these procedures are not intended to restrict the options available to Inspectors, but to assist them in their appreciation and subsequent resolution of situations.
- 1.5 I require, that in **GENERAL TERMS**, these Standard Operating Procedures will be adhered to. If action is required to be taken which is contrary to these procedures, the Chief Inspector should be contacted for a direction. If action has already been taken at the discretion of the Inspector, this action must be reported to the Chief Inspector as soon as possible.
- 1.6 Remember, Inspectors must at all times act with courtesy and discretion and where power is given under the various Acts to use force, such force **MUST** be used with the greatest restraint. Should it be necessary to use force a restrained attitude should be adopted rather than one of aggression.
- 1.7 Before taking any overt action which might infringe upon the rights of another, if at all possible, the Inspector must attempt to obtain the voluntary co-operation of the person(s) involved, and apply standards of reasonableness, necessity, good judgment, politeness, but firmness at all situations demanding quick judgments.

## **2. AIMS AND OBJECTIVES**

- 2.1 To assist Inspectors to properly perform their various duties in an efficient and professional manner it is imperative that they be aware of exactly what is expected of them.
- 2.2 An informed and knowledgeable Inspector is the key to a successful investigation unit. In addition properly applied courtesies, self discipline and personal attitudes are necessary ingredients of a professional organisation.
- 2.3 Unallocated.
- 2.4 Standard Operating Procedures may define the following:
  - 2.4.1 Reduce various oral and written policies and work practices to manual form, which are accessible to all operational personnel.
  - 2.4.2 Stipulate safe working procedures to be followed by personnel encountering operationally high-risk situations.
  - 2.4.3 Standardise procedures to be followed by personnel performing routine duties.
  - 2.4.4 Clearly state the Job Description/Duty Statement of each operational position.
  - 2.4.5 Reinforce Statutory requirements and the various powers of Inspectors.
  - 2.4.6 May state minimum staffing requirements in various operational circumstances.
  - 2.4.7 Unallocated
  - 2.4.8 May state minimum equipment required by personnel to safely perform operational duties.
  - 2.4.9 State procedures to be adopted when using portable radios and telephones.
  - 2.4.10 Set minimum acceptable fitness standards.
  - 2.4.11 State R.S.P.C.A. policy in relation to the use of force. (Refer Para.1.6)
  - 2.4.12 Set minimum acceptable training standards to be attained by operational personnel.
  - 2.4.13 State administrative procedures to be followed when reporting incidents completing
  - 2.4.14 Generally increase the level of awareness and competence of personnel and assist them to follow safe working procedures whilst performing operational duties.

### **3. CODE OF ETHICS AND BEHAVIOURAL STANDARDS**

- 3.1 "Ethics" can easily be described as a Code of Moral Conduct and Principles.
- 3.2 "Professionalism" is described as the qualities or typical features of a professional.
- 3.3 Inspectors should carry out their day-to-day duties with a professional attitude towards their work.
- 3.4 As with most professionals, Inspectors also have a Code of Ethics to regulate their conduct whilst in the performance of their duties. This code is apart from the legal obligations placed upon Inspectors under various Acts of Parliament.
- 3.5 Inspectors should always conduct themselves in an ethical manner, i.e. they should never allow themselves to be placed in a compromising situation. They should not engage in activities, which could bring discredit upon himself or herself or the R.S.P.C.A.
- 3.6 Professionals set themselves high standards and do not allow themselves to fall below those standards. This is especially relevant to integrity, honesty, behaviour, dress and appearance. **THE PROFESSIONAL SETS THE EXAMPLE FOR OTHERS TO FOLLOW.**
- 3.7 Inspectors shall:
  - 3.7.1 NOT allow their own personal views or prejudices to influence their attitudes towards other persons or duties to be performed.
  - 3.7.2 Acquaint themselves with all up-to-date methods and changes within the Investigations Unit and be willing to implement those changes and adapt accordingly.
  - 3.7.3 Conduct their professional lives in a manner, which reflects credit upon them.
  - 3.7.4 Respond to lawful orders and reasonable directions from Senior Management.
  - 3.7.5 Inspectors shall not commit any act, which would constitute dereliction or neglect of duty.
  - 3.7.6 Inspectors shall not commit any act, which is considered insubordinate. The following acts are specifically prohibited:
    - 3.7.6.1 Failure or refusal to obey a lawful order from management.
    - 3.7.6.2 Use any language or physical action, which is threatening, offensive, disrespectful, insolent or abusive.

- 3.7.6.3 Failure or refusal to inform, report or justify to management action taken on any investigation.
- 3.7.6.4 Any activity which disrupts the good order of the R.S.P.C.A.
- 3.7.7. Inspectors shall obey all Federal, State, Local Government laws and regulations and co-operate with all recognised and responsible law enforcement and government agencies within their jurisdiction.
- 3.7.8 Inspectors shall not publicly criticise official, written or verbal orders or instructions in any manner, which is demeaning, defamatory, obscene or unlawful.
- 3.7.9 Inspectors shall at all times treat management, staff, and members of the public with respect and courtesy.
- 3.7.10 Orders from management to Inspectors shall be civil in tone, clearly stated and in understandable language.
- 3.7.11 No Inspector shall obey an unlawful order from their Superior, which is contrary to law, Government ordinance or R.S.P.C.A. policy.
- 3.7.12 Inspectors who receive an unlawful order shall report the matter to the Chief Inspector or in the case of that order being given by the Chief Inspector, report to the Chief Executive Officer.
- 3.7.13 Inspectors shall not at any time solicit any gift, gratuity, reward, fee, compensation, consideration or commission, which may compromise the member in the execution of his/her lawful duty.
- 3.7.14 Inspectors whilst on duty are prohibited from engaging in the following activities:
- 3.7.14.1 Smoking whilst on duty except during authorised breaks (except on or in RSPCA grounds or vehicles).
- 3.7.14.2 Engage in any secondary employment without approval of Senior Management, to avoid any conflict of interest
- 3.7.14.3 Gambling or engaging in any illegal, immoral or unauthorised activity.
- 3.7.15 No Inspector shall report for duty or remain on duty whilst under the influence of any alcoholic beverage or unlawful drug and no member shall drink any intoxicating beverage or use any unlawful drug whilst on duty.
- 3.7.16 Inspectors are expected to perform duty in any part of the State and may be rotated from area to area to perform those duties if it is, in the opinion of management, in the best interests of the R.S.P.C.A.
- 3.7.17 Inspectors are expected to perform duty from time to time in connection with various media upon authorisation.

#### **4. BEHAVIOURAL STANDARDS (Specific)**

##### **4.1 APPEARANCE AND DRESS**

- 4.1.1 Appearance - The individual Inspector must never lose sight of the fact that he/she is constantly before the client, staff, and visitors. His/her appearance reflects upon the R.S.P.C.A. He/she is the representative who, because the uniform stands out, as an animate emblem of the R.S.P.C.A. Inspectors must always present a neat and tidy appearance, hair neatly trimmed, shoes shined and linen clean. The more alert and efficient one looks, the less likely you are to need to exercise your authority over those with whom you come in contact.
- 4.1.2 Inspectors must be properly attired when first reporting for duty and remain so during the period of their shift.
- 4.1.3 Dress - Inspectors are issued with uniforms and certain necessary equipment at the expense of the R.S.P.C.A. The uniform is the emblem of the Inspectors authority and distinguishes them from other persons. Officers must keep their uniform clean and pressed.
- 4.1.4 Uniforms must be worn, in accordance with the directions issued from time to time by the Chief Inspector.
- 4.1.5 Uniforms and equipment, which is the property of the R.S.P.C.A., must be returned in good condition upon termination of service.
- 4.1.6 Items of uniform will be subject to issue or replacement upon condemnation by the Chief Inspector.
- 4.1.7 Identity cards are issued to all Inspectors and remain the property of the R.S.P.C.A. Care should be taken that identity cards do not fall into the hands of unauthorised persons. Loss of an identity card must be immediately reported to the Chief Inspector and the nearest Police Station to where the Inspector resides or in the area where the identity card is believed to have been lost.
- 4.1.8. On termination of employment with the RSPCA. Inspectors will return their identification certificates and their Special Constable authorisation to the Chief Inspector.

**5. CONDUCT**

- 5.1 Alcohol and drugs - The use of alcohol and drugs whilst on duty is not permitted. Inspectors are not to report for duty when under the influence of alcohol or drugs or the smell of intoxicating liquor on their breath. Under no circumstances is an officer to accept as a relief, anyone under the influence of drugs or intoxicating liquor.
- 5.3 Unallocated.
- 5.3 Unallocated.
- 5.4 Smoking on duty - Inspectors are not permitted to smoke whilst on duty except in designated areas and at those times when it will not interfere with the performance of their duties. Smoking in view of the public is not permitted in uniform.
- 5.5 Conduct - whilst on duty, Inspectors are required to be courteous and conduct themselves in a dignified manner. They must reply to enquiries in a polite manner and, if unable to supply the information should refer the enquirer to the person from whom the information may be obtained.
- 5.6 Failure to obey Standard Operating Procedures will result in disciplinary action.
- 5.7 Discipline - The following penalties may be imposed against any Inspector in a disciplinary action:
  - 5.7.1 Verbal warning - In matters of a minor or trivial nature, verbal warnings and/or staff occurrences will be given in the first instance and at the same time the officer will be counselled as to the reason for the verbal warning.
  - 5.7.2 Written warning - Subsequent breaches of a similar nature or offences of a serious nature will result in written warning being issued to the offending officer.
  - 5.7.3 Suspension - The Chief Inspector shall have the authority to impose suspension without pay, until the next working day, against an officer when it appears that such action is in the best interest of the R.S.P.C.A.
  - 5.7.4 Dismissal - the Chief Executive Officer and/or Deputy Chief Executive Officer has the authority to dismiss any officer who continually breaches R.S.P.C.A. or Government Policy, rules or regulations, etc, or any officer who commits an offence of such a serious nature that warrants the dismissal of that officer.
  - 5.7.5 Reporting - All matters of discipline must be reported to the Chief Inspector as soon as possible.
- 5.8 Disclosure of information - Information concerning the R.S.P.C.A., its affairs or its employees may come to the attention of, or be made available, to officers from time to time. All such information is to be treated as strictly confidential, and should not, under any circumstances, be disclosed to any person not entitled to receive such information.



- 5.9 Unallocated.
- 5.10 Identification cards/badges will not be used in a manner which will cause to operate on the minds of others a wrongful belief that the holder is a member of a Police Force, either Federal or State, and will not be used to gain any gift or benefit.
- 5.11 Any information or intelligence gathered by Inspectors shall be considered to be the property of the RSPCA.

## **STATEMENT OF DUTIES AND ACCOUNTABILITIES**

**POSITION:** CHIEF INSPECTOR.

**ACCOUNTABLE:** To the Chief Executive Officer

**MISSION:** To initiate and supervise investigations into complaints of cruelty to animals on a Statewide basis.

### **PRINCIPAL DUTIES.**

1. Manage the Inspector's activities ethically, efficiently and cost effectively.
2. Forward planning of Inspectorate both operationally and within budgetary constraints.
3. Provide the CEO with up to date and timely advice on the Inspectorate and on relevant administrative matters.
4. Supervision of the Inspectorate in line with the RSPCA policies and Standard Operating Procedures.
5. Ensure that investigations are effectively and efficiently undertaken and completed throughout the State.
6. Ensure the over sighting of all legal matters and prosecutions initiated by the Inspectorate on behalf of the RSPCA.
7. Staff development by the provision of training, welfare and assessment.
8. Counseling of staff.
9. Research initiatives, provision of equipment and matters relevant to investigations on behalf of the Society.
10. Liaise with outside agencies.
11. Ensure that all correspondence is dealt with in a timely, efficient and appropriate manner.
12. Ensure the timely and professional submission of briefs.
13. Attending to industrial issues within the Inspectorate.
14. Attend to media issues as directed by the CEO.
15. Attend to Inspectorial recruitment.

16. Attend to vehicle replacements and submissions.
17. Ensuring timely investigation of disciplinary issues.
18. Ensuring routine audits.
19. Ensuring and implementing Occupational Health and Safety issues are adhered to.
20. Implementation and maintenance of anti-corruption strategies.
21. Random audits of operational staff.
22. Attend to Inspectorial public relation issues.
23. Management of state disaster administration.
24. Such other duties as from time to time may be considered appropriate by the Deputy Chief Executive Officer.

#### **ESSENTIAL QUALIFICATIONS**

- Appropriate Investigative experience
- Ability to manage human resources
- Sound knowledge of and a capacity to implement EEO policy.

**DESIRABLE QUALIFICATIONS**

- Relevant post secondary qualifications

**PRINCIPAL ACCOUNTABILITIES**

Contribute to the professional performance of the Unit by:

- delivering a high standard of human resource management skills,
- delivering a high standard of fiscal management skills,
- providing relevant and timely information and advice to management regarding operational taskings and legal matters.
- managing the activities of Unit personnel to meet staffing requirements throughout the State.
- ensuring Investigational Staff achieve a high standard of operational effectiveness.
- conducting research for the development of investigational techniques.
- staff development and training.
- Contribute to the identification and eradication of corruption and discrimination by:
- developing and implementing anti-corruption plans.
- ensuring conformity with all relevant statutory requirements and policies governing employee's discipline, professional responsibility, health and welfare and performance of duty.
- ensuring compliance with Anti-discrimination, Occupational Health and Safety and EEO legislation.

**STATEMENT OF DUTIES AND ACCOUNTABILITIES**

**POSITION:** OPERATIONS MANAGER

**ACCOUNTABLE TO:** CHIEF INSPECTOR

**MISSION:** To supervise and co-ordinate the operational taskings of R.S.P.C.A. Inspectors.

**PRINCIPAL DUTIES**

1. Co-ordinate the Inspectorate's activities ethically, efficiently and cost effectively.
2. Co-ordinate and supervise investigations by the RSPCA on a Statewide basis.
3. Planning and co-coordinating duties of officers in relation to investigations.
4. Staff supervision.
5. Coordinate Court attendances.
6. Coordinate staff development by training and assessment.
7. Coordinate effective operational support to Inspectors as required.
8. Maintenance and supervision of exhibits and records.
9. Management of collection and recording of intelligence.
10. Analyse and appropriately process and disseminate intelligence.
11. Operational task Liaison with outside agencies.
12. Ensure that Court briefs are produced professionally and delivered in a timely fashion.
13. Order, maintain and co-ordinate the appropriate equipment and uniforms.
14. Operational supervision of Vehicle, maintenance and cleanliness.
15. Coordination of operational staff movements
16. Maintenance, licensing of Inspectorate firearms in accordance with the NSW Firearms legislation.(Permit Holder)
17. Random audits of Operational Staff.
18. Management of Animals in custody

19. 6 monthly staff assessments
20. Coordination of Inspectorial integration Special events
21. Operational State Disaster Management.
22. Other tasks as deemed appropriate by the Chief Inspector.

### **ESSENTIAL QUALIFICATIONS**

- Appropriate Investigative experience
- Ability to co-ordinate and supervise manpower resources.
- Sound knowledge of and a capacity to implement EEO policy.

### **DESIRABLE QUALIFICATIONS**

- Relevant post secondary qualifications.

### **PRINCIPAL ACCOUNTABILITIES**

Contribute to the professional performance of the Unit by :-

- delivering a high standard of human resources management skills;
- providing relevant information and reports to management and staff regarding operational duties and the results of operational taskings.
- co-coordinating the activities of Unit personnel to meet staffing requirements throughout the State.
- ensuring Investigational staff achieves a high standard of operational effectiveness.
- conducting research for the development and implementation of staff training.

Contribute to the identification and eradication of corruption and discrimination by:

- developing and implementing anti-corruption plans for the Unit.
- ensuring conformity with all relevant statutory requirements and policies governing employee's discipline, professional responsibility and performance of duty.
- ensuring compliance with Anti-discrimination, Occupational Health & Safety and E.E.O. legislation.

**STATEMENT OF DUTIES AND ACCOUNTABILITIES**

**POSITION:** SYDNEY METROPOLITAN INSPECTOR

**ACCOUNTABLE TO:** OPERATIONS MANAGER

**MISSION:** To investigate all complaints in relation to cruelty to animals.

**PRINCIPAL DUTIES**

1. Investigation of complaints relating to incidents of cruelty to animals.
2. Preparation of evidence for presentation at court and prosecution of matters placed before the court.
3. Educational presentations to public groups, service organisations and businesses.
4. Attendance at Stock yard sales to view the general welfare of stock and the detection of breaches.
5. Inspection of stock transport vehicles for permits and check condition of animals being transported.
6. Inspections of pet shops, rodeos, catteries, riding schools, boarding establishments and circuses to ensure adequate conditions and welfare of animals.
7. Attending as members of committees dealing with animal welfare.
8. Surveillance and detection of organised animal cruelty.
9. Animal capture and rescue operations, and in certain instances, humane destruction of injured animals.
10. Any other tasking as directed by the Operations Manager.

**ESSENTIAL QUALIFICATIONS**

- Appropriate investigational experience.
- Broad knowledge of animal welfare principles.
- Exceptional communication skills.

**DESIRABLE QUALIFICATIONS**

- Relevant post secondary education qualifications.

## **PRINCIPAL ACCOUNTABILITIES.**

Contribute to the professional performance of the Unit by;

- Ensuring all investigations are conducted in an ethical, thorough and efficient manner.
- Ensuring that all evidence placed before the courts are detailed and within the guidelines as set out in the Rules of evidence.
- Ensuring accuracy, relevancy and currency of all public education packages.
- Ensuring accuracy and currency of all relevant records.
- Maintaining a current awareness of developments, strategies and initiatives relevant to animal welfare and investigations.
- Contribute to the identification and eradication of corruption and discrimination by:
- Adherence to the Units Anti-corruption Plan.
- Conforming to all relevant statutory requirements and policies governing discipline, professional responsibility and performance of duty.
- Complying with anti-discrimination, occupational health & safety and E.E.O. legislation.



## STATEMENT OF DUTIES AND ACCOUNTABILITIES

**POSITION:** REGIONAL INSPECTOR

**ACCOUNTABLE TO:** OPERATIONS MANAGER

**MISSION:** To investigate all complaints in relation to cruelty to animals.

### **PRINCIPAL DUTIES**

1. Take receipt of complaints from the public, RSPCA Branches and other law enforcement agencies.
2. Investigation of complaints received.
3. Preparation of evidence for presentation at Court and the prosecution of matters before a Court.
4. Educational presentations to public group services organisations and businesses.
5. Random inspections of animal trades and businesses, which keep animals or use animals in connection with that business.
6. Investigation of all breaches pertaining to POCTA and its associated regulations and codes of practices.
7. Surveillance and intelligence gathering in relation to organised cruelty.
8. Assistance and training of Branch Inspectors
9. Maintaining a close liaison with Branches and random attendance at Branch meetings and annual general meetings.
10. Rescue of animals from immediate danger, and or technical advice and support to accredited rescue authorities performing an animal rescue.
11. Maintaining a close working relationship with other agencies such as Police, Fire brigades, Volunteer rescue organisations, Local councils, department of Agriculture, RLPB and veterinary surgeons.
12. Providing assistance and or technical support for other agencies requesting it.
13. Providing information for the public about all facets of the RSPCA, e.g. Membership and purchase prices and shelter locations etc.
14. Providing temporary holding of injured strays and approved wildlife until placement with the appropriate Authority or organisations.

## **ESSENTIAL QUALIFICATIONS**

- Appropriate investigational experience.
- Broad knowledge of animal welfare principles.
- Exceptional communication skills.

## **DESIRABLE QUALIFICATIONS**

- Relevant post secondary education qualifications

## **PRINCIPAL ACCOUNTABILITIES**

1. Contribute to the professional performance of the Unit by:-
2. Ensuring all investigations are conducted in an ethical, thorough and efficient manner
3. Ensuring that all evidence placed before the Chief Inspector and the Courts are detailed and within the guidelines as set out in the rules of evidence
4. Ensuring accuracy, relevancy and currency of all public education packages
5. Ensuring accuracy and currency of all relevant records
6. Maintaining a current awareness of development, strategies and initiatives relevant to animals welfare and investigations
7. Contribute to the identification and eradication of corruption and discrimination by:
8. Adherence to the Units Anti-corruption plan
9. Conforming with all relevant statutory requirements and policies governing discipline, professional responsibility and performance of duty
10. Complying with anti-discrimination, occupational health & safety and E.E.O. legislation

## CHAIN OF COMMAND

The Chain of Command of the Investigations Unit is to be strictly adhered to by all Inspectors.

**CHIEF INSPECTOR**

**OPERATIONS MANAGER**

**TEAM LEADER**

**FIELD INSPECTOR**

## PREAMBLE TO CHAPTERS ON INSPECTORS POWERS.

Prior to moving on to the next subject, being Chapter 1 (Powers of arrest), it is important to indicate at this time that there have been recent amendments to the law which materially affect the powers of Constables to arrest persons for a variety of offences.

In the past, Instructors have taught the basics of the Common Law principles relating to arrest and have spoken of felonies and misdemeanours as being the types of offences against society. We now don't have felonies and misdemeanours, we have 'Serious Indictable Offences', 'Minor Indictable Offences' and 'Summary Offences'.

### Definitions.

"Serious Indictable Offence" is an offence punishable by imprisonment for life or for a term of 5 years or more.

"Minor Indictable Offence" is any indictable offence that is not a serious indictable offence. (that is, it is an offence that is indictable in nature but carries with it a penalty of imprisonment less than 5 years.)

An indictable offence is one that carries the right of trial by judge and jury or by a single judge sitting alone.

A summary offence is one dealt with by a Magistrate in the Local Court and where the defendant does not have the right to have the matter heard by a Judge and jury.

## CHAPTER 1

### **POWERS OF ARREST**

Inspectors employed by the R.S.P.C.A. have had bestowed upon them the Office of "Special Constable" under the Police Offences Act, 1901.

The law gives Special Constables power to make arrests. It is a vital and necessary power for the maintenance of law and order, but the exercise of the power involves a most serious interference with the liberty of the citizen and may have the most serious consequences. Thus, the power of a Constable to make arrests is not unlimited or unqualified and can only be exercised under circumstances and conditions which the Special Constable must know, understand and observe.

An arrest, whether lawful or unlawful, is the total restraint of the personal liberty of another, or the seizing or touching of his/her body with a view to his/her total restraint.

It must be remembered that when affecting an arrest, force may be used, but only enough force as is necessary to enable the Inspector to affect the arrest.

It is the policy of the R.S.P.C.A. that Inspectors must at all times act with courtesy and discretion and where power is given under various Acts of Parliament to use force, such force **MUST** be used with the greatest restraint. Should it be necessary to use force a restrained attitude should be adopted rather than one of aggression.

Before taking part in any overt action which might infringe upon the rights of another, if at all possible, the Inspector must attempt to obtain the voluntary co-operation of the person(s) involved and apply standards of reasonableness, necessity, good judgment, politeness, but firmness at all situations demanding quick judgments.

### **COMMON LAW POWER OF ARREST**

By Common Law a Constable may arrest:

Without a warrant:

- (a) a person who has committed a felony for which he has not been tried;
- (b) a person whom he with reasonable cause suspects of having committed a felony;
- (c) a person who, there and then in the Constables presence is about to commit a felony;
- (d) a person who, there and then in the Constables presence is committing or is about to commit a breach of the peace.

With a warrant:

- (a) a person for whose arrest a warrant has been issued. The Constable has to have the warrant with him at the time of arrest, except in the case of a warrant for the arrest of a felon.
- (b) In N.S.W. Constables still possess these Common Law powers of arrest but they have been greatly added to by Statute Law. The Principal Act, which gives Special Constables the power of arrest, is the CRIMES ACT, No. 40 of 1900, Section 352.

Subsection 1 of that Act states:

"Any Constable or other person may, without warrant, apprehend:

- (a) Any person in the act of committing, or immediately after having committed, an offence punishable, whether by indictment or on summary conviction, under any Act,
- (b) Any person who has committed a serious indictable offence for which the person has not been tried, and take him and any property found upon him before a justice to be dealt with according to law.

Subsection 2 states:

Any Constable may, without warrant, apprehend;

- a) any person whom he, with reasonable cause, suspects of having committed any such offence,
- b) any person lying, or loitering, in any highway, yard, or other place during the night, whom he, with reasonable cause suspects of being about to commit any serious indictable offence,

and take the person and any property found upon the person before an authorised Justice to be dealt with according to law.

Subsection 3 states:

Any Constable may, although the warrant is not at the time in his or her possession, apprehend any person for whose apprehension for a minor indictable offence a warrant has been issued, and take the person and any property found upon the person before an authorised Justice to be dealt with according to law.

Subsection 4 states;

Any Constable may, although the warrant is not at the time in his or her possession, apprehend any person for whose apprehension on any ground (other than a charge of an indictable offence) a warrant has been lawfully issued, provided the issue of such warrant has been certified by telegraph by the Commissioner of Police or the Justice who has signed such warrant.

## **POINTS TO BE OBSERVED WHEN ARRESTING**

- (1) Inspectors will effect the arrest in as quiet a manner, as possible and use no more force than is absolutely necessary.
- (2) The arrested person shall be told, at the first reasonable opportunity, the true reason for his/her arrest.
- (3) Inspectors will, after arrest, treat the prisoner properly and impose only such restraint upon him/her as may be absolutely necessary for his/her safe custody.
- (4) There should be no delay in taking the arrested person to the nearest Police Station by the shortest practicable route.

## **USE OF HANDCUFFS**

In all cases of initial arrests of offenders, Inspectors are faced with the responsibility of safely escorting the prisoner to the local Police Station for the purpose charging him/her, the responsibility as to whether or not the prisoner is to be handcuffed rests upon the member making the arrest, who should act accordingly and must accept responsibility for the safe custody of the prisoner.

If it is necessary, following an arrest, to use handcuffs, the prisoner's hands should be handcuffed together behind the back. When being conveyed in a sedan car, the prisoner's hands should be handcuffed similarly to prevent an attack upon the Inspector driving the vehicle or the escorting officer. The escorting Inspector should be seated in the back seat immediately behind the driver, with the prisoner at the opposite end of the rear seat and secured by the seatbelt. Where no escorting Inspector is available, the prisoner should be seated alongside the driver and secured by the seat belt.

An Inspector cannot justify handcuffing a prisoner unless:

- The prisoner has attempted to escape, or
- In order to prevent the prisoner doing so.

This does not mean that the Inspector may lawfully handcuff every person he arrests on the grounds that he desires to prevent them from escaping.

An Inspector is justified in handcuffing an arrested person who has a record for escaping or attempting to escape, but before handcuffing a person who is not of that type, he should have good reason to suspect that if given the opportunity the person will attempt to escape.

Handcuffing is only justified when reasonable necessity for doing so exists, and if it is resorted to in the absence of such necessity, the party so treated has the right of action for damages. (Lord Russell, C.J., R - v - Taylor, 59 J.P., 393.)

## CHAPTER 2

### **MOTOR VEHICLES**

#### **MANAGEMENT AND DEPLOYMENT OF MOTOR VEHICLES**

It is the responsibility of Management to ensure that official motor vehicles at all locations within their area of responsibility are properly deployed and utilised.

Management will, during the course of their normal supervisory duties, carefully evaluate the use and deployment of official motor vehicles at each location and ensure that:

- (a) Each motor vehicle is being used efficiently and effectively;
- (b) All motor vehicles are deployed in accordance with real and demonstrable need;
- (c) Motor vehicles are to be retained by individuals and maintained in accordance with Management directions.
- (d) Motor vehicles are not being used for non-official purposes, without the express permission of Senior Management.
- (e) Motor vehicles are kept clean, tidy and in serviceable condition.
- (f) Motor vehicles are to have all signage (including light bar) and identification equipment attached to the vehicle in the appropriate manner, whilst being used for official purposes unless otherwise authorised by the Chief Inspector.

#### **POLICY ON MOTOR VEHICLES**

It is R.S.P.C.A. policy that all vehicles are to be maintained in a serviceable and presentable condition whilst ensuring that the safety of staff and the general public remain paramount.

Drivers of Society's vehicles should avoid driver fatigue by considering a rest break in accordance with national safety council recommendations if driving for a period in excess of two hours.

Only certified license holders will be allowed to drive motor vehicles issued by the R.S.P.C.A.

Inspectors will not, under any circumstances, be involved in pursuits in vehicles supplied by R.S.P.C.A.. Vehicles will be operated within the laws and regulation as stipulated by Statute Law and R.S.P.C.A. by-laws.

#### **DRIVER TO KEEP VEHICLE OPERATABLE AND CLEAN**

The driver of an R.S.P.C.A. vehicle will:

- (a) Keep the vehicle clean, in good order and in such condition as to be ready for immediate use.
- (b) When commencing each shift, examine the vehicle for defects and damage, see that there is sufficient fuel in the tank, water in the radiator, oil in the engine or oil tank, automatic fluid in the reservoir, that brakes are effective, that all lights and

indicators are operable, that spare wheel is ready for use, that battery is filled. Defects, or repairs required, should be attended to as a matter of urgency. Should there be any need for repairs, three quotes will be obtained and submitted to the Chief Inspector for approval, EXCEPT in cases of urgency.

## **SECURITY OF VEHICLES**

R.S.P.C.A. staff should at all times take every precaution against the unauthorised removal of official vehicles by locking the ignition, doors and windows and removing keys from the vehicle when left unattended.

Care must also be taken to remove all visible valuables and attractive items to deter thefts of opportunity.

Electronic Alarms where fitted, and manual Anti-theft steering locks will be engaged and secured prior to leaving the vehicle.

Issue firearms will not be left inside the vehicle in full view of the public. **LONGARMS MUST BE SECURED AS SET OUT IN CHAPTER 15**



## **PURCHASE OF FUEL.**

All drivers using Shell or Motorcharge cards on issue are to correctly record the odometer reading when purchasing fuel, and provide that odometer reading to the console operator.

## **REGISTRATION OF VEHICLES.**

The RSPCA is responsible for the registration and re-registration of all vehicles. It is the responsibility of drivers to promptly affix new registration labels.

## **WARRANTY PERIOD OF NEW VEHICLES, REPAIRS ETC.**

Every precaution should be taken with the driving of new Inspectors vehicles until such time as they have travelled approximately 10.000 km. The first service at 1000/1500 km must be undertaken in order to validate warranty. Should any defect occur in the vehicle within the warranty period, which is stated in the manufacturers handbook, it should be taken to the local agent for possible claim and repair under the warranty.

## **REPAIRS AND SERVICING TO VEHICLES**

Routine maintenance on vehicles will be carried out promptly by local contractors with whom an account is maintained.

Large repairs will not be carried out without the approval of the Chief Inspector, Investigations Unit. Written quotes must be obtained and submitted.

All petrol Vehicles are required to be serviced every 10.000 kilometres.  
All diesel engine vehicles are required to be serviced every 5,000 Kilometres.

## **TYRE REPLACEMENT**

Replacement of tyres will not be carried out without the approval of the Chief Inspector, Investigations Unit. Drivers should be mindful of the need to maintain the spare tyre in a serviceable condition.

## **CHANGING VEHICLES**

Drivers rotating vehicles within the fleet or using another Inspectors vehicle, even for short periods of time, shall record the date and name of the driver and the time of taking control and releasing control in their Diary. This is to ensure that the identification of the driver can be correctly carried out in the case of breaches under the Motor Traffic Act No. 5 of 1909, e.g. speed camera offences etc.

## **ITEMS NOT TO BE REMOVED FROM VEHICLE**

Vehicle manuals, Log Books and Street Directories should not be removed from the vehicle under any circumstances.

## **ALTERATIONS AND MODIFICATIONS TO RSPCA VEHICLES**

There will be no alterations or modifications, either structural or operational, to any RSPCA vehicle, trailer or float, without the written approval of the Chief Inspector.

Structural alterations/modifications such as drilling holes in any of the internal or external portions of the vehicle for CB radios, microphones, dash board compasses or aerials or any other item not supplied as an authorised accessory, will not be carried out without the written approval of the Chief Inspector.

## **MOTOR VEHICLE ACCIDENTS**

In the event of a motor vehicle collision involving a R.S.P.C.A. vehicle on a public street, the following action is to be taken:

If persons are injured, attempt to give first aid treatment to the injured parties.

If persons are injured, or there is damage necessitating the towing of the vehicle, police must be called to the scene.

Notify your base by telephone of the incident and where possible, have the operations co-ordinator attend the scene.

Stay at the scene and supply all relevant information to the police attending.

Do not admit liability at any stage.

Exchange relevant particulars with other owner / drivers of vehicles involved in the collision.

Where the R.S.P.C.A. vehicles require towing, have your base make arrangements for the tow.

Return to base and fill out the required insurance forms and incident report immediately.

Where damage is minor and is under \$500.00. and no persons are injured:

Exchange particulars with the other drivers,

Attend the nearest police station and complete a "Self Reporting Form".

Return to base and complete an incident report attaching a copy of the "Self Reporting Form".

Complete the Insurance Forms as required.

## **EQUIPMENT ALLOCATED TO INSPECTORS**

The following articles of equipment are basic tools of trade and are to be carried in each Inspectors vehicle:

- **BINOCULARS (1)**
- **CAMERA & FILM**
- **ANIMAL HANDLING/RESCUE EQUIPMENT**

Other equipment can be obtained through the Animal Shelter Services. Any Specialist equipment must be obtained through the Operations manager. Such equipment must be signed for upon receipt in the appropriate ledger and returned immediately upon completion of the task.

## CHAPTER 3

### **THE LAW OF EVIDENCE**

#### **INTRODUCTION**

It is essential that each Inspector understand the basic Rules governing the admissibility of evidence. This section is designed to serve as an aide memoir for all Inspectors. Inspectors employed by the R.S.P.C.A. will abide by the Rules of evidence and Judges Rules at all times.

the 'Law of Evidence' is that part of the 'Law of Procedure' which decides:

- (1) what type of evidence may be given of such facts.
- (2) by whom and in what manner the evidence must be produced.

#### **DEFINITION OF EVIDENCE**

Evidence may be defined as:-

"That which, in a court of justice, makes clear, or ascertains the truth of, the very fact or point in issue, either on the one side or on the other.

Any matter, lawfully deposed to on oath or affirmation, which contributes (however slightly) to the elucidation of any question at issue in a court of justice, is said to be evidence.

Evidence is either written or oral. Written evidence consists of records, deeds, affidavits, or other writings. Oral evidence consists of witnesses personally appearing in court, and in general sworn to the truth of what they depose. Evidence may also be primary, i.e. best evidence, or secondary; direct or circumstantial, or hearsay; real or extrinsic."

The above definition comes from Mozley & Whitely's, Law Dictionary. Ninth Edition. Similar definitions are found in other texts.

#### **DEFINITION OF THE TERM FACT**

The term fact will apply to whatever is perceived by one of the five senses:

- sight
- hearing
- taste
- smell
- touch

As a witness the general rule is that you may only give evidence of facts perceived with on the above 5 senses.

## **METHODS OF ESTABLISHING FACTS**

When establishing facts in court the evidence must prove the 'facts in issue' and 'facts relevant to the issue' by:

- Direct evidence; or
- Circumstantial evidence.

### **Direct Evidence**

'Direct testimony' is the assertion by the witness of a fact of which he has direct knowledge, offered as evidence of the truth of what he is asserting.

### **Circumstantial Evidence**

'Circumstantial evidence' is any fact from the existence of which the judge or jury may infer the existence of a fact in issue.

The High Court of Australia has stated the standard of evidence which must be tendered before the presumption can be relied upon:

"That the case was made up of circumstances entirely and that before they (jury) could find the prisoner guilty they must be satisfied, 'not only that those circumstances were consistent with his having committed the act, but they must also be satisfied that there are no other rational conclusions other than that the prisoner was the guilty person' .... The rule is sometimes stated that the circumstances must be such as to be inconsistent with any reasonable hypothesis other than the guilt of the accused".

The physical means by which facts may be proved may be one or more of the following:

- oral evidence; or
- documentary evidence:
  - primary (or best)
  - secondary;
  - real evidence.
- Oral Evidence

Oral evidence is that given by word of mouth in the witness box. It is evidence of a matter perceived by the witness with one of his 5 senses. Oral evidence may be:

- Direct evidence.
- Hearsay evidence.

### **Documentary Evidence**

A "document" is defined as any writing or printing capable of being made evidence, no matter on what material it may be inscribed.

"Documents" should generally be proved by the original or its absence should be established before a copy can be admitted as "secondary evidence".

### **Primary or best Evidence**

Primary or best evidence in relation to documents is evidence which itself suggests that it is the best evidence of the contents of a document, or at least, does not itself suggest the existence of better evidence. The law requires the primary evidence of the contents of a document be produced, if available, to the exclusion of secondary evidence.

### **Secondary Evidence**

Secondary evidence is evidence of the contents of a document which itself suggest the existence of better evidence.

Secondary evidence of the contents of a document may, provided the original itself would be admissible, be given in the following instances:

- Failure to comply with a 'Notice to Produce'.
- Lawful non-production by a stranger.
- Loss or destruction of original.
- Irremovability of original.
- Inscribed chattels.
- Where provision is made by statute.
- Real Evidence

Real evidence is the evidence afforded by the production of physical objects for inspection or other examination by the court.

A document is not usually classified as real evidence. However, in certain circumstances it may be regarded as real evidence. For example, in a charge of stealing a document, the document is the material object stolen and would therefore be "real evidence".

"Real evidence" can be used to provide "facts in issue" but is more often used to prove "collateral facts", eg. production of a blood stained knife found in the hands of the accused will not prove that the accused committed the murder. Generally, real evidence needs to be accompanied by testimony identifying the object and the relevant connection.

### **Non-production of Real Evidence**

The non-production of the physical object does not render oral evidence about the object inadmissible; the existence or characteristics of physical objects may be proved by oral evidence. An example of where it would not be possible to produce real evidence in where the exhibit is too large to be produced in court. In this case the witness may adduce

secondary evidence, eg. A photograph of the item would be admissible secondary evidence.

### **Relevancy and Admissibility**

Evidence is **RELEVANT** to an issue if it tends to prove or disprove the existence of the facts in issue. Evidence is **ADMISSIBLE**, if, in addition to being relevant, it does not infringe any of the exclusionary rules. These rules often exclude highly relevant material.

#### **Relevancy.**

The general rule of evidence may be stated that if it is relevant to a fact in issue it is admissible. In other words, the first test of admissibility is one of **RELEVANCE**.

#### **Exclusionary Rules of Evidence.**

The general rule governing the admissibility of evidence is that all relevant evidence is admissible if it is not excluded by one of the exceptions. There are, however, certain classes of facts, which, although they may be regarded as relevant, are generally excluded from proof. These are:

- (a) Opinion.
- (b) Hearsay.
- (c) Character.
- (d) Similar facts.

#### **Opinion.**

As a general rule, the fact that a witness has a certain opinion as to a fact in issue is not relevant to such fact.

It is for the court to form opinions or draw inferences from the relevant facts proved, and it is improper for a witness to express an opinion upon any fact as to which the court itself can form an opinion.

The magistrate, when considering whether the subject matter of the opinion is of a class of subjects within which expert evidence is admissible, he should consider whether the subject matter is such that:

a person without instruction and / or experience in the area would be able to form a sound opinion; and

it forms a part of a body of knowledge which is sufficiently organised or recognized to be accepted as a reliable body of knowledge or experience; and

a special acquaintance by the witness with the subject matter will render the opinion of the witness of assistance to the court.

## **Character**

Evidence that a person is of a particular character is generally not admissible. Section 413c Crimes Act, 1900, provides facilitation for the admission of documentary evidence of previous convictions.

- Similar Fact Evidence

## **BURDEN AND STANDARD OF PROOF**

- Burden of Proof

The general rule is that the 'burden of proof' lies on the party who asserts the affirmative of the issue or question in dispute.

In criminal cases it is ALWAYS the duty of the prosecution to prove the guilt of the accused BEYOND A REASONABLE DOUBT.

In a civil prosecution the burden of proof will be in the party who is bringing the civil proceedings. in this case the standard of proof is on the BALANCE OF PROBABILITIES.

There are statutory exceptions to the above burden and standard of proof required in some cases.

- Standard of Proof
- Reasonable Doubt
- It has been stated when considering this standard of proof:-

"Before you reach a view that something has been established beyond reasonable doubt you also have to be satisfied that there is no other rational conclusion which is consistent with the innocence of the accused. If there is another rational explanation it follows that there is a reasonable doubt .... if there is you need to think harder as to what you should do".

## **PRIMA FACIE CASE**

A Prima Facie case is a finding of law that on the evidence, as it stands, the defendant could lawfully be convicted of the offence charged. The determination of a Prima Facie case will be made after all the prosecution evidence has been called and before the defendant is called to answer the charge by giving evidence. Whether he ought to be convicted at the end of the proceedings is another issue and depends upon the court being satisfied beyond reasonable doubt.



## **GIVING EVIDENCE AND BEING CROSS EXAMINED**

Because the vast majority of Investigative work ends with a court appearance, a high degree of professionalism must be exhibited by Inspectors in court.

Below are a number of matters that should assist the Inspector whilst in court:

- Know your brief thoroughly; it will help in your presentation.
- Where possible, use plain English in both the giving of evidence and whilst being cross-examined.
- If you do not know the answer, say so, do not guess, if you do not understand the question put to you, say so.
- Do not be pressured into giving more evidence than the answer requires.
- When asked almost any question, you may pause to consider your answer.
- If you have made a mistake in one of your answers, correct it. Do not allow the court to be misled by your earlier incorrect answer. Remember, if you are found to have made an incorrect answer by the defence council, it may look worse than if you discovered the error yourself.
- If the Legal Representative approaches you outside the court and wishes to obtain further particulars or documents from you, speak to the Prosecutor first.
- Be polite and never argue with the defence or the Magistrate.
- Your physical appearance is important, so appear neat and tidy, where possible, in full uniform. Do not lounge about inside or outside the court.
- When either party in court makes an objection whilst you are giving evidence, stop and wait for the Magistrate to rule on the point of law. Do not continue until this has been done.
- When you have finished giving evidence, if possible, sit beside the Prosecutor should he require further information from you.
- Do not learn your statement in public.

## CHAPTER 4

### **CONFESSIONS**

It is not suggested that the Inspector will be involved in detailed interrogation of suspected persons and it is not the purpose of this lesson to equip the Inspector with such ability. However, as the Inspector may be the first contact the offender has with an officer responsible for enforcing the law it is essential to a successful prosecution that ALL Inspectors understand a Brief outline of the rules governing the admissibility of confessions, admissions and statements.

The guilt of an accused can only be proved by evidence presented to the tribunal hearing the indictment. The most common form of evidence presented on behalf of prosecuting authorities is evidence of confessions, admissions and statements made to the Inspector by an alleged offender. It is for this reason that a complete knowledge of the principles governing the admissibility of this type of evidence is essential.

### **CONFESSION ALONE SUFFICIENT FOR CONVICTION**

One of the essential reasons why the Courts have to be careful in receiving evidence of confessions is that the accused may be convicted on the sole evidence of a confession. There is no general rule of law that a person cannot be convicted of a crime on the sole evidence of a confession by him of his guilt.

It has been stated by the High Court,

"....'If you find that the accused man made a voluntary confession, that it is direct and positive and it has been satisfactorily proved to you, you must convict, because of that, without any corroboration whatsoever'".

### **THE VOLUNTARY CONFESSION RULE**

A voluntary confession does not simply mean one, which a prisoner makes because he chooses to make it, but one made without the operation of inducement, threat, promise, fear, or hope of advantage held out by a person in authority. A statement need not be spontaneous or volunteered in order to be voluntary, but it must be in the exercise of a free choice to speak or be silent. R v. LEE (1950) 82 CLR 133 at 149.

## **Onus and Standard of Proof - Question of Voluntariness**

The standard of proof required for a statement, confession or admission to be received in evidence is ON THE BALANCE OF PROBABILITIES. This is the standard that the Inspector must be able to prove before the confession or admission made by the accused may be received in evidence.

- **THE ONUS OF PROOF THAT THE STATEMENT, CONFESSION OR ADMISSION WAS VOLUNTARY RESTS WITH THE PROSECUTING AUTHORITY.**

### **SECTION 410 - CRIMES ACT 40/1900**

The main theme running through any discussion on confession is that such confession must have been obtained voluntarily and without any inducement being held out to the person making the same. Section 410 of the Crimes Act 40/1900, lays down a number of conditions, which render a confession, admission or statement inadmissible. The common law in some respects is wider than section 410 of the Crimes Act, whilst in other respects Section 410 extends the common law. Section 410 reads:

1. No confession, admission, or statement shall be received in evidence against an accused person if it has been induced -
  - (a) by an untrue representation made to him by the prosecutor, or some person in authority; or
  - (b) by any threat or promise, held out to him by the prosecutor, or some person in authority.
2. Every confession, admission, or statement made after any such representation or threat or promise shall be deemed to have been induced thereby, unless the contrary be shown.
3. Provided that no confession, admission, or statement by the accused shall be rejected by reason of his having been told, by a person in authority, that whatever he should say might be given in evidence or against him.

As the Inspector when dealing with the offender may be in a position to initially question the offender it is essential that the Inspector have a basic understanding of section 410 of the Crimes Act, 1900, to exclude the possibility of valuable evidence being excluded under section 410 of the Crimes Act, 1900.

## **ASSESSMENT OF EFFECT OF INDUCEMENT TO BE EVALUATED SUBJECTIVELY**

The assessment of the effect of inducement must clearly be evaluated on the subject test. It has been stated:-

"it requires a careful assessment of the effect of the actual circumstances of a case upon the will of the particular accused", this test can only be construed subjectively.

To explain this another way, the words spoken to the accused must be couched so as to exclude the possibility that they will be considered to be an inducement by someone with the mental capacity of the particular accused.

## **PERSON IN AUTHORITY**

It is of course always easy to recognise that a police officer or other constable will be a person in authority but it may not be so easy to recognise others as holding the designation of 'person in authority' for the person of section 410 of the Crimes Act, 1900.

The Inspector may be considered to be a person in authority by the individual accused for the purpose of section 410 of the Crimes Act, 1900.

Where a relative or friend of the accused makes an inducement to the accused in the presence and hearing of the Inspector who does not remove himself from the inducement, the inducement will be equated with having come from the mouth of the Inspector.

## **UNTRUE REPRESENTATION**

Section 410(1)(a) refers to "any untrue representation". The section is "aimed at the protection of the accused from a trap constituted by misleading him with false information."

The term has been interpreted as:-

"We are all of the opinion that the expression 'untrue' representation means willfully untrue - untrue, that is, to the knowledge of the person making it, and made with the object of extorting a confession. The object of the section, coupled as it is with the older common law upon the subject of inducements, was no doubt to prevent accused persons from being entrapped into making an admission or statement by being led to believe that there was a stronger case against them than that which actually existed.

## **CONCLUSION**

The foregoing is only a brief outline of the rules governing the admissibility of Confessions, Admissions and Statements. The discussion has concentrated on the aspect of VOLUNTARINESS. Confessions, Admissions and Statements may however be excluded on other grounds not considered in this discussion.

The Inspector whilst having a basic understanding of the rules governing the admissibility of Confessions, Admission and Statements should not endeavour to participate in lengthy interrogations with the suspected person.

## **JUVENILE OFFENDERS**

### **ADMISSIBILITY OF CERTAIN STATEMENTS**

Sec.13(1) of the Children (Criminal proceedings) Act provides that:

Any statement, confession, admission or information made or given to a member of the Police Service by a child who is party to criminal proceedings shall not be admitted in evidence in those proceedings unless either;

There was present at the place (any place) where, and throughout the period of time during which, it was made or given, a prescribed person, being either,

a person responsible for the young person

an adult (other than a member of the Police service) who was present with the consent of the person responsible for the young person

In the case of a young person who is of or above the age of 16 years- an adult (other than a member of the Police Service) who was present with the consent of the young person.

A Barrister or Solicitor of the young person's own choosing (this refers to a child of or above the age of 16 years).

When a young person is taken to a Police Station, or attends an interview voluntarily regarding possible proceedings against the young person, The Inspector will notify a parent or any person aged 18 years or older having guardianship of the young person, that he/she is at the Police Station or place of interview.

There may be circumstances where it is not desirable that the parent or guardian be present, e.g. when implicated in the offence, or the young person indicates an unwillingness to answer questions in the presence of such person.

A record should be taken of all steps taken to have a parent or guardian attend the interview. The entry should be countersigned by the officer taking these steps. This is necessary, as the Court may need to be convinced that all reasonable efforts have been made.

### **CAUTIONS**

When administering a formal caution to a juvenile, Inspectors should bear in mind his/her ability to understand and appreciate the caution administered. It is suggested not to administer the formal caution solely. With some juveniles it may be sufficient, but with others you may have to divide it into phrases and explain with each phrase.

## CHAPTER 5

### **NOTEBOOK ENTRIES**

Official notebooks are issued to all Inspectors, but only by the Chief/Operations manager /team leader. When issued with your notebook, complete the particulars on the inside cover. The notebooks are for official use only..

You should rule a margin on the left hand side of each page. Record the action taken in the margin, to acquit each entry.

Write neatly and legibly, and if you use shorthand, make sure the names and addresses are written in longhand.

Commence each entry with time and date of entry. Where possible, enter the job number as a further reference. Make entries in a chronological order. Rule a line under completed entries; leave a line before beginning the next entry.

Include details of interrogations/interviews, except where a formal record of interview or statement is taken. Record the exact words used by the suspect/witness being interviewed. Use all information supplied- do not exclude information which may tend to exonerate a suspect.

If it necessary to make an alteration to an entry, rule a line through the original entry. Leave it legible and make a new entry. If the entry is of importance, ensure a supervisor of witness is made aware of the alteration, and obtain a signature to verify the alteration's accuracy.

An official notebook may be used in Court. When recording personal details of individuals, do not make frivolous or vexatious entries. Guidelines that should be followed are;  
Act honestly and in good faith.  
Try to verify the accuracy of information received.  
Do not use information, which is irrelevant.  
Do not tear out any portion of the notebook.

The importance of taking notes cannot be overly stressed. These notes are what an Inspector will base his statement on, and they can be later used at Court to refresh your memory, as long as the notes have been made contemporaneously.

### **CHECKING OF NOTEBOOKS.**

Supervisors should check notebooks on a weekly basis, and sign the books with the date of inspection. Outstanding items should be marked with a cross, and summarised when signing as outstanding, e.g. Page 24 O/S.

Official notebooks remain the property of the RSPCA, and must be returned on completion to the Chief Inspector or Operations manager for filing.

When entering details in a notebook for a breach of the law, or arrest, where an offender has been spoken to, it is essential to record all conversation and notes of the persons name, address, age, date of birth, description of clothing, and any other relevant information.

Whilst on duty, Inspectors should always carry their official notebook for reference and recording necessary particulars. An entry should be made immediately or as soon as practicable after an incident.

## CHAPTER 6

### **USE OF THE MEDIA**

The education of the public in terms of animal welfare and safety is a prime function of the RSPCA. A vast amount of time and monies are spent in attempting the change the misconceptions of the public in the areas of feeding, sheltering and in general looking after their animals.

A major tool in this education program has been the use of the media, and in the main, the viewing media via the television screen. This form of educational tool has great impact if used in an ethical manner, but can have a retrograde effect if used incorrectly or unethically.

The following guidelines will be strictly adhered to when conducting operations:

- (a) Permission to involve local media outlets/services during an operation will be granted only by the Chief Executive Officer, RSPCA
- (b) No information, either prior to, or at the completion of an operation, will be given to the media without the express approval of the Chief Executive Officer, RSPCA.
- (c) If approval is forthcoming to use the media during an operation, Identification of persons involved in the complaint under investigation, or the identity of the property/address, will not be allowed for transmission/printing by the media.
- (d) No RSPCA employee will comment on, or refer to any questions put to them by the media, without firstly obtaining permission from the Chief Executive Officer, RSPCA.

A media Policy is available from the Public Relations Officer. All Officers should acquaint themselves with the contents of this document.



# CHAPTER 7

## BRIEFS OF EVIDENCE

The preparation of the brief of evidence for a court matter is very time consuming and often an Inspector will have to seek advice from other members of the unit and/or the Operations manager as to the content of statements for admissibility in court.

The brief shall contain the following:

- (1) Covering sheet (Facts sheet if a plea of guilty)
- (2) Statement of investigating Inspector
- (3) Statement or record of interview from offender (if any)
- (4) Statement of corroborating Inspector (if any)
- (5) Statements from other relevant witnesses.
- (6) RSPCA documentation, ie, Vet. Certificates, surrender forms, photographs, video or any supporting documentation.

### **COVERING SHEET**

The covering sheet contains the Court, date, defendant's name, date of birth, indictment (charge) including particulars, Act and section of offence and Inspector in charge of the matter.

### **FACT SHEET**

This is to include all the necessary proofs required to properly present the charge to the court including the appropriate particulars.

It will be prepared in duplicate by the arresting Inspector as soon as possible after the arrest and process of the offender.

Particular regard should be given to:

- . Leave and court commitment dates
- . Number of witnesses available if defended.
- . Compensation details.

The Fact sheet should then include the following information:

- . Name of the offender or defendants
- . Offence or offences
- . Offence particulars
- . Inspector in charge
- . Leave or unsuitable dates
- . Number of witnesses if defended.

A short, concise, outline of all the facts in the third person (narrative) should then be set out, including the time and date the offender was spoken to/arrested; what was observed by the Inspector, what was said, the condition of the animal/s which are the subject of the charge etc.

A request for compensation/moiety must be included, together with any other orders sought.

## **THE INSPECTORS STATEMENT**

Every Inspector who took part in the matter will have to prepare a statement for the brief of evidence. It is the responsibility of the Inspector in charge of the case to ensure that this is carried out, and these statements are incorporated in the brief of evidence.

The statement is a written document explaining what role the Inspector played in the matter. It must be an accurate and descriptive account of what happened. To assist the Inspector to prepare the statement he / she must use any contemporaneous notes that were taken at the event or as soon as practicable after the event.

The statement should follow the following form:

Fill in the offenders name in full, the charge for which he was arrested and the date which you are completing the statement.

Then enter the Inspectors full name and address and occupation.

In relation to paper committals under Section 48A of the Justices Act it is necessary to include an opening two paragraphs, and your age. These are legal requirements. It is suggested that all statements prepared contain these paragraphs:

## FIRST PARAGRAPH

"This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness."

## SECOND PARAGRAPH

"The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true."

## THIRD PARAGRAPH

My age is .....

## CAUTION

Do not use these paragraphs when taking statements from offenders. (It could be held as an inducement).

When preparing the statement each paragraph should be numbered. This will assist the prosecutor and the Court to follow your evidence and provides an easy guide for referring back to your statement if required.

The next paragraph should begin with TIME, DATE and PLACE. Also include in this paragraph, the person you were with and how you came to go to the location.

The sequence of events are then set out in chronological order.

Record all conversation, which took place in the presence and hearing of the defendant. Block form is to be used to record this conversation. eg.

I said,	"Did you kill this dog?"
He said,	"Yes I did."
I said,	"Why did you kill it?"
He said,	"Because it kept barking."

If corroborating the testimony of another Inspector insert the other Inspectors name where it has "I said."

Abbreviations are not to be used in a statement unless they are recognised abbreviations such as Pty. Ltd.

Where an offender has been cautioned quote the official caution in the statement eg.

I said, "You are not obliged to say or do anything unless you wish to do so, but whatever you say or do may later be used in evidence. Do you understand that?"

Do not just state, "I gave the defendant the official caution."

Any reference to conversation in the statement must be recorded in the 1st person, using the exact words that were spoken. This is also the way the conversation must be described in Court.

The statement must include all relevant observations that the Inspector has made. eg. "I noticed that the dog had lacerations to the back of its head." This sort of evidence is very important and should be included in the statement.

When making a reference in a statement to an exhibit, make reference in CAPITAL LETTERS (I PRODUCE THAT KNIFE). Also, put in the margin of the statement the word 'EXHIBIT'. This will give the prosecutor or the Court pre warning that an exhibit is about to be produced to the Court.

If the Inspector has obtained a statement or record of interview from the offender, reference should be made to it at the appropriate place in the statement. Inclusion should be made in the statement of how it was obtained, (hand written, typed, etc.).

In the statement use one and a half spacing between each line. Do not try to get too much onto a page. The prosecutor will want to make notes on a copy of the brief and this will allow sufficient room for this.

## STATEMENT OR RECORD OF INTERVIEW FROM AN OFFENDER

It will be the responsibility of the Inspector in charge of a case to ensure that the complete brief is prepared. Following his statement, any statement or record of interview obtained from the offender should be included.

The offender's statement or record of interview is very important to the case. It might contain confessional material or an admission to the offence. Therefore, to have this evidence admitted, the onus is on the Prosecution to prove that it was obtained in a free and voluntary manner and that the requirements of Section 410 of the Crimes Act 40/1900 were followed.

When obtaining a Record of Interview the following procedures shall be followed:

### **INFORMING THE SUSPECT OF ENQUIRY**

The suspect must be advised of the nature of the enquiry. In the event that an enquiry may lead to an arrest, the suspect must be informed at the time of arrest the reason for his/her arrest. This must also be done at the commencement of the Record of Interview. The suspect should be informed that the Inspector intends to question him/her about. Extreme care should be taken not to make any willfully untrue representation.

### **INFORMING THE SUSPECT OF THE PROCEDURE TO BE ADOPTED**

The Inspector must inform the suspect that he/she intends to adopt the record of interview procedure. However, it must be understood that a suspect is not obliged to participate in a record of interview.

### **SHORT QUESTIONS TO BE USED**

Questions should be short and to the point. The majority of problems encountered in records of interview are due to lengthy and complicated questions.

### **LEADING QUESTIONS**

Leading questions are NOT allowed. A leading question may not exclude the whole of the record of interview from evidence but the Bench may cut it out of the document. This may leave the altered record of interview making little or no sense.

A leading question is one which suggests the answer. For example, "isn't it true that you hit the dog with your right fist?". The question should have been "Did you hit the dog?", and "what did you hit the dog with?".

## **MULTIPLE QUESTIONS**

Multiple questions are also not allowed.

For example, "Do you own the animals involved here on the property and have you been feeding the properly and have you been feeding them sufficiently?"

## **CROSS EXAMINATION**

Cross-examination by an Inspector in a record of interview should not be undertaken. At all times, Inspectors should be enquiring, not trying to trap, trick or bully a suspect.

## **INTERVIEWING OF FOREIGN NATIONALS**

It is acceptable to interview foreign speaking persons in English if they have an understanding of the English language equal to that of the ordinary Australian citizen. This fact must be established in the questioning of the accused both prior to the interview and during the interview.

## **UNSIGNED RECORDS OF INTERVIEW**

Unsigned records of interview must be supported by independent evidence of the crime to be accepted into evidence.

Unsigned records of interview may however be used as contemporaneous notes to be read into evidence using the provisions of Section 418 of the Crimes Act, 1900, relating to the reading of evidence where it has been recorded contemporaneously, signed by the Inspector and a copy has been served on the accused and his legal representation.

## **INDUCEMENTS**

There cannot be any inducements offered to the accused to make a statement or record of interview. These principals are laid down in Section 410 of the Crimes Act, 1900.

## **GENERAL RULES**

If an offender wishes to make a handwritten statement or record of interview he / she should first be cautioned. Supply he / she with writing material if they are making a handwritten statement. When obtaining a handwritten statement or record of interview, DO NOT assist the person with grammar or punctuation. Allow them to write it in their own words and do not assist them with spelling.

When typing or writing a record of interview, type / write the words the way the offender says them, eg. if the offender uses the word 'youse' instead of 'you', type it that way.

On completion of the statement of record of interview, type out the ADOPTION QUESTIONS on the document. If the person has made a handwritten statement, allow the person to write in the answers to those questions on the statement. If the person has made a record of interview, type / write the persons answers on the record of interview.

## **ADOPTION OF THE INTERVIEW**

There are four adoption questions;

1. Have you read this statement / record of interview? (or has this statement / record of interview been read over to you?).
2. Have you made this statement / record of interview of you own free will?
3. Has any threat, promise or inducement been held out to you to make this statement / record of interview?
4. Were you cautioned prior to making this statement that you were not obliged to make a statement unless you wish to do so, but whatever statement you did make may later be given in evidence? (when a record of interview is obtained the caution is given and recorded in the record of interview, therefore there is no need for this question at the end of the record of interview.)

When the statement or record of interview has been obtained the offender is invited to sign it. If the offender signs it, the Inspector then witnesses his / her signature. There may be occasions when the offender cannot read or write. In such cases the Inspector may type out a statement at the offenders dictation. Always have an Inspector who is independent of the enquiry read it to the offender. The same procedure must be adopted for a record of interview, in cases where the offender is unable to read.

## SUPPLYING A COPY OF THE INTERVIEW

As a general rule, a copy of the record of interview will be supplied to the offender.

## STATEMENT OF OTHER WITNESSES

The last part of the brief is where other witnesses in the matter are included. These may be independent witnesses who saw something take place or found something. Their evidence is very important to the Court as they generally have no background knowledge of the offence and provide completely unbiased evidence.

With this witness the Inspector should type their statement not allowing the witness to write it. The insertion of paragraphs one and two and age under the requirements of Section 48A of the Justices Act should be completed. Assistance should be given to the witness to sequence the events in a chronological order. However, suggestions will not be made to the witness, as their recollection of the events made be slightly different from other witnesses. Make the statement as concise as possible. Include any description of an offender. When recording the description it should be in a sensible order. Starting with sex, age, height, then commence at the top of the head and work down leaving the clothing till last.

In some matters witnesses will be giving expert evidence and a statement will be required from these people for inclusion in the brief, such as Veterinarians, Medical Practitioners. It is necessary when obtaining a statement from these people to include in the statement their particular expertise. These persons will be able to give opinions in Court so include any opinions relevant to their expertise as per section 177 of the Evidence Act.

Where relevant to the particular matter before the Court, RSPCA Inspectors should include in their statements any particular qualifications they hold and any additional experience they have that would assist the Prosecutor in qualifying the Inspector as an expert.



## **ADJUDICATION OF COURT BRIEF**

Now that the brief of evidence has been completed a check should be made to ensure that all statements have been obtained. All Inspectors will forward completed briefs to the Deputy Chief Inspector for recommendation to the Chief Inspector. Sufficient time must be allowed for the adjudication process. The Chief Inspector will accordingly adjudicate on all briefs, and determine whether or not the proofs to the proposed offence are fulfilled. Furthermore, the Chief Inspector will take into consideration the avenue of issuing further instructions or issuing a formal caution to the alleged perpetrator. The Chief Inspector will then recommend a prosecution onto the DCEO for approval. Any matters that are deemed sensitive, will be adjudicated on by the CEO. **Under no circumstances will briefs be forwarded to the Court unless this process has been followed.** It is the duty of the Officer in Charge of the brief to ensure that sufficient copies are forwarded to the Prosecutor. **A copy of the brief should be delivered to the Prosecutor at least 7 days prior to the day of hearing.**

- Original brief to be retained by the Officer in Charge
- Copy for the Prosecutor
- Copy for the Magistrate
- **Complete copy of the brief to be served on the defendant or his/her Solicitor at least 14 days prior to a hearing or other period as ordered by the Court (pursuant to the requirements of the Evidence Act 1995 No 25)**

A copy of the fact sheet that is to be presented to the Court may be provided to the defendant with service of summons.

## **STATUTE OF LIMITATIONS**

As a general rule, the matters dealt with by Inspectors are summary offences and carry a 6 months limitation on the commencement of proceedings (see section 56 of the Justices Act). Each Inspector is responsible for ensuring that all proceedings are commenced for the appropriate offences within the relevant time set by statute. Any breach of this instruction will be viewed in a serious light.

## CHAPTER 8

### EXHIBITS

In criminal proceedings witnesses for the prosecution carry the main burden of proof in establishing the case for the prosecution. Exhibits in this context have often been described as silent witnesses and their value as evidence in criminal proceedings cannot be over emphasised. Their role in the rules of evidence can be either as direct or circumstantial evidence.

Not only can an exhibit be considered as a silent witness, but also one which takes voice under circumstances where the exhibit is produced as documentary evidence referred to in the rules of evidence as primary evidence. The document, once produced, speaks for itself.

All tangible objects are capable of being exhibits, irrespective of size or form including; blood stains, footprints etc. An object of any nature whatsoever and in some instances includes photographs of such objects.

Section 352 of the Crimes Act states: "And take him and any property found upon him" is the general power in relation to exhibits upon arrest of an offender; whilst the common law places a trust upon a Constable to take possession of property the subject of a criminal offence.

### **CARE OF EXHIBITS**

The Inspectors duty associated with the care and safe custody of exhibits is of utmost importance. When Inspectors seize property that will possibly be used as an exhibit they are to take all reasonable precautions to ensure the safe custody of that property.

Upon seizure, immediate arrangements should be made for the transportation of the seized articles to a nominated place of safekeeping. A seizure notice must be served on the owner or person in charge where practicable. In the event that neither person's are home, the seizure notice will be attached to an appropriate fixture. The seizure notice carbon copy will then form your exhibit register, which should be presented to the Operations manager for the purposes of checking periodically.

## **ANIMAL EXHIBITS**

If Inspectors take possession of animals as an exhibit it should be photographed in colour, ensuring that injuries etc. are clearly shown for production at court. Where more than one animal is to be photographed each animal should be numbered. All relevant details should be recorded in the Inspectors notebook and a receipt issued to the owner or person in charge.

All injuries or deaths of animals in custody will be reported to the Operations manager as soon as possible. The animal will be presented to a Veterinary surgeon without delay and a veterinary certificate obtained and forwarded to the Operations manager.

Entire animals are not to be de-sexed or otherwise tampered with, unless the continuance of the animal's health is jeopardised. Should these circumstances arise, a veterinary surgeon must assess the situation. The Operations manager is to be advised immediately. It must be remembered that an animal/s is an exhibit and may have to be returned to their owner at the Court's discretion. Where practicable, animals should be agisted/boarded gender specific.

The use of a video camera, if available, to video animals should be considered. Video evidence supplies a more detailed picture of the animal's condition.

Where animals are seized or unable to be returned to their owners, Inspectors should make arrangements for them to be properly cared for and veterinary treatment provided. Wherever possible, the animals should be inspected as soon as practicable by a veterinary surgeon.

Officers should keep accurate records of where animals are agisted and they are required to monitor progress and the security of the seized animal. In the event that stock animals are in such physical condition, that seizing and removing the subject animals may contravene section 7 of POCTA, the officer in charge must ensure that the appropriate measures are taken in order to maintain their welfare for that undetermined period of time.

## **EXHIBITS WHICH MAY DETERIORATE**

Where property has been seized that may be perishable or may deteriorate if kept for lengthy periods, arrangements must be made for photographs to be taken of the property.

Freezer storage may also be considered for the preservation of exhibits, which require further testing. Blood samples must be analysed within 24 hours of collection.

Tissues required for pathology testing must be stored in formalin, details of sample must be recorded on white cardboard in PENCIL only.

## **DRUGS AND CHEMICALS**

Seized drugs will be secured in a locked safe separate from other exhibits. Chemicals should be stored, dependent upon their nature, in a refrigerated area or refrigerator. Advice should be obtained from qualified persons, or appropriate Authorities, as to storage of certain chemicals, which, if subjected to extreme heat, or mixed with other chemicals, may have adverse reactions. For this purpose, the Environmental Protection Authority in Sydney on 0297930000 can be contacted. The E.P.A, also have Regional offices at Albury, Armidale, Bathurst, Grafton, Newcastle, Queanbeyan and Wollongong.

## **EXHIBITS OPERATED BY BATTERIES**

When battery operated equipment is an exhibit unless there is reason for not doing so, action should be taken, with a view to preventing corrosion and damage, for the batteries to be removed from the article, and stored with, but not in it. Special care must be taken for the identical batteries removed from the exhibit to be preserved and properly marked for identification.

## **CARE OF DOCUMENTS**

Any document coming into the possession of Inspectors as a possible exhibit in a criminal trial should be handled and cared for in a manner that will not impair, in the slightest degree, its value as evidence. The exact physical condition of the document when received should be carefully noted, and thereafter the document should be preserved in the exact condition in which it was received. Tears, pen, pencil or other markings should not be interfered with, and adequate precautions should be taken to ensure that no further marks or mutilations occur whilst it is in the possession of the RSPCA.

As soon as practicable after receipt of any such documents they should be placed in a clean protective covering such as an envelope which is large enough to hold them unfolded. Folded documents should be unfolded and retained in that condition and care should be taken that no fresh creases are made.

## **DUTY OF CARE - EXHIBITS**

There is a general duty of care in respect of exhibits. The following procedure should be followed after seizing an exhibit:

### **METROPOLITAN AREA**

The exhibit should be immediately taken to the Investigation Unit, Yagoona, where it is then entered into an exhibit book by the Chief Inspector and co-signed by the Investigating Officer.

The following information should be recorded:

- (a) Name of the Inspector in charge of the case;
- (b) Name of the defendant charged;
- (c) Date of entry;
- (d) Description of the exhibit
- (e) Hearing date;
- (f) Exhibit number;
- (g) Offence.

The exhibit, if not an animal, should then be tagged with the corresponding exhibit number in the book and placed in the locked exhibit room.

Inspectors removing the exhibit from the exhibit room for transportation to the Court, should make an entry in the exhibit book as to the date of removal, and if returned, the return date and time, and countersigned in both cases by a Supervisor.

### **CONTINUITY**

In relation to Forensic and Pathology testing, where exhibits are obtained by a veterinary Surgeon in the presence of an Inspector, the Inspector will take possession of the exhibit and tag it/them. The Inspector will then personally transport it to a nominated Pathologist or other service. When the exhibit is handed to a person in authority at that establishment he/she will request that person to acknowledge receipt of it by signing the tag and a record of personal particulars in the Inspectors Official notebook.

When the tests are completed and the Pathologist's issues his report, the Inspector is then contacted and he/she collects the written report, which is then treated as a separate exhibit and returns it to the Exhibit room and records the particulars in the exhibit book.

## **COUNTRY LOCATIONS**

Inspectors in Country locations are responsible for the security and safety of their own exhibits. Exhibit rooms should be secure and an exhibit book maintained in line with the system utilised in the Metropolitan area.

## **MANAGERIAL RESPONSIBILITIES**

Managers/Co-ordinators should ensure the integrity of the exhibit system to ensure the rule of continuity and for general security reasons.

## **INSPECTIONS**

The Operations manager/Chief Inspector will inspect all exhibits on hand in the exhibit room on a regular basis. The checking officer's signature should be entered, together with the date/time, in the exhibit book.

Keys to the exhibit room should only be held by the Chief Inspector and Operations manager. Exhibits being handed in, or taken from the exhibit room should be supervised by one of the two above-mentioned Managers.

Exhibits in Country locations should be inspected on regular supervision inspections and the exhibit book signed by the Supervisor carrying out the inspection.

## **DISPOSAL OF EXHIBITS**

Inspectors in charge of cases in which exhibits are used are responsible for the ultimate disposal of them and should see that this is done promptly in the proper manner.

### Disposal by order of the Court: (ANIMAL EXHIBITS)

Courts will normally order the disposal of exhibits by one of three ways:

- (1) By returning it to the owner conditionally or unconditionally;
- (2) By awarding custody to the RSPCA
- (3) By ordering the direct sale of the exhibit by the RSPCA and such monies obtained by that sale to be deducted from the fines or costs.

Where the animal exhibit is returned to the owner the following procedure should be adopted:

- (a) The Inspector in Charge of the seizure must be present at the venue at a pre-arranged time.
- (b) The Inspector must view the authority to collect the animals by the agent or owner or nominated carrier.
- (c) Complete a Pro-forma receipt setting out the time, date, locations, number of animals, with full description of returned animals and obtain a signature of the person receiving same.
- (d) The pro-forma receipt should then be filed opposite the entry acquitting the ledger.

Where an exhibit is awarded to the RSPCA, arrangements should be made for proper and immediate disposal. This will be authorised by the Chief Inspector, in conjunction with the Chief Executive Officer. This procedure cannot take place if information is forthcoming that an appeal has been lodged at Court.

### **REGISTER OF SEIZED ANIMALS.**

A seizure notice book is to be utilized for every animal seized.

The Tag No. issued by the front counter staff will be entered into the Seizure notice book, with the comment, "See Tag No..... for record of disposal." If the animal is then processed through head office, the animal will be immediately recorded on the C.L.A.W.S computer terminal located in the treatment room upon arrival by the officer in charge.

Where disposal is required, canine, feline, avian and small livestock should be disposed of through the Animal Shelter Services.

The above applies to those Inspectors who have access to animal shelter services.

Metropolitan Inspectors are responsible for ensuring that all animals seized and transported to the Society's head office (Yagoona), are logged onto the C.L.A.W.S computer system upon arrival.

**(The computer system in the treatment room is to be used for the above transaction, as it will be the most immediate terminal for Inspector's use)**

Large Livestock (Cattle) must be entered into the seizure notice book and they must be sold through a Registered Livestock Agent. A cheque for the sale should be returned to the RSPCA and the receipt of the cheque together with a report showing details of the relevant entry made in the seizure notice book to be forwarded to the Deputy Chief Inspector.

Large Livestock (Horses), must be entered into the seizure notice book. If they are not suitable for placement, they should be conveyed direct to a licensed knackery whereby immediate supervised destruction must take place. A cheque must be obtained and the seizure notice entry must be acquitted in the same fashion as cattle.

Where no order is made by the court;

Where no order is made by the court as to the disposal of exhibits, the Inspector in charge of the case may, after action has been taken to establish that all possible court action has been finalised, and if he/she is satisfied as to the ownership of the exhibit, hand it to the owner and obtain a receipt for filing, or obtain a surrender form from the owner and take possession of the exhibit for sale by the RSPCA



**THE IMPORTANCE OF CHECKING THAT THERE HAS BEEN NO APPEAL LODGED CANNOT BE OVER EMPHASISED. DO NOT, UNDER ANY CIRCUMSTANCES, DISPOSE OF AN EXHIBIT PRIOR TO ENSURING THERE HAS BEEN NO APPEAL LODGED. YOU CAN CHECK IF THERE HAS BEEN AN APPEAL LODGED BY RINGING THE DOWNING STREET REGISTER, LISTING CLERK, AND FOR REGIONAL AREAS BY CONTACTING THE COURT WHERE THE MATTER WAS HEARD.**

## **PRESCRIBED ARTICLES**

Inspectors are to seek forfeiture of Prescribed Articles eg. Cock Fighting equipment for the purposes of disposal by destruction, or, at the discretion of the Director, retained for educational/training purposes.

No Inspector is to retain any restricted article for personal use.

## CHAPTER 9

### **PREVENTION OF CRUELTY TO ANIMALS ACT 1997 (as amended)      INSPECTORS POWERS**

It must be clearly understood that **The Prevention of Cruelty to Animals Act 1997 (as amended) does not provide any specific powers of arrest.** However, should it be necessary to arrest a person who is committing or who has committed an offence under the provisions of this Act, that person would be arrested by virtue of the powers of arrest in Section 352 of the Crimes Act.

#### **DEFINITIONS**

Officer means:

- (a) A member of the Police force or an inspector within the meaning of the Animal Research Act 1985;
- (b) An officer of an approved charitable organisation who is a special constable within the meaning of the Police Offences Act 1901;  
or
- (c) a public servant who is appointed by the Minister as an officer for the purposes of this Act::

Animals are defined by the Act as

- (a) a member of a vertebrate species including any;
  - (i) amphibian, or
  - (ii) bird, or
  - (iii) fish, or
  - (vi) mammal (other than a human being), or
  - (v) reptile, or
- (b) a crustacean but only when at a building or place (such as a restaurant) where food is prepared or offered for consumption by retail sale in the building or place.

## **POWERS OF ENTRY**

### **Section 25**

An officer and with aid of such assistants as the officer considers necessary may enter a place:

- \* which is used for the purpose of a sale yard or animal trade, or;
- \* which an animal is being used, or kept for use, in connection with any other trade, or any business or profession (including a veterinary surgery) and;

inspect and examine

- \* the place
- \* any animal which is on the place
- \* any accommodation or shelter which is provided on the place for any animal and
- \* any register kept on the place under the Act.

require the register to be produced by any person found on or in the place and take copies or extracts or notes from the register.

If requested by the occupier of the place, an officer must produce their "prescribed authority".

## **SPECIFIC POWERS**

### **Section 26**

1. Where an officer suspects on reasonable grounds that an offence has or is about to be committed in respect of an animal, the officer may:
  - \* take possession of the animal or, if the animal is dead, the animals carcass
  - \* remove the animal or carcass to a place which is thought fit; and
  - \* retain the animal or carcass for a period not exceeding 30 days from the date on which the officer took possession of the animal.

If during that period the officer commences proceedings, the officer may retain possession of the animal until the proceedings are completed, unless the court directs otherwise.

2. Where in the officers opinion, the animal:

- \* has not been provided with proper and sufficient and which it is reasonably practicable in the circumstances for the person to provide food or drink during the previous 24 hours (or in the case of the provision of food to an animal of a class prescribed by the regulations, during the period prescribed for that class of animal); and
- \* the animal is not being provided with that food or drink.

the officer may:

- \* take possession of the animal;
- \* remove the animal to a fit place; and
- \* retain the animal for such period of time as may be necessary for the animal to be provided with food or drink.

3. where in the officers opinion the animal:

- \* is so severely injured;
- \* so diseased;
- \* in such physical condition,

that veterinary treatment is required and it is not being provided, the officer may:

- \* take possession of the animal;
- \* remove the animal to a fit place; and
- \* retain the animal for such period of time as may be necessary for treatment to be provided.

4. Where in the officers opinion the animal is:

- \* so severely injured
- \* so diseased
- \* in such physical condition that it is cruel to keep it alive, and
- \* the animal is not about to be destroyed

- \* the animal is about to be destroyed in a manner that will inflict unnecessary pain upon the animal

the officer may:

- \* take possession of the animal
  - \* remove the animal to a fit place, and
  - \* destroy or cause the animal to be destroyed in a manner that causes it to die quickly and without unnecessary pain.
5. Where an officer who is the holder of a prescribed authority suspects on reasonable grounds, that:
- \* an offence against Part 2 is being, has been or is about to be committed in respect of an animal,
  - \* an animal:
    - i) has not been provided with proper and sufficient food or drink during the previous 24 hours (or, in the case of the provision of food to an animal of a class prescribed by the regulations, during the period prescribed for that class of animal), and
    - ii) is not being provided with that food or drink
  - \* an animal is so severely injured, so diseased or in such physical condition that veterinary treatment is required and not forthcoming
  - \* an animal is so severely injured, diseased or in such physical condition that it is cruel to keep it alive and is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain;

the officer may examine the animal.

Where an officer incurs costs in carrying out the obligations under this section these costs may be recovered from the owner of the animal in court proceedings.

Where an officer who is the holder of a prescribed authority exercises a power conferred upon him by subsection (1) - (5) in respect of an animal, the officer shall produce the authority, if requested to do so by a person in charge of the animal, for inspection by that person.

An Officer will introduce himself/herself in the following manner:

**"I am (name). I am an Inspector with the RSPCA and a Special Constable with prescribed authority under the provisions of the Prevention of Cruelty to Animals Act"**

An Officer who is the holder of a prescribed authority may, for the purpose of exercising a power conferred upon him by subsection (1) - (5), enter or remain in or on the premises and, where he does so enter or remain, shall produce the authority, if requested to do so by an occupier of the premises, for inspection by that occupier.

## **SEARCH WARRANTS**

### **Section 27**

There is a provision under this section of the Act for the use of Search Warrants. The Search Warrant is issued upon complaint on oath by a person that suspects on reasonable grounds, that there is in any premises, an animal in respect of which an offence against the Act or Regulations:

- \* is, or is suspected of being committed;
- \* has, or is suspected of having been committed;
- \* is, or is suspected of being about to be committed;

under this Act.

An authorised justice, if satisfied there are reasonable grounds for doing so, may issue the Warrant authorising a named officer, together with any person named:

- \* to enter and search the premises,
- \* to inspect and examine any animal or register which is in or on the premises.

All such Warrants remain in force for one month from the date of issue or until executed, whichever is sooner.

## **POWER TO DEMAND NAME AND PLACE OF ABODE**

### **Section 27A**

An officer who finds:

- \* a person committing an offence against this Act or Regulations, or
- \* whom the officer suspects, on reasonable grounds, of having committed or attempted to commit such an offence,

may require that person to inform the officer of their full name and residential address.

A person who fails to comply with the request commits an offence only after, the officer has warned the person:

**“I have reasonable grounds to suspect that you have committed an offence against the Prevention of Cruelty to Animals Act. I now require you to inform me forthwith of your full name and address. Failure to do so will cause you to commit an offence under section 27A of the Prevention of Cruelty to Animals Act No 200 of 1979 as amended. Do you understand that?”**

If the suspect does not understand the caution, the caution must be explained again in its entirety.

**“I now require you to inform me forthwith of your full name and residential address?”**

## **HINDER / OBSTRUCT OFFICERS**

### **Section 28**

A person who hinders, obstructs or interferes with any other person exercising or performing any power, authority, duty or function conferred upon that person by this Act commits an offence.

## **AIDERS AND ABETTORS PUNISHABLE AS PRINCIPALS**

Refer to section 33C namely Complicity and Common Purpose.

## **THE DESTRUCTION OF ANIMALS**

Inspectors should destroy injured animals correctly and quickly. In the case of destruction of an animal it is preferable, but not necessary, to obtain the consent of the owner of the animal before either destroying it or arranging for its destruction by a veterinarian or officer as defined under the Act.

## **GUIDELINES TO WARRANT THE DESTRUCTION OF AN ANIMAL**

The following information is to assist Inspectors in deciding whether or not an animal should be destroyed, when a veterinarian or other officer as defined under the Act is not readily available to assess the animals condition. Any animal should be destroyed which is having extreme difficulty breathing.

The following should be checked:

- \* Very noisy or gasping breath
- \* Coughing up of blood
- \* Holes in chest or neck
- \* Bluish gums or tongue
- \* Is bleeding profusely, especially from the head or ears
- \* Is unconscious and does not respond to light, touch or noise
- \* Is so weak and / or poor that it is lying down and is unable to rise
- \* Has severe burns to 50% or more of its body
- \* Is unable to give birth, appears to be in considerable distress and has an offspring stuck in the birth canal which cannot be manually removed
- \* Is uncontrollable and is endangering its own life and those of other animals or people
- \* Has wounds to the stomach area from which internal organs are protruding
- \* Has a broken back and is unable to move its back legs
- \* Has a broken neck and is unable to move any of its legs
- \* Has broken two or more legs
- \* If the animal has a broken leg and will not put any weight on it and the leg is held at an abnormal angle or the bone can be seen through the wound in the leg
- \* Two or more feet have been badly injured, for example, burned in a bush fire
- \* Both eyes have been severely injured



## **HUMANE DESTRUCTION OF AN ANIMAL**

If destruction of an animal by shooting is considered necessary the Inspector should use the firearm which has been issued to him / her for this purpose. A shotgun is suitable for shooting birds. A "Greeners Humane Cattle Killer" is suitable for destruction of cattle and horses where the animal is confined and the operator can get close to it with safety.

Shooting is generally the chosen method because it is quick and painless, when done correctly. Care should be taken to ensure that the correct calibre of weapon and ammunition is used for destruction of large livestock.

## **DESTRUCTION OF**

### **CATTLE**

Place the muzzle of the gun firmly against and at a right angle to the head. A humane killer is the most efficient way of killing an old and hard headed animal. Never fire while the animal is moving.

For calves, place the muzzle square on the middle line of the forehead, slightly lower than for adult cattle, as the upper part of the calf's brain is often very undeveloped.

## **GOATS**

Place the muzzle of the gun behind the horns and aim towards the animals mouth. Take care no one is in the line of fire.

In the case of kids, shoot from the front as for calves.

## **SHEEP**

### Hornless Sheep

Place the muzzle on the upper right side of the face where the horn grows. There should be equal distance from the eye to the ear. Steady the head by holding the nose, not the neck, point the gun towards the animals left shoulder and fire.

### Horned Sheep

Shoot just above the eyes, pointing towards the spine and steady the head by holding the nose.

## **PIGS**

Place the muzzle of the gun about a fingers width above the level of the eyes, half way across the forehead, aiming well up into the head.

## **DOGS AND CATS**

The muzzle of the gun should be aimed behind the ear and held 3-5cm from the animals head. The weapon should be fired so that the bullet will pass through the brain towards the opposite eye.

## **WILD ANIMALS**

Wild animals that are in distress and suffering may be frightened and unapproachable, they can be killed effectively only by shooting.

## **HORSES, MULES AND DONKEYS**

A head collar or bridle should be put on the animal and held by an assistant. If the animal is restless it should be blindfolded. It is essential to shoot above the eyes. Particular care must be taken to place the muzzle high up on the head and tilted downwards through the neck towards the body mass.

## **BIRDS**

Birds may be killed either:

- \* With a shotgun; or
- \* By striking the head sharply with a hard object, a second blow should be given for safety's sake.

## **REPTILES**

Place in a freezer where the reptiles body temperature will drop until it dies. If the reptile is venomous a sharp blow to the head using a heavy object will humanely kill it.

## **JUDGING WHEN AN ANIMAL IS DEAD**

After an animal has been shot or stunned, it may paddle its legs, gasp or perhaps groan, but still be unconscious. However, if the animal raises its head from the ground, as if attempting to rise, it is a fairly reliable sign that the animal is still conscious. A less reliable sign is blinking of the eyelids when a finger is placed on the eyeball.

When an animal is dead:

- \* the gums and tongue are bluish grey;
- \* the pupil expands and the eye appears glazed;
- \* breathing stops;
- \* the heart stops - it is best to feel on the left side below the elbow;
- \* there is no pulse - the pulse can be felt by placing a finger just under the rim of the cheek bone.

Always check these signs and do not assume that an animal is dead just because it is not moving or apparently not breathing.

## **PRECAUTIONS WHEN DESTROYING AN ANIMAL**

Where the destruction of an animal by shooting is required every effort should be made to keep the shooting out of view from the public. Every care must be taken to ensure that there is no possibility of a person being endangered eg. ricochet of a bullet.

**Bibliography:**

NSW Police Education Package 92/6.

## CHAPTER 10

### SEARCH WARRANTS

Section 27 of the Prevention of Cruelty to Animals Act makes provision for the use of Search Warrants. The Search Warrant is issued upon complaint on oath by a person that suspects on reasonable grounds, that there is in any premises, an animal in respect of which an offence against the Act or regulations:

- \* is, or is suspected of being committed;
- \* has, or is suspected of having been committed;
- \* is, or is suspected of being about to be committed;

under this Act.

An authorised justice, if satisfied there are reasonable grounds for doing so, may issue the warrant authorising a named officer, together with any person named:

- \* to enter and search the premises,
- \* to inspect and examine any animal or register which is in or on the premises.

Applications are made in writing to a local Justice, usually at the Local Court. **UNDER NO CIRCUMSTANCES** shall an Inspector make application for a search warrant unless the Chief Inspector has been notified or in his absence, the Operations manager.

## **FALSELY SWORN AFFIDAVITS**

Section 29 of the Search Warrants Act, 1985 states that every person willfully swearing falsely in any affidavit made before any such justice of the peace or other person so authorised to take affidavits shall be deemed guilty of perjury and shall incur and be liable to the same pains and penalties as if he had willfully sworn falsely in open Court in a judicial proceeding in the Supreme Court.

Perjury is dealt with under Section 327 of the Crimes Act, 1900 and provides that "Whosoever commits the crime of perjury shall be liable to penal servitude for seven years."

## **OCCUPIERS NOTICE**

An authorised Justice shall prepare and furnish to the persons to whom the warrant is issued an Occupiers notice.

The occupiers notice shall specify:

- the name of the person who applied for the warrant
- the name of the authorised justice who issued the warrant
- the date and time when the warrant was issued;
- and:
- the address or other description of the premises
- the subject of the warrant.

The occupiers notice shall contain a summary of the nature of the warrant and the powers conferred by the warrant.

A person executing the warrant shall upon entry into or onto the premises or as soon as practicable thereafter, serve the occupiers notice on a person who appears to be an occupier of the premises and to be of or above the age of 18 years; or if no such person is then present in or on the premises, serve the occupiers notice on the occupier of the premises, either personally or in such other manner as the authorised justice who issued the warrant may direct, as soon as practicable after executing the warrant.

## **EXECUTING SEARCH WARRANTS**

The Inspector executing the search warrant shall produce to the occupier of the premises for inspection the search warrant if requested to do so by that occupier.

The search warrant may be executed by day, but shall not be executed by night unless the authorised justice, by the warrant, authorises its execution by night.

Force may be used to enter the premises. Inspectors authorised to enter premises pursuant to a search warrant may use such force as is reasonably necessary for the purpose of entering the premises or breaking open any receptacle in or on the premises for the purpose of the search. Any aid or assistance may be employed at the discretion of the member executing the warrant.

However, An unexpected intrusion into a persons home or property can give rise to violent incidents, therefore, save in exigent circumstances, there must be a proper announcement prior to entry so that the occupier is made aware that an Inspector claims authority to enter and is given an opportunity to permit entry without force.

## **CHAPTER 11**

### **EQUAL EMPLOYMENT OPPORTUNITIES AND GRIEVANCE HANDLING SERVICE**

#### **STAFF GRIEVANCE PROCEDURES**

##### **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

Equal Employment Opportunity is a policy that all personnel activities are conducted so as to ensure that all employees of an organisation have equal access to all the benefits of their employment, so that people with equal probability of job success have equal probability of being hired or promoted to the position sought. In other words, a persons race, sex or marital status or membership of an ethnic or migrant group should not reduce her or his chances of employment or promotion.

##### **HARASSMENT IN THE WORKPLACE**

All Inspectors have the right to lodge a grievance complaint, either orally or in writing, concerning treatment that has occurred in the workplace, which they believe to be unfair, on the grounds of:

- Race,
- Sex,
- Marital status
- Physical impairment
- Sexual preference.

This procedure will not restrict the right to lodge a grievance with other organisations responsible for enforcement of Anti-discrimination legislation, or to instigate civil litigation.



## **COMPLAINTS FROM MEMBERS OF THE PUBLIC**

- ◆ Complaints received from members of the public in relation to the conduct of an RSPCA Inspector, should be conveyed direct to the Chief Inspector. The Chief Inspector will make a diary entry in relation to the complaint, and make a determination as to the validity of that complaint. The complainant will be requested to submit the complaint in writing to the Chief Inspector. If the complainant elects not to formalise the complaint, dependant upon the allegation the matter will be finalised at that time.

Should the complainant elect to formalise the complaint, the Chief Inspector will request a report in writing via the Operations manager from the accused Inspector, which will be accordingly reviewed by the Chief Inspector. If the complaint is determined as unfounded, the Chief Inspector will inform the complainant as to the decision. If the complaint is deemed to be sustained, the Chief Inspector will either counsel the Inspector, or bring the matter before the DCEO for a further determination. Should this course of action result in further action being taken, the Inspector involved will be given the opportunity of further response.

These procedures will be similar in the event that there is a complaint from one Inspector about another Inspector.

Instances where an Inspector wishes to make a complaint about a member of the public, the Chief Inspector and/or the Operations manager will obtain an incident report from the Inspector. The Chief Inspector will then determine the appropriate course of action and report the matter to either the Police, DCEO, or CEO for further consideration.

**All of the aforementioned correspondence will be held on the Inspector's personnel file**

## **COMPLAINTS FROM MEMBERS OF THE PUBLIC TO THE MINISTER**

The complaint will be directed via the Chief Executive Officer, to the Deputy Chief Executive Officer and then onto the Chief Inspector for investigation and report. The response procedure will be the same as above.

## **GRIEVANCE COMMITTEE**

A Grievance Committee has been established and consists of:

The Chief Executive Officer, RSPCA  
The Deputy Chief Executive Officer, RSPCA  
The Chief Inspector, Investigations Unit  
The Operations manager

## **GRIEVANCE HANDLING PROCEDURE**

The following procedures shall apply to any Inspector who believes they have been harassed or subjected to any other form of discrimination, from another person or persons within the RSPCA:

As soon as possible, and within 21 days, bring such actions or behaviour to the notice of a Supervisor or Manager. This may be done orally or in writing.

Persons seeking advice on lodging a grievance should contact the Chief Executive Officer, RSPCA

In any case, persons receiving complaints are to immediately bring these to the notice of the Chief Inspector, Investigations Unit, who will then notify the Chief Executive Officer, RSPCA

## **DEFINITION AND STATEMENT REGARDING SEXUAL HARASSMENT**

Sexual Harassment includes behaviour by an individual/s which is personally offensive, interferes with work effectiveness, and includes demands for sexual favours, accompanied by implied or overt promises of preferential treatment or threats concerning an individuals employment status.

Sexual harassment is a form of misconduct, which will not be tolerated. This type of behaviour may be construed as an infringement of Section 24 of the Anti-discrimination Act No. 48 of 1977 (Sex Discrimination).

## CHAPTER 12

### PERSONNEL ASSESSMENT

#### THE WORK PERFORMANCE APPRAISAL SYSTEM

The success of an organisation depends heavily on the standard of performance of employees and upon the way human resources within the organisation are managed and utilised. To measure performance within the Investigations Unit of the RSPCA the Work Performance Appraisal system has been introduced with the following objectives:

To appraise the work performance of individual Inspectors;

To provide a formal record of work performance to assist in the selection of personnel for advancement to higher grades.

To provide relevant information to assist in career planning.

To identify training requirements of Inspectors.

To facilitate the process of counselling and encouragement.

To improve the overall efficiency and effectiveness of the Inspectors Unit, RSPCA.

#### INSPECTORS TO BE APPRAISED

The work performance of all Inspectors will be appraised.

The appraisals are to be carried out annually by the 1st January, of each year. However, a six monthly appraisal of the officers' progress will be discussed with each Inspector.

## **INSPECTOR RESPONSIBLE FOR ADMINISTRATION OF THE SYSTEM**

The person responsible for the administration of the appraisal system is the Operations manager, who can delegate the operational functions but the Chief Inspector is responsible for the overall efficiency and effectiveness of the system within the RSPCA.

## **IDENTITY OF THE APPRAISER TO BE KNOWN**

The appraisee must be aware of the identity of his/her appraiser and be informed of the contents of the appraisal.

## **APPRAISAL TO BE BASED ON THE JOB DESCRIPTION**

Inspectors are appraised against a clearly defined Job description after sufficient observation.

## **COMPLETED APPRAISAL FORMS**

Upon the completion of the appraisal forms by the appraiser it is to be discussed with the appraisee in a confidential manner.

The appraisee will then sign the appraisal, acknowledging the fact that he/she has read the appraisal and the comments have been explained. It is then forwarded to the Reviewing Officer. The Reviewing Officer conducts a personal review with the appraisee and adds his/her own comments to the Form.

## **OBJECTIONS**

Objections to the appraisal are to be:

- (a) Completed after the review has been carried out.
- (b) Completed in manuscript form
- (c) Forwarded to the Chief Inspector under confidential cover,
- (d) Clearly indicate the part/s objected to and the reasons.
- (e) Investigated by an Independent officer appointed by the CEO.

## **CHAPTER 13**

### **OCCUPATIONAL HEALTH AND SAFETY**

#### **POLICY**

The RSPCA holds in high regard the health and safety of its personnel. To achieve a complete Occupational Health and Safety programme the organisation will undertake to:

Develop a working environment to comply with the Occupational Health and Safety Act and conscientiously observe all Federal, State and Local Government Regulations.

Promote safe working methods, practices and safety rules and ensure they are strictly observed.

Ensure proper and adequate training for all personnel, particularly those who are employed in potentially hazardous or dangerous duties and / or conditions.

Instruct supervisory staff that every possible precaution must be observed to minimise areas of potential hazard / risk.

Take disciplinary action against personnel who, by refusal or neglect, fail to observe safety and health requirements.

Each member of the organisation is expected to observe the Society's Occupational Health and Safety Rules and procedures at all times, and to advise supervisors of conditions they consider could result in a hazardous or dangerous condition.

#### **MANAGEMENT AND SUPERVISORY RESPONSIBILITIES**

The criteria to be observed in an endeavour to achieve this purpose:

Provide and maintain all equipment in a safe working condition.

Provide adequate personal protection equipment.

Identify and analyse safety and health hazards present in the work environment.

Instruct and encourage subordinates in safe working practices.

Investigate accidents and incidents of potential health and safety risks, and take remedial action where appropriate.

Continually review the effectiveness of the Society's health and safety practices.

Provide every opportunity for consultation between management and employees on occupational health and safety issues.

## **OBJECTIVES OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1983**

The objectives of this Act are:

To ensure the health, safety and welfare of persons at work.

To protect persons at a place of work (other than persons at work) eg. visitors against risk to health or safety arising out of the activities of person at work.

To promote an occupational environment for persons at work which is adapted to their physiological and psychological needs, and

To provide the means whereby the Associated Occupational Health and Safety Legislation may be progressively replaced by comprehensive provisions made by or under this Act.

## **OCCUPATIONAL HEALTH, SAFETY AND REHABILITATION COUNCIL OF NEW SOUTH WALES**

A nine member tripartite Council was created as the governing body for the Occupational Health and Safety Act and is subject to the control of the Minister for Industrial Relations and Employment.

The Council consists of:

Three Government Representatives

Three Representatives from Employer Organisations.

Three Representatives from the Labour Council of NSW

## **FUNCTIONS OF THE COUNCIL**

The Council may carry out investigations and make reports and recommendations on a number of Occupational Health and Safety areas including changes it considers desirable to Occupational Health and Safety Legislation.

## **ESTABLISHMENT OF COMMITTEES**

The Council may establish committees in respect of different industries and three specific committees have been established for:

- Persons of non-English speaking background.
- Rehabilitation of injured persons and handicapped persons.
- The Coal Industry

The establishment of other specialised committees is at the discretion of the Council. These committees do not include the establishment of Occupational Health and Safety Workplace Committees which are dealt with later.

The Council may authorise a committee, or a member, or any person authorised by the Council to carry out investigations or to submit a Report to the Council.

## **EMPLOYERS TO ENSURE THE HEALTH, SAFETY AND WELFARE OF EMPLOYEES**

In accordance with Section 15, Subsection (1) of the enabling Act, every employer shall ensure the health, safety and welfare at work of his / her employees.

Without prejudice to the generality of Section 15, Subsection (1), an employer contravenes that Subsection if he / she fails:

To provide or maintain plant and systems of work that are safe and without risk to health.

To make arrangements for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of plant and substances.

To provide such information, instruction, training and supervision as may be necessary to ensure the health and safety at work of his / her employee;

as regards any place of work under the employer's control:

To maintain it in a condition that is safe and without risk to health; or



To provide or maintain means of access to and egress from it that are safe and without any such risks; or

To provide or maintain a working environment for his / her employees that is safe and without risks to health and adequate as regards facilities for their welfare at work.

## **EMPLOYERS AND SELF-EMPLOYED PERSONS TO ENSURE HEALTH AND SAFETY OF PERSONS OTHER THAN EMPLOYERS AT PLACES OF WORK**

Every employer shall ensure that persons not in his / her employment are not exposed to risks to their health or safety arising from the conduct of his / her undertaking while they are at his / her place of work.

Every self-employed person shall ensure that persons not in his / her employment are not exposed to risks to their health and safety arising from the conduct of his / her undertaking while they are at his / her place of work.

## **PERSONS IN CONTROL OF WORKPLACES, ETC., USED BY NON-EMPLOYEES TO ENSURE HEALTH AND SAFETY**

Each person who has, to any extent, control of:

Non-domestic premises which have been made available to persons (not being his / her employees) as a place of work, or the means of access thereto or egress therefrom; or

any plant or substance in any non-domestic premises which has been provided for the use or operation of persons at work (not being his / her employees),

shall take such measures as is reasonable for a person in his / her position to take to ensure that the premises, the means of access thereto or egress therefrom or the plant or substance, as the case may be, are or is safe and without risks to health.

Where a person has, by virtue of any contract or lease, an obligation of any extent in relation to:

The maintenance or repair of any premises referred to in the above paragraph or any means of access thereto or egress therefrom; or

The safety of, or the absence of risks to health arising from, any plant or substance referred to in the above paragraph,

that person shall be treated, for the purposes as mentioned in this paragraph, as being a person who has control of the thing to which his / her obligation extends.

A reference in this Section to a person having control of any thing is a reference to a person having control of the thing in connection with the carrying on by him / her of a trade, business or other undertaking (whether for profit or not).

## **MANUFACTURERS, SUPPLIERS ETC., TO ENSURE HEALTH AND SAFETY AS REGARDS PLANT AND SUBSTANCES FOR USE AT WORK**

### **DEFINITIONS**

"Plant for use at work" means any plant designed for use or operation (whether exclusively or not) by persons at work, and includes any article designed for use as a component in. or an accessory to, any such plant.

"Substance for use at work" means any substance intended for use (whether exclusively or not) by persons at work.

"Supply", in relation to any plant or substance, means supply the plant or substance by way of sale, lease or hire, whether as principle or agent for another.

### **MANUFACTURER OR SUPPLIER OF PLANT**

A person who manufactures or supplies any plant for use at work or any substance for use at work shall:

Ensure that the plant or substance is safe and without risks to health when properly used.

Carry out or arrange for the carrying out of such research, testing and examination as may be necessary for the purpose of the discovery and the elimination or minimisation of any risks to health or safety to which the plant or substance may give rise; and

take such steps as are necessary to make available in connection with the use of the plant or substance at work adequate information:

About the use for which the plant is designed and about any conditions necessary to ensure that, when put to that use, the plant will be safe and without risks to health; or

About the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risk to health when properly used.

## **ERECTION OR INSTALLATION OF PLANT**

A person who erects or installs a new plant for use at work in any premises where that plant is to be used by persons at work shall ensure that nothing about the way in which it is erected or installed makes it unsafe or a risk to health when properly used.

## **TESTING ETC.**

Nothing in this Section shall be taken to require a person to repeat any research, testing or examination which has been carried out otherwise than by him / her or at his / her instance in so far as it is reasonable for him / her to rely on the results thereof for the purposes of this Section.

## **REQUIREMENT IMPOSED**

A requirement imposed on any person by any of the provisions of this Section shall extend only to things done in the course of a trade, business or other undertaking carried on by him / her (whether for profit or not).

## **REASONABLE CARE**

Where a person manufactures or supplies any plant for or to another on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as reasonably practicable, that the plant will be safe and without risk to health when properly used, the undertaking shall have the effect of relieving the first-mentioned person from the requirements, in relation to the plant, of this paragraph to such extent as is reasonable having regard to the terms of the undertaking.

## **EFFECTIVE SUPPLIER AND OSTENSIBLE SUPPLY**

Where a person (in this paragraph referred to as "the ostensible supplier) supplies any plant for use at work or substance for use at work to another (in this paragraph referred to as "the customer") under a hire purchase agreement or credit-sale agreement, and the ostensible supplier:

Carries on the business of financing the acquisition of goods by others by means of any such agreements; and

In the course of that business acquired his / her interest in the plant or substance supplied to the customer for the purpose of financing its acquisition by the customer from a third person (in this paragraph referred to as "the effective supplier"),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this Section as supplying the plant or substance to the customer and any requirements imposed by this Section on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

## **LEASE**

Where a person (in this Subsection referred to as "the ostensible supplier) supplies any plant for use at work to another (in this Subsection referred to as "the customer") under a lease, and the ostensible supplier:

Carries on the business of financing the use of goods by other by means of leases.

In the course of that business acquired his / her interest in the plant supplied to the customer for the purpose of financing its provision to the customer by a third person (in this Subsection referred to as "the effective supplier"); and

has not had physical possession of the plant or has had physical possession of the plant only for the purpose of passing it to the customer.

The effective supplier and not the ostensible supplier shall be treated for the purpose of this Section as supplying the plant to the customer, and any requirement imposed by this Section on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

## **INFORMATION OR ADVICE FROM MANUFACTURER**

For the purposes of this Section, any plant or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was manufactured or supplied>

Nothing in this Section shall affect the operation of the Sale of Goods Act, 1923, or the Consumer Protection Act, 1969.

## **EMPLOYEES AT WORK TO TAKE CARE OF OTHERS AND TO CO-OPERATE WITH EMPLOYER**

Every employee while at work:

Shall take reasonable care for the health and safety of persons who are at his / her place of work and who may be effected by his / her acts or omissions at work; and

shall, as regards any requirement imposed in the interests of health, safety and welfare on his / her employer or any other person by or under this Act or the Associated Occupational Health and Safety Legislation, co-operate with him / her so far as is necessary to enable that requirement to be complied with.

## **PERSON NOT TO INTERFERE WITH OR MISUSE THINGS PROVIDED FOR HEALTH, SAFETY AND WELFARE**

A person shall not intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety and welfare in pursuance of this Act of the Associated Occupational Health and Safety Legislation.

## **PERSON NOT TO HINDER AID TO INJURED WORKER, ETC.**

The Act states that:

- (1) A person should not be intimidation or by any other act or omission willfully hinder or obstruct or attempt to hinder or obstruct:
  - (a) The giving or receiving of aid in respect of the illness of injury of a person at work; or

- (b) The doing of any act or thing to avoid or prevent a serious risk to the health or safety of a person at work.
- (2) A person at a place of work shall not refuse any reasonable request:
  - (a) For assistance in the giving or receiving of aid in respect of the illness or injury of a person at work at the place of work; or
  - (b) For the doing of any act of thing to assist in the avoidance or prevention of a serious risk to the health and safety of a person at work at that place of work.
- (3) It shall be a defence to any proceedings for an offence against a provision of Subsection (1) or (2) for the person who contravened the provision to provide that the person had a reasonable excuse or lawful authority for contravening the provision.

## **ESTABLISHMENT OF OCCUPATIONAL HEALTH AND SAFETY COMMITTEES IN THE WORKPLACE**

An occupational health and safety committee shall be established at a place of work in accordance with Section 23 of the Act if:

There are twenty or more persons employed at the place of work and a majority or the persons so employed requests the establishment of such a committee; or

The Council directs the establishment of such a committee at the place of work.

The composition of any such committee, the election or appointment of persons to the committee and any other matter relating to the establishment or procedure of the committee shall be as prescribed and is dependant upon the regulations.

The regulations made for the purposes as mentioned in the paragraph shall provide for:

The election of members of any such occupational health and safety committee by the persons who are employed at the place of work at which the committee is established and the appointment of other members of the committee by the employer of those persons; and

The election of a chairman and convener of the committee by and from the members so elected.

A person shall not fail to do anything he / she is required to do pursuant to this section for the purposes of establishing an occupational health and safety committee at a place of work.

## **FUNCTIONS OF OCCUPATIONAL HEALTH AND SAFETY COMMITTEES**

An Occupational Health and Safety Committee established at a place of work pursuant to Section 23 of the Act:

Shall keep under review the measures taken to ensure the health and safety of persons at the place of work.

Shall investigate any matter at the place of work:

Which a member of the committee or a person employed thereat considers is not safe or is a risk to health; and

Which has been brought to the attention of the employer;

Shall attempt to resolve any such matter but, if unable to do so, shall request an inspector under the Associated Occupational Health and Safety Legislation to undertake an inspection of the place of work for the purpose; and

Shall have such other functions as are prescribed.

An inspection by an inspector to resolve a matter pursuant as per this paragraph shall be taken forthwith after the request made by the Occupational Health and Safety Committee.

## **POWERS OF MEMBERS OF OCCUPATIONAL HEALTH AND SAFETY COMMITTEES**

A member of an Occupational Health and Safety Committee established at a place of work pursuant to Section 23 shall, for the purpose of the committee, have power;

To carry out such inspections of the place of work.

To obtain such information relating to the place of work; or

To do such other things in relation to the place of work, as may be prescribed.

A member of any such Occupational Health and Safety Committee shall be provided with training to assist him / her functions as such a member. Training will be conducted over four days using an accredited training program delivered by a trainer accredited by the Occupational Health and Safety Rehabilitation Council of NSW.

## **UNLAWFUL DISMISSAL, ETC, OF EMPLOYEE**

An employer shall not dismiss an employee or injure him / her in his / her employment or alter his / her position to his / her detriment by reason of the fact that the employee:

Makes a complaint about a matter which he / she considers is not safe or is a risk to health.

Is a member of an Occupational Health and Safety Committee established pursuant to Section 23 of the Act; or

Exercise any of his / her functions as such a member.

In proceedings for an offence under this paragraph, if all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the dismissal, injury or alteration was not actuated by the reason alleged in the charge shall lie on the defendant.



## **NOTIFICATION OF ACCIDENTS**

Where:

An accident occurs at a place of work, whether or not it causes the death of, or bodily injury to, any person, or

Any other matter occurs at or in relation to a place of work which affects the health or safety of any person,

being an accident or other matter which is required by the Regulations to be notified under Section 27 of the Act:

Except as provided in the following sentence, the occupier of the place of work; or

such other person as is prescribed, shall give notice of the accident or other matter in accordance with the following sentence.

A notice of an accident or other matter referred to as mentioned above shall be given to such persons, within such time and in such a manner as is prescribed.

## **POWER OF MEMBERS OF COUNCIL TO ENTER WORKPLACE**

For the purpose of this Act, a member of the council may at any reasonable time, enter and inspect any non-domestic premises which are a place of work.

## **DOUBLE JEOPARDY**

Where an act or omission constitutes an offence:

Under this Act or the regulations; and

Under the Associated Occupational Health & safety Legislation,

The offender shall not be liable to be punished twice in respect of the same offence.

## **AIDING AND ABETTING**

A person who aids, abets, counsels or procures, or by act or omission is in any way directly or indirectly knowingly concerned in or a party to, the commission of an offence against this Act or the regulations shall be deemed to have committed that offence and is punished accordingly.

## **OBSTRUCTION**

A person shall not willfully hinder or obstruct any person in the exercise of a power conferred by or under this Act.

**THIS S.O.P. SHOULD BE READ IN CONJUNCTION WITH OTHER SECTIONS AND REGULATIONS CONTAINED IN THE OCCUPATIONAL HEALTH & SAFETY ACT No 20, 1983.**

## CHAPTER 14

### COMPLAINTS AND INVESTIGATIONS

The primary role of the RSPCA Investigations Unit is the Investigation of complaints made by members of the public in relation to alleged cruelty to animals.

There are currently REGIONAL INSPECTORS located in country NSW In addition to this there are officers in the NEWCASTLE METRO / HUNTER VALLEY area and officers from SYDNEY, WOLLONGONG and BLUE MOUNTAINS / LITHGOW area. Complaints in relation to alleged incidents of cruelty are usually passed on to these Inspectors either by:

- A. The Duty Officer at RSPCA Headquarters, or
- B. Branch representatives in country locations.
- C. Branch Inspectors.

Contact with these officers varies depending upon their base circumstances and radio equipment installed in each of the officer's vehicles. Contact with those officer's covering rural areas based in metropolitan boundaries, is usually possible within the structure of shelters contained within the officer metropolitan base. In some cases these officers have fixed mobile telephone communications at their disposal, enabling direct contact with the officer in the field.

When looking at contact with those officers permanently based in rural areas, communications generally comprise of one of three methods, these include;

1. TELEPHONE / ANSWERING MACHINE, OFFICERS BASE.
2. TELECOM MOBILE TELEPHONE SERVICE.

In some cases officers may have other types of communication devices peculiar to their vehicles and areas. Base Operators and Branch representatives should solicit from their REGIONAL INSPECTORS, what equipment is at his / her disposal, for the purpose of communications between Branch persons and Regional Inspector.

Quite often the INSPECTOR will be uncontactable due to periods of absence from his / her home base. These periods may vary from one to seven days and in some cases, even longer. It is obvious to say then, that telephone communications under these circumstances, where the caller receives a recorded message is ineffective. Regional Inspectors leaving their base for extended periods must re-direct their recorded messages recording the fact that the Public should use the number Sydney (02) 9707 1924.

In order to ensure the transmission of messages as quickly as possible a system of priorities has been implemented. First of all the priority of complaints must be determined as they are received. This will enable the REGIONAL OFFICER to access those complaints requiring attention first. There are basically three types of priorities which complaints can be categorised.

- 1. URGENT** An urgent complaint may be defined as any complaint where an animal is;
  - A. At risk of dying or suffering severely.
  - B. Seriously injured or ill, requiring immediate attention.
  - C. Involved in a road accident and is injured.
  - D. Subject to a natural disaster.
  - E. Trapped and requires rescuing.
  - F. In danger of being injured or killed as a result of an act of cruelty.
  - G. In such physical condition that it would be cruel to keep the animal alive.
  
- 2. PRIORITY** A priority complaint may be defined as any complaint where an animal is;
  - A. Likely to die or suffer unnecessarily if not attended to within the next 48 hours.
  - B. Likely to die, be subjected to pain or suffer unnecessarily as a result of a lack of veterinary attention, if not attended to within the next 48 hours.
  - C. Likely to die or suffer further unnecessary pain as the result of prolonged malnutrition or dehydration, unless attended to within the next 48 hours.
  - D. Is being exposed to extremes of climate and as a result is likely to die or suffer unnecessarily unless attended to within the next 48 hours.
  
- 3. ROUTINE** A routine complaint may be defined as any complaint other than those mentioned above, and will cause no immediate threat, danger, pain, injury or suffering upon an animal which is likely to cause a permanent disability or serious injury within a seven day period.

## **RESPONSE TIME TO PRIORITIES**

**URGENT COMPLAINTS.....Immediate attention**

**PRIORITY COMPLAINTS.....As soon as possible (within 24 hours of receipt)**

**ROUTINE COMPLAINTS.....As soon as practicable**

In the event of an Inspector receiving more than one priority complaint and his / her workload is such that these complaints cannot be attended to within the required time a request may be made to Headquarters for assistance.

The following procedures should be adopted when making contact with REGIONAL OFFICERS in relation to the transmission of complaints for investigation.

### **ROUTINE**

- \* Telephone the officers home base. If the office unattended, leave a message on the answering machine provided.
- \* Information should include the caller's name, date, time, branch and telephone number.
- \* Advise the number of complaints.
- \* Request the Inspector to contact the caller for further information.

### **PRIORITY**

- \* Telephone the officer home base. If office is unattended leave a message on the answering machine provided.
- \* Information should include the caller's name, date, time, branch and telephone number.
- \* Advise that you have a priority complaint, specifying the date which received.
- \* Give a brief description.
- \* Request the Inspector to contact the caller for further information.
- \* Contact R.S.P.C.A Headquarters.
- \* Request to speak to the Duty Officer / Radio Operator.
- \* Inform him / her of the nature of the priority complaint and the fact that a message has been left on the answering machine.
- \* Request that a message be transmitted by radio or portable telephone to the Inspector.

**URGENT**

- \* Telephone the Inspectors home base. If the office is unattended leave a message on the answering machine provided.
- \* Information should include the caller's name, date, time, branch and telephone number.
- \* Advise that it is an urgent complaint specifying the date and time received.
- \* Give a brief description of the complaint.
- \* Give address at which the subject animal is.
- \* Contact RSPCA Headquarters and request to speak to the Duty Officer / Radio Operator.
- \* Inform him / her that there is an urgent complaint specifying date and time the complaint was received.
- \* Give details of the complaint and the particulars of the branch representative who received the complaint.

In the Metropolitan area the following procedures are usually employed:

- # A complaint is usually received by the Technical Liaison Officer. Anonymous complaints are not normally accepted, except in the case of organised cruelty. Anonymous complaints are in the main vexatious.
- # Particulars of the complainant are recorded on computer and a copy is printed and handed to the team leader responsible for the area in which the alleged cruelty has taken place. The team leader will then allocate the complaint to an appropriate field Inspector for attention in accordance with its priority.
- # The Inspector then attends the address of the alleged offence and substantiates the complaint. The owner of the animal/s involved is spoken to and the animal inspected. Under no circumstances will an officer disclose the identity of the complainant or in any way provide information which may lead to the identification of the complainant.
- # Where the occupier/owner is not at home, arrangements may be made to interview him/her at a later time by leaving a notification.
- # Where the owner/occupier is interviewed, the Inspector, dependent upon the seriousness of the offence, may take a number of options:

(a) Where the injury/condition of the animal is not of a serious nature, the Inspector may issue Instructions to the owner/occupier as to the welfare/feeding of the animal and inform them that a check will be made at a later date; Should the owner refuse to carry out the instructions the animal may be seized. If inspection is made at a later date and the instructions have not been carried out and the animal is still in ill health or danger, it may be seized.

(b) Where the injury/condition of the animal is of a serious nature, the Inspector may seize the animal and either apprehend the offender or obtain particulars and commence legal proceedings by way of summons. The option of arrest should only be taken as a last resort. (See arrest.)

## SEIZURE OF ANIMALS

The decision to seize an animal is one of the most important duties an Inspector will be confronted with. As the welfare of the animal is paramount, you are not to ignore your responsibilities in this regard.

The following factors must be considered:

### IMMEDIATE SEIZURE.

The animal is in such a condition that immediate food, shelter, drink or veterinary treatment is necessary to support life and when failure to seize may compromise the welfare of that animal.

### POST SEIZURE.

Should be carried out after the non-compliance by the owner of lawful instructions by an Inspector.

### METHOD OF SEIZURE

During any seizure the owner or person in charge of the animal should be informed as to the reasons for seizure as well as the Act and Section under which seizure has been made.

A receipt will be issued for any animal seized, and the destination of that animal indicated on the receipt, unless, with reasonable cause, the Inspector believes that such disclosure may be detrimental to the safety and security of the animal.

## **PREMISES INSPECTION PROTOCOL**

Inspections should be carried out within five working days.

Priority should be given to pups that have already been taken home to ensure they are properly cared for. These inspections should take place within 48 hours of purchase.

It should first be established that the premises is a residential property and not a place of business.

Inspectors should enter the yard and check that all fence lines are secure.

Fences should be a minimum of 1.5 metres in height (including gates) and be in good repair.

There should be no structures placed adjacent to the fenceline that the dog could climb upon to scale the fence.

The yard should be of adequate size and free from rubbish and debris.

Pools should be fenced off from the area the dog is to occupy.

Proper shelter must be available. The dog must have access to it at all times and it should be clean and with a raised bed.

It should be noted how many other dogs the applicant has and whether there is sufficient exercise space and shelter for another dog. (The premises form should also be checked to see if it specifies no other dogs. Note: Pitbull Terriers are not to be placed in homes with other pets).

Under no circumstances will the tethering of an animal be acceptable, even for short periods of time.

If the premises meet all of the requirements then the duty officer should be contacted as soon as possible to process the paperwork and inform the shelter.

The prospective owner should be informed and asked to contact the shelter to arrange to pay the balance and pick up their new pet. If they cannot be contacted then notification should be left.

Due to space restrictions it is important that people are asked to pick up their animals as soon as possible.

In the event that a premises does not meet the requirements the applicant should be contacted and advised what needs to be done to satisfy requirements.



Applicants must be given a set date by which they must have the requirements met. This date should not exceed one week. The shelter manager or supervisor should be made aware of this.

If it is obvious that the applicant cannot or has no intention of meeting the requirements then the premises should be rejected and the applicant advised. According to the terms of the premises application a refund is not offered. The applicant has paid a deposit/inspection fee of fifty dollars and forfeits this if the premises is rejected.

In cases where the dog is under 16 weeks of age the applicant is usually allowed to take the animal home prior to the inspection being carried out.

If premises in any such case are rejected then the pup should be removed from the property until such time as the requirements are met. The applicant should be urged to effect this as soon as possible or the premises will be rejected.

In the event of any premises being rejected or time given to meet requirements then the shelter manager must be informed.

## **TRANSPORTATION OF SEIZED ANIMALS**

Once animals have been seized the following procedures are to be followed:

- \* In accordance with the provisions of the Act, the seized animals must be taken to a place to provide food, shelter, drink or veterinary treatment.
- \* Sites must be determined in accordance with the locations of the respective RSPCA shelters or other agistment properties subject to individual case requirements.
- \* Inspectors will arrange such transport through the use of approved Livestock transportation companies. The Pre-Transit checklist set out in 2.2.2 of the Handbook for the Preparation of Livestock for Transport" should be used as a guideline.
- \* Approval must be obtained from the Chief Inspector, or in his absence, the Operations manager, prior to arranging transport.
- \* When a transport company has been appointed, the investigating Officer will accompany or arrange for an officer to accompany the stock to the nominated destination.
- \* The investigating Officer shall ensure that during long trips regular stops are arranged to review and assess the condition of the stock and provide any assistance required, i.e., food, drink, etc.
- \* The investigating Officer will ensure a log of the stock numbers are maintained as per the requirements of the Legislation.
- \* The log of the transport should contain all the relevant details in accordance with Regulation 16 of the Prevention to Cruelty to Animals Act, 1979.
- \* The Transportation Log register must be completed and a copy forwarded to the Chief Inspector within 7 days of transportation.
- \* If the animals are transported to a nominated shelter a shelter number will be issued for the stock in receipt. Each animal will then be required to be individually identified, i.e.:
  - #Cattle - number and colour coded ear tags affixed to animals ear.
  - #Horses - All horses fitted with halters with identification tags affixed.

# Dogs/cats - appropriate collars affixed with identification tags.

# Birds - appropriate colour coded leg rings attached.

# Miscellaneous species - where identification is difficult or inappropriate, tag or cage identification should be utilised.

# Where seized animals are transported to sites other than RSPCA establishments the Investigating Officer should endeavour to ensure appropriate identification of animals as above.

# It is the responsibility of the investigating Officer to ensure that proper security measures are taken to protect and secure animals seized, and to inspect and monitor the health and welfare of said animals.

# It is the responsibility of the investigating Officer to ensure that seized stock is not utilised for domestic use while in the custody of the RSPCA.

# The investigating Officer, or transporting officer, will endorse the carrier's logbook when at the destination. The cost of the transportation will be negotiated by the Investigating Officer, and all receipts forwarded to head Office for payment.

## **INDIVIDUAL TRANSPORTATION OF SEIZED ANIMALS.**

Where an Officer has elected to transport seized animals personally, the following procedures should be followed:

## **TRANSPORTATION OF COMPANION ANIMALS.**

# Dogs must be secured in the rear of the officer's vehicle either by means of an appropriate tether or caged.

# Where the dog is tethered, officers should ensure that the animal is unable to:

\*Choke or strangle

\*Chew or bite through the tether

\*Reach or injure another animal being transported in the same vehicle

\*Where there is a requirement for the use of a muzzle for safety or security measures, the appropriate muzzle must be used and the animal must be able to breathe freely through the restraint.

## **CAGING ANIMALS.**

# Where the animal is caged, ensure that the animal is incapable of injuring itself. The cage must be secured and all attempts should be made to ensure the comfort of the animal.

## **CATS.**

# Cats may only be transported in secured carry cages. The decision to cover the cage for security and comfort rests with the officer.

## **BIRDS.**

- # Companion caged birds should only be housed in the cardboard carry boxes or cages designed for that purpose. All birds should be covered during transportation.

During transportation of all the above-mentioned categories of animals, officers must ensure adequate ventilation and comfort. Periodic inspections should be carried out.

## **NATIVE AND EXOTIC WILD ANIMALS.**

- # Animals in this category require specialised forms of handling and transport. Officers should attempt to obtain assistance from other bodies such as National Parks and Wildlife Services, or Federal/State/Local Council bodies such as Zoological Parks, etc.

Where such assistance is unavailable the following guidelines should be adhered to -

- # Never tie or tether animals in this category.
- # Never attempt to transport unrestrained
- # Ensure appropriate containers are pre-arranged for transportation. A schedule of approved transport modes are available from the Chief Inspector.

## **STOCK ANIMALS.**

**HORSES** - Horses can be transported in singular or dual horse float subject to the following conditions;

- # Ensure that the float is in operating condition and that all accessories are operable. The load weight of the float should not exceed the unladen weight of the vehicle.
- # All care must be taken when loading the animal to avoid unnecessary injury or stress.
- # Where possible, two officers should assist with loading.
- # The animal should be loaded on the high side of the float, i.e., the drivers side.
- # Once loaded, the animals rear should be secured, prior to tethering the head.
- # If the animal is tethered during floating, officers should ensure that the appropriate halter is used with sufficient slack to allow the animal a reasonable degree of head movement together with the appropriate knot
- # Upon unloading an animal, a reverse of the loading procedures should be taken, undoing the head, then the tailgate..

## **TRANSPORTATION OF MORE THAN ONE HORSE.**

The above mentioned procedures should be carried out with the following additional actions:

The horse easiest to load should be loaded first on the low side (passenger side). Care should be taken to transport animals that are compatible. Fractious animals which are prone to kicking or biting should be transported separately. Investigating Officers who are not experienced in transportation of equines should seek assistance from other more experienced officers prior to commencing any action.

## **CATTLE**

# The transportation of cattle should only be undertaken by approved transportation companies.

# The Investigating Officer should ensure that the rules for transportation of all livestock, as set out in the Department of Agriculture (NSW) Regulations, are met with. A copy of these Regulations can be obtained from the Chief Inspector.

## **SHEEP.**

# As for cattle.

## **TRANSPORTATION OF INDIVIDUAL SMALL LIVESTOCK ANIMALS;**

# Goats/Sheep. It is NOT recommended that these animals be secured by use of HOG TYING . that is tethering of 3 limbs, allowing for the free movement of one limb. These animals are best transported in appropriate crates.

## **CALVES.**

# As per goats/sheep above.

## **PIGS.**

# As per goats/sheep above..

## **DEER.**

# See wild and exotic animals.

## **MISCELLANEOUS ANIMAL GROUPS..**

### **FISH.**

- # Fish are best transported in durable plastic bags, one third water, two thirds air, secured with an elastic band.
- # They may also be transported in large plastic garbage cans with lid secured to avoid spillage.
- # When removing fish for transportation attempts **MUST** be made to utilise the water from the previous environment as utilisation of fresh tap water may result in death.
- # Care should be taken not to overcrowd and every attempt must be made to prevent spillage.
- # Officers should be aware that certain species of fish are not compatible for mixed transportation. Assistance and advice should be sought re suitable conditions.
- # Investigating Officers should consult with the NSW State Fisheries or Commercial fish breeders/dealers where applicable..

### **REPTILES.**

- # Officers contemplating the transportation of reptiles should refer to the IATA (International Air Transportation of Animals) guidelines. No attempts should be made to transport or remove reptiles unless an experienced herpetologist is present. Assistance may be obtained from the Herpetology Society, Australian Museum or the Zoological Parks Board of NSW.

### **AMPHIBIANS.**

- # As per fish above.

### **SMALL RODENTS.**

- # (Guinea pigs, mice, rats, etc.) as per cats in appropriate escape proof cages.

Investigating Officers should consider the following when transporting any of the above mentioned species:

- # Environmental temperatures should be a major consideration at the time of seizure and transportation.
- # The utmost consideration and deliberation must be given to the welfare of the animals at the time of seizure and transportation.

- # Inspectors should ensure that once animals are seized, continuity of the animal exhibit be maintained both for welfare and legal provisions.
- # All animals seized must be treated with the utmost consideration, and auxiliary items such as prods, goads, whips, etc., should not be used under any circumstances.

## **TRANSPORTATION OF SEIZED ANIMALS IN AN INJURED OR DEBILITATED CONDITION.**

Inspectors will encounter many situations where seizure is affected due to the fact that animals may be injured or debilitated. Due consideration should be given to the Provisions of the Prevention of Cruelty to Animals Act, Section 7, involving the carriage and conveyance of animals in a manner which unreasonably, unnecessarily or unjustifiably inflicts pain upon the animal.

Officers must ensure that where an animal is injured, or in such physical condition that transportation may jeopardise its welfare, direct Veterinary consultation should be obtained prior to transportation or destruction of that animal.

Alternative considerations may involve treatment on site or at the nearest intermediate facility.

Where Inspectors are unable to obtain professional Veterinary advice, the senior officer on duty should be contacted for further consultation prior to any action being taken. Any such instruction from the Senior Officer should be recorded in the Investigator's official notebook.

## **SEDATION OR TRANQUILLISATION PRIOR TO TRANSPORTATION.**

Officers are NOT to sedate or tranquilize any animal prior to transportation unless after consultation with a Veterinary Surgeon, or where the Officers or animals safety is compromised.

## **REQUEST FOR INDEPENDENT VETERINARY EXAMINATIONS.**

Unless by an order of the Court, permission will not be granted for an application by the owner of the seized animal or person in charge, for an independent Veterinary examination of that animal.

## **RETENTION OF SEIZED ANIMALS.**

Every Inspector who seizes an animal shall not retain that animal for a period exceeding 30 days from the date of seizure without commencing legal proceedings. The Inspector may then retain the animals until the final Court determination.

**INSPECTORIAL CODES:**

1. Bird
2. Cat
3. Cow
4. Dog
5. Goat
6. Horse
7. Kangaroo/Wallaby
8. Pig
9. Poultry
10. Possum
11. Sheep
12. Guard dog
13. Marine animal
14. Greyhounds
15. Snake
16. Fish
17. rabbit
18. Exotic
19. Other

**COMPLAINT CODES:**

20. Abandoned
21. Exercise insufficient
22. Food/water
23. Locked in car
24. Locked in house
25. Locked in laundry
26. Locked in shed
27. Locked in shop
28. Shelter inadequate
29. Tied continually
30. Transport unsatisfactory
31. Without vet, treatment
32. Locked in small pen
33. Cat up tree
34. Overcrowded
35. Ill treatment
36. Premises Inspection
37. Poisoning
38. Animal rescue
39. Other
40. Kennel Inspection
41. Pet shop inspection
42. Poultry inspection
43. Riding school inspection
44. Slayer Inspection

- 45. Stable Inspection
- 46. Animal park Inspection
- 47. Circus Inspection.
- 48. Rodeo Inspection
- 49. Feedlot Inspection.



## CHAPTER 15

### FIREARMS

#### LICENCING OF RSPCA INSPECTORS

Although as Special Constables, Section 103 of the Police Offences Act states Special Constables have the right to bear arms, the NSW Firearms Registry have made the following interpretation.

Each Inspector employed by the NSW RSPCA must be registered on the Society's Commissioner's permit to carry and use firearms in New South Wales.

Each Inspector must apply for the following

#### ISSUE FIREARMS

The current issue calibre/firearms are:

- .22 calibre rifles
- .22 magnum rifles
- .308 (7.62mm) rifles
- 12 gauge shotguns
- .38 calibre handguns
- .20 gauge shotgun (under and over with .22 rifle.)

**Lost or stolen firearms:- Inspector's MUST immediately report the loss or theft of any firearm to the local Police and the Chief Inspector.**

#### USE OF FIREARMS

Firearms are issued to Inspectors for the humane destruction of injured animals.

## **SAFE CUSTODY OF FIREARMS**

Firearms stored at the Inspectors home will comply with current licensing regulations in relation to the safe storage of firearms.

When carried in vehicles, Inspectors will ensure that all firearms are secured.

## **DISCHARGE REPORTS**

When an Inspector has cause to discharge his/her firearm he/she will notify the Operations manager of the incident, which will be recorded on a database at head office. The Chief Inspector should be notified in the absence of the Operations manager.

## **REQUESTS FOR RE-ISSUE OF AMMUNITION.**

Inspectors requesting a re-issue of ammunition will make application in writing to the Operations manager who will issue same and record the usage. Each Inspector will sign for that quantity of ammunition.

## **ANNUAL INSPECTION OF FIREARMS.**

All firearms on issue to the RSPCA will be inspected at least once per year by a qualified armourer.

Regular inspections of firearms will be carried out by the Operations manager/Chief Inspector or his nominated representative, and these checks will be recorded.

## **INSPECTION BY MANAGEMENT**

It is the duty of all Inspectors to keep the firearms on issue to them in a clean and serviceable condition. Management will conduct spot inspections of all firearms on issue to ensure cleanliness and serviceability.

Sidearms must be carried concealed from view from the public. Carriage should be in an ankle holster.

Under no circumstances are sidearms to be worn unconcealed in public.

## **TRAINING**

Each Inspector must undergo training in the safe handling of firearms twice annually. On each occasion the Inspector must successfully complete a marksmanship qualification shoot on handgun and long arm. Records of training shoots will be maintained.

## **SAFETY PRECAUTIONS**

- \* Do not place your finger on the trigger unless you have decided to pull the trigger.
- \* Do not run in the paddocks and streets or other places with your finger on the trigger.
- \* Do not climb fences, walls, trees or any obstacle with your finger on the trigger.
- \* Do not cock the hammer of the revolver, always use double action.
- \* Never point the weapon whether loaded or unloaded at another person.
- \* Alcohol and firearms do not mix.
- \* When unloading, remove the rounds, count the rounds, check the cylinder, bore or breech.
- \* When handing a firearm to another person, unlock / open the cylinder or breech, unload the rounds, count the rounds, visually check the cylinder / bore / breech then hand it over with the cylinder / action open, upon return, replace ammunition and secure the weapon immediately.
- \* Before discharging the weapon, ensure that there is no danger to yourself or other persons from ricochet etc.
- \* When at home, secure the weapon, do not allow it to become a conversation piece, always store in an unloaded condition.
- \* When loading or unloading, point the weapon on a safe direction, where a safety catch is fitted, place it on "safe" before loading / unloading.

## **CLEANING**

Cleaning of the weapon must take place after it has been discharged, and afterwards as required.

- \* Before cleaning, remove all ammunition as instructed.
- \* Clean in a safe area away from other persons.
- \* Scrub out barrel and cylinder / breech with an oiled rag on a barrel rod.
- \* Dry the barrel out with a clean cloth and dry thoroughly, dry out the chamber of the cylinder or breech.
- \* Clean all parts of the weapon and lightly smear with oil. Wipe lightly with a clean cloth, at least twice a year place one or two drops of light oil into the trigger mechanism.

## **ALTERATIONS / MODIFICATIONS**

There will be no alterations or modifications made to issue firearms without written authority of the Chief Inspector.

## **AMMUNITION**

Only ammunition authorised and purchased by the RSPCA will be used in issue firearms.

## **CHAPTER 16**

### **FORCED ENTRY TO PREMISES**

There will be occasions where, for reasons of security or urgency, overt or forced entry may have to be made upon a premises. In these cases, extreme care must be taken to ensure that the entry is made as specified by Commonwealth or State laws and that there is a minimum of risk to the occupants, the Inspectors involved, and the animals which are the subject of the entry.

**IT MUST BE REMEMBERED THAT FORCED ENTRY CAN ONLY BE USED WHERE A SEARCH WARRANT HAS BEEN OBTAINED.**

#### **REASONS FOR CONDUCTING AN OVERT OR FORCED ENTRY**

The following are considered to be reasons or circumstances which would justify the use of overt or forced entries into private premises:

- (a) Where a request has been made under the conditions of a search warrant issued by a justice, to allow entry to the investigative team and that request has been denied.
- (b) Where organised cruelty is being conducted and a fast forced entry is required to ensure that evidence cannot be destroyed or secreted by the offenders.
- (c) Where it is believed that the animal which is the subject of the complaint may be destroyed or removed by the offenders if they become aware of the complaint.

#### **METHODS OF ENTRY**

Where it has been decided that, due to one or more of the above circumstances existing, a forced entry will be made on the premises of the alleged offender the following sequence should, where practicable, be followed:

- (a) Where there is time available, an overt reconnaissance should be conducted and a set of operational orders be compiled.
- (b) The operational orders should include:
  - "The Situation" setting out the circumstances of the offence, the offenders involved and descriptions, and a plan of the property/premises.
  - "The Mission" setting out the exact job which is expected to be carried out.

"The Execution" setting out how the team of Inspectors are going to carry out the entry and the tasking of each individual Inspector.

"Administration" setting out what equipment each member will take and use on the entry.

"Command & Communication" setting out who is in charge and the means of communication between team members.

A complete briefing should be carried out in a secure area away from the target premises and each team member briefed on his/her tasking and how the overall plan will be carried out.

Should there be any question of danger to the lives of RSPCA members, or alleged offenders the entry **WILL NOT** be carried out. In this case the State Police will be contacted and the matter handed to them for completion due to their greater resources.

## **TEAM COMPOSITION**

When it has been decided that an overt or forced entry has to be conducted, the **MINIMUM** composition of the entry team will be, where possible:

- Team Leader (1)
- Second in Command (1)
- Team Searchers (2)
- Photographer (1)
- Exhibit/Property controller (1)

The above does not limit the number of Inspectors a Manager may use on an Entry, it is the Minimum he/she may use.

## CHAPTER 17

### **RADIOS.**

The successful use of radio communication equipment as a message-handling medium within the RSPCA radio network will greatly depend on the skill and expertise of the user. Therefore, it is of prime importance that you know what type of equipment is available and how to use that equipment.

### **TYPES OF EQUIPMENT.**

**Generally speaking, Portable Radio Equipment can be separated into two distinct classifications**, these are known as **SIMPLEX** and **REPEATER**.

#### **SIMPLEX.**

These radios are called simplex because they transmit and receive on the same frequency. This means that one portable can talk directly to another portable, or mobile if they are in range of each other, and are on the same channel. The range varies and is directly dependant on terrain, buildings and vegetation separating the two units. Distances of 1km. to 4km. are typical.

#### **REPEATER.**

These are called repeater type simply because they require a base station to repeat in order that two units may talk to each other. Unlike the Simplex system, these units have different transmit and receive frequencies. The advantage of this type of system is that it extends the range of a unit and also enables all units involved to hear all transmitted information.

### **USE OF EQUIPMENT.**

Portable radio equipment is battery powered, and because of this fact, they are built with a lower transmitter power than a mobile radio or base station. They should therefore be considered **BAD** with respect to their higher power counterparts.

From the word **BAD** we derive three important factors that should always be remembered when using portable radio equipment. These factors are.

**BATTERY**  
**AERIAL**  
**DISTANCE**

**Battery:**

Remember the battery does not have an infinite life. Generally, they will last about 5 to 6 hours with moderate use of the transmitter. **DO NOT BE FOOLED.** Just because the portable is still able to receive, does not mean it can still transmit. If the portable has to be used continually, carry a spare battery and change it at the appropriate time. Remember, your life may depend on it.

**Aerial.**

The antenna on any portable radio is inefficient; therefore the correct presentation of the antenna when you are transmitting is of paramount importance. If you can, hold the portable as far away from your body mass as possible and if practicable, turn so that the antenna is held so your head or body is not in the transmission path. Note, if the portable is held close to your body, up to 60% of the transmission power is absorbed, leaving only 40% to transmit your message.

**Distance.**

**Distance is always a factor in radio transmissions. As mentioned above, distances of 4kms. are possible with Simplex equipment, but this distance is greatly reduced if there are numerous buildings or thick vegetation in the transmission area.**

**Transmissions.**

**Time is** valuable, especially air time. It is therefore essential to keep transmission time to a minimum. Think about what you want to say before you push the button, then transmit your message, clearly and concisely.

**Rules for Use.**

The following are general rules to be followed when using portable radios:

1. No transmission will be made unless it is for an RSPCA related matter. Transmissions of a personal nature are forbidden.
2. Do not yell or shout when transmitting.
3. Do not show impatience or lose your temper when operating radio equipment.
4. Never argue with other operators.
5. Report all malfunctions to the manager.
6. Never use profane or abusive language when using radio equipment.
7. Use correct voice procedure, phonetic alphabet and 24 hour clock when using radio equipment



8. Hold the radio about 5cm from your mouth whilst transmitting.
9. Speak clearly and in a natural tone of voice.
10. Press the button firmly and wait about 1 second before you commence to talk. Keep the talk button depressed for about 1 second after you have finished talking. This will ensure your message is transmitted.

### **VOICE PROCEDURE.**

The following are simple guidelines to basic voice procedure:

1. Initiate all transmissions by giving your call sign first, and the call sign of the unit you are calling second: e.g.: "Unit 1 to Unit 2, over" Or "Unit 1 to Base, over".
2. Respond to all calls by giving your call sign first and acknowledge the calling unit second, e.g. "Unit 1 to Base, Send, over."
3. The word OVER is used to indicate to the other unit that you have temporarily finished talking and he may now reply.
4. The word OUT is used to indicate to the other unit that you have finished the transmission and do not expect a reply.
5. The words SAY AGAIN are used when you want the other unit to repeat his message or part of his message.
6. The word WAIT is used to indicate to the other unit that there will be a pause before you reply to his last transmission.
7. If a transmission is to contain information that may be of a sensitive nature, you should ask the unit "RADIO SECURE" to ensure that there is no person in the vicinity that may hear the information being passed.

The following is the accepted phonetic alphabet:

A	Alpha
B	Bravo
C	Charlie
D	Delta
E	Echo
F	Foxtrot
G	Golf
H	Hotel
I	India
J	Juliet
K	Kilo
L	Lima
M	Mike
N	November
O	Oscar
P	Papa
Q	Quebec
R	Romeo
S	Sierra
T	Tango
U	Uniform
V	Victor
W	Whisky
X	X-ray
Y	Yellow
Z	Zulu.

## **CHAPTER 18**

### **RECRUITMENT CRITERIA**

#### **NEW STAFF RECRUITMENT**

- ◆ Relevant experience/training, particularly in law enforcement and/or agricultural experience
- ◆ Personal philosophy in keeping with RSPCA mission
- ◆ Ability to deal sensitively with people who have possibly committed an offence
- ◆ Ability to assess when prosecution would be appropriate

#### **TRAINING**

- ◆ Six month probationary period during which the probationary will be accompanied by a competent Inspector for the purposes of receiving on-the-job training including lethalising, rural experience, stock handling and investigative tuition
- ◆ Probationary Inspector to be reviewed weekly by the Operations manager
- ◆ Probationary Inspector to be reviewed in company of Operations manager, by the Chief Inspector at 3 months, at 6 months and again prior to appointment to Inspector.
- ◆ Pending the 6-month assessment, the applicant can be placed onto a further determined period of probation, or recommended to the DCEO for confirmation as a Grade 1 Inspector. With the approval of confirmation, the Chief Inspector will make application to the Dept. of Agriculture for a prescribed section 26 authority regarding POCTA, and to the NSW Police service for a special constable status

## **STOPPING AND DETAINING OF VEHICLES**

1. When stopping and detaining those vehicles breaching section 7(2) of the Prevention of Cruelty to Animals Act 1979 (as amended), the use of your issued reflective vest are to be worn in all types of operations.
2. Before you intend to stop and detain a vehicle, select an appropriate stopping site, that will ensure everybody's safety including the offending driver and other motorists.
3. Order of equipment to be used when stopping and detaining offending vehicles;
  - Record registration
  - Vehicles equipped with Police radio communication are to register a call in relation to intentions and report your location.
  - Turn on rotating lights
  - Flash high beam lights
  - Engage horn
  - Engage siren unit momentarily

The order of equipment usage or otherwise will depend upon the willingness of the offending driver to pull over.
4. When a driver is stopping in accordance with your direction to stop, drop back a short distance behind the offending vehicle and stop approximately six metres behind, and approximately one metre to the right for passing traffic.
5. Before leaving your vehicle, activate the hazard lights. If at night, leave the headlights on to illuminate the offending vehicle and its occupants.
6. When approaching the offender's vehicle, try to keep the occupants of the offender's vehicle under surveillance. Approach the offender's vehicle from the driver's side.
7. Stand at the rear of the central door pillar of the offender's vehicle. This enables you to have a commanding view of the vehicle interior and its occupants. It also ensures you are not struck by a sudden forcible opening of a door.
8. Ask the offending driver to accompany you to the left side of your vehicle to avoid danger from passing traffic. However, you have no right to compel the driver to do so. If he/she does comply, have him/her stand at the left of your vehicle.
9. Take extra precaution, as you approach the offending vehicle, in the event that the unsecured dog is vicious and may attack you as you approach the vehicle.
10. If at any time, there is an element of doubt as to the safety of you, the offending driver and or any other driver in the vicinity or member of the public, record the relevant particulars (registration plate, time, date, description of driver etc). The Chief Inspector should be advised of the registration details, so that an enquiry with the Roads and Traffic Authority can be undertaken and then pursued.

