



## Custodial Operations Practice Directive

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Specialist Operations

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### Scope

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### 1. Human Rights

It is unlawful for corrective services officers to act or make decisions in a way that is not compatible with human rights, or in making a decision, fail to give proper consideration to a human right relevant to the decision.

Giving proper consideration to human rights entails identifying human rights which may be relevant to a decision and considering whether the decision would be compatible with human rights. A decision will be compatible with human rights when it does not limit a human right or only limits a right to the extent that is reasonable and demonstrably justifiable.

Human rights which may be relevant include:

- a) recognition and equality before the law, including the right to equal and effective protection against discrimination;
- b) freedom of thought, conscience, religion and belief, including the prisoner's freedom to demonstrate religion in observance and practice;
- c) property rights;
- d) the right to privacy;
- e) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples;
- f) the right to be treated with humanity and respect when deprived of liberty;
- g) the right to access health services; and
- h) the protection of families and children.

### 2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justifiable, the following factors are relevant to consider:

- a) The nature of the human right – this involves looking at the purpose and underlying value of the human right. For example, the right to health services provides for the right to access health services without discrimination and the right to not be refused medical treatment that is immediately necessary to save a person's life or to prevent serious impediment to that person. This does not override a prisoner's refusal to engage in medical services in the absence of an order or authorising legislation.
- b) The nature of the purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, the limit to privacy provided for in this policy whereby a mouth inspection is required prior to the distribution of medication is to limit the diversion of medication, which could then be used to cause harm, directly or indirectly to other prisoners and officers.
- c) The relationship between the limitation and its purpose – this involves considering the rational connection between the limitation of the right, and whether this will actually help to achieve said purpose or legitimate aim. For example, mouth inspections and the supervised distribution of medication is effective in limiting the diversion of medication.
- d) Whether there are any less restrictive and reasonably available ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way. For example, currently there is no more effective option available to officers than a mouth inspection at the time of medication distribution to limit the potentially harmful diversion of this medication.
- e) The importance between the purpose for the limitation and preserving the human right – this involves a balancing exercise of the benefits obtained by the limitation vs the harm caused to the human right. For example, does the security of person provided to other prisoners and officers by limiting the diversion of medication, outweigh the limit to privacy that is the impact of a mouth inspection?





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## 3. Overview of Q Health Service Provision

Queensland Health (Q Health) provides primary health care to prisoners who are incarcerated. These services are structured to care for adult prisoners (i.e. prisoners over the age of 18 years). Q Health does not provide health care to children accommodated with their mothers in a corrective services facility (Q Health will only treat a child within a corrective services facility in relation to an emergency situation).

During day-to-day interaction if a corrective services officer observes that a prisoner is presenting with apparent or expressed significant health concerns an immediate referral should be made to Q Health outlining any concerns.

### 3.1 Information sharing with Q Health

In order to facilitate appropriate care of prisoners by Q Health, an Information Sharing Agreement is in place between Queensland Corrective Services (QCS) and Q Health which allows the exchange of information for shared clients without authorisation from the client.

It is preferable to obtain the shared client's authorisation to disclose information to Q Health under section 341(3)(d) of the CSA, via completion of an Administrative Form 160 Authority to Disclose, Release and Exchange Information (Custodial) or other written instructions. A shared client's refusal to give authorisation for their private details to be shared with Q Health should be respected wherever possible.

Where a prisoner provides general consent or authorisation to share information with those involved in their treatment and care, authorisation does not need to be sought before every instance of information sharing.

The Information Sharing Agreement is to be used when a shared client's authorisation cannot be obtained or when the information is reasonably required to facilitate the safe, secure, and effective supervision and management of shared clients and provide client focused health services.

Information can be shared orally, in writing, or in any other format. When QCS staff receive or share information under the Agreement they must ensure they document:

- a) the date and time information were received or shared;
- b) the name and title of the authorised employee that receives or shares the information;
- c) what information was received or shared; and
- d) that the information was received or shared under the Agreement.

Refer to the Custodial Operations Practice Directive (COPD) Confidential Information: Disclosure of Confidential Information, and the Information Sharing Agreement and Operating Guidelines.

### 3.2 Escalation of health matters after hours

If a health matter requires escalation to the Q Health Executive after hours for an urgent decision, communication with Q Health is to be via the Superintendent QCS and Q Health Liaison.

### 3.3 Clinical images taken by Q Health

Q Health is approved to take clinical images of prisoners in corrective services facilities where these are necessary for the provision of health care for the prisoner, providing that:

- a) the image is not able to be used to identify a prisoner;
- b) the image does not identify that it was taken in a corrective series facility; and
- c) the image does not contain any QCS specific, or security related infrastructure.





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Q Health is responsible for having a governance process in place to ensure the above conditions are complied with.

### 4. Use of Force to Facilitate Medical Interventions

Prisoner health services are generally only provided where the prisoner or their appointed or nominated representative for health decisions, provides their consent.

There are no provisions under the CSA which authorise QCS staff to use force to compel a prisoner to submit to medical assessments, examination or treatment.

However, there are certain circumstances where legislation, other than the CSA, provides for corrective services officers to use the minimum force necessary and reasonable to facilitate required medical treatment. These are detailed below.

#### 4.1 Guardianship and Administration Act 2000 (Qld) (GAA)

The GAA provides for certain circumstances where health care can be carried out without the consent of the individual. These circumstances are where a health provider reasonably considers that:

- a) the adult has impaired decision-making capacity for the health matter; and
- b) the health care should be carried out urgently to meet either an imminent risk to the adult's life or health or the health care should be carried out urgently to prevent significant pain or distress to the adult (section 63 of the GAA).

Where these circumstances apply, and when directed to do so by Q Health staff, QCS officers are authorised to use the minimum force necessary and reasonable (including the application of restraints within the limits of QCS training and policy) to assist in ensuring the safe treatment of the prisoner to which the GAA applies, and/or the safety of staff and others. The direction by Q Health staff must include that they are invoking their powers under the GAA and why, before QCS assist. Where a request does not include this information, QCS assistance is not to be provided.

Where assistance is provided by QCS, this is to be clearly documented in a case note.

#### 4.2 Disease Testing Order (DTO)

In circumstances where a prisoner is the subject of a DTO, section 545(4) of the *Police Powers and Responsibilities Act 2000* (PPRA) authorises Q Health staff, and corrective services officers directed by Q Health staff, to use the minimum force necessary and reasonable (including the application of restraints) to obtain the sample required.

#### 4.3 DNA Sampling

For information on the authority for DNA sampling and the associated process, refer to section 12 of this COPD

Section 517 of the PPRA authorises the person performing a forensic procedure or taking a DNA sample and a person asked by the DNA sampler to give assistance to use reasonably necessary force for taking a DNA sample.





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Reasonable force is only to be used as a last resort, in a manner that reduces the likelihood of injuries to prisoners and/or staff and minimises any potential negative impact on the management of corrective services facilities.

Reasonable force may be used only if:

- a) the prisoner has been given a “cooling off” period from the time of their first refusal to comply with the DNA sampler’s requirement to provide the sample; and
- b) a corrective services officer is specifically requested by a DNA sampler to give reasonably necessary help to take the sample. Refer to sections 517(2) and (4) of the PPRA.

If the use of force is unavoidable, the Chief Superintendent of the corrective services facility must request the DNA Sampler to attend at a time which is convenient to use such force as is necessary for the taking of a sample in a manner that minimises disruption to the facility and avoids any escalation of tension.

If force is used to take a DNA sample, the prisoner should be assessed prior to the return to their accommodation area to avoid further incident.

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#### 5.7 Long-acting injection (LAI)

Administering the LAI to prisoners in a corrective services facility is to be conducted in accordance with Q Health policy and procedures.

The Chief Superintendent must ensure that a prisoner subject to the OST program who is being considered for work camp placement is on the LAI for a minimum of three to four weeks prior to placement. This allows the Q Health staff to ensure the prisoner is responding appropriately to the LAI and their levels have stabilised.

If all options for treatment have been explored and it is determined by Q Health that the prisoner would be unable to receive OST treatment at a work camp as there is no facility for treatment available within a reasonable proximity, the Chief Superintendent will ensure the prisoner is informed of the situation.

#### 5.8 Prisoners with special needs

Care must be taken to ensure prisoners with special needs clearly understand the process being undertaken. Refer to the Engaging prisoners with special needs section in the COPD Prisoners of Concern.

### 6. Procedures for Administering Oral OST Medication to Prisoners

(Not applicable for local pharmacy dosing sites)

Administering oral OST medication to prisoners in a corrective services facility and must be conducted in accordance with the Q Health multi-step flowchart.

Corrective services facility staff will ensure prisoners are compliant with the conditions of the administration of the OST medication process.





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#### 6.1 Presentation of prisoners process of OST

- a) Prisoners must be dressed in corrective services facility issue clothing with any pockets emptied.
- b) Prisoners must wear thongs only, sports shoes or any other type of footwear is not permitted.
- c) Prisoners must have their hair tied back with a single hair tie if their hair is below collar length. Scrunchies, combs, scarves, bandannas or hair clips are not permitted. Prisoners with approved religious headwear are exempt.
- d) Prisoners must not be wearing sunglasses or any jewellery including lip or tongue piercings.
- e) Prisoners are to remove any dentures. The prisoner will be issued with a disposable cup when they are required to attend the trolley, in which they can place their dentures while the OST medication process is undertaken.
- f) Prisoners must not bring any items with them to the OST medication area other than their identification card where applicable.
- g) Prisoners must have their fingernails trimmed below the fingertip to minimise the risk of scraping or concealing medication under their nails.

#### 6.2 Conduct of prisoners

- a) Prisoners are to be seated once they have assembled in the designated area.
- b) Prisoners will sit with their hands palms down on their lap in front of them or palms down on the top of the table if seated at a table.
- c) Prisoners will not touch their hair, face clothing or any head dress once seated.
- d) Prisoners will not converse with other prisoners once seated and OST medication has commenced.
- e) Prisoners will wait to be called by the nurse before leaving their seat and proceeding to the nurse to be given their OST medication.
- f) Prisoners will comply with all required visual and mouth inspections.
- g) Prisoners will state their full name and identification number to the OST medication nurse.
- h) Prisoners being treated with subutex or suboxone will stand in front of the OST medication nurse with their hands behind their back and their mouth open. There must be no attempt by the prisoner to touch the OST medication.
- i) Prisoners being treated with methadone must use the cup provided at the time they receive their medication.
- j) Prisoners will not engage with the nurse in any discussion regarding other health issues.
- k) Prisoners will consume water before and after their OST medication is given and as directed.
- l) Prisoners will return to their seat in the required position once their OST medication and all checks have been completed.
- m) Prisoners will follow all directions given to them by corrective services officers.

#### 6.3 Visual checks of prisoners

- a) Corrective services officers will conduct a visual check of the prisoner's clothing and footwear to ensure compliance with the required dress standards.
- b) Corrective services officers will conduct a visual check of both sides of the prisoner's hands to ensure that their nails are at the required length and there is nothing secreted between the prisoner's fingers.

Refer to the COPD Search: Prisoner Search.







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## 7. Dispensing of General Medication

Administering medication to prisoners in a corrective services facility occurs daily and must be conducted in a structured and controlled manner.

Correctional staff will ensure the following:

- a) the security of the Q Health Staff is maintained at all times,
- b) prisoners maintain an orderly queue and do not interfere with the safe dispensing of medication,
- c) the prisoner's identification is confirmed prior to any medication being dispensed, and
- d) with the exception of approved self-managed medication, prisoners are to consume all medication at the point of dispensing

Correctional staff should at a minimum conduct a mouth inspection, hand inspection and cup/bottle inspection to confirm that no medication has been diverted.

### 7.1 Mouth inspections prior to and following oral medication

The mouth inspection is a type of search and limits the prisoner's right to privacy and the right to humane treatment when deprived of liberty. The purpose of a mouth inspection is to limit the diversion of medication, which may then be used to cause harm directly or indirectly to other prisoners or officers. The inspection is effective in achieving this purpose and positively engages the right to security of person for other prisoners and officers.

Mouth inspections are conducted to ensure that there is no absorbent material secreted (e.g. cotton wool, tampon, paper, plastic).

The mouth inspection is to be conducted with the prisoner facing directly in front of the inspecting corrective services officer. The use of a torch is highly desirable.

- f) The corrective services officer must be satisfied that the prisoner has complied with the mouth inspection before allowing the prisoner to be given OST medication (if applicable) or to leave the immediate area after being given their medication.

## 8. Prisoner Access to Approved Medication via Canteen Services

Corrective service facilities can sell paracetamol and ibuprofen through the canteen process. Both paracetamol (a simple analgesic) and ibuprofen (a non-steroidal anti-inflammatory drug) are not scheduled drugs when sold in packages of small quantities. When classed as unscheduled medications these drugs do not require a prescription.





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The provision of unscheduled medication to prisoners through the canteen process aligns QCS with human rights considerations and will allow prisoners' improved access to consistent and self-managed pain relief.

The Chief Superintendent is to develop a Local Instruction which details the self-management of paracetamol and ibuprofen, and may include the following:

- how prisoners will be informed of the self-managed medication process (for example, upon reception, induction, Prisoner Advisory Committee meetings or local posters); and
- additional considerations for staff conducting routine cell searches that may include the monitoring and counting of paracetamol and ibuprofen during a cell search.

## 8.1 Canteen Services

Prior to selling paracetamol and ibuprofen through the buy-up process, each corrective services facility will be required to procure these products through an external supplier.

The following guidelines must be followed when purchasing locally:

- Paracetamol:** box of 10 tablets/capsules. The boxes supplied must have dosing, expiry and warning information (as prisoners would receive in the community).
- Ibuprofen:** box of 12 tablets/capsules. The boxes supplied must have dosing, expiry and warning information (as prisoners would receive in the community).

Prisoners can purchase a box of 10 tablets/capsules of paracetamol and/or a box of 12 tablets/capsules of ibuprofen in a single buy-up.

## 8.2 Limits on unscheduled medication

Prisoners may have more unscheduled medication in their possession than they could purchase at a single buy-up. This is to permit prisoners to purchase additional medication before their existing supply runs out.

Based on the above, prisoners are permitted to have twice the amount allowed in a single buy-up at any time (i.e. up to 20 paracetamol tablets/capsules and/or up to 24 ibuprofen tablets/capsules). Possession of medication exceeding these limits is prohibited.

In low custody centres, Q Health may supply prisoners with blister packs of paracetamol and /or ibuprofen, in addition to the limits outlined above.

## 8.3 Storage of unscheduled medication in cell/room

Prisoners are to be advised the medication must be stored in its sealed package prior to consumption. Once it is removed from the package it must be immediately consumed or disposed of.

### 8.3.1 Prisoner transfers with approved medication

For prisoners transferring into a corrective services facility from another centre with paracetamol and or ibuprofen within their property, the medication may be issued to the prisoner in the following circumstances:

- The tablets must be in their original packaging and clearly labelled. If the packaging shows signs of tampering, or staff consider that the medication has been tampered with, the items are to be disposed. Refer to the COPD Property: Management of Prisoner Property.
- The quantity must not exceed the maximum allowance as set out in section 8.2 of this COPD.





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The issue of unscheduled non-prescribed medications, including quantity is to case noted on the prisoner's IOMS file.

#### 8.4 Q Health considerations

The Chief Superintendent or nominated staff member is required to advise Q Health staff, including visiting medical officers, that prisoners have access to the unscheduled medications through the canteen process. This is to ensure that Q Health staff can advise prisoners where there is a contraindication with a prescribed medication and a health condition (for example, ibuprofen is not generally recommended for pregnant people).

Q Health staff will provide prisoners with information about alternative pain management and any risks with the overuse or prolonged use of the unscheduled medication.

Prisoners will continue to have access to paracetamol and ibuprofen as a PRN (pro re nata, which means 'as needed') from Q Health within the centre, or as prescribed by a doctor.

#### 8.5 At-Risk/EBLR prisoners

Prisoners on a current At-Risk Management Plan (ARMP) or Elevated Baseline Risk (EBLR) plan should, if deemed appropriate, have their individual plan reviewed by the multidisciplinary team in consideration of this section of the COPD.

Consideration in the review may include, but not be limited to:

- a) allowing full access to the purchase of paracetamol/ibuprofen;
- b) reducing and/or restricting access to the purchase of paracetamol/ibuprofen; or
- c) not approving the purchase of paracetamol/ibuprofen.

The above considerations may also be applied to prisoners being managed on Intensive Management Plans (IMPs) for functional support due to, for example, a cognitive impairment related condition or other reason.

A nominated member of the multidisciplinary team will then be required to make contact with the Bulk Stores/canteen staff to provide them with the considered restrictions to the prisoner's access to medication via the buy up process in line with their current plan.





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## 11. Prisoner Carers

Prisoner carers may be employed to assist those prisoners who are identified as requiring assistance. This practice is to be limited to three basic areas of responsibility for which no first-aid or other training is required. These include:

- a) cleaning the ill/infirm prisoner's cell;
- b) getting that prisoner's meal and other basic needs (e.g. reading material, etc.); and
- c) transporting the prisoner (e.g. by wheelchair, etc.) to the Health Centre or other location within the centre as needed

Prisoners are not permitted to be involved in assisting other prisoners with personal care (e.g. undressing, showering, toileting).

Chief Superintendents of corrective service facilities should ensure a Local Instruction is written outlining the selection and management process which clearly states the duties and limitations for suitable prisoners to be employed in this capacity.

When assessing the suitability for a prisoner to become a carer the following should be considered:

- a) offending behaviour with possible exclusions being elder abuse, exploitation in the capacity of a carer;
- b) custodial incident and breach history; and
- c) intelligence holding indicating a history of standover tactics.

The prisoner requiring care may be consulted prior to the appointment of a carer.

Prisoner carers are to be employed in accordance with the COPD Prisoner Employment.

The provision of health care to prisoners remains the responsibility of Q Health. In cases where prisoners have been clinically assessed as requiring more significant care (e.g. personal care), consultation between QCS and Q Health will continue to occur.

## 12. Delivery of Legally Required Health Programs

A prisoner currently serving a custodial episode may have agreed to engage in a legally required health program with the Queensland Police Service (QPS) or the Queensland Courts. A prisoner's failure to complete the program may result in the recognisance being forfeited and a warrant being issued. .





Only health programs that form part of the QPS and courts recognised programs are eligible for consideration of delivery through this process.

### 13. Private Medical Treatment

Prisoners may have access to private medical practitioners and private medical treatment at their own expense. This will also include associated costs such as transport and corrective services officers providing an escort. Refer to the COPD Escorts: External Escorts for further information regarding planning and conducting an escort.

Prisoners may apply in writing for private medical treatment by a doctor or psychologist nominated by them in accordance with section 22 of the *Corrective Services Act 2006* (CSA).

The Chief Executive or delegate may give approval for a prisoner to be treated by a private medical practitioner if satisfied:

- a) the prisoner is able to pay for the examination or treatment and associated costs (refer to sections 22(3)(b) and (4) of the CSA);
- b) the application for the approval is not:
  - i. frivolous or vexatious (refer to section 22(3)(a)(i) of the CSA); or
  - ii. for an examination or treatment for participating in assisted reproductive technology (refer to section 22(3)(a)(ii) of the CSA);
- c) the doctor or psychologist nominated by the prisoner is willing and available to carry out the examination or treatment of the prisoner (refer to section 22(3)(c) of the CSA); and
- d) the provision of the examination or treatment does not pose a risk to the good order or security of the facility.

The Chief Executive or delegate must consider, but is not bound by, any report or recommendation made by the nominated doctor or psychologist (refer to section 22(5) of the CSA).

Prisoners and private medical practitioners must be aware that prisoners in a secure or low custody facility do not have Medicare cards or Medicare numbers and are therefore ineligible for any Medicare reimbursement.

### 14. DNA Sampling

DNA sampling is the process of taking biological samples from a person's body for analysis to determine the unique DNA code of that person. While DNA analysis can be used for a number of things, this information relates only to the establishment of a DNA database by the Queensland Police Service (QPS) for use by law enforcement agencies.

The QPS is authorised to take DNA samples from prisoners who are serving sentences for indictable offences, whether sentenced in Queensland or elsewhere.

This process provides for a co-operative approach to the taking of DNA samples by the QPS from a prisoner serving a term of imprisonment for an indictable offence committed in another state or country who has been transferred and detained in a corrective services facility (refer to section 487 of the PPRA).







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Effective risk management strategies must be utilised to minimise the potential for negative impact on the corrective services facility that may arise from the DNA sampling process.

### 14.1 Authority for DNA sampling

The PPRA provides:

- a) authority for police officers (who through experience, expertise or training are considered suitable) or doctors or nurses (who have been asked by police officers), to take a hair sample or mouth swab (DNA sample) from another person for DNA analysis;
- b) establishes procedures for taking DNA samples;
- c) authorises:
  - i. the establishment of a DNA database;
  - ii. the recording of information obtained by performing a DNA analysis of a DNA sample; and
  - iii. the use of the information in the database for investigations by declared law-enforcement agencies.

The taking of DNA samples from transferred prisoners is provided for under section 487 of the PPRA.

### 14.2 Advice to Queensland Police Service

When a sentenced prisoner is transferred from another state or country to Queensland, the Chief Superintendent of the receiving corrective services facility must advise the DNA and Forensic Sample Management Unit, QPS to enable arrangements to be made for DNA testing of the transferred prisoner if required.

### 14.3 Information to prisoners

Before the taking of samples commences, the Chief Superintendent of a corrective services facility must provide information regarding the processes involved in DNA sampling to the prisoner refer to the Appendix H1 DNA Sampling Information for Prisoner.

### 14.4 Methods of taking DNA samples

DNA samples are taken in one of two ways:

- a) Mouth Swab: The person from whom the sample is to be taken is handed a swab consisting of a foam disc about the size of a \$2 coin, attached to a short straw-like handle. The DNA Sampler asks the person to rub the swab inside their cheeks. The swab collects cells that are subsequently analysed to determine the DNA code for that person. This is the preferred method of taking DNA samples.
- b) Hair Sampling: A DNA Sampler may take 10 to 12 individual hair strands including hair roots from a person.

A DNA sample should normally only be taken from a prisoner once. However, if no DNA profile is obtained from that sample, another DNA sample will be taken.

### 14.5 Provision of staff

QPS will provide a DNA Sampler to take DNA samples.

The Chief Superintendent of a corrective services facility must assign a corrective services officer to the DNA Sampler, who must remain with the DNA Sampler while they are in the facility.

Q Health staff working in the health centre must not participate in any aspect of taking DNA samples.





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### 14.6 Precautions to minimise impact on a facility

A prisoner will not be told the date or time DNA samples will be taken.

A prisoner must be informed about the taking of DNA samples and be given the opportunity to ask questions and raise concerns about the process. The level of concern, if any, must be monitored continuously until the collection process has been completed.

The Chief Superintendent of the corrective services facility should be aware of the possible distress taking DNA samples may cause some prisoners and ensure staff are vigilant in observing prisoners for any signs of an intention to self-harm.

### 14.7 Facilitating collection of samples

If requested, DNA Samplers must be given assistance to undertake their task.

The Chief Superintendent of the corrective services facility must provide DNA Samplers:

- a) secure storage for their equipment; and
- b) easy access to the room allocated for the sampling purpose.

The Chief Superintendent of the corrective services facility must roster sufficient corrective services officers to ensure a prisoner attends the DNA sampling area in a manner that does not delay the DNA Sampler.

Only corrective services officers are to escort prisoners.

In addition to escort staff, one corrective services officer must be in constant attendance in the DNA sampling area while samples are being taken.

The corrective services officer must:

- a) ensure the DNA sampling area is ready for use;
- b) manage a prisoner inside the DNA sampling room, except for the period during which the actual sample is being taken;
- c) confirm that an identified prisoner is serving a term of imprisonment for an indictable offence;
- d) liaise with other corrective services officers about the movement of a prisoner to and from the DNA sampling room;
- e) ensure DNA Samplers have access to departmental documentation which confirms the identity of a prisoner;
- f) provide any other reasonable assistance requested by DNA Samplers;
- g) advise the Chief Superintendent of the corrective services facility immediately if a prisoner has refused to provide a sample;
- h) if it is envisaged that it will be necessary to use force against a prisoner to collect a DNA sample, a DNA Sampler or appointed liaison officer is to negotiate appropriate arrangements to take the DNA sample with the Chief Superintendent of the corrective services facility (refer to section 517(4) of the PPRA); and
- i) record in IOMS that the sample has been taken.

### 14.8 Protecting the dignity of persons while taking DNA samples

Samples are taken in an area that provides reasonable privacy for the person.

If reasonably practicable, a DNA sample is not taken:

- a) in the presence of someone whose presence is not required while the sample is being taken; or





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- b) where someone not involved in taking the sample can see the sample being taken.

The prisoner must not be required to remove more clothing than is necessary for the DNA sample to be taken.

### 14.9 Refusal by a prisoner to provide a DNA sample

If a prisoner will not cooperate with the sampling process, the Chief Superintendent of the corrective services facility must first discuss with the prisoner the consequences of failure to comply.

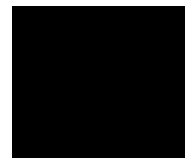
If a decision is made to take the DNA sample, then the DNA Samplers will, in consultation with the Chief Superintendent of the corrective services facility, take a DNA sample. Even if a prisoner refuses to allow a sample to be taken, they must remain in the sample area for the same length of time it would take to obtain a sample from a cooperative prisoner. This is to ensure the process does not confirm any non-compliance to other prisoners.

### 14.10 Use of force

For the provision of use of force associated with DNA sampling, refer to section 4 of this COPD.

### 14.11 Record of DNA testing

The Chief Superintendent of a corrective services facility must ensure that a record of DNA testing is entered in IOMS for every prisoner tested.



## 15. Prisoners with an Advance Health Directive (AHD)

An AHD is a legally enforceable document that allows a person to give directions about their future health care. An AHD operates only when a person's capacity becomes impaired, for example, a prisoner is suffering a medical episode and they are not responsive.

The Chief Superintendent should ensure there is a process for Q Health to inform QCS staff of prisoners at the centre who have made an AHD.

Where QCS is advised by Q Health that a prisoner has made an AHD, all reasonable efforts must be made to inform the officers managing the prisoner about the AHD. Officers must abide by the requirements of the AHD, which may include a refusal to consent to cardio-pulmonary resuscitation (CPR).

There may be circumstances where an officer may treat a prisoner while not aware of the AHD, for example, an officer may commence CPR on an unconscious prisoner without knowing the AHD was in place. This will not be in breach of the AHD providing the officer ceases treatment upon being informed of the existence of an AHD.

The potential impact on staff who manage prisoners with an AHD which is implemented is acknowledged, as is the potential impact on prisoners who may observe an AHD being carried out.

Support via the preferred service provider is to be offered to all staff involved in the incident (the circumstances relating to the incident are to be provided to the service provider by the Chief Superintendent of the corrective services facility or nominee). Refer to the Critical Incident Support resources available on the QCS intranet for the appropriate course of action.





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Refer to the COPD Incident Management: Death in Custody for details of the debriefing process to be followed and the management of associated prisoners after a death in custody.

## 16. Critically Ill Prisoners

### 16.1 Sentenced prisoners

If a sentenced prisoner is critically ill, they are to be encouraged to consider applying for exceptional circumstances parole. The prisoner can be referred to Sentence Management Services (SMS) to discuss their eligibility and the application process. Refer to section 176 of the CSA.

### 16.2 Remanded prisoners

Prisoners currently held on remand are ineligible to apply for exceptional circumstances parole. If an individual being held on remand is critically ill, they are to be encouraged to consider applying for bail. The prisoner can contact their legal representative or use the PTS to contact Legal Aid Queensland if they require support applying for bail or want to discuss the bail application process.

If the prisoner is both sentenced and remanded for further outstanding charges, they will be required to gain both exceptional circumstances parole and bail before being released to the community.

## 17. Voluntary Assisted Dying (VAD)

VAD gives Queensland persons who are suffering and dying, and who meet eligibility criteria, the option of requesting medical assistance to end their lives. This is not legally considered suicide.

The VAD process is a confidential process managed by Q Health.

If a prisoner raises the topic of VAD with QCS staff, the prisoner must be directed to request further information from Q Health staff. QCS staff must not provide advice or information on this topic to a prisoner.

Chief Superintendents are to ensure that this process is supported by a Local Instruction as required to support officers involved in the management of prisoners undergoing this process, where this is known. For example, a process to identify suitable officers for related escort duties.

