



Investigations Manual

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This document contains guidance material intended to assist CASA officers, delegates and the aviation industry in understanding the operation of the aviation legislation. However, you should not rely on this document as a legal reference. Refer to the civil aviation legislation including the Civil Aviation Act 1988 (Cth), its related regulations and any other legislative instruments—to ascertain the requirements of, and the obligations imposed by or under, the law.

Preface

As a Commonwealth government authority, CASA must ensure that the decisions we make, and the processes by which we make them, are effective, efficient, fair, timely, transparent, properly documented and otherwise comply with the requirements of the law. At the same time, we are committed to ensuring that all of our actions are consistent with the principles reflected in our Regulatory Philosophy.

Most of the regulatory decisions CASA makes are such that conformity with authoritative policy and established procedures will lead to the achievement of these outcomes. Frequently, however, CASA decision-makers will encounter situations in which the strict application of policy may not be appropriate. In such cases, striking a proper balance between the need for consistency and a corresponding need for flexibility, the responsible exercise of discretion is required.

In conjunction with a clear understanding of the considerations mentioned above, and a thorough knowledge of the relevant provisions of the civil aviation legislation, adherence to the procedures described in this manual will help to guide and inform the decisions you make, with a view to better ensuring the achievement of optimal outcomes in the interest of safety and fairness alike.

Shane Carmody
Chief Executive Officer and
Director of Aviation Safety

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Glossary

Acronyms and abbreviations

Acronym / abbreviation	Description
AFP	Australian Federal Police
AGIS	Australian Government Investigation Standards
CAA	<i>Civil Aviation Act 1988</i>
CAR	<i>Civil Aviation Regulations 1988</i>
CASA	Civil Aviation Safety Authority
CASR	<i>Civil Aviation Safety Regulations 1998</i>
CDPP	Commonwealth Director Public Prosecutions
EICMS	Enforcement and Investigations Case Management System
Investigators	Investigators appointed under Part IIIA of the CAA Technical Coordinator – Investigations AOD Tester/Assistant Investigators
PGPA Act	Public Governance, Performance and Accountability Act 2013

Revision History

Amendments/revisions of this Handbook are recorded below in order of most recent first.

Version No.	Date	Parts/Sections	Details
2.1	May 2021	All	Manual amended to reflect current terminology and CASA structure
2.0	May 2018	All	Redraft to align the manual with the applicable AGIS and remove parts of the manual that were no longer current
1.0	September 2014	All	First issue – replaced Investigators Manual

1. Introduction

The investigative functions conferred on CASA by Part IIIA of the CAA are performed by Investigators employed in CASA's Investigations Section, which is part of the Litigation, Investigations and Enforcement Branch within CASA's Legal, International and Regulatory Affairs Division (LIRA). CASA Investigators report through the Manager Investigations to the Litigation, Investigations and Enforcement Branch Manager and are an integral part of the process by which CASA discharges its function under paragraph 9(1)(c) of the CAA to secure compliance with aviation safety standards through the development of effective enforcement strategies.

The Manager Investigations is responsible for the day-to-day management of the Investigations Section, including the deployment of its resources and the quality of the work performed by its staff.

The Investigations Manual provides specific information and guidance to CASA Investigators, particularly those responsible for the conduct of investigations into suspected breaches of civil aviation and other associated legislation with a view to the issue of infringement notices, the conduct of criminal prosecutions and other enforcement actions.

This manual has been developed in compliance with the AGIS package, which requires that CASA have written procedures and guidelines regarding the conduct of its investigations.

The CASA Investigations Manual complements the CASA Enforcement Manual, in conjunction with which it should be read.

The Investigations Manual contains and details the legislative requirements imposed on CASA Investigators in the conduct of criminal investigations. The **'best practice'** procedures, described in the Manual are based on the accumulation and application of knowledge and practical experience in the conduct of criminal investigations. These procedures reflect the highest professional standards, recognised and respected by the courts.

This Manual is a living document and it will be amended from time to time, as procedures change and new methodologies are introduced. It recognises the importance of Investigators capturing information in a consistent manner and accurately recoding details of investigations. This starts from the initial stages of information gathering and planning and goes through to the conclusion of the matter.

It is the responsibility of Investigators to develop and maintain their knowledge and understanding of the general principles and key elements of the Manual as required by AGIS.

Dr Jonathan Aleck
Executive Manager
Legal, International and Regulatory Affairs Division

2. Guiding Standards

The Investigations Section follows practices and standards in the AGIS as set out in this Manual. The AGIS sets the minimum standards for Australian Government agencies conducting investigations. Where the AGIS conflict with law, the legislative requirement will prevail.

An investigation is a process of seeking information relevant to an alleged, apparent or potential breach of the law, involving possible judicial proceedings. The primary purpose of an investigation is to gather admissible evidence for any subsequent action, whether involving criminal, civil penalty, civil, disciplinary or administrative sanctions. Investigations can also result in the prevention or disruption of further criminal activity.

The term investigation can also include intelligence processes which directly support the gathering of admissible evidence.

Standards

CASA Investigators must comply with the following minimum standards.

2.1 Work health and safety (WHS)

All CASA workers (including contractors) have legal duties under the WHS legislation. Your duty as a worker includes taking reasonable care of your own health and safety and ensuring that nothing you do (or omit) causes harm to others. You must comply so far as reasonably practicable with any reasonable instruction given to you by CASA and you must co-operate with any reasonable WHS policy or procedure. Your duty of care is proportionate to the control you can exercise over your work activities and work environment.

Different roles in CASA bring different hazards which, if not managed effectively, may create a safety risk. For example, working airside, working outdoors, driving long distances, or dealing with client aggression.

The management of health and safety is integrated into how we conduct our daily work e.g. use of personal protective equipment, training and our work protocols. The WHS Risk Register and Safe Work Practices document identifies risks and their management. However, if you identify something that poses an unacceptable risk, you should not place yourself or others at risk of injury; ensure that you discuss the risk with your supervisor as soon as practicable and (if necessary) [report the hazard](#) in ESS. Continuous improvement of our health and safety management system is essential to keeping everyone safe at work.

For further information go to the [WHS Horace page](#) or contact WHS@casa.gov.au.

2.2 Investigative Activities

Assistant Investigators and the Technical Coordinator – Investigations may be tasked by the Manager Investigations to conduct general reviews or Preliminary investigations as required to assist the Investigations Section.

CASA Investigators, appointed pursuant to Part IIIA of the CAA (Part IIIA Investigators), are also responsible for conducting investigations into alleged contraventions of civil aviation legislation. Investigations will be tasked to Investigators by the Manager Investigations in line

with the requirements of the CASA Enforcement Manual, this Manual and any published management instructions.

Completion of investigations may involve Investigators in a range of additional activities including preparing briefs of evidence for the CDPP, participating in criminal prosecutions, issuing of infringement notices for prescribed offences or provision of support to administrative action that CASA may choose to take in respect of a civil aviation authorisation. The Manager Investigations is primarily responsible for ensuring the quality of the investigative activities conducted by the Investigations Section.

The Investigations Section also has responsibility for the review of passenger related and other routine offences that involve a contravention of the regulations and which may be referred to CASA by airlines, the AFP and other law enforcement or regulatory agencies.

Should CASA's assistance be sought as part of a joint agency investigation team to conduct any investigation, the Manager Investigations will determine the most appropriate resources available within CASA to assist. Similarly, should it be determined that CASA requires assistance in the conduct of any investigation, the Manager Investigations will be responsible for identifying and liaising with the external agencies best placed and willing to assist.

The Manager Investigations is responsible for conducting investigations into alleged internal fraud matters. Any such investigation will conform to the standards and practices specified in this Manual and the requirements of the CASA Fraud Control and Integrity Policy.

2.3 Performance Measures

To ensure consistency in quality and outcomes from investigations, reports completed because of matters tasked for a general review, preliminary investigation or Part IIIA investigation are referred back to a Coordinated Enforcement Meeting for discussion and to determine an appropriate enforcement outcome in line with the CASA Enforcement Manual.

In addition to the conduct of investigations, Investigators are responsible for the drafting of infringement notices and the preparation of briefs of evidence for the consideration of the CDPP. The Manager Investigations is responsible for approving the final draft of all investigation reports, the issuing of infringement notices and the review all briefs of evidence prior to their submission to the CDPP.

All investigative activities must be completed within the timeframes specified by the Executive Manager, LIRA in the Division's Business and Risk Management Plan.

As an Australian Government agency, CASA can be subjected to a quality assurance review conducted in accordance with AGIS.

2.4 Commonwealth Policy Standards

When conducting investigations, CASA has regard to the requirements of the following Commonwealth policies:

- Prosecution Policy of the Commonwealth;
- The Commonwealth Fraud Control Guidelines; and
- Protective Security Policy Framework.

2.5 Legal Framework

CASA's Part IIIA Investigators are appointed under the CAA and derive their primary investigative powers from that Act. The investigative activities conducted by the Investigations Section are directed to establishing whether there has been a breach of the provisions of the civil aviation legislation.

In addition to the civil aviation legislation, the following legislation is relevant to the activities of the Investigations Section:

- Public Governance, Performance and Accountability Act 2013;
- Commonwealth Criminal Code Act 1995;
- Crimes Act 1914 (Cth); and
- Legal Services Directions 2017.

CASA Investigators have access to up-to-date versions of legislation through the legislation link on CASA's intranet page.

CASA's policies and manuals and guidance material are also available for use and guidance. These are also located on the CASA intranet page.

2.6 Investigation qualifications

All CASA Investigators must hold a Certificate IV in Government (Investigation), or its equivalent, as set out in the Public Services Training Package (PSP04). If this qualification has not been obtained before an officer is employed as an Investigator, then the officer will only perform investigative duties under the supervision of a qualified Investigator. CASA will support the obtaining of this qualification for all officers appointed as Investigators, Technical Coordinator - Investigations or Assistant Investigators within the Investigations Section.

The CASA Manager Investigations must hold a Diploma of Government (Investigation), or its equivalent, as set out in the Public Services Training Package (PSP04). If the qualification is not held, the officer occupying this position must obtain the qualification within 6 months of commencing the role.

2.7 Agency relationships

CASA Investigators must comply with any written procedures regarding liaison with other agencies. The Manager Investigations is responsible for regularly reviewing these procedures which are located within the Part IIIA Investigations – Templates and Instructions file (F18/2145), that is accessible to all members of the Investigations Section.

Investigators are required to record appropriately, in line with CASA record keeping policy, any contact with other agencies and the reasons for and results of that contact.

Investigators are responsible for ensuring that any interagency correspondence is handled in compliance with relevant Australian Government and agency standards, particularly in relation to physical security and security classification. Potentially sensitive or high-profile communications should be settled by the Manager Investigations or the Branch Manager, Litigation, Investigations and Enforcement.

Investigators should be aware of any Memoranda of Understanding (MoU), Service Agreements or investigation-specific Joint Agency Agreements that may be in place from time to time. Any such arrangements can be accessed within the Part IIIA Investigations – Templates and Instructions file (F18/2145).

2.8 Information Sharing

Sharing information is to be done in accordance with the *Privacy Act 1988* and any secrecy provisions within legislation that may apply.

The Investigations Section is the point of contact for all other government law enforcement agencies seeking information relating to information and data retained by CASA. Requests for access to this information must be received in a format that is approved by the Manager Investigations.

The Manager Investigations is responsible for ensuring a “Request for Information” form or similar is available for the use of the Investigators and is reviewed periodically to ensure its continued compliance with the requirements of the *Privacy Act 1988*. This form is available to all members of the Investigations Section within the Part IIIA Investigations – Templates and Instructions file (F18/2145).

Any requests for information received and copies of information provided will be maintained in accordance with CASA’s record keeping policy. The Investigations Section maintains a bulk electronic file onto which this information is to be placed.

2.9 International inquiries and foreign evidence

Investigators may on occasion require information from international aviation regulatory agencies such as the FAA (USA) or NZ CAA. Formal requests to these bodies should in the first instance be made through the International Relations Section in LIRA.

All correspondence relating to this contact and any subsequent communications should be documented and maintained in accordance with CASA’s record keeping policy, including, as appropriate, in the applicable investigation file on the EICMS.

Occasionally Investigators may be required to obtain evidence from organisations or individuals based outside of Australia. Investigators should consider whether the inquiry can be made utilising the services of the AFP International Division or whether a formal request needs to be made through the Australian Government Attorney General’s Department. In such cases the Investigator should discuss the situation with the Manager Investigations so that an appropriate request can be made.

Any requests for information received from international aviation bodies or foreign law enforcement agencies should be referred to the Manager Investigations for further action.

2.10 Ethical conduct

CASA Investigators must conduct their investigations in accordance with the following:

- the CASA Code of Conduct;
- the CASA Values.

Any complaints concerning the conduct of CASA investigations will be handled in accordance with the CASA's official complaint handling procedures.

2.11 Media

Investigators are required to comply with CASA's media policy as published on its intranet site. Investigators are not authorised to comment on behalf of CASA in relation to the conduct of any investigation or associated enforcement process. All requests for media comment must be referred to CASA's media spokesperson.

Should an Investigator become aware of the media's interest in a matter either currently under investigation or before the Courts they should inform the Manager Investigations and CASA's media spokesperson of the interest so that an appropriate media statement can be prepared if required.

The Manager Investigations and Investigators should be mindful of the requirements of the *Privacy Act 1988* and ensure that any information released to the media is done so in accordance the principals of that Act.

Any information that is released to the media should not prejudice a person's right to a fair hearing or any future actions CASA or other agencies may take.

If CASA is involved in a multi-agency operation, a common approach to the media will be agreed between the agencies prior to any publicity and ministerial correspondence.

3. Identification of breaches and case selection

Sources of referrals for investigation

Requests for investigation come to the Investigations Section through four avenues:

- out of the Coordinated Enforcement Process;
- from external law enforcement agencies such as the AFP;
- by direct internal approach to the Executive Manager, LIRA, the Branch Manager, Litigation, Investigations and Enforcement or the Manager Investigations; or
- through internal fraud control mechanisms.

3.1 Receiving and recording alleged, apparent or potential Breaches

The details of any alleged contraventions of the civil aviation legislation associated with a request for investigation initiated out of the Coordinated Enforcement Process will already be recorded in the EICMS as part of the initial case referral as required in the CASA Enforcement Manual.

If the request is received from a Business Unit Manager outside of the Coordinated Enforcement Process, the Manager Investigations is responsible for arranging for a case in the EICMS recording the details of the referral.

Where a referral is received from an external law enforcement agency, the Manager Investigations is responsible for arranging for a case in the EICMS recording the details of that referral.

If the investigation relates to allegations of internal fraud, the Manager Investigations will create an internal investigation case in the EICMS onto which he/she will record the details of the allegations and any inquiries made. Access to internal investigation cases are restricted to the Manager Investigations only.

3.2 Initial Assessment of an Allegation

The Investigations Section is responsible for investigating offences against the civil aviation legislation. However, the number of offences identified or reported far exceeds its investigative capacity. The Investigations Section must therefore ensure that its limited resources are directed to the matters of highest priority and the decision to accept or reject matters for investigation is guided by this precept. The Manager Investigations is responsible for making the initial assessment of whether and to what extent a particular complaint or information will be investigated. The following factors will be considered in making this assessment:

- (a) the quality of the evidence presently available to substantiate the commission of a contravention;
- (b) the range of sources of further evidence potentially available;
- (c) the safety implications of the alleged contraventions;
- (d) the age of the alleged contraventions;
- (e) the resources available within the section to conduct any investigation;
- (f) whether another law enforcement agency is already investigating, or is better placed to investigate, the alleged contravention.

Upon receipt of the initial complaint, the Manager Investigations must also consider whether there is any evidence that could be compromised or lost, for example due to time constraints (e.g. ATC Tower tapes, flight strips etc). The Manager Investigations will make arrangements to secure any such evidence. This evidence must be collected in accordance with the requirements of this Manual and any other relevant CASA policy.

Because of this assessment and in consultation with the relevant referring Manager and/or others at the Coordinated Enforcement Meeting (where applicable), a decision is made as to what action, if any, is to occur. The assessment could result in:

- no further action;
- referral to an Investigator for general review;
- referral to an Investigator for a preliminary investigation;
- referral to an Investigator for a Part IIIA investigation;
- referral to an Investigator for a general investigation;
- referral to an Investigator for consideration of issuance of an Aviation Infringement Notice (AIN); or

- referral to an outside law enforcement agency for their consideration.

Decisions following the initial assessment should consider AGIS and where applicable the Prosecution Policy of the Commonwealth (<http://www.cdpp.gov.au/Publications/ProsecutionPolicy/ProsecutionPolicy.pdf>).

3.3 In Case of No Further Action

Where a matter is not accepted for investigation, the Manager Investigations will advise the relevant Branch or Regional Manager of that decision and the reasons why it was made. If the request for investigation arose out of the Coordinated Enforcement Process, the decision and reasons for it must be recorded on the relevant case referral in EICMS.

3.4 Referral to an Investigator for Investigation

Where the matter is to be referred to an Investigator for investigation, the Manager Investigations will:

- i. determine whether the investigation is to be a general review, preliminary investigation or a formal Part IIIA investigation;
- ii. task the relevant Investigator with the matter using the EICMS;
- iii. inform the Investigator at the time of tasking if there is any priority or scoping issues with the investigation. Where an investigation is not given a priority, the timeframe for completion of an investigation is 60 working days; and
- iv. advise the relevant Branch Unit Manager of the tasking.

3.5 Referral to an Outside Agency for Their Consideration

Where the matter is to be referred to an outside agency for their consideration, the Manager Investigations must:

- i. confirm whether a formal arrangement with the outside agency is in place for the referral and, if so, follow the protocols of that arrangement;
- ii. prepare a letter of referral to the agency advising of the reasons for the referral and attaching a copy of all material considered by CASA;
- iii. advise the complainant in writing that the matter has been referred to another agency and the reasons for the decision;
- iv. place all documents relating to the request and decision onto a General No Further Action file or a specific file where appropriate in accordance with Records Management procedures;
- v. create and update (if necessary) an alert on the CASA general database in respect of the alleged offender; and
- vi. create and update the case in the EICMS.

3.6 Referral of matters to the AFP

If a matter is considered by CASA to involve allegations of serious crime or to require a complex criminal investigation, it must be referred to the AFP in accordance with the AFP referral process published on the website www.afp.gov.au, except where:

- CASA considers that it has the capacity and the appropriate skills and resources needed to investigate the allegations and meet the requirements of the CDPP in gathering evidence and preparing briefs of evidence; or
- the issue involves alleged breaches of the Commonwealth Electoral Act 1918.

The existence of any one of the following factors is an indication that the matter involves potential commission of a serious crime.

A serious crime is a crime:

- which involved a significant degree of criminality on the part of the offender;
- the Commonwealth or the community expects it will be dealt with by prosecution which is conducted in public before a court and usually carries the risk of imprisonment;
- produced significant real or potential harm to the Commonwealth or the community; or
- is of such a magnitude prosecution is required to deter potential offenders.

A significant degree of criminality can be evidenced by the crime involving certain factors, including, but not limited to:

- criminal behaviour by corrupt Commonwealth officers;
- bribing of Commonwealth officers;
- links to international, entities or actions;
- multiple offenders acting together in an organised way to perpetrate the crime;
- the use of false names or false documents; or
- the repeated commission of deliberate offences over a number of years.

A significant harm to the community can be evidenced by the crime involving certain factors, including, but not limited to:

- the threatening of the integrity of the Commonwealth, Commonwealth officers or important Government institutions;
- impact on the economy, resources, assets, environment or well-being of Australia or Australians;
- significant or potentially significant monetary or property loss to the Commonwealth; or
- bribery, corruption or attempted bribery or corruption of a CASA employee or contractor to CASA.

The existence of any one of the following factors is an indication that the matter will require a complex investigation:

- a serious breach of trust by a CASA employee or contractor of CASA;
- the use of sophisticated techniques or technology to avoid detection where investigation of the matter requires specialist skills and technology;
- elements of a criminal conspiracy;
- known or suspected criminal activity against more than one Commonwealth agency;
- activities which could affect wider aspects of Commonwealth law enforcement (e.g. money laundering);
- the possibility of action being taken under the Proceeds of Crime Act 2002; or
- conflicts of interest and/or politically sensitive matters.

4. Investigation Management

The investigation management process ensures that Investigators follow logical processes, that evidence is collected and stored in an admissible form and that each stage of the investigation is appropriately documented and recorded. It is critical that the intricacies of the investigation are fully considered, planned and effectively communicated throughout the duration of the investigation. The investigation management process is a 'living process' and must be updated as necessary throughout the course of any investigation. The process must be initiated and followed prior to commencing any investigative activity.

Investigation management is a logical process of planning and supervising investigations. AGIS sets out standards for Investigation Management and requires agencies to employ investigation management procedures based on project management principles of managing resources, processes, work to be undertaken, time and outcomes.

CASA Investigators use the EICMS which is a fully self-contained case management system for the purposes of documenting all investigative activities including:

- investigation plans, evidence matrixes, enquiries, records of conversation and other investigative activity as well as task management;
- exhibit management;
- preparation and issue of AINs;
- completed investigation reports; and
- preparation of briefs of evidence.

4.1 Investigation Commencement

The Manager Investigations is responsible for the tasking of all investigations carried out by the Investigations Section. Tasking is given using an action item on the EICMS and will take the form of a general review, preliminary investigation or a Part IIIA (formal) investigation.

The Manager Investigations must indicate in the tasking the intended scope of the investigation, any expected outcomes, available resources and the priority attached to the investigation.

All documentation relevant to the tasking, or a link to same will be available to the tasked Investigator through the EICMS.

4.2 Planning Phase

Each formal investigation commences with an overall planning process and with the creation of a written investigation plan by the assigned Investigator. This plan will be attached to the investigation action on the EICMS and will be reviewed and approved by the Manager Investigations prior to commencement of the investigation. This plan should be referred to and updated during the investigation.

The planning process should (where appropriate):

- outline objectives of the investigation, potential contraventions or conduct to be investigated, scope of investigation, possible outcomes from investigation
- identify and manage risks
- consider options for resolution and whether urgent injunctive proceedings or preventative actions are required
- identify elements of offence(s)
- identify possible inquiries, sources and methods to be utilised to obtain relevant information and/or evidence as appropriate
- identify available and/or required resources
- outline work phases, timelines and milestones, and
- establish the structure of the investigation team including reporting lines, communication tools, identify need for specialist assistance from internal or external experts (e.g. IT, FOIs, AWIs, Engineers etc.)

Several investigation plan templates are available for the use of CASA Investigators. These are located within the Part IIIA Investigations – Templates and Instructions file (F18/2145). Investigators should use the appropriate template depending on the complexity of the matter to be investigated.

4.3 Risk Management

The Manager Investigations and assigned Investigators must ensure risk management is incorporated in decision making throughout the investigation. This is particularly important in the following areas:

- initial evaluation (Chapter 3);
- investigation planning;
- critical decisions; and
- activity involving occupational health and safety risk.

Risk management procedures must comply with Australian and New Zealand Risk Management Standard (AS/NZ ISO 31000:2018). This standard looks at reducing, anticipating and managing risk during any investigation conducted by CASA.

4.4 Implementation Phase

During the investigation it is necessary to ensure that all work is conducted in accordance with the governance and practices defined in this Manual and any investigation plan created for the task.

The following practices should be employed (as necessary) during an investigation:

4.4.1 Activity recording and file management

It is essential that the recording of activity in relation to an investigation (interviews, contact with witnesses, meetings, records of conversation, preparation of briefing papers, obtaining documents and other relevant evidence, use of regulatory powers, decisions, etc.) occurs during the investigation. Records of investigative activity conducted during investigations must be recorded on the EICMS in the activity log or uploaded into the document pane within the relevant investigation action. All documents and other evidence created or obtained during the investigation must (unless it is impractical to do so) be uploaded to the EICMS.

Generally only staff employed in the Litigation, Investigations and Enforcement Branch will have access to the investigation file on the EICMS.

All exhibits should be managed in accordance with the requirements set out in Chapter 5 of this manual.

4.4.2 Situation reporting

The progress of an investigation must be reported to the Manager Investigations on a regular basis. The reporting process should be considered and defined at the investigation planning phase. The Manager Investigations attends regular Coordinated Enforcement Meetings with internal stakeholders and the Manager Investigations should be appraised prior to these meetings of any progress achieved, deviations from initial plans, problems/risks and future actions.

For investigations which are over 60 working days old, increased reporting may be requested by the Manager Investigations.

4.4.3 Manager Investigations review of investigations

The Manager Investigations will review investigations at appropriate intervals to ensure adherence to the AGIS, this Manual and investigation plans.

4.4.4 Critical decisions

Critical decisions are those decisions made during an investigation that lead to a significant change in direction or scope of the investigation, resources involved in the investigation or any decision that may impact on the investigation achieving the intended outcomes for the investigation. These can arise because of external developments, evidence that has or has not been obtained or a change of investigative strategy.

All critical decisions made during the investigation should be documented in the investigation file on EICMS. This documentation must include:

- the decision itself, including the reason for the decision;
- the material relied on to make that decision; and

- any expected or potential significant impact of the decision.

Investigations plans must be updated as necessary to reflect any changes required to implement the requirements of any critical decisions.

4.5 Investigation Reports

Investigations can have several outcomes, including taking no further action, the commencement of administrative action, the issuance of AINs or the preparation of a brief of evidence.

At the end of all investigations, the Investigator is required to prepare a written investigation report that must be reviewed and approved in the EICMS by the Manager Investigations before being considered at the relevant Coordinated Enforcement Meeting. The participants at that meeting will determine the appropriate enforcement outcome based on the contents and recommendations contained within the investigation report.

Investigators must use the approved templates for a general review, preliminary and Part IIIA investigation reports which are available within the Part IIIA Investigations – Templates and Instructions file (F18/2145).

4.5.1 Evidence matrix

Complex investigation reports must also be accompanied by an evidence matrix which is to set out in tabular form:

- the elements of each relevant offence; and
- the evidence and the source of the evidence available to prove each element.

An investigation report will be regarded as complex if it:

- involves consideration of a significant number of offences;
- involves multiple persons of interest;
- involves a significant number of witnesses;
- involves large amounts of documentary evidence; or
- runs to more than 15 pages

The matrix is intended to provide a simplified overview of the outcome of the investigation which can be used as a quick reference by the CDPP in the event the matter is referred for prosecution or by CASA's lawyers in any administrative action flowing from the investigation.

The Manager Investigations may require the Investigator to complete an evidence matrix prior to approving the investigation report or following the relevant Coordinated Enforcement Meeting at which the investigation report is considered.

Investigators must use the approved templates for evidence matrix which is available within the Part IIIA Investigations – Templates and Instructions file (F18/2145).

Associated enforcement related activity

4.5.2 Commencement of administrative action

When, following consideration of a finalised investigation report, it is determined in the Coordinated Enforcement Meeting that the most appropriate enforcement action is to take some form of administrative action against a civil aviation authorisation (i.e. variation, suspension or cancellation of the authorisation) the assigned Investigator is required to assist the assigned lawyer in the drafting of the necessary notices.

At a minimum, a copy of the investigation report as well as any statements and exhibits are to be made available in a timely manner to the assigned CASA lawyer. The assigned lawyer may require the Investigator to provide further information for and to proof read any documents prepared during the administrative process. The assigned Investigator may also be required to assist in the conduct of any administrative proceedings before the Administrative Appeals Tribunal, including by appearing as a witness, assisting in locating and arranging the attendance of witnesses and attending at hearings to aid in relation to the factual history of the relevant investigation.

Where the administrative action in question is a formal counselling, the Manager Investigations will task the assigned Investigator to draft the counselling notice.

4.5.3 Issuing of infringement notices

A tasking to prepare and issue an infringement notice will occur in two separate circumstances:

- Where sufficient evidence is available to participants at the Coordinated Enforcement Meeting, to decide to issue an infringement notice without the need for a general review, preliminary or Part IIIA investigation;
- Following consideration in the Coordinated Enforcement Meeting, of a general review, preliminary or Part IIIA investigation report.

Where it has been determined that an infringement notice is to be issued, the Manager Investigations will:

- i. task an Investigator with drafting the appropriate infringement notice/s using the EICMS.

The Investigator must then:

- i. review the available evidence to ensure that there is a sufficient basis for referral of the matter to the CDPP in the event of non-payment of the notice;
- ii. draft the infringement notice on the EICMS for the Manager Investigations to approve;
- iii. once approved, the infringement notice is generated in the EICMS, checked and printed out before being posted to the recipient by registered post;
- iv. create or update an alert on CASA's general database e.g. EAP EMPIC;
- v. notify the referring business unit/agency that an infringement notice has been issued;
- vi. where a request for extension of time to pay the infringement notice is received, the Manager Investigations must be advised and the EICMS updated accordingly; and

- vii. when an infringement notice is paid, the Manager Investigations and referring office/agency are advised and the action relevant to the AIN is updated and finalised in the EICMS.

Where an infringement notice is not paid, the Manager Investigations must be advised. The Manager Investigations will then take the matter back to the relevant Coordinated Enforcement Meeting.

Investigators have 5 working days to draft any such infringement notices. It should be noted that when the infringement notice is to be issued in conjunction with a counselling letter, the infringement notice should not be issued until the counselling notice is ready for posting after it has been reviewed by the Legal Manager, Litigation, Investigations and Enforcement Branch.

4.5.4 Referring briefs of evidence to the CDPP

When it is determined in the Coordinated Enforcement Meeting, that a brief of evidence should be referred for the consideration of the CDPP, the Manager Investigations will task the assigned Investigator to prepare the brief using the EICMS.

The brief must be prepared to a standard that will maximise the possibility of success in criminal proceedings.

Investigators must consider the variations that exist between jurisdictions as to the requirements for the preparation and presentation of the brief of evidence. CASA briefs are currently submitted to the CDPP Specialist Agencies section in Canberra for assessment, irrespective of the jurisdiction of the offending.

All briefs of evidence must comply with the following:

- applicable laws of evidence;
- rules of court applicable to the jurisdiction where the litigation will take place;
- Prosecution policy of the Commonwealth;
- CDPP Guidelines on Brief Preparation;
- Legal Services Directions 2017
- Guidelines on Disclosure to the CDPP by Investigative Agencies; and
- applicable disclosure requirements in the jurisdiction.

The Investigator must ensure the brief of evidence is well organised to assist the prosecution. Briefs must include an evidence matrix assist with both the brief preparation and the prosecution.

Briefs should normally be completed and forwarded for review and approval by the Manager Investigations within 30 working days of the tasking.

Once reviewed and approved by the Manager Investigations, the Investigator is responsible for forwarding the brief to the CDPP, informing the relevant business area that the brief has been submitted to the CDPP and ensuring the required milestones are recorded and completed on the EICMS.

4.5.5 Finalising investigations

The Manager Investigations is responsible for the closure of all investigations on the EICMS. However, before he/she can do so the assigned Investigator is required to ensure all investigation inquiries are closed, exhibits disposed of, infringement notices finalised, and prosecution results recorded.

In the event administrative action is being taken, the case on the EICMS will remain open until the completion of the relevant action, at which time the Litigation, Investigations and Enforcement Branch Manager or representative will close the case on the system.

4.6 Reviews of Investigations

4.6.1 Internal review

Wherever Investigators from more than one location or agency are involved in any single investigation, it will be the responsibility of the nominated Investigator or the Manager Investigations to conduct a debriefing of the Investigators involved in the investigation. The debriefing will take place at a suitable time to all parties, preferably by way of telephone hook-up arranged by the Manager Investigations.

Debriefing provides the basis for improving systems, procedures and methodology. It is also an opportunity to acknowledge the work completed and the contributions made to the investigation by individual team members.

The scope of the debriefing and report will depend on the size and complexity of the investigation.

The debriefing should involve the whole team and, if possible, management and others (including those from other agencies) that have performed a significant role. In this way, a balanced overview of an investigation and its results may be gained.

The team should consider whether the investigation achieved the desired results, why the investigation succeeded or failed and what aspects of the process should be used or avoided in the future.

The Manager Investigations is responsible for preparing a report detailing the findings and any recommendations of the review. This report should then be circulated to both the team and other Investigators. A copy of the report must be placed on the investigation file.

Note: There will be very few occasions where this type of formal debriefing will need to be undertaken by CASA Investigators.

4.6.2 External review – Quality Assurance Review (QAR)

The purpose of a QAR is to establish whether an investigation was conducted in a way that complied with AGIS.

A QAR can be done following a request by CASA or as requested by the Attorney General's Department, in the following manner:

- the AFP is responsible for conducting QAR's of criminal investigations;
- where a QAR considers issues that are relevant to the CDPP or external counsel, such as the adequacy of the preparation of a brief, the AFP should consult with the prosecuting authority;

- CASA should be given an opportunity to comment on any draft QAR report, with any comments incorporated into the final report;
- finalised QAR reports will be sent to the CASA CEO; and
- results of the QAR process, together with an analysis of best practice and deficiencies identified should be provided to the Australian Institute of Criminology.

5. Investigation Practices

Introduction

This chapter outlines the standards and practices in accordance with which CASA Investigators are expected to conduct criminal investigations. CASA requires its Investigators to be aware of their obligations in relation to criminal investigations. All evidence collected must be reliable and relevant to the aims of the investigation.

This Manual reinforces the AGIS recommended minimum standards regarding:

- procedures and methodologies for obtaining, recording and storing relevant and admissible evidence; and
- the exercise of legislated powers and authority to conduct investigations.

5.1 Witnesses

5.1.1 Obtaining information

Obtaining information from witnesses should be conducted in accordance with the following principles.

- Witnesses or potential witnesses should be identified and prioritised during the investigation planning;
- Witnesses should be interviewed as soon as is appropriate, in accordance with the investigation plan, to ensure the best recall of events;
- A witness statement or affidavit should be obtained and signed at the time of the interview or as soon as possible after the interview. Witness statements or affidavits should include all relevant and exculpatory information;
- The Investigator taking the statement should apply the rules concerning admissibility of evidence pursuant to the Evidence Act 1995 or other laws relevant to the jurisdiction in which the matter may proceed to court. If the Investigator is uncertain regarding the admissibility of information, it should be included and highlighted for attention of CDPP or prosecuting agency;
- A parent/guardian or a responsible adult must be present during an interview of persons under 18 years of age. The parent/guardian should co-sign any statement or affidavit obtained;
- Witnesses who have a limited understanding of English should be offered the services of an accredited interpreter. The witness statement or affidavit should be prepared in the language spoken by the witness. A copy of this statement should then be translated into English; and
- Where a witness wishes to change part of his/her statement or affidavit after signing, or wishes to add further information, a supplementary statement/affidavit must be

prepared. The original document must be retained and included in any brief of evidence.

5.1.2 Content of witness statements/affidavit

A witness statement/affidavit is an account of the events that have occurred. The format of all witness statement/affidavits is to be consistent throughout CASA and should comply with the applicable requirements of the jurisdiction where any court proceedings will occur. Templates for appropriate statements/affidavits to use in the different jurisdictions throughout Australia can be found in the Part IIIA Investigations – Templates and Instructions file (F18/2145).

Witness statements/affidavits should contain the following:

- **Date:** The statement must be dated. The date under the signature on the last page is the date the statement is signed by the witness.
- **Heading:** “Statement in the matter of ...”
- **Personal Details of Witness:** The personal details of a witness should be provided to comply with the requirements of the jurisdiction where any court proceeding will occur.
- **Format:** If practicable a witness statement/affidavit should be typed. Each paragraph should be numbered.
- **Jurat or declaration:** A witness statement or affidavit must include a jurat or declaration which is required by the jurisdiction where court proceeding is likely to occur.
- **Body:** Include all relevant observations and conversations relevant to the elements of the offence being investigated.
- **Conversations:** Relevant conversations should be recorded in the first person, i.e. “I said... He said ...” If a witness is unable to recall the exact conversation, the phrase “Words to the effect” or “I can’t recall the exact words however...” may be utilised prior to setting out the witness’s recollection of the conversation in the first person.
- **Exhibits:** Where relevant, a witness statement/affidavit must fully describe physical exhibits and ensure that all handling of these is fully described to ensure evidence continuity is presented.
- **Signature of the person making the statement:** Signing of a witness statement/affidavit must be done in accordance with the requirements of the jurisdiction where any court proceeding is likely to occur.
- **Witness to the Signature:** The signing of the statement/affidavit by the person making it should be witnessed by another person. This person should also sign the statement/affidavit.
- **Statements/affidavits of Investigators** should be prepared in accordance with the above principles. Content of Investigator statements must also include all relevant information including interaction with suspects, handling of exhibits, participation on search warrants and any other information relevant to the elements of the offence.

5.1.3 Expert Witnesses

It may be necessary at times during an investigation to use an independent expert witness. The selection of an expert should be made following consideration of the person’s standing, qualifications, capabilities and relevant experience. The following should be considered when using expert witnesses:

- It is important that expert witnesses are quarantined from the investigation to ensure that their expert opinion is impartial;
- If experts are to examine material that has a security classification, consideration of requiring a non-disclosure agreement prior to commencing work on the investigation should be given;
- The expert witness' statement/affidavit should provide a full list of their formal qualifications and a summary of their relevant experience;
- Any relevant legal advice obtained regarding using an expert should be recorded on the investigation file on the EICMS; and
- Court practice notes or case law relating to expert witnesses should be consulted.

5.2 Formal Interviews

Records of interview with suspected offenders must be conducted in accordance with the following:

- it is to be recorded and a copy provided to the interview subject following the conclusion of the interview or as soon as practical thereafter;
- Investigators conducting a record of interview must have satisfied the AGIS minimum training requirements;
- Part 1C of the Crimes Act 1914 or relevant legislative requirement;
- an interview guide including all legislative requirements should be used; and
- an interview plan must be prepared, where possible, before any suspect interview. The plan should cover the elements of the offence/s or civil contravention and any anticipated or known defences.

5.3 Search Warrants

All activity relating to search warrants must be conducted:

- in accordance with the section in the CAA, under which the warrant was obtained; and
- in consultation with the CDDP Search Warrant Manual.

When a CASA Investigator believes the use of a warrant is required, they must discuss the matter with the Manager Investigations. If the use of a warrant is agreed, the Investigator is responsible for preparing the required documentation for the review of both the Manager Investigations and the Manager Litigation, Investigations and Enforcement prior to seeking an appointment with an appropriate Magistrate.

When an Investigator is considering or has been approved to execute a warrant under the relevant section of the CAA, the Investigator is required to prepare an operational order to ensure the safety of all persons involved and achievement of outcomes.

A template for operational orders is located within the Part IIIA Investigations – Templates and Instructions file (F18/2145).

Other than in the case of warrants by appointment, the assigned Investigator must ensure that a draft of the operational order is prepared for approval by the Manager Investigations, setting out who will be involved in the execution of the warrant (including any external agency parties)

and setting out the responsibilities of each person during the search and seizure process. Responsibilities to be expressly assigned include:

- Maintenance of exhibit register;
- Exhibit handling – to be conducted in accordance with the procedures set out further below;
- Control of the scene (generally to be the responsibility of the AFP or local police);
- Making a record of the scene marking locations where exhibits were found;
- Forensic and technical assistance if required (see paragraph 5.5.3 below);
- Scene photography showing exhibits in situ; and
- Video recording.

The Manager Investigations must ensure that a work health and safety risk assessment is undertaken before deploying any Investigators for execution of a search warrant.

5.4 Delegated Powers

All CASA Investigators are appointed under Part IIIA of the CAA.

5.4.1 Monitoring Powers – with consent

Investigators may, under section 32AC of the CAA, with the consent of, and after producing their identity card for inspection by, the occupier of 'prescribed premises', enter and exercise 'inspection powers' on the premises for the purpose of finding out whether the 'relevant legislation' is being complied with.

Inspection powers is defined in section 3 of the CAA:

"inspection powers", in relation to prescribed premises, means the following powers:

- (a) power to search the premises;
- (b) power to inspect, examine, and take samples of, any substance or thing on or in the premises;
- (c) power to photograph, or make sketches of, the premises and any substance or thing on or in the premises;
- (d) power to take extracts from, or make copies of, any books, records or documents relating to an aircraft or required to be kept under this Act or the regulations.

5.4.2 Monitoring Powers – with warrant

Investigators may, under section 32AD of the CAA, apply to a magistrate for a warrant in relation to particular prescribed premises. The magistrate may issue the warrant if satisfied, by information on oath, that it is reasonably necessary that the Investigator should have access to the premises for finding out whether the relevant legislation is being complied with. The magistrate must not issue the warrant unless the Investigator or someone else has given the magistrate, either orally or by affidavit, any further information the magistrate may require about the grounds on which the issue of the warrant is being sought.

5.4.3 Offence Powers – with warrant

Investigators may, under section 32AF of the CAA, apply to a magistrate for a warrant in relation to particular premises. The magistrate may issue the warrant if satisfied by information on oath that there are reasonable grounds for suspecting that there is, or there may be, within the next 72 hours, on the premises, a particular thing that may afford evidence of the commission of an offence against the Act or the Regulations. The magistrate must not issue the warrant unless the Investigator or someone else has given the magistrate, either orally or by affidavit, any further information the magistrate may require about the grounds on which the issue of the warrant is being sought.

5.4.4 Offence Powers – warrants granted by telephone

Investigators may, under section 32AG of the CAA, apply for a warrant under section 32AF by telephone. Investigators should only use this power when absolutely necessary. Before making such an application, an Investigator must prepare an information brief of the kind mentioned in subsection 32AF (2) of the CAA but may, if it is necessary to do so, make the application before the information has been sworn.

5.4.5 Offence Powers – discovery of evidence

When an Investigator, who enters premises under a warrant under sections 32AF or 32AG of the CAA, finds the thing (**evidence**) which the Investigator entered the premises to find, they may under section 32AH of the CAA:

- i. seize the thing;
- ii. keep the evidence for 60 days or, if a prosecution for an offence against the Act or the regulations, in the commission of which the evidence may have been used or otherwise involved, is started within that period, until the completion of the proceedings for the offence and of any appeal in relation to the proceedings (section 32AHN);
- iii. if the evidence is a book, record or document—while the Investigator has possession of the evidence, the Investigator must allow it to be inspected at any reasonable time by anyone who would be entitled to inspect it if it were not in the Investigator's possession (section 32AHL).

If, in the course of searching premises entered under a warrant under sections 32AF or 32AG of the CAA, the Investigator finds a thing that he or she believes on reasonable grounds to be a thing (other than the evidence mentioned in subsection (1)) that would afford evidence of the commission of the offence mentioned in that subsection; or a thing that would afford evidence of the commission of another offence against the CAA or the regulations, and the Investigator believes, on reasonable grounds that it is necessary to seize the thing to prevent its concealment, loss or destruction, subsection (1) applies to the thing as if it were the evidence mentioned in that subsection.

5.4.6 Offence Powers – retention of evidence

Investigators may, under section 32AHO of the CAA, apply to a magistrate, prior to the expiry of the 60-day period, to make an order under this section in respect of a thing seized under section 32AH of the CAA if proceedings in respect of which the thing may afford evidence have not commenced, or there is a reasonable likelihood that such proceedings will not commence, by the later of:

- i. the end of 60 days after the seizure; or

- ii. if a previous order has been made under this section in respect of the thing, and a total period of 90 days has not been reached under that previous order, the end of the period specified in that order.

Before making the application, the Investigator must:

- i. take reasonable steps to discover who has an interest in the retention of the thing; and
- ii. if it is practicable to do so, notify each such person of the proposed application.

The magistrate may order that the Investigator retain the thing for a period not exceeding 90 days from and including the date specified in the order.

5.4.7 Offence Powers – requiring person to answer questions

Section 32AJ of the CAA provides that an Investigator who is on or in premises that he or she has entered under a warrant under Part IIIA of the CAA may require anyone on or in the premises to:

- answer any questions put by the Investigator; and
- produce any books, records or documents requested by the Investigator.

It is an offence for a person to fail to comply with a requirement under this section, unless the person has a reasonable excuse, which the person bears the evidential burden to prove (see subsection 13.3(3) of the *Criminal Code Act 1995*).

It is not a reasonable excuse for a person to refuse or fail to answer a question or produce a book, record or document on the ground that to do so would tend to incriminate the person, but the answer to any question, or any book, record or document produced, or any information or thing obtained as a direct or indirect consequence of answering the question or producing the book, record or document is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection (2) i.e. a breach of complying with a requirement under section 32AJ(1) of the CAA.

Note: Investigators must be aware of the provisions of this section and the implications in respect of admissibility of evidence.

5.4.8 Offence Powers – detention of aircraft

Section 32AK of the CAA provides that an Investigator may, for the purpose of performing the functions or exercising the powers of an Investigator under Part IIIA of the CAA in relation to an aircraft, vessel or vehicle, require the person apparently in control of the aircraft, vessel or vehicle to do either or both of the following:

- i. to stop and detain the aircraft, vehicle or vessel for such reasonable period as the Investigator specifies;
- ii. to take all reasonable steps to ensure that the aircraft, vehicle or vessel, or a specified part of it, is left undisturbed for such reasonable period as the Investigator specifies.

Investigators must not perform any act that requires technical expertise or a specific licence. Investigators should consider utilising either an appropriately qualified person or CASA Technical Officer when contemplating using this power. Except in urgent circumstances, the Investigator must notify the Manager Investigations prior to acting under this section. If used in urgent circumstances, the Investigator must notify the Manager Investigations as soon as possible after the action has been taken.

5.4.9 Offence Powers – destruction/disposal of goods

An Investigator may, under section 32AL of the CAA, apply to a magistrate to make an order authorising CASA to destroy, or otherwise dispose of, specified goods seized under section 32AH of the CAA. The magistrate needs to be satisfied that an Investigator is required to return the goods to a person; and the Investigator cannot, despite making reasonable efforts, locate the person; or the person has refused to take possession of the goods.

Investigators must use the document proformas stored electronically in the Part IIIA Investigations – Templates and Instructions file (F18/2145), when making application under this section.

The Manager Investigations shall be consulted prior to making an application for the destruction or disposal of goods.

Note: Investigators are responsible for ensuring they know and understand the operation of these provisions.

5.4.10 Delegated Powers and Authorisations

CASA Investigators are also CASA delegates and authorised persons for various regulations within the CAR and CASR which allow notices to be served requiring the production of documents or information. These provisions include, but are not limited to:

- **regulation 301 of the CAR** which relates to the surrender of documents:
 - (1) The holder of a licence, certificate or other document issued, or required to be kept, under these Regulations, or a person having the custody of a licence, certificate or other document issued, or required to be kept, under these Regulations, shall, if CASA by notice in writing so requires, surrender the licence, certificate or document to CASA within such time as is specified in the notice.

Penalty: 5 penalty units.

- (1A) In sub-regulation (1), a reference to a document that is required to be kept under these Regulations includes a document that is required to be kept under:
 - (a) a Civil Aviation Order; or
 - (b) a Manual of Standards; or
 - (c) another document that is required to be kept under these Regulations.
- (2) A person must not engage in conduct that results in the destruction, mutilation or defacement of a document that the person is required to surrender to CASA.

Penalty: 10 penalty units.

- **regulation 61.365 of the CASR** which relates to the production of personal logbooks:
 - (1) CASA may direct the holder of a flight crew licence or certificate of validation to produce the holder's personal logbook for inspection by CASA.
 - (2) The holder of a flight crew licence or certificate of validation commits an offence if:

(a) CASA directs the holder to produce his or her personal logbook under sub-regulation (1); and

(b) the holder does not produce an up to date version of the personal logbook within 7 days after the day the direction is given.

Penalty: 50 penalty units.

(3) If the holder's personal logbook is kept in electronic form, a requirement to produce the logbook is met if:

(a) the holder produces a printed copy of the logbook; and

(b) each page is certified by the holder as a true copy of the logbook records set out on the page.

(4) An offence against this regulation is an offence of strict liability.

- **regulation 11.075 of the CASR** which relates to the provision of information by the holder of an authorisation:

(1) CASA may, by written notice, require the holder of an authorisation to give CASA specified information, or a specified document, that relates to the activity, document or thing to which the authorisation relates.

(2) It is a condition of an authorisation that its holder must comply with a notice given under sub-regulation (1):

(a) within 14 days after receiving the notice; or

(b) if a different period is specified in the notice--within that period.

(3) A person commits an offence if:

(a) the person is the holder of an authorisation; and

(b) CASA requires the person, under sub-regulation (1), to give CASA information or a document; and

(c) the person does not give CASA the information or document:

(i) within 14 days after receiving the notice; or

(ii) if a different period is specified in the notice--within that period.

Penalty: 50 penalty units.

Templates of written notices are available to all members of the Investigations Section within the Part IIIA Investigations – Templates and Instructions file (F18/2145).

To ensure that no question arises as to the legal basis upon which information or documentation has been obtained by CASA, Investigators are required to utilise these delegated powers whenever obtaining such evidence. Where available, these powers are to be used in preference to obtaining a warrant. It is important all Investigators acquaint themselves with these delegated powers as they are amended from time to time.

5.5 Physical evidence/exhibits

CASA Investigators will obtain evidence either through consent, the use of delegated powers or through the execution of a search warrant. More than 80% of the evidence obtained by Investigators will be documentary evidence. Accordingly, Investigators must consider whether the original document should be obtained and retained until the completion of the investigation and any subsequent enforcement action or whether either a scanned copy or certified true copy of the document is sufficient.

On occasions, it is not practical to take the original document; e.g. current maintenance releases for aircraft and therefore the Investigator can be satisfied with a certified true copy of the document.

5.5.1 Exhibit handling procedures

Whenever an Investigator either obtains or disposes of an item or document they should ensure an appropriate receipt is issued and that the exhibit is then stored in a manner which ensures that chain of custody can be established.

When an Investigator decides that material held by CASA is relevant to the investigation this material should be treated as evidence until no longer required for the investigation and/or prosecution. The security and continuity must be maintained from seizure to disposal.

CASA Investigators are to use the EICMS to track the receipt, movement and disposal of all exhibits. This provides CASA with an auditable record of the exhibits which must be maintained always.

5.5.2 Obtaining physical evidence

When collecting evidence, Investigators should consider:

- preserving forensic evidence – such as fingerprints, DNA, drug analysis, health and safety of themselves and others; and
- protecting themselves from allegations of impropriety. Video or voice recording of seizure processes should be considered in relevant circumstances (e.g., counting of money).

5.5.3 Computer or digital evidence

The obtaining of evidence from a computer or a digital device should be conducted by a person with sufficient training or qualifications to ensure preservation and admissibility in court.

There are several other Government agencies such as the AFP and Australian Taxation Office who are willing to provide forensic assistance to smaller agencies such as CASA during the execution of search warrants or in other cases requiring specific technical expertise.

Where an Investigator believes such assistance will be required they should discuss the matter with the Manager Investigations to determine how such an approach should be made.

5.5.4 Property seizure record (or property receipt record)

At any time when property is taken by CASA relevant to an investigation, a document acknowledging receipt of the property must be prepared by the Investigator involved and a signed copy provided to the person responsible for the property. Details of property seized should be recorded contemporaneously. This record should include the following:

- date, time, place of seizure (or possession);
- name of person providing the item;
- name of owner or responsible person;
- name of person taking possession of the item;
- full description of the item, including any identifying marks and recording damage; and
- full description of the location from where it was taken.

The property owner or responsible person should be given a copy of the receipt regardless of whether they sign the receipt/record. Receipts (signed and dated) should be maintained on the investigation file.

It is the responsibility of Investigators handling property to ensure continuity of the evidence. This continuity must be appropriately documented within Investigator and witness statements/affidavits.

5.5.5 Exhibit storage and record

Investigators are responsible for exhibit storage, recording, monitoring and reporting of property obtained during their investigations. The following procedures should be followed:

- All exhibits, where practical, must be stored within the locked cabinets provided to the CASA Investigator. The exhibit should be clearly marked with the relevant case number and exhibit number;
- If exhibits are too large to be stored within the locked cabinet, then the Investigator is responsible for locating a suitable secure location where the exhibit can safely be stored. The Investigator must obtain the approval of the Manager Investigations for the use of the identified secure storage location. Investigators must be mindful of the applicable workplace health and safety standards when handling or storing exhibits;
- Appropriate packaging must be used to protect any item of property and this packaging should be sealed using tamper evident packaging to protect the integrity of the exhibit;
- A systematic and reliable procedure must be used for labelling and sealing exhibits. Such a system must be robust enough to reduce the opportunity for, or to rebut any allegations of mishandling or inappropriate behaviour by Investigators. Labels must include the following details:
 - exhibit number;
 - seal number or bar-coded identifier;
 - time, date and place of seizure;
 - name of the officer who originally obtained the exhibit; and
 - full description of the exhibit.

- The details of the exhibit and its storage must be recorded in the relevant case on the EICMS. The information on the system should include the full details as recorded on the property seizure record; and
- Any subsequent movements of the exhibit must be recorded in EICMS. This must include the date, the name and signature of the person taking the exhibit, the reason and the destination.

Wherever possible, a perishable exhibit must be photographed and returned to the owner as soon as practicable, unless legal requirements prevent this from occurring. It may be necessary to take a representative sample for testing and for later use in evidence.

Original exhibits must not be attached to witness statements/affidavits or provided to the CDPP. Once obtained, it is the responsibility of the Investigator to maintain these exhibits until required at court, returned to the owner, or lawfully destroyed.

5.5.6 Disposal of exhibits/return of evidence

Return to CASA file - In many cases, documentary evidence obtained during an investigation will have been provided by CASA itself. The original documents should, where possible, be returned to the files of origin following the conclusion of the investigation/prosecution period. Where this is not possible, documents must be maintained in accordance with the *Archives Act 1983*.

Return to owner - Subject to any contrary order of a court, an exhibit should be returned to its lawful owner if the reason for its seizure no longer exists or the exhibit is not going to be used in evidence or the retention period specified in relevant legislation has expired. This section does not apply to those things forfeitable to the Australian Government or subject to a dispute of ownership.

Where an exhibit is returned, a receipt should be obtained containing the following:

- name and signature of the person returning the property;
- name, address and signature of the person to whom the property is being returned;
- time, date and place of the return of property;
- a full description of the property being returned; and
- the appropriate seizure and exhibit number.

Three copies of the receipt should be produced – one to the owner, one to be placed onto the EICMS and one retained in the receipt book.

5.5.7 Destruction/disposal of exhibits

On completion of court proceedings, where an owner requests that an exhibit be destroyed, the Investigator should take a signed statement authorising the destruction which should include a full description of the item to be destroyed. A copy of that statement should be placed on the case in the EICMS.

Where an item has no owner, or it would be unlawful to return an exhibit to the owner, or the exhibit is subject to a condemnation order by the court, the Investigator must forward written recommendations to the Manager Investigations regarding appropriate disposal of the exhibit.

All exhibits seized by the AFP must be returned to the AFP for destruction.

5.5.8 Audit of exhibits

The EICMS requires that all exhibits are disposed of prior to the Manager Investigations being able to close off a case.

The Manager Investigations will, as part of his duties, conduct a regular review of open investigation cases, in respect to exhibits, to ensure:

- the accuracy of the records on the EICMS;
- the security of the exhibits is appropriate; and
- continuity of evidence has been maintained.

5.6 Human information sources

CASA does not have a process in place to deal with human information sources. However, on occasions Investigators may need to obtain an induced statement from a witness as part of a larger investigation.

Where consideration is being given for such a statement to be obtained, the Investigator must speak to the Manager Investigations about the matter to determine if there are other means by which the information can be obtained. If the Manager Investigations agrees it may be appropriate for an induced statement to be taken, the Investigator will be responsible for contacting and liaising with the CDPP about the process required and/or other options, e.g. reduction in sentence for assistance, etc.

The Director of the CDPP is the only person who can grant an individual an indemnity from prosecution. CASA Investigators are reminded they must not offer any indemnity until they have the agreement of the CDPP. Even then, Investigators must liaise with the CDPP in relation to any communications with the relevant individual about the nature and extent of the proposed indemnity.