

14 September 2022

Jason Renes  
[fyi-request-19965-7a5630af@requests.fyi.org.nz](mailto:fyi-request-19965-7a5630af@requests.fyi.org.nz)

Dear Jason

### Request for Information

I refer to your Official Information Act 982 (OIA) request dated 19 July 2022, in which you requested the following:

*‘...copies of the following police manual chapters: Missing persons, People trafficking and migrant smuggling, Offensive weapons, Kidnapping and Abduction.’*

Please find attached copies of the relevant chapters of the Police Manual:

- ‘Missing Persons’ – 38 pages
- ‘People trafficking and migrant smuggling’ – 26 pages
- ‘Offensive weapons, knives and disabling substances’ – 18 pages
- ‘Kidnap for Ransom’ – 8 pages
- ‘Abduction’ – 8 pages.

Some information has been withheld from these documents pursuant to section 6(c) of the OIA, in that making the information available would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences.

Police hold other information about kidnapping investigations, which is withheld pursuant to sections 6(c) and 6(d) of the OIA, as making the information available would be likely to prejudice the maintenance of the law or endanger the life of any persons. Any redactions in the material that has been provided about kidnapping relate to information that is also refused pursuant to these provisions.

You will notice that some of the text in the chapters provided is in underlined blue type. This text links to other information in the Police Manual, which has not been provided to you.

Please note that the Police manual chapter ‘People trafficking and migrant smuggling’ is currently under review, due to the introduction of the Maritime Powers Act 2022.

If you are not satisfied with my response to your request, you have the right to complain to the Ombudsman and seek an investigation and review of my decision.



W. Olsson  
Acting Detective Inspector  
Police National Headquarters

## Missing persons

## Table of Contents

Table of Contents	2
Policy statement and principles	4
What	4
Why	4
How	4
Overview	5
Introduction	5
Health and safety duties	5
Maximising safety and minimising risk	5
Health and safety should be an everyday conversation	5
Police Missing Persons Unit (MPU)	6
Contacting MPU	6
Functions	6
Defining 'Missing Persons'	7
Who is a 'missing person'?	7
Fears for safety considerations	7
Concerns for welfare	7
Categories of missing persons	7
Taking a Missing Person Report	9
Taking a missing person report	9
Procedure	9
Family Tracing Services	10
Procedure	10
Communications Centre	11
Call taker action	11
Dispatcher action	11
Team Leader action	12
When a mental health patient is reported missing	14
Investigations focus and considerations	15
Focus	15
Considerations	15
Investigating missing persons in New Zealand	16
Initial action	16
Data entry	17
Staff duties and responsibilities	18
Supervisor's duties	18
Case Officer's duties	18
Missing children	20
General procedure	20
Initial Action - Communications Centre	20
Call taker Action	20
Dispatcher Action	21
Team Leader Action	21
Initial Action - Investigation	22
Attending Officer	22
Data entry	23
Investigating Officer	24
Lost children	25
Child abduction and parental abduction	25
Removal of children from New Zealand	25
Missing Children and Young Persons in Oranga Tamariki - Ministry for Children care	27
General process	27
Oranga Tamariki - Ministry for Children Guidelines	27

Unauthorised absence	27
Oranga Tamariki - Ministry for Children Initial Action - Urgent Response	27
Oranga Tamariki - Ministry for Children Initial Action - Routine Response	27
Routine Response - Oranga Tamariki - Ministry for Children to Police Reporting Process	28
Oranga Tamariki - Ministry for Children - Police Report Form (Pol 67)	28
Routine Response - Investigating Officer	29
Locating the Child or Young Person	29
<b>Managing the Missing Persons case</b>	<b>30</b>
Required action	30
Mandatory file review procedures	30
<b>Locating missing persons</b>	<b>32</b>
Verify	32
Procedure	32
Legislation	32
<b>People missing overseas</b>	<b>33</b>
Procedure	33
<b>Photographs</b>	<b>34</b>
What to do with the photograph	34
<b>Forensic evidence</b>	<b>35</b>
When to collect forensic evidence	35
Dental and medical records	35
DNA	35
Taking DNA specimens	35
Using forensic specimens to identify human remains	35
<b>Media broadcasts</b>	<b>36</b>
Media coverage	36
Working with media	36
Media considerations	36
Missing Persons Web Page	36
Missing Persons Face Book Page	36
<b>SAFE (7233) mobile phone text message retrieval</b>	<b>37</b>
SAFE text message service	37
Text messages	37
Messages left by missing persons	37
Procedures	37

## Policy statement and principles

### What

In New Zealand, more than 9,000 people are reported missing every year.

When a person is reported missing, Police will make enquiries to locate, or ensure the safety of that person. These enquiries are carried out under the common law power to make all necessary enquiries to protect and preserve life.

### Why

It is the responsibility of Police to investigate missing persons' reports.

The manner in which Police handle missing person reports impacts on both the public and Police. An unhelpful response can increase the stress for a missing person's relatives and friends, and damage the public image of Police.

### How

Police will:

- ensure appropriate and effective action is taken into reports of missing persons
- provide assurance to the New Zealand public that Police maintain and operate an effective response to missing persons
- ensure that the reporting standards and performance of missing person investigations are consistent
- efficiently record details of long term missing persons, so that the details can be retrieved later and compared with unidentified human remains.

## Overview

### Introduction

[Investigations](#) into missing person reports must be thorough and efficient. Experience has shown that they can turn out to be cases of murder, suicide, and accidental or natural death.

A thorough missing person investigation can facilitate later enquiries of homicide, suicide, and the identification of human remains. It may be some time before a body is found, and people's recollection of events can diminish over time.

**An important factor to be aware of: What initially commences as a Missing Person Report could transpire to be a homicide enquiry.**

### Health and safety duties

#### Maximising safety and minimising risk

Maximising safety and eliminating or minimising risk at work is the responsibility of all Police employees and persons engaged by Police to provide a service including contractors and their employees, trainees, interns and volunteers. It is delivered through meeting the obligations under the [Health and Safety at Work Act 2015](#) and Police safety policies.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace.

The expectation of the Commissioner and the Act is that persons in the workplace will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of other persons, comply as far as they are reasonably able to with any reasonable instruction that is given in order to comply with the [Health and Safety at Work Act 2015](#) or regulations under that Act. They will co-operate with any reasonable policy or procedure relating to health or safety at the workplace that has been notified to them and take immediate action to stop any perceived or potential breach of the act or if impractical, immediately report the matter to a supervisor.

#### Health and safety should be an everyday conversation

Relevant Police instructions include:

- [Hazard management](#)
- [Health, safety and wellbeing](#)
- this chapter in relation to the safe investigation of missing persons.

## Police Missing Persons Unit (MPU)

### Contacting MPU

he preferred method for contacting MPU is by email.

[REDACTED]  
[REDACTED]  
[REDACTED]

#### Mail:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### DocLoc File Assignment:

DocLoc files should be shown as posted to:

- station [PNHQ](#) Criminal Investigations Group
- Group Missing Persons Unit
- User Current O/C or leave blank

### Functions

The Missing Persons Unit (MPU) is located at [PNHQ](#) within the National Criminal Investigation Group.

It has a nationwide responsibility for providing an overview of missing person investigations, and the co-ordination and analysing of information about missing persons in New Zealand and overseas.

The functions of MPU are to:

- receive and categorise all electronic missing person reports through [NIA](#)
- ensure reports are entered correctly, with the appropriate information, keeping them in line with Police instructions and best practice
- receive and review all electronic missing person reports, for which the subject has not been located after 14 days, 30 days, 90 days, one year and annually thereafter
- ensure [missing person reviews](#) are completed in accordance with this chapter
- consult and advise investigating officers of any further action that may be required
- establish and maintain the [Missing Persons web page](#) and [Facebook page](#)
- provide statistical information relating to missing persons to the executive and media relations, as required
- monitor national trends in missing persons and advise districts and the executive as necessary
- co-ordinate enquiries for New Zealanders [missing overseas](#)
- co-ordinate enquiries for foreign nationals missing in New Zealand
- maintain records of all unidentified bodies and assist districts with enquiries to establish their identity
- promote community projects and public awareness about missing persons.

#### Note:

- The existence of MPU does not negate the responsibility of districts to investigate missing person reports.
- Do **not** refer the informant directly to MPU or Interpol. The report must be taken in the district.

## Defining 'Missing Persons'

### Who is a 'missing person'?

A missing person is:

- any person who is reported missing to Police, and
- whose whereabouts are unknown, and
- there are genuine fears for the safety, or concerns for the welfare, of that person.

### Fears for safety considerations

When deciding whether genuine fears for the person's safety exist, consider the person's age, zones of safety, and the circumstances as outlined in this table.

<b>Age</b>	In the case of small children or elderly people, fears for their safety arise immediately, for example, if a small child is missing from a house near the beach, it is important to search the waterways immediately.
<b>Zones of safety</b>	Fears for the safety of a person arise when the person is outside their usual surroundings and is unable to cope with the new environment, for example, they may have a mental or physical disability.
<b>Circumstances</b>	Fears for a person's safety arise if they have gone missing in circumstances that are unusual, dangerous or suspicious.
<b>- Unusual</b>	- their regular pattern of behaviour is not maintained, for example, telephone contact, banking or medication patterns.
<b>- Dangerous</b>	- for example, travelling, hiking, in bush or at sea, and has not arrived at the planned destination, or returned home when expected.
<b>- Suspicious</b>	- for example, the possibility of criminal activity occurring. These are all potentially serious situations and therefore conclusions about what has happened should not be made quickly. Obtain as much information as possible so that evidence is not lost for any subsequent homicide investigation.

### Concerns for welfare

Although there may not be immediate fears for the person's safety, there may be genuine concerns for the person's welfare.

Concerns may be dictated by the person's age, circumstances and influences as detailed in this table.

<b>Age</b>	Concerns arise for elderly people living alone, or runaway teenagers.
<b>Circumstances</b>	Concerns can arise if the missing person has recently suffered some form of trauma, or life facing problem, for example, relationship or employment problems.
<b>Influences</b>	Concerns for a person's welfare may arise when influences such as alcohol, drugs or gang connections feature.

### Categories of missing persons

Most missing persons fall into the four categories detailed in this table.

Category	Description
<b>Voluntary</b>	<p>This is someone who has control over their actions and has decided upon a course of action. This category can include:</p> <ul style="list-style-type: none"> <li>- runaways, such as young people who have run away from home or an Oranga Tamariki - Ministry for Children home</li> <li>- people who have removed themselves from a situation for personal reasons, for example, spousal desertion, or debt avoidance</li> <li>- people who are unaware that they have been reported missing, for example, family members or friends concerned for their safety.</li> </ul>
<b>Involuntary</b>	<p>Someone who is missing against their will. This category can include:</p> <ul style="list-style-type: none"> <li>- people who have been abducted for criminal purposes such as murder or kidnapping</li> <li>- children abducted in custody disputes</li> <li>- children abducted for criminal purposes</li> <li>- people missing due to an accident or injury</li> <li>- people suffering from an illness, such as dementia, mental health, or an intellectual disability.</li> </ul>
<b>Lost</b>	<p>This is a person who is temporarily disorientated and wishes to be found. This category includes people who are:</p> <ul style="list-style-type: none"> <li>- lost at sea</li> <li>- lost in the bush</li> <li>- lost in air accidents</li> <li>- lost children.</li> </ul> <p><b>Note:</b> Usually subject to a <a href="#">Search and Rescue (SAR)</a> operation.</p>
<b>Missing overseas</b>	<p>These are people reported missing to Police that include:</p> <ul style="list-style-type: none"> <li>- New Zealanders missing overseas - reported missing from New Zealand or overseas through District Police, Interpol, or our Ministry of Foreign Affairs and Trade (MFAT)</li> <li>- Foreign nationals missing in New Zealand - reported as missing by people in New Zealand or overseas, via Interpol or Foreign Embassies.</li> </ul>

# Taking a Missing Person Report

## Taking a missing person report

Reports of missing persons must be accepted at any Police station, not necessarily the Police station nearest to the missing person's place of abode.

The Missing Person Report form, Pol 62, and associated forms, can be located in MS Word>Police Forms>Missing Person.

In keeping with National Police Policy objectives, missing person reports must be completed on the required Police form, Pol 62. This ensures reporting standards and performance of missing person investigations are consistent and thorough.

## Procedure

Follow these steps when taking a missing person report.

Step	Action						
1	Reports must be taken immediately - do not insist on a stand-down period of 24 hours.						
2	Complete the Missing Person Report form, Pol 62, in full - do not accept reports that do not have the missing person's full name and date of birth.						
3	At the initial onset of taking the missing person report, obtain from the informant: <ul style="list-style-type: none"> <li>- a recent photograph of the missing person</li> <li>- a signed, Authority for Publicity form, Pol 65.</li> </ul>						
4	Make an initial risk assessment of the disappearance. <table border="1" data-bbox="135 1064 1516 1310"> <thead> <tr> <th>If . . .</th> <th>then . . .</th> </tr> </thead> <tbody> <tr> <td><b>urgent</b> action is required</td> <td>advise your supervisor immediately. Command and control of the situation is required, and relayed to the appropriate communications centre.</td> </tr> <tr> <td><b>routine</b> action is required</td> <td>continue the process of entering the file and assigning as appropriate.</td> </tr> </tbody> </table>	If . . .	then . . .	<b>urgent</b> action is required	advise your supervisor immediately. Command and control of the situation is required, and relayed to the appropriate communications centre.	<b>routine</b> action is required	continue the process of entering the file and assigning as appropriate.
If . . .	then . . .						
<b>urgent</b> action is required	advise your supervisor immediately. Command and control of the situation is required, and relayed to the appropriate communications centre.						
<b>routine</b> action is required	continue the process of entering the file and assigning as appropriate.						
5	Missing Person reports should be entered into <u>NIA</u> as soon as they are taken - do not delay entering the report in the hope they will return.						
6	Scan and attach the completed report, Pol 62, and all associated documents and photographs, into the <u>NIA</u> missing person occurrence through the attachment facility.						
7	Submit the report without delay. This is vital because the person may have met with foul play or misadventure. If the circumstances surrounding the person's disappearance are suspicious, alert <u>CIB</u> immediately - the earlier an investigation is begun, the less chance vital evidence will be lost.  Likewise, if the circumstances surrounding the person's disappearance indicate they are lost, alert <u>SAR</u> immediately.						
8	Do not take reports in circumstances if it is apparent there are no genuine concerns for the missing person's safety or welfare, for example, the sole motivation for making the report is to settle a civil dispute, or to trace a family member who has failed to keep in contact.						
9	If you elect not to take a report, obtain details of the person being sought, the reporting person, the circumstances, and complete the Officer Assessment form, Pol 61, and forward to MPU.						

## Family Tracing Services

here is a difference between a missing person, and a person who has lost contact with family. New Zealand Police do not deal with the latter.

here are a number of reasons why people lose touch with each other, such as, moving house, or a family conflict, and it is understandable that they seek to reconnect. However, if there is no indication of vulnerability - fears for safety or concerns for welfare, then this is considered to be a tracing matter.

New Zealand Police do not provide a family tracing service, nor are we able to help people who have simply lost contact with friends or family over time.

### Procedure

Follow these steps.

Step	Action
1	Do <b>not</b> complete a Missing Person Report, Pol 62.
2	Advise the informant of the decision, and the reason behind it.
3	Provide advice: <ul style="list-style-type: none"> <li>- for general person tracing services - look for Private Investigators in the local telephone directory or on the internet</li> <li>- for family tracing concerns - refer the person to the Salvation Army Family Tracing Service, who provide a service for people that wish to reconnect or trace family they have lost contact with.</li> </ul> <div style="background-color: black; width: 250px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 150px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 280px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 200px; height: 15px;"></div>

## Communications Centre

### Call taker action

Step	Action
1	Ascertain whether <a href="#">fears for safety</a> exist, and complete a risk assessment.
2	If fears for safety are established, sufficient details of the disappearance must be obtained before dispatching an 'I' car to the scene.
3	Obtain these details about the missing person: <ul style="list-style-type: none"> <li>- age</li> <li>- clothing and any equipment carried</li> <li>- physical and mental condition</li> <li>- whether they are on any medication, and if so, do they have it with them</li> <li>- length of absence</li> <li>- is the absence out of character.</li> </ul>
4	Obtain brief details of where the person is missing from, including: <ul style="list-style-type: none"> <li>- familiarity with the area</li> <li>- type of environment (urban/rural/semi-rural)</li> <li>- weather conditions</li> <li>- where were they last seen</li> <li>- mode of transport</li> <li>- the destination, if known.</li> </ul>
5	Ensure the caller specifies the reason for concern and any unusual circumstances.
6	If concerns for safety exist: enter a 'Priority 1' or 'Priority 2' event.
7	If no immediate concerns for safety exist: <ul style="list-style-type: none"> <li>- advise the caller a report has not been taken - just details for the call log</li> <li>- advise the caller they need to make the report at a 24 hour Police station</li> <li>- advise the caller to bring a photograph with them when making the report</li> <li>- enter a 2M event, and request event closure from your supervisor.</li> </ul>

### Dispatcher action

Step	Action
1	Complete a 'Risk Assessment'.
2	If concerns for safety exist - exercise command and control, and conduct an appreciation in accordance with the dispatch appreciation model.
3	Dispatch a unit to the scene, commensurate with priority coding.
4	10-1 to all units in the search area. Advise the field Sergeant/Senior Sergeant if units are not responding within the required time frame.
5	Consider specialist squads: <ul style="list-style-type: none"> <li>- notify <u>SAR</u> to conduct searches in areas where there are concerns for safety (if in doubt, contact the SAR coordinator and discuss)</li> <li>- notify <u>CIB</u>.</li> </ul>
6	Consider using the media. It is important to get the information to the public as quickly as possible, especially in the case of very young children.
7	Appoint a Police Incident Controller as soon as practicable, and then: <ul style="list-style-type: none"> <li>- brief the appointed Incident Controller on all aspects of the event</li> <li>- issue a direct instruction - "You now have command"</li> <li>- record time and acknowledgement</li> <li>- K6 event to the primary unit in attendance: 2M events should not be K2'd.</li> </ul>
8	Facilitate: <ul style="list-style-type: none"> <li>- maintenance of event log (recording incidents, orders with relevant times)</li> <li>- regular and timely situation reports to your team leader.</li> </ul>

## Team Leader action

Step	Action
1	Complete a 'Risk Assessment', and: <ul style="list-style-type: none"><li>- ensure all risk factors have been considered</li><li>- ensure correct action has been taken based on the risk assessment</li><li>- direct further action to be taken if required.</li></ul>
2	Exercise 'Command and Control' as initial Incident Controller.
3	Confirm as required by circumstances: <ul style="list-style-type: none"><li>- attending primary unit is at the scene</li><li>- the field Sergeant/Senior Sergeant has been advised</li><li>- consider appointing the Field Incident Controller</li><li>- <u>SAR</u> considered / notified</li><li>- <u>CIB</u> considered / notified</li><li>- any further information required to assess response.</li></ul>
4	On completion: <ul style="list-style-type: none"><li>- ensure all 2M events, where there are concerns for safety, are K6'd to the primary unit</li><li>- if there are no concerns for safety, ensure the risk assessment is appropriate, otherwise dispatch an 'I' car</li><li>- ensure the informant is given correct advice regarding reporting to the nearest 24 hour Police station to file the report.</li></ul>

## When a mental health patient is reported missing

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

Step	Action
1	<p><b>Notification</b></p> <p>It is expected that Police will be initially notified by phone of the escape of a patient, to be promptly followed by an emailed notification.</p> <p>When receiving a call ascertain:</p> <ul style="list-style-type: none"> <li>- if the patient is considered a threat to themselves or others and the extent of any threat</li> <li>- whether the patient has any weapons</li> <li>- if it is known where the patient may be located or where they may be going and;</li> <li>- request an emailed notification.</li> </ul>
2	<p>Enter them as 'missing' in NIA as a Person Alert.</p> <p><b>Note:</b> Decisions on the level of further Police action are made in the same way as for other persons reported missing but with high priority (P1) for those considered to pose a threat.</p>
3	<p>Consult a DAO about:</p> <ul style="list-style-type: none"> <li>- the action to take</li> <li>- whether a press release is needed</li> <li>- the level of Police assistance required</li> <li>- whether the patient is likely to suffer harm</li> <li>- whether the patient is likely to harm other people or damage property</li> <li>- the DAO attending the location when it is believed a patient considered to be a threat can be located.</li> </ul>
4	<p>Keep a written record of all consultations with health authorities, taking particular note of the assistance sought and the level of possible threat.”</p>

## Investigations focus and considerations

### Focus

Missing person investigations are unique in that often the person reported missing has chosen to go missing, and the case does not show any obvious signs of a crime.

The focus of the investigation is to:

- locate the missing person as quickly as possible
- identify any suspicious circumstances surrounding the disappearance
- preserve information from which human remains, and any associated recovered materials, can be identified from at a later date.

### Considerations

These are the six key principles Police should consider when responding to a report of a missing person.

1	The missing person's well-being.
2	Respect for the right of an individual - to choose not to have contact with family or friends.
3	Compassionate treatment of the missing person's relatives and friends.
4	The possibility that the person has become a victim of serious crime.
5	In suspicious cases, preserving and managing evidence.
6	Assessing the appropriate level of resources for each report.

**An important factor to be aware of is what initially commences as a Missing Person Report could transpire to be a homicide enquiry.**

# Investigating missing persons in New Zealand

## Initial action

The aim of the initial investigation is to gather sufficient detailed information, in order to:

- accurately assess the facts and circumstances
- determine the focus and structure of the investigation
- identify resources required.

Follow these steps to carry out the initial investigation.

Step	Action
1	Establish the informant's current location.
2	<p>Interview the informant, and obtain the following details:</p> <p><b>Missing person</b></p> <ul style="list-style-type: none"> <li>- Missing person's correct full name, nickname, and any aliases.</li> <li>- Missing person's date of birth and age.</li> <li>- Full description of the missing person, including physical appearance and any distinguishing features.</li> <li>- Full description of missing person's clothing, including jewellery.</li> <li>- The missing person's state of health - both physical and mental.</li> <li>- Whether the missing person exhibited any behavioural changes - personal, emotional, medical or the like.</li> </ul> <p><b>Circumstances</b></p> <ul style="list-style-type: none"> <li>- The date, time and place the person went missing from.</li> <li>- When, where and by whom the person was last seen.</li> <li>- Whether the person has been reported missing before, and if so, where they were previously located.</li> <li>- Where the person may have gone.</li> <li>- Any possible reasons for the disappearance.</li> </ul> <p><b>Further details</b></p> <ul style="list-style-type: none"> <li>- Full contact details of the informant, and their relationship to the missing person.</li> <li>- Details of the missing person's next of kin.</li> <li>- The missing person's doctor and dentist, if applicable.</li> <li>- The missing person's cell phone, social networking, and email address.</li> <li>- Bank accounts.</li> <li>- Friends and associates.</li> <li>- Vehicles used or accessed.</li> <li>- Any further information required for the Missing Person Report, Pol 62.</li> </ul>
3	Establish what fears exist for the missing person's safety and well-being.
4	Initiate and conduct a thorough search of the home or immediate area in which the missing person was last seen, regardless of whether it has been searched by the informant or any other people.
5	Ensure the next of kin have been informed. In the event of a child whose parents have separated, ensure both parents are aware of the situation.
6	Consult with your supervisor, and consider specialist units - <u>CIB</u> , DOGS, <u>SAR</u> .
7	Ensure the Missing Person Report, Pol 62, has been completed in full.
8	Ensure the Authority for Publicity, Pol 65, is signed by the next of kin.
9	Interview witnesses separately.
10	Report the information you have obtained to your supervisor as soon as practicable, within the duty period that the report is made. If the circumstances are suspicious, or there are fears for the person's safety, report the case to your supervisor immediately.
11	<b>Important:</b> Obtain a recent photograph if you have not already done so.

## Data entry

After the initial action has been completed the Missing Person Report, Pol 62, requires entering into NIA, and should be submitted at the earliest opportunity for entry. Do **not** leave the file un-entered in the hope the person will return, or located quickly.

Step	Action
1	Carry out a <u>NIA</u> check to see whether the missing person: <ul style="list-style-type: none"> <li>- is listed as missing already, and has an active missing alert</li> <li>- is being held in custody</li> <li>- has any record of Police interest on them.</li> </ul>
2	Enter the missing person into <u>NIA</u> using the 'create missing person occurrence' facility.
3	Ensure <b>all</b> the details recorded on the Pol 62 are entered into NIA.
4	Ensure the correct person is entered into the occurrence, with the correct date of birth and location. A foreign address can be entered as the location.
5	All informants, witnesses, vehicles, etc should be entered into the occurrence through the links facility.
6	Where there is nothing to write in the space provided - leave it blank. Do not write 'n/a' or 'nil'.
7	Scan the Missing Person Report, Pol 62 or Pol 67, into the occurrence as an attachment, and any other relevant documents and photographs. In the event your Police station does not have this capability, the documents and photographs can be sent to MPU for attaching.
8	Ensure the file is 'posted' and not 'assigned' to the person who is to receive the file - refer to <a href="#">managing the case</a> .
9	If the file is urgent and requires urgent attention, contact the person the file is to be sent to for investigation, or the O/ <u>CCIB</u> , and advise them of the details and circumstances.

## Staff duties and responsibilities

### Supervisor's duties

he duties of the supervisor are as follows:

Step	Action
1	Establish what fears exist for the person's safety and well-being, and determine whether a 'routine' or 'immediate' response is required.
2	For an immediate response - consult with <u>CIB</u> , Dogs and <u>SAR</u> . If the case involves suspicious circumstances, contact the O/C CIB immediately.
3	Where necessary, take command and control to instigate initial enquiries to locate the missing person, and appoint an officer to manage the case.
4	Ensure all correspondence is: <ul style="list-style-type: none"> <li>- completed in full with all relevant information</li> <li>- entered correctly into <u>NIA</u></li> <li>- submitted before the end of shift, for further dissemination.</li> </ul>
5	If the report concerns a missing person from outside the district the supervisor must: <ul style="list-style-type: none"> <li>- contact the O/C Station in the area the subject is missing from</li> <li>- scan the file and email, or fax the details to the receiving station</li> <li>- forward the physical file to the station immediately.</li> </ul>

### Case Officer's duties

If you are assigned the missing person file, follow these steps.

Step	Action
1	Assess all information by conducting a full appreciation and risk assessment.
2	Consider conducting a scene examination, if this has not already been done. Evaluate the scene and its appearance. If relevant advise your supervisor and the O/C <a href="#">CIB</a> , and treat it as a crime scene to: <ul style="list-style-type: none"> <li>- prevent contamination of the scene</li> <li>- identify items of evidential value.</li> </ul>
3	Maintain regular contact with the informant and family. Obtain further details that were not available at the initial interview.
4	Liaise with relevant groups, such as Oranga Tamariki - Ministry for Children (OT), Youth Services, Coronial Services.
5	Conduct enquiries to locate the person, and: <ul style="list-style-type: none"> <li>- manage the specific lines of enquiry, as circumstances dictate</li> <li>- interview the missing person's friends, employer and associates.</li> </ul>
6	Attempt to track the person's movements, by: <ul style="list-style-type: none"> <li>- obtaining bank records and reviewing them for recent transactions</li> <li>- obtaining passport and border movements</li> <li>- reviewing cell phone records to determine whether the phone has been used recently and where it is polling</li> <li>- contacting outside agencies, such as: WINZ and Land Transport.</li> </ul>
7	Consider whether the enquiry would benefit from general <a href="#">media coverage</a> .
8	Consider profiling the missing person on the NZ <a href="#">Police Missing Person Web page</a> .
9	Collect <a href="#">forensic specimens</a> for identification purposes (if applicable).
10	Record all enquiries made and attach to the missing person occurrence.
11	Complete file reviews and update the missing person occurrence narrative.

## Missing children

All reports of missing children are classed as high priority and attract a high risk assessment.

o formulate an effective enquiry strategy it is necessary to have some knowledge of what the missing child is likely to do, the distances they are likely to travel, and who they might be with.

### General procedure

ollow these steps.

Step	Action
1	Reports <b>must</b> be taken immediately.
2	The Missing Person Report, Pol 62 or Pol 67, should be entered into <u>NIA</u> as soon as it is taken in order to generate a missing alert - do <b>not</b> delay in entering the report.
3	Complete an initial 'Risk Assessment' in respect to the child and the situation.
4	Submit the Pol 62 or Pol 67 without delay to your supervisor. This is vital because the child or young person may have met with foul play or misadventure.
5	If the circumstances surrounding the disappearance are suspicious, alert <u>CIB</u> immediately. Likewise, if the circumstances indicate they are lost, alert <u>SAR</u> immediately.
6	Command and control of the situation should be established in the first instance, and relayed to the appropriate Communications Centre.
7	Consideration should be given to provide an immediate media release. This can be facilitated through the appropriate Communications Centre, who will disseminate to over 500 media outlets, or given by the O/C Case or O/C <u>CIB</u> .

### Initial Action - Communications Centre

#### Call Taker Action

Follow these steps.

Step	Action
1	Obtain sufficient details of the child or young person's disappearance before dispatching an 'I' car to the scene.
2	Obtain the following details about the missing child: <ul style="list-style-type: none"> <li>- full name of child and any nick names used</li> <li>- age and date of birth of the child</li> <li>- physical description</li> <li>- clothing worn</li> <li>- parents details</li> <li>- who has legal care and custody of the child (if applicable).</li> </ul>
3	Obtain details of where the child is missing from, including: <ul style="list-style-type: none"> <li>- where the child was last seen</li> <li>- any possible destination, if known</li> <li>- any places they frequent - relatives houses, play areas, pre-school</li> <li>- child's familiarity with the area</li> <li>- weather conditions</li> <li>- type of environment (urban/rural/semi-rural).</li> </ul>
4	Advise the caller to stay at the scene to await Police arrival.

## Dispatcher Action

Follow these steps.

Step	Action
1	Complete a 'Risk Assessment' to ascertain what fears for the child's safety exist.
2	Exercise command and control, and conduct an appreciation in accordance with the dispatch appreciation model.
3	Dispatch an 'I' car to the scene.
4	10/1 release to all units in the area. Advise the field Sergeant/Senior Sergeant immediately if no units are responding within the required time frame.
5	If required, notify <u>CIB</u> and <u>SAR</u> .
6	Appoint a Police Incident Controller as soon as practicable, and then: <ul style="list-style-type: none"> <li>- brief the appointed Incident Controller on all aspects of the event</li> <li>- issue a direct instruction: "You now have command"</li> <li>- record time and acknowledgement</li> <li>- K6 event to the primary unit in attendance - 2M events should not be K2'd.</li> </ul>
7	Facilitate: <ul style="list-style-type: none"> <li>- maintenance of event log</li> <li>- regular and timely situation reports to your team leader.</li> </ul>

## Team Leader Action

Follow these steps.

Step	Action
1	Complete a 'Risk Assessment' ensuring all risk factors have been considered.
2	Ensure correct action has been taken based on the risk assessment.
3	Direct further action to be taken if required.
4	Exercise 'Command and Control' as initial Incident Controller.
5	Confirm: <ul style="list-style-type: none"> <li>- a unit is attending the scene</li> <li>- the field Sergeant/Senior Sergeant has been advised</li> <li>- someone has been appointed as the field Incident Controller</li> <li>- specialist squads have been considered; <u>CIB</u>, <u>SAR</u> and Dogs.</li> </ul>
6	Consider using the media. It is paramount to get the information to the public as quickly as possible.
7	On completion ensure 2M events are K6'd to the primary unit.

## Initial Action - Investigation

The aim of the initial investigation is to gather sufficient detailed information, in order to:

- accurately assess the facts and circumstances that will assist in locating the missing child or young person
- determine the focus and structure of the investigation
- identify resources required.

## Attending Officer

Follow these steps.

Step	Action
1	Establish the informant's current location.
2	<p>Interview the informant to obtain:</p> <ul style="list-style-type: none"> <li>- full contact details of the informant, and their relationship to the child or young person</li> <li>- details of the missing child's next of kin, parents and/or guardian. If parents have separated, obtain details of both parents and ensure they are both aware of the situation</li> <li>- missing child's full name, nickname and any aliases</li> <li>- a full description of the missing child, including physical appearance</li> <li>- a full description of the child's clothing and other items in their possession</li> <li>- the missing child's state of health - both physical and mental</li> <li>- full particulars of the circumstances, including: <ul style="list-style-type: none"> <li>- where the child was last seen and by whom</li> <li>- the date and time the child went missing</li> <li>- whether the child has gone missing before, and if so, where they were previously located</li> <li>- any possible reasons as to why they have gone missing</li> </ul> </li> <li>- a clear and recent photograph of the child or young person</li> <li>- if applicable, details of any friends or associates, cell phone and email addresses, as well as any social networking sites used by the missing person.</li> </ul>
3	Initiate and conduct a thorough search of the home and the area in which the missing child was last seen, regardless of whether it has previously been searched by the informant or any other people.
4	Consult with your supervisor and any specialist units such as <a href="#">CIB</a> , <a href="#">SAR</a> and Dogs.
5	Complete the Missing Person report, Pol 62 or Pol 67, in full.
6	Ensure the Authority for Publicity, Pol 65, is completed and signed by the next of kin, or appropriate person.
7	Advise your supervisor immediately if circumstances are suspicious, or grave concerns for the child's safety exist.
8	Interview witnesses separately.
9	<b>Important:</b> Obtain a recent photograph, if you have not already done so.

### Data entry

After the initial action has been completed the Missing Person Report, Pol 62 or Pol 67, requires entering into [NIA](#). The file must be submitted at the earliest opportunity for entry. Do **not** leave the report un-entered in the hope the person will return, or located quickly.

Step	Action
1	Carry out a <a href="#">NIA</a> check to see whether the child or young person: <ul style="list-style-type: none"> <li>- is listed as missing already, and has an active missing alert</li> <li>- is being held in custody</li> <li>- has any record of Police interest on them.</li> </ul>
2	Enter the missing person into <a href="#">NIA</a> using the 'create missing person occurrence' facility.
3	Ensure <b>all</b> the details recorded on the Pol 62 or Pol 67 are entered into <a href="#">NIA</a> . If the child or young person is under Oranga Tamariki - Ministry for Children care, ensure the 'OT' box is ticked in the 'Fears for Safety' screen of the NIA record.
4	Ensure the correct person is entered into the occurrence, with the correct date of birth and location. A foreign address can be entered as the location.
5	Scan the completed Pol 62 or Pol 67 into the occurrence as an attachment, and any other relevant documents and photographs. In the event your Police station does not have this capability, the documents and photographs can be sent to MPU for attaching.
6	Ensure the file is 'posted' and not 'assigned' to the person who is to receive the file. Refer to <a href="#">managing the case</a> . If the file is urgent and requires urgent attention, contact the person the file is to be sent to for investigation, or the O/C <a href="#">CIB</a> , and advise them of the details and circumstances.
7	If the child or young person is thought to have gone missing in another district other than the one where the report was made, or the child or young person has thought to have gone to another district after being reported missing, a part file should be created for enquiries to be made in that district, or the physical file forwarded to the O/C Station for investigation.

## Investigating Officer

Follow these steps.

Step	Action
1	Brief your supervisor of the particulars of the case, and advise O/CCIB.
2	Ensure the parents or guardians have been informed - both parents should be aware of the situation especially in cases where the parents are separated.
3	Ensure a Police Liaison Officer has been assigned to the family.
4	Initiate enquiries to locate the missing child or young person. If circumstances dictate: <ul style="list-style-type: none"> <li>- formulating a search plan in consultation with <a href="#">SAR</a></li> <li>- formulate an investigation plan.</li> </ul>
5	Carry out a <a href="#">NIA</a> check to ascertain whether: <ul style="list-style-type: none"> <li>- the missing child has a NIA identity</li> <li>- they are listed as missing already</li> <li>- they have been reported missing on other occasions. This will show where they were previously located</li> <li>- they are in Police custody.</li> </ul>
6	Consider a <a href="#">media release</a> to appeal to the public for information.
7	Consider speaking to friends, school teachers and social workers.
8	Follow <a href="#">Case Officer Duties</a> or <a href="#">Supervisor Duties</a> .
9	Manage the case as per the National policy and procedures - refer <a href="#">managing the case</a> .

## Lost children

Lost children, who are found by members of the public or Police before they are reported missing, must still be entered into [NIA](#) with a missing alert generated. The alert can be cleared at the same time as the entry. This will ensure a record of the event is captured, that will not only provide information as to their possible whereabouts in the future should they go missing again, but provide information as to why the child was lost.

## Child abduction and parental abduction

Abduction of a child or young person under 16 years is an offence under section [210](#) of the Crimes Act 1961. The section generally refers to situations where a child is taken from a parent or guardian contrary to the terms of a Court Order.

When considering charges under section 210 in relation to child custody disputes, also consider the provisions of the Care of Children Act 2004:

- section [78](#): Contravening parenting order
- section [80](#): Taking a child from New Zealand.

This section protects the rights of those having lawful possession or temporary possession of a child or young person, and includes Oranga Tamariki - Ministry for Children caregivers.

A parent may commit an offence against this section in respect of their own child where their actions are unlawful, for example, a father who takes his own child from its mother contrary to a Court Order.

A missing person file should be created. If offences are subsequently established and charges filed then a new file should be created and associated to the missing person file.

## Removal of children from New Zealand

Child custody disputes should be referred to the District Court, through the parties' respective lawyers. If fears arise that one party is

likely to remove the child or young person from New Zealand, the matter should be referred to their legal representative, who will apply for an order to prevent removal (OPR) from the court. This will ensure a border alert is placed on the child or young person to prevent them being removed from New Zealand.

If a child or young person has been illegally removed from New Zealand, the matter should also be referred to their legal representative, who will make an application for the child's return through the Hague Convention (Refer [Ministry of Justice - Hague Convention](#)).

## Missing Children and Young Persons in Oranga Tamariki - Ministry for Children care

Reports of missing children and young persons in Oranga Tamariki - Ministry for Children care are classed as high priority with a high risk assessment attached. This is not only due to their age and vulnerability, but often due to their personal circumstances and the external influences surrounding these circumstances.

### General process

A missing person report should only be made to Police by Oranga Tamariki - Ministry for Children when the missing person criteria has been met as outlined below, and an OT internal risk assessment has been completed.

Missing Person criteria is defined as; any person whose whereabouts are unknown, **and** there are genuine fears for the safety, or concerns for the welfare of that person.

### Oranga Tamariki - Ministry for Children Guidelines

The following factors are guidelines that Oranga Tamariki - Ministry for Children will consider when completing their internal risk assessment process:

- physical health of the child or young person
- mental health - including self harm or suicide, ADHD, depression
- knowledge of the area they went missing from
- friends or family in the area
- recent stressors (including offending/court appearances, family group conferences, change in placement)
- any other risk taking behaviours, such as drug, alcohol, huffing, prostitution, association with inappropriate persons
- out of character behaviour.

### Unauthorised absence

Some children or young people absent themselves from their home for a short period of time and then return, often their whereabouts are known, or may be quickly established through contact with family or friends, or their whereabouts are unknown but the child or young person is not considered at risk.

Likewise, if the child or young person is known to be living with family at a particular address without the acknowledgement or agreement from Oranga Tamariki - Ministry for Children, they are not considered missing.

If a child or young person falls into the above categories, then they are not classed as a 'missing person', and should not be reported to Police as missing. Under this process, Oranga Tamariki - Ministry for Children will monitor unauthorised absences carefully, as the child or young person may subsequently go missing.

### Oranga Tamariki - Ministry for Children Initial Action - Urgent Response

In situations requiring an urgent Police response, the missing person information will be submitted as soon as possible through the Police emergency 111 facility. This will ensure an immediate response as outlined in the Communication Centre process and [Investigation Initial Action](#). This includes children and young persons where their safety is paramount, and also those that have escaped or absconded from secure units. For the latter, Police should enter a charge of escaping custody as well as the Missing Person Report, Pol 67.

### Oranga Tamariki - Ministry for Children Initial Action - Routine Response

For all routine responses, the Missing Person Report, Pol 67, must be submitted through the reporting process established between Police and Oranga Tamariki - Ministry for Children, consistent with national policy and procedures, as outlined below.

Social workers and/or caregivers should undertake a range of enquiries to try and locate the child or young person before a formal missing persons report is made to Police. These enquiries are to take place unless there are immediate safety concerns and might include, but not limited to:

- talking to known associates, contacts, parents/family/whānau, to seek the child or young person's whereabouts
- checking texts, cell phone calls, and social network sites (where applicable)
- visiting possible locations where the child or young person may be located.

## Routine Response - Oranga Tamariki - Ministry for Children to Police Reporting Process

These are the process stages.

Stage	Process
1	Oranga Tamariki - Ministry for Children will make a missing person report to Police, only when: <ul style="list-style-type: none"> <li>- a risk assessment has been completed</li> <li>- initial enquiries have been made</li> <li>- internal triage processes have been followed, and the child or young person cannot be located.</li> </ul>
2	All routine missing person reports to Police will be made on the standard Missing Person Report form, Pol 67, accompanied by a photograph of the missing person (if possible).
3	These reports will <b>only</b> be made through the Oranga Tamariki - Ministry for Children 24/7 call centre situated in Auckland.
4	The Oranga Tamariki - Ministry for Children 24/7 call centre will ensure the reports received by their internal processes contain all the relevant and pertinent information required by Police, including details of the custody statute the child or young person is held under, and where they are to be returned to once located.
5	The Oranga Tamariki - Ministry for Children 24/7 call centre will forward the completed report to the Police Crime Reporting Line (CRL).
6	The CRL will process the Pol 67 by entering the information into NIA, creating the missing person alert and file. The photograph and completed report is to be scanned and attached to the occurrence through the attachment facility.
7	CRL will assign the file to the appropriate district for action, adhering to National policy surrounding <a href="#">case management</a> and <a href="#">reviews</a> .

**Note:** No routine reports will be received through other Police channels.

## Oranga Tamariki - Ministry for Children - Police Report Form (Pol 67)

Information to be provided to Police must include, but is not limited to the following:

- child or young person's correct, full name, and any nicknames or names used by the child or young person
- date of birth (not just the age of the missing person)
- the legal custody status of the child or young person (under the Vulnerable Children's Act)
- social workers name and contact details
- the address the child or young person is to be returned to
- parents' name and addresses
- the date, time and place the child or young person was last seen
- an updated description of the physical appearance of the child or young person (height; weight; hair colour; hair length; eye colour; piercings/scars/tattoos; build)
- a description of the clothing they were last seen wearing
- any frequented addresses or places the child or young person is likely to be
- details of any known friends, associates, relatives
- fears for safety and risk factors - emotional status, medical conditions, at risk behaviour, medication, drug/alcohol/substance use
- access to money and bank account numbers
- cellphone / email / social network sites.

## Routine Response - Investigating Officer

ollow these steps.

Step	Action
1	Ensure all information has been provided by Oranga Tamariki - Ministry for Children and entered correctly into <a href="#">NIA</a> .
2	<p>Liase with the child or young person's social worker for further information and updates. Police should contact the Oranga Tamariki - Ministry for Children 24/7 call centre in the first instance, unless the Social Worker is known to them.</p> <ul style="list-style-type: none"> <li>- The Oranga Tamariki - Ministry for Children 24/7 call centre telephone number is 0508 Family (0508 326459).</li> <li>- The call centre will place the officer in touch with the appropriate person or Social Worker. In the event the Social Worker cannot be contacted, the officer is to contact the Oranga Tamariki - Ministry for Children 24/7 call centre again and ask to speak to the duty social worker.</li> </ul>
3	Police may be called upon to assist the Social Worker when searching addresses for the child or young person (under the Children's Act).
4	Disseminate the missing person information to Police through various internal sources; bulletin board, special notice, communications centre, missing person web page and Facebook page.
5	Consider polling cell phones and checking bank accounts (if applicable).
6	Ensure the <a href="#">file reviews</a> are completed, as per the ' <a href="#">Case management</a> ' chapter of the Police Manual.

## Locating the Child or Young Person

Located by	Action
Located by Oranga Tamariki - Ministry for Children	<p>If the child or young person returns to the caregiver, or is located by persons other than Police, the caregiver will notify the Oranga Tamariki - Ministry for Children 24/7 call centre, who will advise <a href="#">CRL</a>.</p> <p>CRL will clear the missing alert. This will automatically generate an email to the officer in charge of the case advising the alert has been cleared.</p>
Located by Police (Business Hours)	The locating Police employee will contact the Social Worker to advise them, and clear the missing alert. This will automatically generate an email to the officer in charge of the case advising the alert has been cleared.
Located by Police (After Hours)	Police should contact the Oranga Tamariki - Ministry for Children 24/7 call centre to advise the duty Social Worker, and clear the alert, as above.
Location known to Police	If Police receive reliable information that the child or young person is at a particular location and can verify this information, Police will liaise with Oranga Tamariki - Ministry for Children regarding the safety of the child or young person and whether further action is required by Police. If no further Police action is required, the locating employee should clear the missing alert, as above.

## Managing the Missing Persons case

### Required action

When managing the case, be aware of the action that must be taken at specific times after the initial report has been entered. The missing' alert will automatically generate review reminders to the officer who the case is assigned to.

**Note:** Do **not** reply to these emails as MPU will not receive them, they are simply a reminder.

### Mandatory file review procedures

After 3 days, 14 days, 30 days, 90 days, follow these steps.

Step	Action
1	Contact the informant to establish whether the missing person has returned home, or made contact in any way.
2	Establish whether there are any new or continued fears for the person's safety or well-being. Consider making further enquiries.
3	If urgent action is required, or suspicious circumstances exist, consult O/C CIB immediately. Likewise, if enquiries have been made with no significant progress, consult the O/C CIB to discuss case direction.
4	Consider making further enquiries with outside agencies, or re-visit old enquiries for an update.
5	Ensure a record of enquiries has been entered into the occurrence narrative.
6	Ensure a recent photograph has been obtained. Scan the photo and attach to the occurrence using the attachment facility in the record.
7	Ensure a signed Authority for Publicity, Pol 65, has been completed.
8	Consider the collection of <a href="#">forensic specimens</a> . Specimens obtained should be analysed by <a href="#">ESR</a> . Update <a href="#">NIA</a> occurrence with the ESR reference number and scan the results into the missing person occurrence as an attachment.
9	Ensure job sheets and enquiry records are recorded in the occurrence. Large documents can be scanned into the occurrence as an attachment.
10	Complete Review form, Part B of the Pol 62, and scan and attach the form into the occurrence as an attachment, or update the occurrence narrative directly. Do not send to MPU if the latter has been done.
11	Forward the file to the O/C <a href="#">CIB</a> for review.

After one year, follow these steps.

Step	Action
1	Contact the informant. Advise them the Coroner will be notified
2	Record further enquiries completed into the occurrence narrative of the record, if applicable.
3	Prepare a report for the Coroner to advise them of the situation. A Pol 47 is sufficient. Submit through your supervisor and update the <u>NIA</u> occurrence.
4	Ensure the necessary DNA has been obtained, - nuclear, familial or mitochondrial DNA (mtDNA), refer <a href="#">Forensic Evidence</a> , then: <ul style="list-style-type: none"><li>- send the sample to the <u>ESR</u> for analysing</li><li>- update the occurrence with the <u>ESR</u> reference number.</li></ul>
5	Ensure dental records, medical history, and optical records are obtained and scanned into the missing person occurrence through the attachment facility.
6	Complete Part B of the Pol 62, and either: <ul style="list-style-type: none"><li>- scan and attach the form to the missing person occurrence record, or</li><li>- update the occurrence narrative directly.</li></ul>
7	Forward the file to O/C <u>CIB</u> to review.

## Locating missing persons

### Verify

If you receive information that a missing person has been located, verify the information and satisfy yourself on reasonable grounds that it is accurate.

### Procedure

Follow these steps if you locate a missing person or receive information that a missing person has been located.

Step	Action
1	Interview the located person to find out the circumstances surrounding the disappearance, and to verify the person is the missing person by asking them personal questions they should know.
2	If the person is a child, look for child abuse indicators and consider referring the case to Oranga Tamariki - Ministry for Children.
3	If the person is over 17 years old consider <a href="#">legislative requirements</a> .
4	Update the <a href="#">NIA</a> Missing Person occurrence and file.
5	<p>Complete the 'Person Located' field in the information alert page of the NIA occurrence, by entering:</p> <ul style="list-style-type: none"> <li>- the date and time they were located</li> <li>- the location details</li> <li>- the circumstances.</li> </ul> <p>Then press OK to activate the located person function and clear the alert.</p> <p><b>Note:</b> This will automatically generate an email message to the officer in charge of the case to advise the person has been located and the alert cleared.</p>
6	Advise the informant that the person has been found, and the case is closed.

### Legislation

If a person is 17 years or over, then their whereabouts cannot be disclosed without their consent.

Under these circumstances Police will inform the person who reported them missing that they have been located but will advise them they do not have the authority to disclose their whereabouts.

**Note:** Police must take this step to ensure proper closure of the missing person file.

The ability of Police to make disclosure about children or young persons under 17 years will depend on the individual circumstances of the missing person, and privacy legislation requirements.

## People missing overseas

In cases where a New Zealand national is reported missing overseas by family in New Zealand, and there are genuine fears for the person's safety, or concerns for their welfare that are justified, Police must take a report in the usual manner, and the file sent to MPU for overseas enquires to be made.

Note:

1. If the fears for safety are only based on the fact the family has lost contact with each other then they must not be entered as a missing person - refer them to [Family Tracing Services](#).
2. The informant should not be directed to the Missing Persons Unit or to Interpol.
3. In many countries, the communications network is difficult to access and language barriers make it difficult to maintain contact. Movement between countries is often not recorded on national databases, as they are in New Zealand, and therefore it may be impossible to determine whether the missing person has arrived in, or departed from, a particular country.

## Procedure

Follow these steps, if you receive a report of a person missing overseas.

Step	Action
1	Obtain the informant's full details, refer <a href="#">Investigation - Initial Action</a> .
2	Complete the Missing Person Report, Pol 62, in full. In addition, further enquiries are required before the enquiry can commence overseas, such as: <ul style="list-style-type: none"> <li>- time, date and place of the last contact made with the missing person</li> <li>- usual means of contacting the person</li> <li>- circumstances of the last contact (if the contact was an e-mail or other written communication, obtain copies)</li> <li>- last known address, motel, hotel or other accommodation</li> <li>- place of employment overseas, if applicable</li> <li>- details of the person's travel and flight itinerary</li> <li>- the travel agency with whom the booking was made, and how the travel was paid for</li> <li>- passport details (MPU can establish this information). Confirm if the missing person has dual or multiple citizenship and holds additional passports they could travel under</li> <li>- bank account details, including when and where the accounts were last accessed</li> <li>- any known friends or travel companions.</li> </ul>
3	Obtain a recent photograph and electronically attach it to the file
4	Advise your supervisor of the circumstances of the case, and ensure a liaison officer has been appointed to maintain contact with the informant.
5	Contact MPU and advise them of the circumstances of the case. Then: <ul style="list-style-type: none"> <li>- e-mail a copy of the file to MPU - <span style="background-color: black; color: black;">[REDACTED]</span></li> <li>- forward the physical file to MPU.</li> </ul>
6	MPU will make the necessary enquiries through Interpol, our NZ Police Liaison Officers, or through Ministry of Foreign Affairs and Trade (MFAT), in the country where the person was last seen. In addition, MPU can provide the following assistance: <ul style="list-style-type: none"> <li>- Customs checks</li> <li>- DIA / Passport information</li> <li>- Immigration Checks.</li> </ul>

## Photographs

A recent photograph of the missing person should be obtained at the earliest opportunity.

Ensure authority is given to use the photo for any publicity required. Authority for Publicity form, Pol 65, is located in MS>Police forms>Missing Persons.

### What to do with the photograph

Once the photograph and authority is obtained, follow these steps.

Step	Action
1	Update <a href="#">NIA</a> Missing Persons occurrence 'publicity' field with details of the signed Authority for Publicity form, Pol 65.
2	The photo should be entered into the Missing Person occurrence record, by either: <ul style="list-style-type: none"> <li>- scanning the photo into the occurrence, through the attachment facility, or</li> <li>- emailing the photo to MPU for attaching to the occurrence.</li> </ul>
3	Photographs can be used for: <ul style="list-style-type: none"> <li>- Special Notices created for Police, public and media</li> <li>- specific media releases</li> <li>- attachments in the missing occurrence for all staff to access (this is important for front line staff who locate a young person at night and need to verify who they are)</li> <li>- the Police internal bulletin board</li> <li>- the <a href="#">Police Missing Persons web page</a>.</li> </ul>
4	Once the person has been located the photograph should be returned to the informant.
5	Any photograph provided by Oranga Tamariki - Ministry for Children must be returned or destroyed once the child or young person has been located.

## Forensic evidence

### When to collect forensic evidence

As a general rule, forensic samples should be collected for inclusion with Part B of the Pol 62, which is submitted to MPU after one year. However, in some cases a delay of one year may lead to difficulties in locating and collecting suitable material. This is particularly the case with material that is likely to be lost or become contaminated and in cases where the missing person is a foreign national.

Therefore, always consider obtaining the specimens early, as part of the general investigation and enquiry process.

### Dental and medical records

The minimum specimens that should be collected are dental and medical records. In the event human remains are located often DNA cannot be extracted and alternative methods of identity are required.

### DNA

Considerations should also be given to these types of DNA specimens:

DNA Type	Detail
Nuclear DNA	Obtain specimens of the missing person's nuclear DNA directly from sources such as a razor, toothbrush or hairbrush.
Mitochondrial DNA (mtDNA)	mtDNA is transferred directly by the biological mother to her offspring. This means that if a direct DNA sample cannot be obtained, a comparison sample can be taken from any maternally related blood relative, such as a maternal grandmother, mother, siblings, maternal uncles and aunts.
Familial DNA	A comparison sample taken from any related blood relative, not confined to the maternal line, for example the father and paternal grandparents.

### Taking DNA specimens

Follow these steps to take DNA samples.

Step	Action
1	A DNA Consent Form, DNA300, must be completed before a sample is taken.
2	mtDNA and familial DNA samples can be taken by mouth swab or buccal scrape. The sample kits can be obtained through district watch houses or <a href="#">CIB</a> .
3	Once the sample has been obtained, a Biotrak <b>elimination</b> record should be entered before sending to <a href="#">ESR</a> for analysing.
4	Enter the Biotrak and <a href="#">ESR</a> reference number into the missing occurrence.
5	A copy of the DNA300 should accompany the sample to <a href="#">ESR</a> for analysis, along with the DNA Sample Data Entry Sheet, Pol 801, and the Exhibits Form, Pol 143. These forms are located in MS Word>Police Forms>DNA>Elimination DNA Sampling>Missing Persons Identification
6	The results will be stored in the Missing Person Database at <a href="#">ESR</a> .

**Note:** If no DNA can be obtained from sources identified, the heel prick sample taken from babies at birth (Guthrie Card) may be an option. However, these can only be used if all other sources have been exhausted. Refer [MOU](#) with the Ministry of Health

### Using forensic specimens to identify human remains

From time to time, unidentified human remains are located. These remains can be compared with forensic specimens that have been collected from cases involving people missing long term.

## Media broadcasts

### Media coverage

The investigation may benefit from media coverage, particularly when there are immediate and serious fears for the person's safety or well-being.

### Working with media

Police may decide to use media outlets to broadcast details about a missing person in an effort to obtain valuable information and assistance from the public. Encourage the use of media for this purpose, especially where the missing person is a young child, elderly person, has an urgent medical need, or there are immediate concerns for their safety.

In these cases information can be immediately disseminated through the Police website to media outlets and the public, who have previously signed up to receive instant alerts from the website.

### Media considerations

1	Liaising with District Police Media or Police Media Section at <a href="#">PNHQ</a> .
2	Releasing information to the media should only be done after you have obtained a signed Authority for Publicity form, Pol 65, located in MS>Police Forms>Missing Persons.  - Ensure the 'publicity' field in the missing person occurrence has been completed and clearly shows the person who gave authority.
3	Posting information, by way of a special notice, on the Police Bulletin Board
4	Profiling the missing person on the Police Missing Person Webpage or Face book page.  - To do this contact MPU by e-mail: <span style="background-color: black; color: black;">[REDACTED]</span> - Ensure you enclose a clear, recent photo of the missing person.

### Missing Persons Web Page

MPU maintains the [Missing Persons web page](#) on the Police Internet website.

Consider whether the circumstances surrounding the disappearance indicate that a posting on the page is appropriate. You will need a good-quality photograph and the next of kin's written consent. Requests for postings to the page should be made to MPU by e-mail,

### Missing Persons Face Book Page

**note: this has been deactivated)**

MPU also maintain the Missing Person Facebook page where information or a missing person can be profiled. This page is successful for youth runaways.

The same considerations apply to this social media outlet as with the missing person web page, and will usually have a link to the profile on the Police web page.

## SAFE (7233) mobile phone text message retrieval

The SAFE (7233) text message service was launched after the murder of a backpacker in 2005. It is a service that allows people to record their travel intentions within New Zealand, and provides a starting point for Police investigating a missing person case.

### SAFE text message service

The SAFE text message service:

- is free of charge
- is provided by Telecom NZ Limited (027), Vodafone NZ Limited (021), and 2degrees Mobile Ltd (022)
- is provided to anyone wishing to record their travel intentions within New Zealand, not just for tourists visiting New Zealand
- allows Vodafone NZ and 2degrees Mobile customers to also use the service overseas, (standard roaming rates apply, and they must be using a New Zealand SIM in their mobile)
- is not available for people using mobile phones on a Virtual Network (028, 029).

### Text messages

Text messages are not monitored; however, they can be retrieved later on request by police if necessary, but are generally stored for:

- Telecom and 2degrees - 12 months
- Vodafone - 3 months.

#### Notes:

- The databases store text messages only, **not** pxt or video.
- The service is not a substitute for 111, which should always be called in an emergency.
- There are no privacy implications for Police Investigators requesting access to the text messages, or for Telecom, Vodafone or 2degrees providing the text message information to Police, as people using the service intend Police to have access to the database if necessary.
- From the perspective of the Telecom, Vodafone or 2degrees customer the service appears to be integrated, however for technical reasons they maintain their own databases for messages text to SAFE (7233).

### Messages left by missing persons

To view a message left by a missing person, it is necessary to know their mobile phone number in order to establish whether they are with Telecom, Vodafone or 2degrees. With number transferability it is possible that the person may be with another operator and all three service providers may need to be contacted.

### Procedures

Follow these steps (in relation to Telecom, Vodafone and 2degrees).

Step	Action
1	Email request for information to MPU ( [REDACTED] ) with the name of the missing person.
2	Include the mobile phone number of the person, and indicate whether the person is likely to have used the SAFE service.
3	Telecom, Vodafone or 2degrees will check to see if the person has left a message on the service.

## **People trafficking and migrant smuggling**

# Table of Contents

Table of Contents	2
Summary	4
Introduction	4
Purpose	4
Health and safety duties	4
Maximising safety and minimising risk	4
Health and safety should be an everyday conversation	5
Defining the crimes	6
People trafficking	6
Migrant smuggling	6
Other related definitions of terms	6
Differences between people trafficking and migrant smuggling	6
Transitional crimes	6
Migrant smuggling - definition	8
Penalty	8
Investigative response - migrant smuggling	9
Suspected unlawful migrant smuggling - (individuals or small groups)	9
Suspected illegal entry vessel smuggling (mass arrivals)	9
Within international waters	9
Within New Zealand territorial waters	10
Securing vessels as a crime scene	10
New Zealand Immigration Service	11
Police powers of entry and search	11
Persons refused entry to New Zealand	11
Persons subject to a removal order or deportation order	11
Power of arrest - migrant smuggling	12
Power of arrest - Immigration Act 2009	12
Persons able to arrest	12
Purpose of arrest	12
Following an arrest	12
People trafficking	13
Objectives	13
International issues	13
Multi-agency approach	13
Information sharing	13
Identifying people trafficking	13
Indicators	14
Investigative structure	14
Investigative approaches	15
Victims	17
Victim profiles	17
Victims' needs	17
Victim reluctance	18
Risks to victims	18
Responsibilities of respective Government agencies	18
Victim interviews	19
Child victims	20
Offence of dealing in children under 18 years	20
Immigration issues	21
Department of Labour - Victims of Trafficking policy	21
Eligibility for a temporary residence visa	21
Certification of victims	21
Child victims	22
Risks	22
Perceived inducement to testify	22
Immigration fraud	22

Organised Crime - people traffickers	23
Offenders	24
Related legislation	24
Crimes Act 1961	24
Prostitution Reform Act 2003	25
Immigration Act 2009	25

## Summary

This section contains the following topics:

- Introduction
- Purpose
- Health and safety duties
  - Maximising safety and minimising risk
  - Health and safety should be an everyday conversation

## Introduction

The offences of people trafficking and migrant smuggling are dealt with together in this chapter in order to avoid any confusion, by drawing distinctions between the two offences.

The terms people trafficking and migrant smuggling are often confused and used interchangeably by other agencies. People trafficking and migrant smuggling are also known as 'human trafficking' and 'people smuggling' respectively.

Migrant smuggling involves a person who has freely consented to be brought into New Zealand as an illegal immigrant and is not subjected to coercion or deception. People trafficking, on the other hand involves a person who is brought into New Zealand by means of coercion and/or deception. People are often trafficked in order to exploit them in the destination country, e.g. as forced labour, for removal of their organs or most commonly, for sexual exploitation.

In 2000, a protocol to prevent, suppress and punish the trafficking of people, especially women and children, was added to the United Nations convention against trans-national organised crime. New Zealand ratified this protocol in 2002.

A New Zealand Inter-Agency Working Group on people trafficking was set up in 2006 and through this Working Group, agencies agreed to implement various anti-trafficking initiatives. As a result, in July 2009 the New Zealand Government released a [Plan of Action to Prevent People Trafficking](#).

Each agency has roles as defined in the Plan of Action to Prevent People Trafficking. The Ministry of Business, Innovation and Employment (MBIE) will continue to lead the New Zealand Government's anti-trafficking efforts and coordinate the Plan of Action. Under the plan, the responsibilities of New Zealand Police are divided into three areas of Prevention, Protection and Prosecution. Where a case of suspected people trafficking is identified, as defined by section [98D](#) of the Crimes Act 1961, Police will lead the investigation and any resultant prosecutions.

## Purpose

The purpose of this chapter is to detail Police responsibilities in respect of:

- **migrant smuggling offences,**
- and
- **people trafficking offences.**

## Health and safety duties

### Maximising safety and minimising risk

Maximising safety and eliminating or minimising risk at work is the responsibility of all Police employees and persons engaged by Police to provide a service including contractors and their employees, trainees, interns and volunteers. It is delivered through meeting the obligations under the [Health and Safety at Work Act 2015](#) and Police safety policies.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace.

The expectation of the Commissioner and the Act is that persons in the workplace will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of other persons, comply as far as they are reasonably able to with any reasonable instruction that is given in order to comply with the [Health and Safety at Work Act 2015](#) or regulations under that Act. They will co-operate with any reasonable policy or procedure relating to health or safety at the workplace that has been notified to them and take immediate action to stop any perceived or potential breach of the act or if impractical, immediately report the matter to a

supervisor.

## **Health and safety should be an everyday conversation**

Relevant Police instructions include:

- Hazard management
- Health, safety and wellbeing
- this chapter in relation to the safe investigation procedures into people trafficking and migrant smuggling.

## Defining the crimes

### People trafficking

'People trafficking' is a serious trans-national crime that abuses the human rights of its victims. It involves a person being brought into New Zealand by means of coercion and/or deception, for gain. People are often trafficked for exploitation in the destination country, such as forced labour, the removal of organs or (most commonly detected) sexual exploitation. The victim of the offence is the person who has been trafficked. Section [98D](#) of the Crimes Act 1961 refers.

### Migrant smuggling

The smuggling of migrants involves a person being brought illegally into New Zealand for financial or other gain. The smuggled person is not subjected to coercion or deception and freely consents to being brought into this country. The migrants' entry into New Zealand is contrary to immigration laws; therefore the unlawful migrant is considered a willing party to the offence of migrant smuggling and is liable under section [98C](#) of the Crimes Act 1961. The victim of the offence is the state.

**Notes:** When dealing with what appears to be a case of migrant smuggling, abduction, kidnap, family violence, immigration offence, money laundering, sexual abuse or extortion, it is important that victims of people trafficking are properly identified and certified by Police in accordance with the government Plan of Action as they have unique humanitarian and protection needs, unlike migrants who are willingly smuggled.

### Other related definitions of terms

Other terms used in people trafficking and migrant smuggling legislation are defined by section [98B](#) of the Crimes Act 1961.

### Differences between people trafficking and migrant smuggling

This table explains the key differences between people trafficking and migrant smuggling.

Issue	People trafficking	Migrant smuggling
<b>Consent</b>	Consent is absent. Any consent obtained for movement of the victim is negated by the force, coercion, deception, fraud or force used to obtain it.	Consent is present. The person who is smuggled freely gives consent to being moved.
<b>Purpose of the travel or movement</b>	Exploitation based - of a victims' sexuality, labour or organs, for profit or gain.	Transportation based - for profit.
<b>Relationship between the person moved, and the mover(s)</b>	<b>Victim - Exploiter</b> Long-term relationship. The victim remains under the control of the traffickers beyond completion of the movement. The initial facilitator may only be one link in a chain.	<b>Buyer- Supplier</b> Short-term relationship which terminates on completion of the movement (i.e. once the person is moved into the destination country).
<b>Violence, intimidation or coercion</b>	Characteristic of trafficking and necessary to maintain the victim in an exploitative situation.	Unlikely, but may be incidental to the movement of the individual. Common issues include lack of care, overcrowding or minimum safety considerations.
<b>Liberty</b>	Often deprived / severely compromised.	Compromised only to the extent necessary for successful movement. Generally not severely so.
<b>Profit</b>	Primarily derived from ongoing exploitation of the victim.	Solely derived as payment for the movement of the individual, from that person or their sponsor.

### Transitional crimes

The status of some who commence their journey to New Zealand as willing smuggled migrants, may change to that of victims of people trafficking, where the actions of those responsible for facilitating travel or providing transportation take on the characteristics

of people trafficking, before the migrant enters New Zealand.

Traffickers may deceive victims into travelling, for example by lying to the victim about the true purpose of their travel. Such victims may appear to be willing unlawful migrants free from any coercion and ostensibly acting of their own accord, until they learn the traffickers' true exploitative purpose for their journey.

To be a victim of people trafficking, their entry into New Zealand must have been arranged by either coercion or deception. Accordingly, people trafficking offences can only occur as a cross-border/trans-national offence, i.e. it cannot be committed against an unlawful migrant after they have entered New Zealand. Any coercion or deception used towards a migrant who has already entered New Zealand will not amount to people trafficking, but may be evidence of offences covered by other domestic legislative tools such as abduction or kidnap.

## Migrant smuggling - definition

### Penalty

The offence of migrant smuggling under section [98C](#) of the Crimes Act 1961 is punishable by imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.

This table details the ingredients for the offence of migrant smuggling.

Ingredient	Definition
Arranges for a person	<p>'Arranges' includes acts such as:</p> <ul style="list-style-type: none"> <li>- carries to a state; or</li> <li>- recruits for bringing to a state; or</li> <li>- organises or procures the bringing to a state.</li> </ul> <p><b>Note:</b> In this context, 'procure' means 'facilitate' or 'enable'.</p>
To either: <ul style="list-style-type: none"> <li>i. enter New Zealand or any other country; or</li> <li>ii. be brought to New Zealand or any other country.</li> </ul>	<p>(i) The offence is complete when the arrangement is made; it does not matter that the migrant never enters New Zealand, or the other country.</p> <p>(ii) The offence is complete when the arrangement is made; it does not matter that the migrant is never brought to New Zealand, or the other country.</p>
For a material benefit	No prescribed legal definition.
Either knowing, or being reckless as to whether the person is	<p>The accused must either know that the person whose entry is arranged is unlawful or must be reckless as to that status. As to knowledge, refer CA20.20-22. The standard of required for this offence is subjective recklessness therefore it will not be sufficient for this offence that the accused was negligent or careless in not establishing that a would-be migrant was authorised. An arrangement made under a mistaken belief (especially one induced by the migrant) that the migrant is authorised will not be an offence, refer CA20.23-30.</p>
An unlawful migrant	An 'unlawful' or unauthorised migrant means a person who is neither a citizen of the state nor in possession of all the documents required by or under the law of the state for the person's lawful entry into the state.

## Investigative response - migrant smuggling

Migrants smuggled into the New Zealand by air or sea travel may be moved individually or in small numbers. They may also be transported in larger numbers, most likely by sea.

### Suspected unlawful migrant smuggling - (individuals or small groups)

Unlawful migrants smuggled individually or in small numbers may have superficially legitimate documentation, or they may have destroyed them en route. This table provides guidance on the steps to follow when Police encounter them.

Step	Action
1	Make enquiries without alerting either: <ul style="list-style-type: none"> <li>- the person suspected of being an unlawful migrant; or</li> <li>- any person(s) suspected of having arranged for the person to be brought to or to enter New Zealand.</li> </ul>
2	Where it is necessary to do so, for example to prevent the person from evading prosecution, arrest: <ul style="list-style-type: none"> <li>- the person suspected of being an unlawful migrant; and/or</li> <li>- any person(s) suspected of having arranged for the person to be brought to or to enter New Zealand.</li> </ul>
3	Advise the on-duty or on-call member of the Criminal Investigation Branch ( <a href="#">CIB</a> ), as appropriate.
4	Advise the New Zealand Immigration Service. Where an arrest is made of an individual born outside New Zealand, a copy of the name, date of birth, gender, address, contact telephone numbers, charges and arresting officer details must be forwarded to New Zealand Immigration Service for investigation as to their immigration status.
5	Advise the Interpol office at <a href="#">PNHQ</a> .
6	Investigate those responsible for smuggling the unlawful migrant by following the investigation steps in ' <a href="#">People trafficking</a> '.

### Suspected illegal entry vessel smuggling (mass arrivals)

New Zealand is geographically distant from the likely countries of origin of most refugees and it is unlikely a ship from such a country would reach New Zealand's shores without first refuelling. There are human rights issues involved in the prolonged detention and possible prosecution of significant numbers of smuggled migrants who may claim asylum. The response by Customs, Immigration and Police to the arrival in New Zealand of large numbers of unlawful migrants would therefore be a politically sensitive situation and would be subject to special procedures from a Customs, Immigration and Police perspective.

The New Zealand Customs Service is the operational lead agency for the interdiction of an identified vessel carrying sea-borne illegal migrants. The responsibilities of respective agencies are outlined below in respect of either a confirmed or suspected venture of migrant smuggling. Any such response strategy must take full account of the Mass Arrivals of Potentially Illegal Immigrants Response Manual published by the Department of the Prime Minister and Cabinet. For access to this manual, contact the National Criminal Investigations Group at [PNHQ](#).

#### Within international waters

The lead agency will be the New Zealand Customs Service. New Zealand Police involvement will be determined in consultation with other agencies and may include contributing to intelligence reports.

Where a foreign government intervenes to stop a vessel, New Zealand Police, in conjunction with Crown Law and MFAT, will liaise with the appropriate authorities to consider whether a criminal investigation should be undertaken.

Where a criminal investigation is supported by the foreign government, in liaison with local law enforcement agencies, priorities include:

- mutual assistance requests, via Crown Law
- securing the vessel and its' contents for forensic examination, under an appropriate legal authority

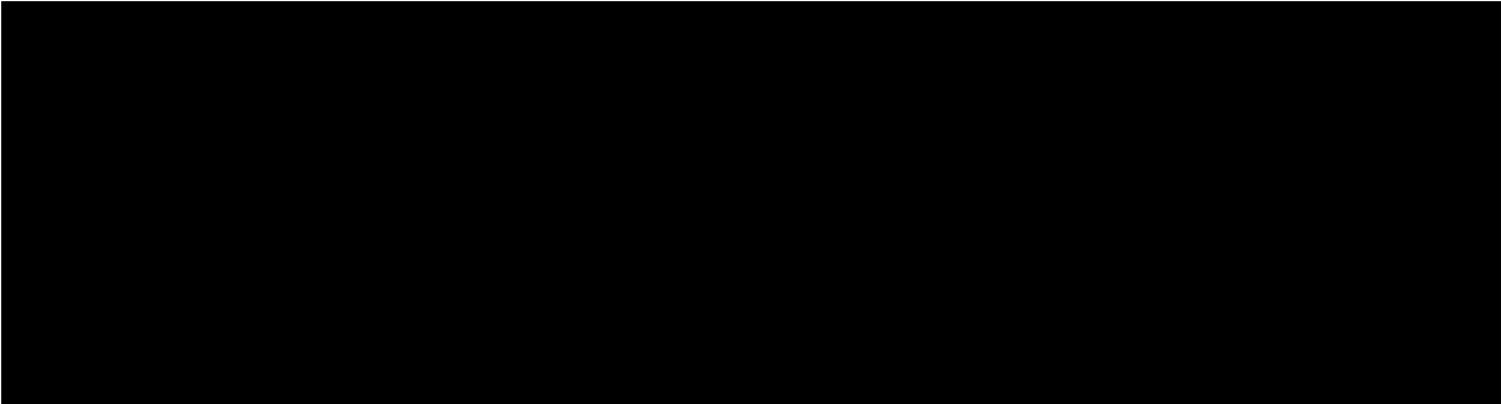
- obtaining access to suspects for interviews
- separating suspects from witnesses
- restricting the movement of potential illegal immigrants around the vessel, to preserve evidence.

When you investigate and gather evidence, you must abide by New Zealand criminal court rules for admissibility of evidence.

### **Within New Zealand territorial waters**

The New Zealand Customs Service is the lead agency for all matters within territorial waters. However, Police will contribute toward intelligence and where a craft demonstrates non-compliance with New Zealand authorities. Police may also contribute toward the process of deciding whether and how to board a vessel and to which quarantine anchorage it will be taken.

Vessels can be boarded without prior notice or permission within 24 nautical miles from shore. In cases of foreign flagged vessels, the flag state's permission is required outside the 24 nautical mile line. Within the contiguous zone which extends between 12 and 24 nautical miles from shore, Police powers are limited to those they may exercise as designated Customs officers. Police are only afforded full powers, protections and legislative authority within territorial waters, i.e. 12 nautical miles from shore.



The New Zealand Customs Service determines the degree of border control processing required (i.e. bio-security, environmental security and medical screening) and whether particular procedures will be conducted onboard the vessel or delayed until the vessel is berthed.

On request from Customs/ Immigration New Zealand, Police will assist to secure the crew and passengers using the Police [Mass arrest planning](#)' model.

In conjunction with the New Zealand Customs Service, Ministry for Primary Industries (Fishing & Agriculture) and the NZ Immigration Service, Police may assist with border control processing including searching of the vessel, crew and passengers (including all cargo and belongings).

### **Securing vessel as a crime scene**

It is imperative Police secure the craft as a crime scene using a Search and Surveillance Act search warrant.

**Note:** Such a warrant may not be obtained to be executed within the contiguous zone. Any documents and other evidence relating to the unlawful arrival of the vessel, its crew and passengers must be secured and any offences under New Zealand domestic legislation investigated. Police will be responsible for maintaining control of the vessel and obtaining authority for its seizure, relocation and disposal.

Under Immigration Act powers, Police may hold illegal migrants in custody pending completion of immigration processing and deliver detainees to designated places of containment in accordance with any warrants of commitment.

On completion of the disembarkation process, Police must:

- coordinate activities with Immigration and Customs
- locate and detain illegal migrants as soon as possible after they have been detected
- apprehend anyone seeking to evade immigration procedures
- initiating standard Police mass arrest processing procedures to record the identity of migrants and assess their risk
- investigate and obtain evidence for criminal prosecutions.

## New Zealand Immigration Service

The New Zealand Immigration Service is the lead agency for:

- all individuals refused entry to New Zealand; and
- all removals from New Zealand.

On request of the New Zealand Immigration Service Police must expediently carry out all possible inquiries, nationally and internationally, to obtain information that will assist the New Zealand Immigration Service to make a determination of whether the person is unlawfully in New Zealand, as defined by section [115](#) Immigration Act 2009.

Together with New Zealand Immigration Service, Police must:

- activate own agency border / mass arrival response plans
- investigate and organise a suitable facility for immigration assessment
- ensure all cultural, health and safety aspects are addressed to a high standard.

The final decision in respect of the disposition of investigations referred to Police by the New Zealand Immigration Service rests with Police. Refer: New Zealand Immigration Service [MOU](#).

## Police powers of entry and search

Sections [466](#) and [293](#) Immigration Act 2009 empower constables to exercise the powers of Immigration Officers e.g. to enter and search aircraft, ships or buildings when they believe on reasonable grounds this is necessary to detect offences against the Immigration Act 2009 or to apprehend a person who is unlawfully in New Zealand. The different powers conferred by sections of the act are summarised below:

- [278](#) - Powers of entry and inspection relating to records of education providers.
- [283](#) - Powers at borders.
- [284](#) - Power of entry and search of craft.
- [285](#) - Power of entry and search at border place.
- [286](#) - Powers of entry and search relating to deportation.
- [287](#) - Special powers pending deportation or turnaround.

Police may encounter unlawful migrants in one of three situations, i.e.:

- when the person has been refused entry to New Zealand; or
- when they are subject to a removal order or deportation order, or
- when large numbers of unlawful migrants enter New Zealand either with or without permission, as part of a mass arrival. Refer '[Suspected illegal entry vessel smuggling \(mass arrivals\)](#)'.

## Persons refused entry to New Zealand

Means someone who arrived in New Zealand from another country and who is required to have an immigration permit, but has failed to meet entry requirements because they:

- failed to apply for a permit in the prescribed manner; or
- are refused a permit; or
- are a stowaway; or
- are a person whose permit has been revoked by an Immigration Officer.

## Persons subject to a removal order or deportation order

For the purposes of serving or executing under the Immigration Act 2009 means any person who is subject to:

- any removal order or deportation order or any copy of such an order; or
- a warrant of commitment; or
- a removal warrant.

Police acting in support of the Immigration Service must follow the process which is outlined in the Memorandum of Understanding between Police and Immigration Service, [Annex 1: Execution of removal orders, removal procedures, deportation orders and process](#).

## Power of arrest - migrant smuggling

Section [98C](#) of the Crimes Act 1961 empowers Police to arrest and detain any person without warrant, who they have good cause to suspect of having committed migrant smuggling.

The New Zealand Courts have jurisdiction over criminal conduct entirely performed outside New Zealand by section [7A](#) of the Crimes Act 1961, including:

- migrant smuggling
- trafficking in people (or active participation in a group engaged in such offences)
- dealings with young persons with a view to their exploitation sexually, or for forced labour, or by the removal of body parts.

The prior consent of the Attorney-General is required to prosecute an offence of people trafficking or migrant smuggling against sections [98C](#) or [98D](#). Section [98F](#) of the Crimes Act 1961 refers.

## Power of arrest - Immigration Act 2009

Under section [313](#) Immigration Act 2009, a constable may, and, if requested by an immigration officer, must, for a purpose set out in section [310](#), arrest a person without warrant and detain them in custody.

### Persons liable to arrest

Under section [309](#) Police may arrest any person who:

- is liable for turnaround or deportation
- is suspected to be liable for turnaround or deportation but who fails to supply satisfactory evidence of their identity when requested under section [280](#) of the Immigration Act 2009
- on reasonable grounds, is suspected of constituting a threat or risk to security.

### Purpose of arrest

The reasons Police may exercise their power of arrest under section [313](#) are for any of the specified in section [310](#) Immigration Act 2009, namely:

- to place the person on the first available craft leaving New Zealand
- to detain the person pending the making of a deportation order
- to detain the person pending satisfactory establishment of their identity.

**Note:** The person arrested may only be detained as long as necessary to achieve the purpose of the arrest and detention, and must not be detained for more than 96 hours.

### Following an arrest

Following any arrest made under section [313](#):

- the constable or immigration officer will serve a deportation order on the detainee
- the constable will endorse the time of arrest on the order and provide copies to the arrestee and immigration officer
- if required, the person will be taken to a Police station, where they will be interviewed by the immigration officer
- Immigration New Zealand will arrange for the person's departure from New Zealand, or if this is not possible within 96 hours of the initial arrest and detention, arrange for the person to be brought before a District Court Judge to be detained under a warrant of commitment, or released on conditions.

For information on how to deal with people in New Zealand who are in breach of immigration laws, see the '[People unlawfully in New Zealand](#)' chapter.

**Note:** For guidance on dealing with migrants who are smuggled voluntarily who fraudulently claim to be the victim of people trafficking, refer to '[Immigration fraud](#)' in this chapter.

# People trafficking

## Objectives

The objectives of a people trafficking investigation are to:

- recognise and address the humanitarian needs of adult and child victims who are likely to be suffering the effects of trauma, abuse and exploitation
- enable victims to assist the Police investigation of their case
- enable trafficking offenders to be successfully prosecuted, thereby deterring/preventing further offending.

## International issues

People trafficking offences involve international dimensions and may involve enquiries overseas. All requests to obtain information from overseas for a criminal investigation and the provision of investigative assistance between the New Zealand Police and other overseas law enforcement agencies must be sent to Interpol Wellington. Interpol provide 24 hour advice and assistance via [PNHQ](#) on telephone numbers listed on the Interpol intranet site.

**Note:** Where enquiries are conducted by overseas authorities on behalf of New Zealand Police in relation to a prosecution based in New Zealand, any documentation used and the standard to which the enquiry is conducted must be appropriate to meet the admissibility requirements of a New Zealand court. In particular, it is vitally important to secure as soon as possible, any vessel used to transport victims of people trafficking, as a crime scene. For guidance, refer to the '[Mass arrivals](#)' section of this chapter.

## Multi-agency approach

Victims of people trafficking have immediate and varied needs for safety and support, which need to be addressed almost simultaneously. A multi agency and whole-of-government approach to the investigation and management of people trafficking cases is essential to enhance the protection of victims, accountability of offenders, and serve as a deterrent to future traffickers. This approach should include other relevant government agencies, appropriate Non Government Organisations (NGOs), community partners and overseas agencies. They should be involved at the earliest stage possible.

Government agency members of the people trafficking Inter-Agency Working Group are:

- [Ministry of Business, Innovation and Employment \(MBIE\)](#) (lead agency)
- New Zealand Immigration Service (See - [Police and New Zealand Immigration Service MOU](#))
- [Ministry of Social Development](#)(MSD)
- [Ministry of Health](#) (MOH)
- [Ministry of Justice](#) (MOJ)
- [New Zealand Customs Service](#)
- [Ministry of Women's Affairs](#)
- [Ministry of Foreign Affairs and Trade](#) (MFAT)
- [Department of Prime Minister and Cabinet](#)
- New Zealand Police.

## Information sharing

As criminal groups diversify into areas of offending such as people trafficking that are the responsibility and interest of a wide range of government agencies, inter agency co-operation is increasingly important. A vital component of such co-operation is the effective and timely exchange of information between Police and other government agencies. This is appropriate and necessary to combat organised, trans-national, complex, and other crime that impacts upon New Zealand and New Zealand's interests.

Any exchanges of information between agencies must follow the provisions of the [Privacy Act 2020](#) and the Official Information Act 1982 (OIA). The main consideration for assessing the privacy interest associated with a request for information is Information Privacy Principle 11 in section [6](#) of the Privacy Act 2020.

## Identifying people trafficking

Front line constables are the eyes and ears of Police. It is they who attend incidents and develop knowledge of the individuals and

groups within the communities they police.

## Indicators

The following are indicators of people trafficking situations. These facts may be established by either observing or asking questions of the victim:

- **Age:** Generally, the older the person is, the less likely it is that the case involves trafficking. This is particularly so in sexual exploitation cases as there is little 'client demand' for older people. Similarly labour exploitation targets younger victims who are more productive.
- **Gender:** Sex trafficking predominantly affects females.
- Live in poor or substandard **accommodation**.
- Unusually **high security around premises**, designed more to keep persons inside rather than out (e.g. locks on outside of doors).
- **Brothels** advertising 'exotic' women.
- **Prostitutes**, workers or cooks working in brothels or other workplaces who:
  - do not speak English
  - have an unusual fear of authorities
  - are withdrawn when spoken to (e.g. avoid eye contact/avoid answering questions)
  - live at their place of work
  - another person observes them or speaks on their behalf
  - answer questions as though the answers were prepared in advance
  - are never seen outside the work environment or brothel, or never seen alone
  - are subject to control over their movements
  - work excessive hours with no time off for sightseeing / shopping etc
  - are without identification documents or their documents are held by another
  - do not know their banking details / immigration status etc
  - have no communication with their country of origin
  - have no friends, family or contacts in New Zealand
  - have a debt, particularly to their employer, often having engaged in a contract or loan to cover their initial costs
  - have limited practical clothing and possessions
  - have vague travel plans and little knowledge about New Zealand
  - have items of baggage that are not consistent with their purpose of travel
  - have travelled extensively to countries considered high risk of sex workers
  - signs of emotional distress, physical neglect or substance abuse.

## Investigative structure

The investigative options must reflect the three components of trafficking; geographic, structural and commercial.

### Geographic

Country of origin	recruitment and export
Country of transit	transportation
Country of destination	reception and exploitation

Within these three geographic divisions, traffickers must necessarily become involved in one or more of the following structural activities.

### Structural

Advertising	as part of the recruitment or later exploitation and profit making process
Renting /purchasing premises	premises purchased or rented to be used as 'safe houses' and/or brothels
transportation	identity and travel documents - transit process, whether legal or unlawful
Communications	across the recruitment, exploitation and profit channels
Financial transactions	applicable to all above processes in which funds and profits are secured. See 'Commercial' section, next below.

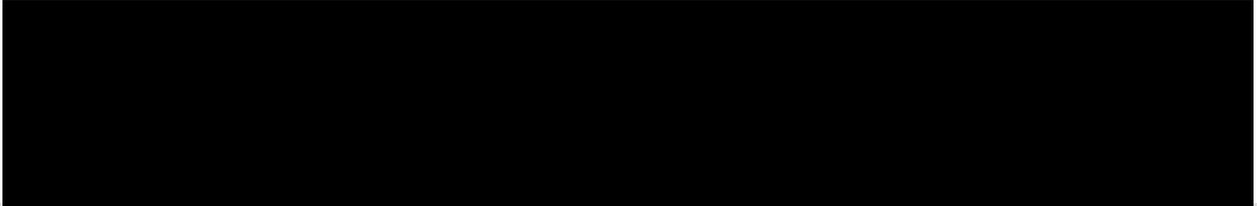
**Commercial**

Applicable to all geographic and structural components	<p>Financial investigation has a key role in successful investigation of people trafficking. Financial aspects of people trafficking are present in at least two key aspects:</p> <ol style="list-style-type: none"> <li>1. The crime primarily concerns money and people engaged in people trafficking crimes must become involved in financial activities, for example: <ul style="list-style-type: none"> <li>- initial investment to create infrastructure</li> <li>- costs of delivering people for exploitation</li> <li>- ongoing costs of managing the exploitation process and proceeds</li> <li>- laundering and moving profits.</li> </ul> </li> <li>2. People trafficking crimes take time to establish / develop and become a lifestyle crime. Other aspects of the offender's lifestyle, such as the mode of travel, expenditure on luxury items such as cars and jewellery, and leisure activities will point toward the offenders illegitimate revenues.</li> </ol>
--	---

**Note:** When a criminal investigation is conducted into people trafficking offences, a parallel financial crime investigation should also take place. The Financial Crime Group including Asset Recovery Units should be consulted.

**Investigative approaches**

Depending upon the specific features of each case, the investigative approach options for this crime-type broadly fall into three categories of Reactive investigation, Proactive investigation and Disruption investigation.

<p><b>Reactive investigation</b></p>	<p>Victim led and often initiated by an approach to Police by the victim or another person acting on behalf of the victim.</p> <ul style="list-style-type: none"> <li>- Is there any requirement to act immediately?</li> <li>- Have any witnesses been identified?</li> <li>- If so, are they willing to support the investigation and give evidence?</li> <li>- Is it safe for them to give evidence?</li> <li>- Does any evidence exist to corroborate the alleged crime?</li> <li>- Is witness protection required?</li> </ul>
<p><b>Proactive investigation</b></p>	<p>Police led. A combination of standard investigation techniques supplemented by intelligence resources to identify and locate the traffickers, gather evidence and instigate proceedings against them.</p> 
<p><b>Disruption investigation</b></p>	<p>Particularly appropriate in cases where:</p> <ul style="list-style-type: none"> <li>- the level of risk to victim or other person(s) demands an immediate response</li> <li>- there is a need to address an identified problem quickly</li> <li>- pro-active and reactive approaches are not practicable options</li> <li>- legislation precludes the use of proactive tactics.</li> </ul> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>- Not a long term solution</li> <li>- May simply displace the problem to another location</li> <li>- May not cause the problem to cease but drive it 'under ground' by causing offenders to become more discreet</li> <li>- Use of a multi-agency approach is recommended.</li> </ul>

## Victims

It would be difficult to overstate the critical role of victim liaison in the successful investigation of people trafficking. International experience has shown that securing successful prosecutions against traffickers relies heavily on victim / witness statements. It is therefore essential victims feel empowered to participate in the criminal justice process.

### Victim profiles

People traffickers exploit the vulnerabilities of their victims, those who are vulnerable to human trafficking because:

- they started out believing they were to be smuggled as illegal migrants
- they are stateless persons having had all proof of their country of origin deliberately destroyed or taken from them
- they lack financial support
- they may lack the ability to speak in anything other than their native language, increasing their vulnerability and deterring them from considering escape
- 80 % of victims are female
- 50 % of victims are minors.

**Note:** Adult victims who have been exploited for sexual servitude should be dealt with in accordance with the established principles of '[Adult sexual assault investigation \(ASAI\) policy and procedures](#)'.

Child victims who have been exploited must be treated in accordance with the principles of the '[Child protection investigation policy and procedures](#)' Police Manual chapter.

### Victims' needs

Victims of trafficking (both adults and children) are often traumatised by the exploitation and abuse, and have unique humanitarian needs for immediate support, assistance and rehabilitation. Their primary focus will be their own safety, possibly their families' safety as well as their own needs (food, housing, medication etc). These issues should be addressed so the victim reaches a position where they feel able to assist the Police investigation, and therefore prosecution of the offender(s).

Trafficked victims can have no possessions other than the clothes they are wearing. Police, together with other government departments; are responsible for ensuring victims of people trafficking are provided with adequate assistance. This includes providing for their immediate as well as longer term welfare needs, such as:

- protecting the victims' personal safety
- supporting them through the criminal prosecution process
- addressing their humanitarian needs in a timely fashion, such as:
  - accommodation
  - immigration status (refer '[Immigration issues](#)' and '[Police certification](#)')
  - health services such as medication, assessment and treatment
  - social service and financial assistance
  - assistance with repatriation
  - interpreting services
  - advising next of kin who are situated overseas.

**Note:** Where a child is identified as a victim of people trafficking, immediate and close liaison with [Child, Youth & Family \(CYF\)](#) will be required.

The victim will require ongoing support and rehabilitation from initial contact, formal interview, court proceedings, final or further action and immigration review through to possible resettlement.

In line with the requirements of the Trafficking Protocol, the Ministry of Social Development's operational arm, Work and Income New Zealand, will offer tailored financial assistance to suit the needs of victims of trafficking. Relevant government agencies will also provide publicly-funded programmes and services on a par with New Zealand residents including housing, health, disability and employment.

The level of care provided to victims by Police must be appropriate and adequate to meet the needs of the victim. Make sure the level of assistance provided is not excessive, and does not create a perception that assistance is provided as an inducement to support the Police investigation or to support prosecution of the offender(s). Any such perception could adversely affect prosecution outcomes.

## Victim reluctance

Overseas intervention and research has indicated a number of factors which influence victims to become reluctant to seek help. This table shows some of the key factors.

Reason	Consequence
Debt bondage	Traffickers often impose a debt and interest charges on victims for transportation costs etc. The victim may receive payment for their services such as sexual exploitation, but can often never earn enough to achieve repayment of the debt. Debts are either imposed on the victim, or their family and friends in their country of origin.
Isolation	Traffickers employ various techniques to psychologically and physically isolate victims, including: <ul style="list-style-type: none"> <li>- retention or destruction of victims' passport or identity papers</li> <li>- threats made to inform authorities (a trafficked person may have begun as a smuggled migrant)</li> <li>- language barriers</li> <li>- physical imprisonment.</li> </ul>
Drug dependency	Traffickers who coerce people into prostitution may force or encourage victims to use unlawful drugs as a means of sedation and control.
Shame and stigma	Victims of trafficking for sexual servitude and people from some cultures may be particularly reluctant to engage with the criminal justice system. This may be due to their knowledge or perceptions of corruption in their own country.
Threats of violence and intimidation	Traffickers may use deception or coercion to transport victims abroad. Even where victims are deceived and initially agree to be transported, traffickers often use violence and intimidation to control victims, once the victim becomes aware of the exploitative purpose of their journey.
Reprisals to friends & family	See ' <a href="#">Risks to victim</a> ' section below.
Mistrust of authorities	Victims of trafficking often come from countries with corrupt public officials including law enforcement officers. Overseas law enforcement officers are complicit in some cases of trafficking. For such reasons, victims may be reluctant to cooperate with Police.

## Risks to victims

People trafficking offences are predominantly committed by organised criminal enterprises. By assisting Police, victims of people trafficking may be placing themselves in danger from the trafficker(s) or their associates within New Zealand. This danger may extend to the trafficked person in their country of origin should they return there, and to their friends and family.

## Responsibilities of respective Government agencies

The respective responsibilities of Government agencies involved are summarised in this table.

Agency	Action
Police	Identify/certify the victim.
Police	Address the victim's immediate needs.
MBIE	Establish whether the victim wishes to return to their country of origin.

<b>Where the victim wishes to return to their country of origin</b>	
Police/ MBIE/ MFAT	Police will assess any associated risks to the safety of the victim and their family, in consultation with MBIE and MFAT.
Police	Determine whether any risks associated with the victim and their family returning to their country of origin, are considered acceptable, and inform the MBIE.
MBIE	Make travel arrangements, where the victim wishes to return to their country of origin and any risks are considered acceptable.
MFAT	Notify the country of origin.
MBIE	Where risks are considered unacceptable, refer to asylum procedures and/or other protective provisions.

<b>Where the victim does not wish to return to their country of origin</b> (or does not continue to meet immigration policy requirements).	
MBIE	Regularise the victim's immigration status.
MSD	Case-manage the victim's access to social services, in conjunction with Ministry of Health, NGOs and service providers.
MBIE	Determine whether the victim continues to meet requirements of the immigration policy.
If the victim continues to meet immigration policy requirements.	
Police	Provide ongoing protection for the victim, if required.
MBIE	Coordinate reintegration, and settlement support
MSD	Continue case-management to meet the victim's long term needs.

<b>Where the victim does not continue to meet immigration policy requirements</b>	
Police	Determine whether any risks associated with the victim and their family returning to their country of origin, are considered acceptable, and inform the MBIE.
MBIE	Make travel arrangements, where risks are considered acceptable and the victim wishes to their country of origin.
MFAT	Notify the country of origin.
MBIE	Where risks are considered unacceptable, refer asylum procedures and/or other protective provisions.

## Victim interviews

In cases where the trafficked person has been located, has escaped or been liberated and they are no longer at risk, a thorough interview of the victim is vitally important for evidential purposes.

The interview of victims should be carried out as soon as possible, subject to their well-being and level of trauma experienced. The interview process will inevitably require an extended and detailed interview and should not be rushed. People trafficking victims should be treated as key witnesses.

Victims may not disclose their full story in the first interview but may open up during subsequent interviews, as they gain confidence, trust and security. Victim interviews should be staggered and planned.

The interview of the victim should be:

- conducted by an experienced investigator, preferably a [National Standard Level 3 trained Investigative Interviewer](#) (or a specialist child evidential interviewer, in the case of a child victim)
- recorded on video as per the Video Recorded Interview procedure
- conducted in accordance with the principles of the '[Investigative Interviewing Witness Guide](#)'
- conducted as a cognitive interview to establish what the victim recalls in terms of what they heard, smelt, felt and touched throughout their captivity. The victim may have been bound, gagged, blindfolded or drugged during their period of captivity.

Police should consider making an application for the victim to give evidence in alternative ways as provided for under section [103](#) of the Evidence Act 2006. Criteria for such applications include the trauma suffered by the victim, the victim's fear of intimidation and the nature of the evidence the victim is expected to provide.

## Child victims

International data indicates 50% of all people trafficking victims are under 18 years of age, the age of a 'child' as specified by New Zealand legislation.

Child victims who have been exploited must be treated in accordance with the principles of the '[Child protection investigation policy and procedures](#)' Police Manual chapter and interviews of child victims should be conducted by a specialist child evidential interviewer.

Any unaccompanied child victim of trafficking falls under the care of the Ministry of Social Development (MSD); specifically under its operational arm, [Child, Youth & Family \(CYF\)](#). A legal guardian or representative will be appointed for any unaccompanied child, to support a repatriation or residence decision.

If a child is trafficked with their parent, immigration decision-makers will work to ensure that the family remains together, where that is in the best interest of the child.

Children under 18 years who are trafficked to New Zealand are able to apply for residence in their own right immediately, whether or not they have obstructed the Police investigation. This recognises the special circumstances of children who may be at greater risk of being re-trafficked if returned to their home country. Child victims are also able to access publicly-funded education while on their temporary visa. For further details, see the section '[Immigration issues - Child victims](#)' below.

People trafficking victims of any age are encompassed in offences under section [98D](#) of the Crimes Act 1961.

## Offence of dealing in children under 18 years

Section [98AA](#) of the Crimes Act 1961 relates to dealing in people aged under 18 for prohibited purposes including sexual exploitation, removal of body parts and forced labour. Although primarily designed to address offences committed within New Zealand, one prohibited act (under section [98AA\(1\)\(e\)](#)) is importing persons under 18 for one of the specified exploitative purposes (sexual exploitation, removal of body parts or forced labour).

When dealing with importing of victims aged less than 18 years for exploitation, offences under section [98AA](#) are complete without any requirement to prove any coercion; deception; fraud or abduction etc, unlike offences of people trafficking offences under section [98D](#).

## Immigration issues

Victims of people trafficking are often stateless persons as their proof of their country of origin and identification documents are deliberately destroyed.

### Department of Labour - Victims of Trafficking policy

Under the policy, adult victims of trafficking will be issued a 12 month temporary resident visa and thereby remain lawfully in New Zealand. This entitlement is conditional on the victim meeting the '[Eligibility for a temporary residence visa](#)' which includes Police having certified that the person is believed to be a victim of trafficking. In cases where Police confirm the victim has obstructed the Police investigation, the person would not be eligible for an extension of the temporary visa under the policy.

### Eligibility for a temporary residence visa

Under the 'Victims of Trafficking Policy', adult trafficking victims must meet the following criteria to be eligible to apply for a temporary residence visa. They **must**:

- have been certified by Police that they are believed to be a victim of people trafficking, **and**
- not have obstructed the Police investigation of their people trafficking case during the temporary visa period (as confirmed by Police), **and**
- satisfy usual health and character criteria (or be granted a health and/or character waiver), **and**
- be considered to be either:
  - to be endangered in their country of origin as a consequence of being trafficked, **or**
  - at risk of being re-victimised or suffering significant social and financial hardship as a result of the stigma of being trafficked, if they were to return to their country of origin.

Victims who require ongoing protection may also be eligible for a longer term immigration resolution provided they meet the criteria of the immigration policy.

### Certification of victims

Under the agreed policy, Police are responsible for certifying a person as being a victim of people trafficking. Certification will be based on an assessment of available evidence.

Police certifications can be issued at the time when a case of trafficking is identified, but can also be later withdrawn. This is to mitigate the risk of immigration fraud if further investigation reveals the trafficking claims are not genuine (covered further under 'Immigration issues').

This Police certification must be endorsed and signed by the relevant District Manager Criminal Investigations, or their authorised deputy. Police certification of a victim will be based on an assessment of available evidence and witness statements.

Police certificates will be issued when there is a reasonable suspicion the person in question has been trafficked to New Zealand pursuant to section [98D](#) of the Crimes Act 1961 (amended in 2002), provided the victim meets the criteria required for certification.

Police certification will take the form of a letter confirming a Police investigation is being conducted into an offence of people trafficking as defined by section [98D](#) of the Crimes Act 1961, that the person named in the letter is suspected of being a victim of that offence and that they have not obstructed the Police investigation of their people trafficking case. Refer 'Template Letter':

-

 People trafficking and migrant smuggling Certification Letter.doc

181 KB

Police certification will trigger a victims' eligibility to a range of social support services which a person on a temporary immigration permit would otherwise not have access to.

During the 12 month temporary visa period, victims will be able to:

- access financial assistance provided under the Special Needs Grants Ministerial Welfare Programme
- access publicly-funded health services, subject to a provision to this effect in a new Eligibility Direction issued by the Minister of Health

- co-operate, if willing, with the Police investigation into their trafficking case
- receive information about the court process from Court Victims Advisors
- access interpreting services as arranged by each agency providing the particular service. For example, Immigration New Zealand arranges interpreters to assist with communicating immigration advice as required
- work legally, and
- organise their personal affairs so that they may return to their country of origin voluntarily, if that is feasible.

Trafficking victims who do not meet the criteria for residence under the policy may seek residence through other avenues. They may make refugee and/or protection claims under United Nations conventions and where they are liable for deportation, appeal rights are available.

## **Child victims**

Under the 'Victims of Trafficking Policy', victims are considered a 'child' for immigration purposes when they are under the age of 18 years at the time they are identified. An application for residence can be made immediately in respect of child victims.

Child trafficking victims will be issued a 12-month temporary visa, while decisions about repatriation or residence are taken. Child victims on a temporary visa will be eligible to access publicly-funded education as well as social assistance.

The eligibility criteria for child trafficking victims differ from those of adults. Child victims are immediately eligible for residence, regardless of whether or not the child obstructs the Police investigation. Any obstruction by the child will not be a factor in the decision regarding their residence.

Instead, decisions of a child victim's residence or repatriation will be based on the 'best interest of the child' considerations.

## **Risks**

### **Perceived inducement to testify**

The 'Victims of Trafficking Policy' provides a pathway to residence only for those victims who do not obstruct the Police investigation into the trafficking offence, and who also require ongoing protection.

The policy is framed to minimise the risk of a claim of inducement being made against a victim who chooses to co-operate with the Police investigation of the trafficking case or prosecution of an alleged trafficker. Victims are not offered a positive inducement to co-operate with the Police investigation nor penalised if they choose to remain silent when questioned and not co-operate. The test for eligibility for residence is that they must not obstruct the Police investigation. Examples of obstruction include deliberately misleading Police, destroying evidence, or colluding with their alleged trafficker by passing on information such as the questions Police asked.

Any inducement risk is further mitigated by the grant of residence to victims who meet the residence criteria, regardless of the stage or the outcome of the criminal justice process. The investigation and prosecution of traffickers may take two years or more and it is highly likely that granting of residence to an eligible victim would be made long before the alleged trafficker came to trial.

In providing assistance to a victim of people trafficking, ensure the level of assistance provided to the victim by Police, would not be perceived as an inducement intended to encourage the victim to provide evidence to support prosecution of the offender(s). Any such perception could adversely affect prosecution of offenders. Nevertheless, the level of support provided to victims of people trafficking must be adequate and effective in meeting victims' needs.

### **Immigration fraud**

Potential exists for people (particularly migrants who are smuggled voluntarily) to fraudulently claim to be a victim of trafficking, in order to access legal immigration status. This possibility must not be permitted to undermine the professional service Police provide to genuine victims of people trafficking.

These risks are mitigated by the requirement for victims to hold Police-certification in order to be eligible for the temporary visa (and therefore access social assistance). Police certification must also be maintained in order to apply for residence. Police may revoke certification at any time if a victim's claims of trafficking are discovered on further investigation, to be false. A visa holder is liable for deportation if the visa was obtained through fraud, forgery, false or misleading representation or concealment of relevant information.

## **Organised Crime - people traffickers**

International evidence has established that people trafficking crime can generate vast amounts of revenue and that organised crime groups are largely responsible for these crimes. Organised crime groups exist within New Zealand, often with international connections.

## Offenders

This section contains the following topics:

- Related legislation
  - Crimes Act 1961
  - Prostitution Reform Act 2003
  - Immigration Act 2009

Those identified as responsible for committing offences of people trafficking and their accomplices should be prosecuted to the full extent of the law.

Due to the exploitative nature of people trafficking, further legislation is referenced to enable investigators to reach appropriate charging decisions, particularly where offences involve sexual servitude of adults and those under 18 years. See '[Related legislation](#)'.

While people trafficking and migrant smuggling offences are predominantly committed by organised criminal enterprises, participation in an organised criminal group is an offence against section [98A](#) of the Crimes Act 1961.

Traffickers are often composed of a loosely based family organisation with different family members performing different roles such as recruiter, transporter or exploiter.

Proceedings for offences against section [98C](#) or [98D](#) require the prior consent of the Attorney General. However a person may be arrested for an alleged offence against sections [98C](#) or [98D](#), or a warrant issued and executed for their arrest, and the person may be remanded in custody or on bail, even though consent to bring proceedings against the person has not been obtained from the Attorney-General.

## Related legislation

The additional legislation specified below may assist investigators to reach appropriate charging decisions when dealing with people trafficking and migrant smuggling offenders.

### Crimes Act 1961

Section	Offence
<a href="#">98</a>	Dealing in slaves.
<a href="#">98A</a>	Participating in organised criminal group.
<a href="#">98AA</a>	Dealing in people aged under 18 within New Zealand for prohibited purposes, including sexual exploitation, removal of body parts or forced labour, and the importing of persons under 18 for exploitation.
<a href="#">98B</a>	Definitions of terms and concepts relevant to migrant smuggling and people trafficking offences, such as coercion and deception.
<a href="#">98C</a>	Smuggling migrants.
<a href="#">98D</a>	Trafficking in people by means of coercion or deception.
<a href="#">98E</a>	Aggravating factors concerning elements of the offence and sentencing.
<a href="#">208</a>	Abduction for purposes of marriage or sexual connection.
<a href="#">209</a>	Kidnapping.
<a href="#">209A</a>	Young person under 16 cannot consent to being taken away or detained.
<a href="#">210</a>	Abduction of young person under 16.

### Prostitution Reform Act 2003

Section	Offence
<a href="#">16</a>	Inducing or compelling a person to provide sexual services or earnings from prostitution.
<a href="#">21</a>	Assisting a person under 18 years to provide commercial sexual services.
<a href="#">22</a>	Receiving earnings from commercial sexual services provided by a person under 18 years.
<a href="#">23</a>	Contracting for sexual services from, or be a client of, a person under 18 years.

**Note:** Other provisions may apply under [Health and Safety in Employment Act 1992](#) and the [Employment Relations Act 2000](#) and the Employment Relations Act 2000. Where breaches of labour laws are suspected, advice may be sought from the [Ministry of Business, Innovation and Employment \(MBIE\)](#), who will also investigate any cases referred by Police, and where practicable, prosecute offences committed under the provisions of the Immigration Act 1987.

### Immigration Act 2009

Section	Offence
<a href="#">350(1)</a> <a href="#">(a) &amp; (b)</a>	Employing persons not legally entitled to work in New Zealand.
<a href="#">351(1)</a> <a href="#">(b)</a>	Employer exploiting people by hindering or preventing the person from: <ul style="list-style-type: none"> <li>- leaving employment</li> <li>- leaving New Zealand</li> <li>- obtaining their legal entitlements</li> <li>- disclosing the circumstances of their work for the employer, to any person.</li> </ul> Punishable by up to 7 years imprisonment or a \$100,000 fine, or both.
<a href="#">351(1)</a> <a href="#">(a)</a>	Prevent a person by failing to comply with minimum employment standards such as minimum wages, holiday pay or wage protection - punishable by up to 7 years imprisonment or a \$100,000 fine, or both

This table shows Immigration Act offences relevant to people unlawfully in New Zealand.

Section	Offence
<a href="#">342</a>	Providing false information in support of an immigration application.
<a href="#">343</a>	Aiding/abetting/counselling/inciting/procuring another person to be in New Zealand unlawfully or to breach permit conditions.
<a href="#">344</a>	Obstruction or failing to meet requirements of an immigration officer.
<a href="#">345</a>	Improper dealings with immigration or identity documents.
<a href="#">346</a>	Impersonating immigration officer or a refugee and protection officer.
<a href="#">347</a>	Publishing/disseminating information, knowing it to be false or misleading, to influence the immigration of any (class of) person.
<a href="#">348</a>	Altering documents required for immigration act purposes.
<a href="#">349</a>	Offences relating to carriers, and persons in charge, of craft.
<a href="#">354</a>	Failure to maintain confidentiality in relation to refugee or protection matters.

## **Offensive weapons, knives and disabling substances**

# Table of Contents

Table of Contents	2
Policy statement and principles	3
What	3
Why	3
How	3
Overview	4
Introduction	4
Health and safety duties	4
Definitions	5
Offences	6
Offences reported and recorded	7
Offences reported to, or discovered by Police must be recorded	7
Code book - charge wording, penalties and more	7
Powers	8
To search and seize	8
Warrantless searches of people for knives, offensive weapons and disabling substances	8
Stopping and searching vehicles for knives, offensive weapons and disabling substances	8
Search ng veh c es	8
Stopp ng veh c es	8
Duties and obligations	8
To arrest	9
Sentence for second conviction	9
Discretion	10
Introduction	10
Example when discretion may apply	10
K rpans (kn ves carr ed for re gous reasons) Def n t on and symbo sm	10
Suspect interview, arrest or detention	10
Suspect nterv ew	10
Arrest or detent on	11
Av at on Secur ty	11
Securing and storing Kirpans	11
Further nformat on	11
Dealing with possession of offensive weapons etc in a public place	12
Initial action	12
Action at the scene for searching person	12
Action at the scene for stopping and searching vehicle	13
Evidence	15
Related chapters	15
Dealing with possession of offensive weapons etc in any place	16
Initial action	16
Action at the scene	16
Evidence	18
Related chapters	18

## Policy statement and principles

### What

Offences relating to offensive weapons, knives and disabling substances are contained under section [202A](#) of the Crimes Act 1961 and section [13A](#) of the Summary Offences Act 1981.

Police powers to stop vehicles, detain, search for and seize offensive weapons, knives and disabling substances are authorised under the [Search and Surveillance Act 2012](#).

### Why

The unlawful possession and use of offensives weapons, knives and disabling substances in our communities challenges the Police purpose of keeping people safe and making them feel safe.

Police have a responsibility to prevent harm, investigate and apprehend offenders who unlawfully possess and use weapons etc. to assault and/or intimidate people.

### How

Police will ensure:

- they continue to work pro-actively with partnerships, prevention first, victim and community focused strategies targeting offensive weapons, knives and disabling substances, and
- offences are investigated thoroughly, Police powers applied and resolution action taken as deemed appropriate.

## Overview

### Introduction

his explains:

- legislation relating to offensive weapons, knives and disabling substances
- your powers and procedures when dealing with offensive weapons and related items.

### Health and safety duties

The expectation of the Commissioner and the [Health and Safety at Work Act 2015](#) is that employees investigating deception offences will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of themselves or others, comply as far as they are reasonably able to with any reasonable instruction that is given to adhere with the Act and its regulations.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace. See also '[Health, safety and wellbeing](#)' for keeping our communities safe, and ensuring our people are safe and feel safe.

## Definitions

This table details definitions of terms under section [202A](#) of the Crimes Act 1961 or as indicated.

Term	Definition
<b>Disabling substance</b>	'Disabling substance' means any substance produced for the purpose of disabling, or any anaesthetising or other substance intended by any person possessing it for disabling any person.
<b>Intention to commit an offence</b>	<p>A 'prima facie intention to commit an offence involving bodily injury' means that the circumstances indicated, "at first appearance" or "on the face of it", that the person had an intention to:</p> <ul style="list-style-type: none"> <li>- use the weapon to cause bodily injury, or</li> <li>- threaten or cause the fear of violence.</li> </ul> <p><b>Note:</b> This definition of intention also applies when deciding whether or not an article is an offensive weapon for the purposes of section <a href="#">202A(1)</a> - <a href="#">Vereulen v Police</a>, 1989, High Court - Auckland, AP180/89.</p>
<b>Knives</b>	The ordinary meaning applies: cutting tool or weapon consisting of a sharp-edged blade with a handle.
<b>Offensive weapon</b>	<p>'Offensive weapon' possessed in a public place means any article made or altered for use for causing bodily injury, or intended by the person having it with them for such use.</p> <p>'Offensive weapon' possessed in any place means any article capable of being used for causing bodily injury'.</p> <p><b>Note:</b> The term 'offensive weapon' includes four overlapping classes of article as follows:</p> <ul style="list-style-type: none"> <li>- an article that is made for use for causing bodily injury (e.g. knuckleduster, cosh; possession must be in <b>public place</b>) (s<a href="#">202A(1)</a> and(4)(a))</li> <li>- an article altered for use for causing bodily injury (e.g. broken bottle, fork that has been bent so that it can be used as a knuckleduster; possession must be in <b>public place</b>) (s<a href="#">202A(1)</a> and(4)(a))</li> <li>- an article that has another use, but is intended for use to cause bodily injury by the person possessing it (e.g. baseball bat; possession must be in <b>public place</b>) (s<a href="#">202A(1)</a> and(4)(a))</li> <li>- an article capable of being used for causing bodily injury (must be in circumstances that prima facie show an intention to use it to commit an offence involving bodily injury or the threat or fear of violence, e.g. knife, baseball bat, bottle, handbag; possession may be in <b>any place</b>) (s<a href="#">202A(2)</a> and(4)(b)).</li> </ul>
<b>Public place</b>	'Public place' means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place. Public place includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward. (section <a href="#">2</a> of the Summary Offences Act 1981)
<b>Made or altered</b>	Refers to any object that has been especially created or changed, e.g. a branch that has been whittled down to form an arrow, a softball bat enhanced with nails.
<b>Cause bodily injury</b>	Means to be responsible for the physical injuring or maiming of someone.
<b>Any article</b>	In this context any tangible thing that is either made for, or used to cause bodily injury.

## Offences

Offence	A person is liable to...	Category
<p>Possessing a knife in a <b>public place</b>. Section <a href="#">13A(1)</a> - Summary Offences Act 1981</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>- A charge under this Act may be more appropriate when dealing with young first offenders than under section <a href="#">202A</a> of the Crimes Act 1961.</li> <li>- The Court may order that the knife be forfeited to the Crown under section <a href="#">13A(2)</a>.</li> <li>- No requirement to prove any criminal intent, simple possession of knife without reasonable excuse is sufficient.</li> <li>- No requirement to prove in any particular case that the knife is an offensive weapon.</li> </ul> <p>See the <a href="#">commentary</a> in Westlaw NZ for further explanation of the terms applied to section 13A of the Summary Offences Act 1981.</p>	<ul style="list-style-type: none"> <li>- imprisonment for a term not exceeding 3 months, or</li> <li>- a fine not exceeding \$2,000.</li> </ul>	Category 2 offence
<p>Possession of a knife, an offensive weapon or a disabling substance in <b>public place</b>. Section <a href="#">202A(4)(a)</a> - Crimes Act 1961</p> <p><b>Note:</b> You must prove that person had possession without lawful authority or reasonable excuse.</p> <p>See the <a href="#">commentary</a> in Westlaw NZ for further explanation of the terms applied to section 13A of the Summary Offences Act 1981.</p>	<ul style="list-style-type: none"> <li>- imprisonment for a term not exceeding 3 years.</li> </ul>	Category 3 offence
<p>Possession of an offensive weapon or a disabling substance in <b>any place</b> with prima facie intention to use it to commit an offence. Section <a href="#">202A(4)(b)</a> - Crimes Act 1961</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>- Offensive weapon for an offence under section 202A(4)(b) includes a knife.</li> <li>- It is a defence if the person charged proves that they did not intend to use the offensive weapon or disabling substance to commit an offence involving bodily injury or the threat or fear of violence.</li> </ul> <p>See the <a href="#">commentary</a> in Westlaw NZ for further explanation of the terms applied to section 13A of the Summary Offences Act 1981.</p>	<ul style="list-style-type: none"> <li>- imprisonment for a term not exceeding 3 years.</li> </ul>	Category 3 offence

## Offences reported and recorded

### Offences reported to, or discovered by Police must be recorded

The National Recording Standard [section 1.3](#) contains rules and principles governing recording of offences and weapons and section 2.10 for weapons offences coding guide.

[Recording offences](#) intranet page provides an overview of these rules and contains links to training and resources.

### Code book - charge wording, penalties and more

The [Legislative Reference Table \(LRT - Code Book\)](#) is a search tool that links to information about all offence, incident and task codes. The code book provides in-depth information for each offence code.

## Powers

### To search and seize

The [Search and Surveillance Act 2012](#) provides constables with powers to stop and search vehicles, search people and seize knives, offensive weapons and disabling substances.

### Warrantless searches of people for knives, offensive weapons and disabling substances

You may search a person without a warrant if you have reasonable grounds to suspect the person is committing an offence against section [202A\(4\)\(a\)](#) of the Crimes Act 1961 (which relates to possession of knives, offensive weapons, and disabling substances in **public places**).

(s[27](#) Search and Surveillance Act 2012)

**Note:** The warrantless search power under section [27](#) does not permit a search of a person on suspicion of an offence against section [202A\(4\)\(b\)](#) (possession of knives, offensive weapons and disabling substances in **any place**).

### Stopping and searching vehicles for knives, offensive weapons and disabling substances

#### Searching vehicles

If you have reasonable grounds to...	you may...
<p><b>suspect that:</b></p> <ul style="list-style-type: none"> <li>- a person travelling in a vehicle (or who has alighted from it) is committing an offence in <b>public place</b> against section <a href="#">202A(4)(a)</a> of the Crimes Act 1961, <b>and</b></li> <li>- the vehicle contains a knife, offensive weapon, or disabling substance</li> </ul> <p>(s<a href="#">28</a> Search and Surveillance Act 2012)</p>	<p>without a warrant:</p> <ul style="list-style-type: none"> <li>- search the vehicle.</li> </ul>

**Note:** The warrantless search power under section [28](#) does not permit a search of a vehicle on suspicion of an offence against section [202A\(4\)\(b\)](#) (possession of knives, offensive weapons and disabling substances in **any place**).

#### Stopping vehicles

Section [121\(1\)](#) of the Search and Surveillance Act 2012 authorises the stopping of a vehicle to conduct a search under section [28](#) of the Search and Surveillance Act 2012. You must also comply with the obligations set out in section [131](#) of the Search and Surveillance Act 2012

**Note:** You must be satisfied that you have the grounds to search the vehicle, i.e. reasonable grounds to suspect.

See '[Law Note: Inquiring as to a reasonable excuse for possessing an offensive weapon before conducting a search](#)' relating to *McRae v Police* [2017] NZHC 2255 for the facts, Court decision and legal comment.

### Duties and obligations

When you exercise a power under sections [27](#) or [28](#) of the Search and Surveillance Act 2012, you must comply with the duties and obligations imposed by:

- [Part 4](#) of the Act, including:
  - section [125](#) obligations when searching a person - identify yourself by name, state the search is pursuant to the search and Surveillance Act 2012, state the reason for the search (reasonable grounds to suspect person in possession of offensive weapon, knife or disabling substance), show Police identification if not in uniform.
  - section [121\(3\)](#) (at request of any person affected by the stopping power identify yourself, state the Search and Surveillance Act 2012 and reason for the search, and produce identification if not in uniform)
  - section [131](#) obligations when searching a vehicle - identify yourself by name, state the reason for the search (reasonable grounds to suspect there is an offensive weapon, knife or disabling substance in the vehicle), state your intention to enter and search the vehicle pursuant to the Search and Surveillance Act 2012, show Police identification if not in uniform

- the reporting requirements of sections [169](#) and [170](#) (reporting of exercise of powers to the Commissioner and Commissioner's obligation to report search powers in annual report).

## To arrest

You can arrest under:

- section [315\(2\)\(a\)](#) of the Crimes Act 1961, or
- section [39\(1\)](#) of the Summary Offences Act 1981.

## Sentence for second conviction

If a person is convicted twice within two years of a crime against section [202A](#), (possession of a knife, offensive weapon or disabling substance) then section [202BA](#) of the Crimes Act 1961 requires the Court to impose a sentence of imprisonment, unless there are special circumstances relating to the offence or the offender satisfying the Court that a sentence of imprisonment should not be imposed on the offender.

The second conviction must be for an offence committed after the first conviction. An offender convicted for two offences under section [202A](#) at the same hearing would not qualify.

## Discretion

### Introduction

Use of discretion is a key tool in a Police Officer's toolkit. The law and rules do not always fit perfectly to every situation. The way an officer approaches those situations, using judgement to get the most appropriate outcome requires thinking about all the circumstances. Judgement is one of the key elements that Police must apply in order to keep the public safe and also to maintain trust and confidence.

### Example when discretion may apply

#### 'Kirpans' (knives carried for religious reasons): Definition and symbolism

A Kirpan is a Sikh ceremonial sheathed sword hung from a shoulder sling called 'gatra' and can be carried by both genders, but predominantly by men. Kirpans can vary in size and are often blunt - there are also smaller versions of the Kirpan worn as a necklace.



Kirpan symbolically signifies that a Sikh would fight against tyranny, injustice and cruelty to maintain a state of harmony and security. Physically, it is an instrument of non-violence. Symbolically, the Kirpan represents the power of truth to cut through untruth. Adherents of the Sikh religion believe it is the cutting edge of the enlightened mind.

The word Kirpan is an amalgamation of 'kirpa' which means kindness or grace and 'aan' which means honour or self-respect. Together it would signify honour with kindness or self-respect with grace.

Amritdhari Sikhs are not known to use the Kirpan to harm themselves or others.

As a general rule, a Kirpan carried or possessed in a public place for religious reasons is considered by Police to provide a reasonable excuse for the purposes of section [13A](#) of the Summary Offences Act 1981 and section [202A](#) of the Crimes Act 1961. This means that, in the ordinary course of events, it is unlikely that consideration would be given to warning or prosecuting a person who is merely carrying or possessing a Kirpan for religious purposes.

However, there may be circumstances where the size and nature of the Kirpan or how it is worn and displayed in a public place could erode the existence of a reasonable excuse. In such a circumstance, Police should apply discretion and consider all the factors on their merits and in accordance with the law.

### Suspect interview, arrest or detention

#### Suspect interview

If a Sikh is to be interviewed as a suspect for an offence (prior to a decision to arrest or detain), it is likely the suspect will be in possession of a Kirpan. Apply [TENR](#) contemplating the safety of the suspect from self-harm and those present at the interview. Consider the following steps with the suspect before commencing the interview:

- Note that if a person has a reasonable excuse to be in possession of a knife, as would ordinarily be the case with a Sikh in possession of a Kirpan, that person may not be searched under section 27 or 28 of the Search and Surveillance Act (*McRae v Police* [2017] NZHC 2255).
- Depending on the circumstances certain powers of warrantless search may be available, for example:
  - person is in a public place and you believe on reasonable grounds that person is in possession of a Kirpan that is evidential material in relation to an offence punishable by 14 years or more (search under section 16, Search and Surveillance Act) or
  - person is in a public place and constable has reasonable grounds to suspect that a person is committing an offence against section 202A(4)(a) of the Crimes Act relating to possession of knives, offensive weapons and disabling substances (search under section 27, Search and Surveillance Act). Note, a search may not be conducted if the person has a reasonable excuse for possession of the knife.
- If no search power is available, obtain the suspect's consent to removing their Kirpan and leaving it in a safe place away from the interview location (should a defence lawyer or support person be present, then obtain their support to having the suspect's Kirpan removed from the interview).

## Arrest or detention

You may search an arrested or detained person if there are reasonable grounds to believe that there is anything on or carried by that person that may be used to harm any person, facilitate escape or that is evidential material related to the offence that was the reason for the arrest/detention (s88 Search and Surveillance Act).

If the suspect is taken into lawful custody and is, or is to be, locked up, then you may conduct a search where section 11, Search and Surveillance Act applies. Any Kirpan in the suspect's possession may be taken from them.

See '[General guidelines and requirements for all mechanical restraints](#)' in the 'Mechanical restraints' chapter for when to use handcuffs depending on the circumstances, from a wide range of tactical options available.

## Aviation Security

Given aviation security rules regarding carriage of knives or other sharp objects onto an aircraft, the Kirpan should be placed in checked luggage. If the Kirpan's [blade is less than 6cm](#), then it may be accepted by Aviation Security Service to be included in a carry-on bag, otherwise it will need to go in checked luggage. Most Sikh's are aware of this requirement. However, if this isn't possible, the Kirpan may have to be removed by consent and the reason for this politely explained.

Treat the Kirpan with respect when taking possession of the item. See '[Securing and storing Kirpans](#)'. Arrangements may then be made for its later collection. If the person refuses to surrender the Kirpan, they may be refused access by Aviation Security Service or by the aircraft operator, but that is their decision.

## Securing and storing Kirpans

A Kirpan seized as an exhibit under the Search and Surveillance Act 2012 or removed by consent (e.g. for safety considerations with interviewing a person) is to be treated with religious sensitivity. If practicable in the circumstances endeavour to:

- wash hands in front of the person, or informing them that hands have been washed prior to handling the Kirpan
- securing the Kirpan in a clean bag, or covered by clean paper or cloth
- storing the Kirpan in a tidy place
- ensuring storage is not in close vicinity of other religious prohibited items (e.g. drugs, alcohol, eggs, meat or items that may have been exposed to these items) to prevent contamination.

## Further information

See '[NZ Religious Diversity Book](#)' for more information about meeting the various needs of the ethnically and religiously diverse community Police serve.

## Dealing with possession of offensive weapons etc in a public place

### Initial action

When you are dispatched to respond to a person in a public place who is in possession of an offensive weapon, follow these steps.

Step	Action
1	<p>Obtain all the available information from the Communication Centre (Comms), including:</p> <ul style="list-style-type: none"> <li>- the location and the time the person was seen</li> <li>- the informant's name</li> <li>- the informant's present location</li> <li>- a description of the knife, weapon or disabling substance</li> <li>- a description of the suspect(s)</li> <li>- whether the offender(s) is known to the informant and if so, their name and whether they are likely to be violent</li> <li>- where, on the person, the informant saw the weapon</li> <li>- how many suspects were involved, their current location or where they may be headed, and the mode and direction of travel</li> <li>- the details of any vehicle owned or used by the offender.</li> </ul>
2	<p>On the way to the scene plan the action you will take based on the information received. See: Tactical Options Framework (PDF below).</p>
3	<p>Plan the action you will take and how to protect yourself. Consider:</p> <ul style="list-style-type: none"> <li>- what kind of weapon the suspect might be carrying</li> <li>- where the suspect is likely to be carrying or concealing a weapon</li> <li>- what the suspect's body language indicates about state of mind and intentions</li> <li>- how the suspect might use the weapon</li> <li>- <a href="#">TENR</a>-Operational threat assessment</li> <li>- what tactical options you have available to deploy</li> <li>- the Tactical Options Framework (PDF below).</li> </ul>

### Action at the scene for searching person

Follow these steps when dealing with a person at the scene.

Step	Action
1	Park safely.
2	<p>Locate the informant and obtain the facts. Record all available information. Give the Communications Centre a <a href="#">SITREP</a> and maintain communication.</p>
3	<p>Assess the information and decide whether the ingredients for an offence against section <a href="#">202A</a>(4)(a) of the Crimes Act 1961 are present. Consider whether:</p> <ul style="list-style-type: none"> <li>- the person suspected of committing the offence is in a public place</li> <li>- the item described meets the definition of an offensive weapon: <ul style="list-style-type: none"> <li>- the weapon was made or altered for use to cause bodily injury</li> <li>- the person is carrying the weapon with the intent to cause bodily injury?</li> </ul> </li> </ul>
4	Apply <a href="#">TENR</a> .

Step	Action						
5	Detain the suspect and explain section <a href="#">125</a> of the Search and Surveillance Act 2012: <ul style="list-style-type: none"> <li>- identify yourself by name</li> <li>- state the reason for the search</li> <li>- state the search is taking place under the Search and Surveillance Act 2012</li> <li>- if not in uniform, produce identification.</li> </ul>						
6	As a result of the detention explain: <ul style="list-style-type: none"> <li>- the suspect's rights under section <a href="#">23</a> of the New Zealand Bill of Rights Act 1990</li> <li>- that an opportunity to consult and instruct a lawyer will be given after the search is completed.</li> </ul>						
7	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th data-bbox="130 595 1222 633">If . . .</th> <th data-bbox="1222 595 1519 633">then . . .</th> </tr> </thead> <tbody> <tr> <td data-bbox="130 633 1222 801">                             the suspect refuses to be searched or refuses to remain for the search                               Use AWOCA ('Ask Why Options Confirm Action' is the five-step tactical communications process that underpins the Tactical Options Framework (TOF).- see '<a href="#">Use of force</a>' chapter ) to gain compliance.                         </td> <td data-bbox="1222 633 1519 801">                             consider arresting them for obstruction.                         </td> </tr> <tr> <td data-bbox="130 801 1222 913">                             there is more than one suspect                         </td> <td data-bbox="1222 801 1519 913">                             separate them from other witnesses and each other.                         </td> </tr> </tbody> </table>	If . . .	then . . .	the suspect refuses to be searched or refuses to remain for the search  Use AWOCA ('Ask Why Options Confirm Action' is the five-step tactical communications process that underpins the Tactical Options Framework (TOF).- see ' <a href="#">Use of force</a> ' chapter ) to gain compliance.	consider arresting them for obstruction.	there is more than one suspect	separate them from other witnesses and each other.
If . . .	then . . .						
the suspect refuses to be searched or refuses to remain for the search  Use AWOCA ('Ask Why Options Confirm Action' is the five-step tactical communications process that underpins the Tactical Options Framework (TOF).- see ' <a href="#">Use of force</a> ' chapter ) to gain compliance.	consider arresting them for obstruction.						
there is more than one suspect	separate them from other witnesses and each other.						
8	Search the suspect using section <a href="#">27</a> of the Search and Surveillance Act 2012 and: <ul style="list-style-type: none"> <li>- any item the suspect is wearing or carrying</li> <li>- any item in the suspects physical possession or immediate control.</li> </ul>						
9	If an offensive weapon is located, seek an explanation to negate any defences. Did they have: <ul style="list-style-type: none"> <li>- lawful authority</li> <li>- reasonable excuse.</li> </ul>						
10	Seize: <ul style="list-style-type: none"> <li>- any offensive weapon found</li> <li>- any other unlawful item located during the search.</li> </ul> If you decide no offence has been committed or you issue the person with a warning, you can still seize the item under section <a href="#">125(j)</a> of the Search and Surveillance Act 2012.						
11	Remember, if arresting (under section <a href="#">315(2)</a> of the Crimes Act 1961), detaining or questioning the suspect where there is sufficient evidence to charge that person, then: <ul style="list-style-type: none"> <li>- apply the <a href="#">rights caution</a></li> <li>- give the suspect an opportunity under the <a href="#">New Zealand Bill of Rights Act 1990</a> to contact a lawyer.</li> </ul>						

### Action at the scene for stopping and searching vehicle

Follow these steps when dealing with the stop and search of a vehicle.

1	Record all available information. Give the Communications Centre a <a href="#">SITREP</a> and maintain communication.
---	---

2	<p>Assess the information and decide whether the ingredients for an offence against section <a href="#">202A(4)(a)</a> of the Crimes Act 1961 are present. Consider whether:</p> <ul style="list-style-type: none"> <li>- the person suspected of committing the offence is in a public place</li> <li>- the item described meets the definition of an offensive weapon:</li> <li>- the weapon was made or altered for use to cause bodily injury</li> <li>- the person is carrying the weapon with the intent to cause bodily injury?</li> </ul>
3	<p>Apply <a href="#">TENR</a></p>
4	<p>Stop the vehicle under section <a href="#">121</a> of the Search and Surveillance Act 2012:</p> <ul style="list-style-type: none"> <li>- use flashing lights and/or siren</li> <li>- advise/update comms of vehicle details and location of stop.</li> </ul> <p>You must on request from any person affected by the use of section <a href="#">121</a>:</p> <ul style="list-style-type: none"> <li>- identify yourself by name</li> <li>- state the search is taking place under the Search and Surveillance Act 2012</li> <li>- state the reason for the search</li> <li>- produce identification if not in uniform.</li> </ul> <p>Ensure you have sufficient staff to deal with the number of occupants in the vehicle.</p>
5	<ul style="list-style-type: none"> <li>- Detain the occupants of the vehicle under section <a href="#">118</a> of the Search and Surveillance Act 2012 for the purpose of determining any connection between the occupants and the reason for the search.</li> <li>- As they are detained they must be advised of their rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual); and</li> <li>- that an opportunity to consult and instruct a lawyer will be given after the search is completed.</li> </ul>
6	<p>Search the suspect following the procedure outlined for searching people in public places ensuring section <a href="#">125</a> of the Search and Surveillance Act is complied with.</p> <p>Should you not locate the offensive weapon on the suspect, consider it could now be in the possession of another occupant or in the vehicle.</p> <p>To search another occupant of the vehicle you must satisfy section <a href="#">119</a> of the Search and Surveillance act 2012 in that you must believe the offensive weapon is on that person.</p>
7	<p>Search any vehicle that:</p> <ul style="list-style-type: none"> <li>- the suspect is in, or</li> <li>- has just alighted from, and</li> <li>- you have reasonable grounds to suspect the vehicle contains a knife, offensive weapon or disabling substance.</li> </ul> <p>Prior to searching the vehicle you <b>must</b> comply with section <a href="#">131</a> of the Search and Surveillance Act 2012.</p> <p>You must:</p> <ul style="list-style-type: none"> <li>- identify yourself by name</li> <li>- state the search is taking place under the Search and Surveillance Act 2012</li> <li>- state the reason for the search</li> <li>- state your intention to enter and search the vehicle.</li> </ul>

8	<p>Conduct a thorough search of the vehicle.</p> <p>If an offensive weapon is located, seek an explanation to negate any defences. Did they have a:</p> <ul style="list-style-type: none"> <li>- lawful authority</li> <li>- reasonable excuse.</li> </ul>
9	<p>Seize:</p> <ul style="list-style-type: none"> <li>- any offensive weapon found</li> <li>- any other unlawful item located during the search.</li> </ul> <p>If you decide no offence has been committed or you issue the person with a warning, you can still seize the item under section <a href="#">110</a> (d) of the Search and Surveillance Act 2012.</p>
10	Decide whether to arrest the person under section <a href="#">315(2)(b)</a> of the Crimes Act 1961.
11	If they are arrested they must be advised of their rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the ' <a href="#">Chief Justice's Practice Note on Police Questioning</a> ' (See also the ' <a href="#">Rights caution</a> ' chapter in the Police Manual).

## Evidence

Follow these steps.

Step	Action
1	Record everything about the suspect, including appearance, actions and statements.
2	Label and preserve the exhibit(s).

## Related chapters

These chapters also support good investigation practice:

- [Crime scene examination](#)
- [Part 1 - Initial response to homicide or serious crime](#) of the 'Homicide and serious crime investigations' chapter
- [Search](#).

## Dealing with possession of offensive weapons etc in any place

### Initial action

When you are dispatched by the Communications Centre (Comms) to a person in any place who is in possession of a weapon, follow these steps.

Step	Action
1	<p>Obtain all the available information from the Communication Centre (Comms), including:</p> <ul style="list-style-type: none"> <li>- the location and the time the person was seen</li> <li>- the informant's name</li> <li>- the informant's present location</li> <li>- a description of the knife, weapon or disabling substance</li> <li>- a description of the suspect(s)</li> <li>- whether the offender(s) is known to the informant and if so, their name and whether they are likely to be violent</li> <li>- where, on the person, the informant saw the weapon</li> <li>- how many suspects were involved, their current location or where they may be headed, and the mode and direction of travel</li> <li>- the details of any vehicle owned or used by the offender.</li> </ul>
2	If the offence took place on private premises, the Communications Centre must telephone the premises in order to try to establish the situation.
3	<p>Plan the action you will take and how to protect yourself. Consider:</p> <ul style="list-style-type: none"> <li>- what kind of weapon the suspect might be carrying</li> <li>- where the suspect is likely to be carrying or concealing a weapon</li> <li>- what the suspect's body language indicates about their state of mind and intentions</li> <li>- how the suspect might use the weapon</li> <li>- what tactical options you have available to deploy</li> <li>- the Tactical Options Framework (PDF below)</li> </ul>
4	Apply <a href="#">TENR</a> .

-

 [Tactical options framework \(PDF\)](#)

147.26 KB

### Action at the scene

Follow these steps.

Step	Action
1	Park safely.
2	Locate the informant and obtain the facts. Record all available information. Give the Communications Centre a <a href="#">SITREP</a> and maintain communication.

Step	Action
3	<p>Assess the information and decide whether the ingredients for an offence against section <a href="#">202A(4)(b)</a> are present. Consider whether either of these applies:</p> <ul style="list-style-type: none"> <li>- was the article (weapon) capable of causing bodily injury?</li> <li>- the possession of the article (weapon) in circumstances that, prima facie, showed an intention to use it to commit an offence involving bodily injury or the threat or fear of violence?</li> </ul> <p><b>Note:</b> The power to search a person under section <a href="#">27</a> or the power to search a vehicle under section <a href="#">28</a> of the Search and Surveillance Act 2012 relates only to the offence of possession in a public place. For a suspected <a href="#">202A(4)(b)</a> offences, you cannot search the suspect unless you have arrested them.</p> <p>For your powers of search, see the '<a href="#">Search</a>' chapter of the Police Manual.</p>
4	Apply <a href="#">TENR</a> .
5	<p>Consider power of entry onto private premises.</p> <p>Consider use of:</p> <ul style="list-style-type: none"> <li>- section <a href="#">14</a> Search and Surveillance Act 2012</li> <li>- section <a href="#">8</a> Search and Surveillance Act 2012 (must comply with identification and notification requirements under section <a href="#">131</a> Search and Surveillance Act 2012).</li> </ul>
6	<p>Where you are determining whether an offence against section <a href="#">202A(4)(b)</a> has occurred, you may interview the suspect and seek an admission or explanation. Decide what course of action is most appropriate; that is:</p> <ul style="list-style-type: none"> <li>- arrest, or</li> <li>- summons, or</li> <li>- warning.</li> </ul>

Step	Action						
7	<table border="1"> <thead> <tr> <th>If...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td>you arrest the suspect</td> <td> <ul style="list-style-type: none"> <li>- explain the suspect's rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual)</li> <li>- comply with obligations under section <a href="#">125</a> of the Search and Surveillance Act 2012               <ul style="list-style-type: none"> <li>- identify yourself by name</li> <li>- state the reason for the search</li> <li>- state the search is taking place under the Search and Surveillance act 2012</li> <li>- if not in uniform produce identification</li> </ul> </li> <li>- conduct a search               <ul style="list-style-type: none"> <li>- seize any weapon or disabling substance found pursuant to section <a href="#">125(j)</a> of the Search and Surveillance Act 2012</li> <li>- ask the suspect to give an explanation</li> <li>- if you do not locate the offensive weapon on them, consider using section <a href="#">83</a> of the Search and Surveillance Act 2012 to conduct a search of the place. (s <a href="#">131</a> of the Search and Surveillance Act 2012 obligations must be advised).</li> </ul> </li> </ul> <p>If there are other occupants in the place they may be detained under section <a href="#">118</a> of the Search and Surveillance Act 2012 for the purpose of determining any connection between the occupants and the reason for the search.</p> <p>If they are detained they must be advised of their rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual).</p> <p>To search another occupant in the place you must satisfy section <a href="#">119</a> of the Search and Surveillance act 2012 in that you must believe the offensive weapon is on that person.</p> </td> </tr> <tr> <td>you do not arrest the suspect</td> <td> <ul style="list-style-type: none"> <li>- recover any knife, offensive weapon or disabling substance used if you can do so without conducting a search. You may ask person to surrender it to you:               <ul style="list-style-type: none"> <li>- to be lawful, ensure the surrender of the knife, offensive weapon or disabling substance is obtained by informed consent.</li> </ul> </li> </ul> </td> </tr> </tbody> </table>	If...	then...	you arrest the suspect	<ul style="list-style-type: none"> <li>- explain the suspect's rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual)</li> <li>- comply with obligations under section <a href="#">125</a> of the Search and Surveillance Act 2012               <ul style="list-style-type: none"> <li>- identify yourself by name</li> <li>- state the reason for the search</li> <li>- state the search is taking place under the Search and Surveillance act 2012</li> <li>- if not in uniform produce identification</li> </ul> </li> <li>- conduct a search               <ul style="list-style-type: none"> <li>- seize any weapon or disabling substance found pursuant to section <a href="#">125(j)</a> of the Search and Surveillance Act 2012</li> <li>- ask the suspect to give an explanation</li> <li>- if you do not locate the offensive weapon on them, consider using section <a href="#">83</a> of the Search and Surveillance Act 2012 to conduct a search of the place. (s <a href="#">131</a> of the Search and Surveillance Act 2012 obligations must be advised).</li> </ul> </li> </ul> <p>If there are other occupants in the place they may be detained under section <a href="#">118</a> of the Search and Surveillance Act 2012 for the purpose of determining any connection between the occupants and the reason for the search.</p> <p>If they are detained they must be advised of their rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual).</p> <p>To search another occupant in the place you must satisfy section <a href="#">119</a> of the Search and Surveillance act 2012 in that you must believe the offensive weapon is on that person.</p>	you do not arrest the suspect	<ul style="list-style-type: none"> <li>- recover any knife, offensive weapon or disabling substance used if you can do so without conducting a search. You may ask person to surrender it to you:               <ul style="list-style-type: none"> <li>- to be lawful, ensure the surrender of the knife, offensive weapon or disabling substance is obtained by informed consent.</li> </ul> </li> </ul>
If...	then...						
you arrest the suspect	<ul style="list-style-type: none"> <li>- explain the suspect's rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual)</li> <li>- comply with obligations under section <a href="#">125</a> of the Search and Surveillance Act 2012               <ul style="list-style-type: none"> <li>- identify yourself by name</li> <li>- state the reason for the search</li> <li>- state the search is taking place under the Search and Surveillance act 2012</li> <li>- if not in uniform produce identification</li> </ul> </li> <li>- conduct a search               <ul style="list-style-type: none"> <li>- seize any weapon or disabling substance found pursuant to section <a href="#">125(j)</a> of the Search and Surveillance Act 2012</li> <li>- ask the suspect to give an explanation</li> <li>- if you do not locate the offensive weapon on them, consider using section <a href="#">83</a> of the Search and Surveillance Act 2012 to conduct a search of the place. (s <a href="#">131</a> of the Search and Surveillance Act 2012 obligations must be advised).</li> </ul> </li> </ul> <p>If there are other occupants in the place they may be detained under section <a href="#">118</a> of the Search and Surveillance Act 2012 for the purpose of determining any connection between the occupants and the reason for the search.</p> <p>If they are detained they must be advised of their rights under the <a href="#">New Zealand Bill of Rights Act 1990</a> in accordance with the '<a href="#">Chief Justice's Practice Note on Police Questioning</a>' (See also the '<a href="#">Rights caution</a>' chapter in the Police Manual).</p> <p>To search another occupant in the place you must satisfy section <a href="#">119</a> of the Search and Surveillance act 2012 in that you must believe the offensive weapon is on that person.</p>						
you do not arrest the suspect	<ul style="list-style-type: none"> <li>- recover any knife, offensive weapon or disabling substance used if you can do so without conducting a search. You may ask person to surrender it to you:               <ul style="list-style-type: none"> <li>- to be lawful, ensure the surrender of the knife, offensive weapon or disabling substance is obtained by informed consent.</li> </ul> </li> </ul>						

## Evidence

Follow these steps.

Step	Action
1	Record everything about the suspect, including appearance, actions and statements.
2	Label and preserve the exhibit(s).

## Related chapters

These chapters also support good investigation practice:

- [Crime scene examination](#)
- [Part 1 - Initial response to homicide or serious crime](#) of the 'Homicide and serious crime investigations' chapter
- [Search](#).

## **Kidnap for ransom (extract)**

## Table of Contents

Table of Contents	2
Policy statement and principles	3
What	3
Why	3
How	3
Overview	4
Purpose	4
[REDACTED]	4
[REDACTED]	4
Definitions of terms used	4
Acknowledgements	4
Initial reporting procedures	6
Maintaining secrecy	6
Report made to watchhouse/frontline staff	6
Report made to Emergency Communications Centre	6
[REDACTED]	6
Initial roles and responsibilities	7
Senior CIB officer on call	7
Appendices	8

## Policy statement and principles

### What

Kidnap for ransom offences are high-risk, fast-moving investigations that require an immediate yet careful Police response.

This chapter applies to all staff who may need to respond to an initial complaint of kidnap for ransom.

### Why

The application of standard procedures and notification of the appropriate experts is critical to minimising this risk in the early stages of the investigation.

### How

- [REDACTED]
- Standard procedures for watchhouse or frontline staff, or for Communications Room staff will be followed.
- The senior CIB member on duty in the District must be alerted as soon as possible.

## Overview

### Purpose

This chapter provides the core guidance on investigative techniques used when dealing with kidnap for ransom crimes. It:

- applies primarily to crimes of kidnap for ransom as defined in section 209(a) of the Crimes Act 1961
- should only be used for kidnap offences where a ransom has been demanded and the hostage is still believed to be in danger. It should not be used for other kidnap offences where either:
  - no ransom has been demanded and no ransom demand is anticipated, or
  - the hostage has been reliably confirmed as having been released and is no longer at risk, or
  - abduction offences such as those involving the taking of a hostage for sexual intents, or the abduction of children for custodial reasons.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### Definitions of terms used

An appreciation of the terms used in this chapter is vital. The most common and dangerous mistake is to confuse the term 'hostage' with 'victim'. Confusion over these could have life-threatening consequences. This table sets out definitions of terms used in this manual chapter.

Term	Definition
Hostage	An individual who has been kidnapped.
Informant	The person first notifying Police of the incident.
Offender	A person who is identified by a sufficiency of evidence, as being criminally liable for the offence.
Victim	A person or organisation against whom a demand is directed, following a kidnapping.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Initial reporting procedures

The initial complaint is often received via a 111 call but could be made to any Police communications centre, station, front counter or other public contact point including Internet.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### Report made to watchhouse/frontline staff

Police employees taking the initial report of a kidnap for ransom by telephone, or at a Police station, must follow the instructions contained in the Kidnap for Ransom 'Watchhouse [MSOP](#)':

-

[Kidnap Appendix B Watchhouse MSOP.doc](#)

58.5 KB

Police employees must immediately inform their supervisor, who must notify the senior [CIB](#) member on call for the district.

### Report made to Emergency Communications Centre

Emergency Communications Centre staff who take an initial report of kidnap by telephone, must follow the instructions contained in the kidnap for ransom [MSOP](#) for 'Communications Room staff':

-

[Kidnap Appendix A Comms MSOP.doc](#)

59 KB

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Initial roles and responsibilities

### Senior CIB officer on call

The senior CIB officer must take initial command of the incident as soon as practically possible and:

- ensure initial reporting staff have followed procedures outlined in the relevant Kidnap for Ransom MSOP for Communications Room staff:

[Kidnap Appendix A Comms MSOP.doc](#)

59 KB

or Watchhouse staff (whichever applies):

[Kidnap Appendix B Watchhouse MSOP.doc](#)

58.5 KB

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

---

# Abduction

# Table of Contents

Table of Contents	2
Policy statement and principles	3
What	3
Why	3
How	3
Overview	4
Introduction	4
Definitions	4
Health and safety duties	4
Related information	4
Offences	5
Abducting a person for marriage or civil union or sexual connection	5
Abducting a young person under 16 (taking, enticing or detaining young person)	5
Abducting a young person under 16 (receiving young person)	5
Special provisions applying to section 210 abduction	6
Offences reported and recorded	7
Offences reported to, or discovered by Police must be recorded	7
Code book - charge wording, penalties and more	7
Investigation	8
Related investigation information	8
Laying charges	8

## Policy statement and principles

### What

This chapter focuses on the [Crimes Act 1961](#) offences of abducting a person for marriage or sexual connection, and abducting a young person under 16 years.

### Why

Abduction has serious consequences for the victim and in the interest of public safety Police have a responsibility to investigate, prevent harm and apprehend abductors.

### How

Police will ensure:

- they continue to work pro-actively with partnerships, prevention first and victim focused strategies involving abduction, and
- abduction offences are investigated thoroughly and resolution action taken as deemed appropriate.

## Overview

### Introduction

This chapter outlines the action to be taken when dealing with the offences of abducting a person for marriage or sexual connection, and abducting a young person under 16 years.

For kidnapping offences see the '[Kidnapping for ransom](#)' chapter.

### Definitions

Term	Definition
<b>Consent</b>	Consent must be full, free, voluntary and informed, and freely/voluntarily given by a person in a position to form a rational judgement. <a href="#">R v Cox</a>
<b>Detained</b>	<p>'Detaining' is an active concept meaning to "keep in confinement or custody" and is to be preferred to the passive concept of "harbouring" or mere failure to hand over. <a href="#">R v Pryce</a> [1972] Crim LR 307</p> <p>A person is detained when there is a taking over of control of the person who is hindered, retarded, and restrained from proceeding by intimidation. <a href="#">Boyd v R</a> (1992) 8 CRNZ 661, 664</p>
<b>Fraud or duress</b>	<p>'Fraud' is where an offender may deceive a victim into agreeing to a proposition by misrepresenting the facts of their intentions.</p> <p>'Duress' occurs where a victim acquiesces to an offender's demands based on fear. This may arise from actual or implied threat of force to the victim or another person and can also include forms of pressure and coercion.</p>
<b>Sexual connection</b>	<p>'Sexual connection' means:</p> <ul style="list-style-type: none"> <li>- connection effected by the introduction into the genitalia or the anus of one person, otherwise than for genuine medical purposes, of: <ul style="list-style-type: none"> <li>- a part of the body of another person, or</li> <li>- an object held or manipulated by another person, or</li> </ul> </li> <li>- connection between the mouth or tongue of one person and a part of another person's genitalia or anus, or</li> <li>- the continuation of connection as described the bullet points above.</li> </ul> <p>Crimes Act 1961 <a href="#">s2(1)</a></p> <p>For the purposes of the first bullet point of the definition, introduction to the slightest degree is enough to effect a connection. Crimes Act 1961 <a href="#">s2(1A)</a></p>
<b>Unlawfully</b>	In this context the word 'unlawfully' means no more than "without lawful justification, authority or excuse". Where lawfulness is raised, it is for the prosecution to prove beyond reasonable doubt that the kidnapping was unlawful. <a href="#">R v Chartrand</a>

### Health and safety duties

The expectation of the Commissioner and the [Health and Safety at Work Act 2015](#) is that employees investigating abduction offences will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of themselves or others, comply as far as they are reasonably able to with any reasonable instruction that is given to adhere with the Act and its regulations.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace. See also '[Health, safety and wellbeing](#)' for keeping our communities safe, and ensuring our people are safe and feel safe.

### Related information

See the '[Investigation](#)' section in this chapter for a list of related chapters that may assist you with investigating abduction offences.

## Offences

This table details abduction offences under the Crimes Act 1961, elements to be proven and penalties relevant to this chapter.

Offence	Elements of the offence...	Penalty/offence category
<b>Abducting a person for marriage or civil union or sexual connection</b> (s <a href="#">208</a> )	<ul style="list-style-type: none"> <li>- the suspect took away or detained a person</li> <li>- the taking or detention was intentional</li> <li>- the taking or detention was unlawful</li> <li>- the taking or detention was without the person's consent (or with consent induced by fraud or duress)</li> <li>- the suspect knew that there was no consent to the taking or detention</li> <li>- the suspect intended to               <ul style="list-style-type: none"> <li>- go through a form of marriage or civil union with the person taken or detained; or</li> <li>- have sexual connection with the person taken or detained; or</li> <li>- cause the person taken or detained to go through a form of marriage or civil union, or to have sexual connection with some other person.</li> </ul> </li> </ul> <p><b>Note:</b> A person under the age of 16 years cannot consent to being taken away or detained. (s <a href="#">209A</a>)</p> <p>See the <a href="#">commentary</a> in Westlaw NZ for further explanation of the terms applied to section <a href="#">208</a> of the Crimes Act 1961.</p>	14 years imprisonment  Category <a href="#">3</a>
<b>Abducting a young person under 16 (taking, enticing or detaining young person)</b> (s <a href="#">210(1)</a> )	<ul style="list-style-type: none"> <li>- the suspect took, enticed or detained a person under the age of 16 years</li> <li>- the taking, enticement or detention was intentional</li> <li>- the taking, enticement or detention was from a parent or guardian or other person who had lawful care of the young person</li> <li>- the suspect knew the other person had lawful care, or charge of the young person</li> <li>- the taking, enticement or detention was unlawful</li> <li>- it was done with intent to deprive a parent, guardian or other person having lawful care or charge of the young person of possession of that young person.</li> </ul> <p>See:</p> <ul style="list-style-type: none"> <li>- <a href="#">Special provisions applying to section 210 abduction</a>, and</li> <li>- the <a href="#">commentary</a> in Westlaw NZ for further explanation of the terms applied to section <a href="#">210</a> of the Crimes Act 1961.</li> </ul>	7 years imprisonment  Category <a href="#">3</a>
<b>Abducting a young person under 16 (receiving young person)</b> (s <a href="#">210(2)</a> )	<ul style="list-style-type: none"> <li>- the suspect received a young person under the age of 16</li> <li>- the receiving was intentional</li> <li>- the suspect knew that the young person had been unlawfully taken, enticed away or detained by another from a parent or guardian or other person having the lawful care or charge of them who had lawful possession of the young person</li> <li>- the suspect intended by reason of the receiving to deprive the person with lawful care of the possession of that young person.</li> </ul> <p>See:</p> <ul style="list-style-type: none"> <li>- <a href="#">Special provisions applying to section 210 abduction</a>, and</li> <li>- the <a href="#">commentary</a> in Westlaw NZ for further explanation of the terms applied to section <a href="#">210</a> of the Crimes Act 1961.</li> </ul>	7 years imprisonment  Category <a href="#">3</a>

**Note:** For kidnapping offences see: [Kidnapping for ransom](#).

## Special provisions applying to section 210 abduction

or an offence of abduction under section [210](#):

- It is immaterial whether the:
  - young person consents, or is taken or goes or is received at his or her own suggestion
  - suspect believes the young person to be of or over the age of 16.

([s210\(3\)](#))

- For this offence a young person means a person under the age of 16 years.  
([s210\(4\)](#)).

- A person who claims in good faith a right to the possession of a young person cannot be convicted of an offence against section [210](#) because they get possession of the young person.

([s210A](#))

**Note:** Where the defence is raised, it is for the prosecution to negate 'claim of right' beyond reasonable doubt.

## Offences reported and recorded

### Offences reported to, or discovered by Police must be recorded

[The National Recording Standard \(NRS Section 1.3\)](#) contains rules and principles governing recording of offences.

[Recording offences](#) intranet page provides an overview of these rules and contains links to training and resources.

**Note:** NRS section [Offences against the Person Coding Guide](#) provides a coding guide for offences against the person.

### Code book - charge wording, penalties and more

The [Legislative Reference Table \(LRT - Code Book\)](#) is a search tool that links to information about all offence, incident and task codes.

The code book provides the following information for each offence code:

-  
legislative reference details, for example:

- offence code description
- offence category
- charge type
- legislative reference
- specimen charge narrative
- minimum charge age
- statutory limit
- DNA relevance

-  
penalties and fines

-  
information requirements relating to:

- victim
- family violence
- traffic
- file retention
- classification.

# Investigation

## Related investigation information

See these chapters for guidance with investigating abduction offences:

- [Adult sexual assault investigation \(ASAI\) policy and procedures](#)
- [Case management](#)
- [Charging decisions](#)
- [Child protection](#)
- [Crime scene examination](#)
- [DNA sampling](#)
- [Family violence](#)
- [Crime scenes and forensics](#)
- [Homicide and serious crime investigations \(particularly initial action\)](#)
- [Identification of offenders](#)
- [Intelligence](#)
- [Interviewing](#)
- [Kidnap for ransom](#)
- [Managing conflicts of interest](#)
- [Media and communications](#)
- [National Recording Standard](#)
- [Prosecution file and case preparation](#)
- [Search](#)
- [Sexual offences](#)
- [Solicitor-General's Prosecution Guidelines](#)
- [Surveillance](#)
- [Victims \(Police service to victims\).](#)

## Laying charges

When laying charges under section [210](#) of the Crimes Act, consider section [78](#) (contravening parenting or guardianship order) or section [80](#) (taking child from New Zealand) of the Care of Children Act 2004. Exercise caution in considering charges of kidnapping in custody matters and refer to a supervisor before instituting prosecution.

In cases of abduction where sexual intercourse has occurred, consider laying additional indecency charges.

Do not lay a charge of abduction in situations of sexual violation unless all of the ingredients of abduction are satisfied and the charge is appropriate in the circumstances.

See also the '[Charging decisions](#)' chapter.

---