



Sentence Management

Sentence Calculation

SM

Custodial Operations Practice Directive

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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;
- b) right to privacy and reputation;
- c) cultural rights generally and the cultural rights of Aboriginal and Torres Strait Islander peoples;
- d) right to humane treatment when deprived of liberty;
- e) freedom of movement;
- f) right to liberty and security of person; and
- g) 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 liberty and security of person protects against the unlawful or arbitrary arrest or detention of a person.
- b) The nature and purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. A custodial sentence deprives a person of their liberty and the purpose of accurate sentence calculation is to ensure that the duration of the sentence is in accordance with the legislative provisions and the orders of the court.
- 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 help to achieve the purpose or legitimate aim. For example, the accurate completion of sentence calculation and administrative processes will reduce the likelihood of persons being unlawfully detained, thereby enhancing the right to liberty and security of person.
- 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, there are alternatives to a custodial sentence, though this is of within the remit of corrective services.
- 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, do the safety and security of others and the deterrence against further offending, which is achieved via the courts imposing a custodial sentence, outweigh the limit to freedom of movement of the prisoner?





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3. Sentence Calculation Overview

Sentence calculation and administration processes are a core agency business function to ensure that the orders of the court are enforced by accurately calculating the period of time that a prisoner may be lawfully held in QCS custody and to ensure that prisoners are correctly released/discharged from QCS custody. Refer to the Appendix SM2 Sentence Administration Practices and Processes Instruction.

The calculation of a prisoner's sentence must be completed in accordance with the guidelines and rules provided in the Sentence Calculation and Administration Appendices. Refer to the Appendix SM18 Basic Sentence Administration, the Appendix SM19 Sentence Structure, the Appendix SM20 Pre Sentence Custody Certificate, the Appendix SM21 Specific Orders, the Appendix SM22 Previous Provisions, the Appendix SM23 Sentence Calculation Verification Guidelines and the Appendix SM27 Bail Processes.

The Chief Superintendent, Sentence Management Services must ensure that all staff undertaking sentence calculation and administration duties have read and understand the contents of these Appendices. Amendments to these Appendices will be published through the Sentence Management Services Newsletters.

A prisoner's period of imprisonment must be determined by the Lawful Detention Unit (LDU) in accordance with relevant legislation and procedure prior to the completion of a sentence calculation and include:

- a) a full time discharge date;
- b) a parole eligibility or release date; or
- c) a custodial end date.

A sentence calculation is to be completed for all prisoners who are sentenced and admitted to QCS custody or sentenced and admitted to QCS supervision on an immediate court ordered parole order.

The Administrative Form 11A New Reception and Sentence Calculation Tool (Lawful Detention Unit) is to be used for all admissions and completion of all sentence calculation and attached to IOMS (Sentence and Orders/Attachments).

The LDU officer completing the sentence calculation must enter their name and position title in the sentence calculation comments.

The Manager, LDU must check that the Administrative Form 11A New Reception and Sentence Calculation Tool (Lawful Detention Unit) has been accurately completed and attached to IOMS when verifying the sentence calculation. Refer to the Appendix SM23 Sentence Calculation Verification Guidelines.

4. Custodial Sentence Calculations

The LDU are responsible for ensuring that the sentence calculation for prisoners sentenced and admitted to QCS custody are completed, pending verification, within two working days of the Verdict and Judgment Record (VJR) being received by QCS, where possible.

The Manager, LDU must review and verify all initial and amended sentence calculations, within three working days from completion of the sentence calculation or prior to the prisoner's release/discharge date (whichever is earlier) to ensure that the calculation has been completed in accordance with the Appendix SM23 Sentence Calculation Verification Guidelines. It must be confirmed as part of the release/discharge process that the sentence calculation has been verified prior to release.





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All dates must be checked and confirmed after being calculated in IOMS. Any further court commitments must be entered into the prisoner's diary. A prisoner's release/discharge dates and conditions must be checked for accuracy and explained to the prisoner if necessary.

The prisoner must be provided a copy of the verified sentence calculation report by a sentence management officer. The sentence management officer is to enter an IOMS case note (SCAL – Sentence details) detailing the date that a copy of the verified sentence calculation was provided to the prisoner. Refer to the Appendix D03 Case Noting Categories.



Wherever possible, a prisoner should not be transferred to another corrective services facility until the sentence calculation has been completed and checked.

4.1 Restricted Prisoner Declarations and No Cooperation Declarations

In accordance with section 175I of the *Corrective Services Act 2006* (CSA) the President of PBQ can make a restricted prisoner declaration. A prisoner may not be granted parole while a restricted prisoner declaration is in force against them and may not apply for parole. However, a restricted prisoner is still able to apply for exceptional circumstances parole. Refer to sections 175D-175J, 176A, 180(c) and 193AA of the CSA, the COPD Sentence Management: Parole Applications and Process and the Appendix SM26 Restricted Prisoner Declarations for further information on restricted prisoner declarations.

If a restricted prisoner declaration is made, this does not change the parole eligibility date imposed by a court (or calculated under statutory non-parole period provisions). This declaration only excludes the restricted prisoner from making a Board Ordered Parole application for the period the declaration is in force.

Centre based SMS must notify the LDU when a restricted prisoner declaration is received from PBQ.

LDU is required to adjust the Parole Eligibility date within the Sentence Calculation to reflect the date ordered by the PBQ in relation to the restricted prisoner declaration.

Verification comments are required in accordance with Appendix SM23 Sentence Calculation Verification Guidelines.

4.1.1 No Body-No Parole Prisoner No Cooperation Declarations

In accordance with section 175L of the CSA if PBQ is not satisfied a no body-no parole prisoner has given satisfactory cooperation in the investigation of the homicide offence to identify the victim's location, they must make a No Cooperation Declaration.

Pursuant to section 193A of the CSA, if a no cooperation declaration is in force for a prisoner, PBQ must refuse the prisoner's initial application for parole and the prisoner may not make additional applications for parole while the no cooperation declaration is in force. A no body-no parole prisoner also may not apply for exceptional circumstances parole if a no cooperation declaration is in force for the prisoner. Refer to sections 176B and 180 of the CSA and COPD Sentence Management: Parole Applications and Process.

If a no cooperation declaration is made, this does not change the parole eligibility date imposed by a court (or calculated under statutory non-parole period provisions).



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This declaration only excludes the no body-no parole prisoner from making a Board Ordered Parole application for the period the declaration is in force.

Centre based SMS must notify the LDU when a No Cooperation Declaration is received from PBQ.

LDU is required to adjust the Parole Eligibility date within the Sentence Calculation to reflect the date ordered by PBQ in relation to the No Cooperation Declaration.

Verification comments are required in accordance with Appendix SM23 Sentence Calculation Verification Guidelines.

5. Identify Need and Refer for Activation of Warning Flag Indicators

All corrective services officers must familiarise themselves with the Appendix SM1 Criteria for Warning Flag Indicators and refer a prisoner to the responsible authorising officer for activation or deactivation of any relevant warning flag indicators.

5.1 Warrants and offences in IOMS (domestic violence)

When entering offence details from the VJR, the option to endorse Domestic Violence Offence must be utilised when any of the following is evident:

- a) the offence title is indicative of domestic violence;
- b) information available in police facts or sentencing transcripts confirms the offence relates to domestic violence; or
- c) any other relevant sources of information, including prisoner self-report, Immediate Risk Needs Assessments (IRNAs) or other assessments.

6. Community Corrections Sentence Calculations

Community Corrections officers must make arrangements for a sentence calculation to be completed by the LDU, for prisoners sentenced to immediate court ordered parole.

For a Community Corrections sentence calculation to be undertaken, Community Corrections officers must action the following within one working day of receiving the VJR:

- a) create a draft court ordered parole order in IOMS; and
- b) scan and attach the VJR in IOMS as a Sentence Administration Attachment (Sub Type CC VJR SCAL required) to allow the sentence calculation to be captured by Reporting Services and actioned by the LDU (refer to the Appendix SM17 Sentence Administration IOMS Attachments - Document Naming Conventions).

The Administrative Form 11A New Reception and Sentence Calculation Tool (Lawful Detention Unit) is to be used when a sentence calculation is completed and attached to IOMS (Sentence and Orders/Attachments). The LDU staff member completing the sentence calculation must enter their name and position title in the sentence calculation comments.

Where practicable, the sentence calculation must be completed within two working days of the attachment being uploaded to IOMS.

The Assistant Manager, LDU and above must check initial and amended sentence calculations and discharge checks when a calculation has not been previously checked within five working days of receipt of the order, or prior to the prisoner's release/discharge date (whichever is earlier), to ensure that the calculation has been completed in accordance with the Appendix SM23 Sentence Calculation Verification Guidelines.





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The Assistant Manager or above, LDU must notify the relevant Community Corrections office that the sentence calculation has been completed and checked through the generic Community Corrections office email address.

7. Sentence Calculation Referrals

If the LDU determines that legal advice is required, the LDU is responsible for emailing the legal advice request (and all relevant attachments, e.g. the VJR, sentencing transcript, current IOMS sentence calculation) to the Legal Strategy and Services Group. Sentence Management Operations [REDACTED] are to be cc'd into the email.

The Regional Manager, LDU is responsible for tracking the status of the request for legal advice relating to sentence calculation and administration processes approved by the Chief Superintendent, Sentence Management Services with the allocated legal officer in the Legal Strategy and Services Group (LSSG), and advising the Senior Advisor, Sentence Administration when a response is provided by the LSSG.

8. Sentence Calculation Amendments

A sentence calculation is to be amended when a prisoner is further convicted and/or returned to custody following a parole suspension/cancellation or escape from custody.

When a prisoner is returned to QCS custody on a warrant issued by an authorised QCS delegate, the sentence calculation must be amended and the status of the warrant (Approved Form 22, Approved Form 37 or Approved Form 39) updated in IOMS by a sentence management officer. The warrant must also be attached in IOMS (file path: File Contents/Sentences and Orders/Attachments).

If it is identified that a prisoner's sentence calculation is to be amended to include time not served and the prisoner's parole order will expire prior to the prisoner being transferred, the LDU staff member must ensure all warrant documentation has been attached to IOMS and urgently refer the matter to an Assistant Manager, LDU or above.

The LDU officer who completed the calculation must amend the sentence calculation as required, make arrangements for the sentence calculation to be checked and notify the relevant sentence management officer, the Community Corrections Supervisor and the Parole Board Secretariat, where applicable, when the sentence calculation has been completed and checked in IOMS.

The LDU Officer must then also ensure that a copy of the amended sentence calculation is provided to the relevant watchhouse and an IOMS case note (file path: SCAL – Sentence details) is made in relation to the matter.

9. Court Outcome Management

Centre-based SMS and the LDU are responsible for ensuring that a prisoner can continue to be lawfully detained in custody at their location following a court outcome. Before a prisoner's return to the corrective services facility, the relevant court will notify the LDU of the court outcome.





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It is the daily responsibility of the LDU to track, receive and reconcile court outcomes on the day of the court appearance and to also update the electronic IOMS records and the hard copy file. A result for each prisoner's court appearance/s must be tracked and received with the lawful detention/release determined by the LDU on the day of the court outcome. This is critical to enable the verification of sentence calculations and to remotely ascertain lawful detention and lawful release if required. Without exception, the LDU must update all court outcomes in accordance with the Post Court outcome management process map including ensuring that:

- a) all sentencing documentation, including orders of imprisonment VJRs, remand in custody VJRs, any subsequent updated court appearances (e.g. further remanded) that relate to the prisoner's current detention or release are attached to the prisoner's record on IOMS;
- b) any amended or superseded sentencing documents are deleted from IOMS and replaced with the updated document; and
- c) the Offender Management Events is updated relating to court appearance dates that are not orders to remand in custody (e.g. Notice to Appear, Summons, Letter of Production, Bail Undertaking etc).

The attachment of documents received by the court, and the recording and updating of court events, must occur:

- a) in the event of immediate or same day release – on the day of receipt; and
- b) for any future release dates – on the day of receipt or by the following working day.

The LDU are to provide a finalised court outcomes spreadsheet advising of the continuing lawful detention of prisoners and approved unscheduled discharges. SMS are to email relevant corrective services facility staff those prisoners who are lawfully permitted to return to the corrective services facility and who has been approved for release/discharge.

Where possible, prisoners are not to be returned to QCS custody after the close of business unless the court outcome has been checked by the LDU during business hours.

Where a court outcome is not available prior to close of business the LDU will notify SMS at the corrective services facility. SMS at the facility must notify the duty manager and night supervisor of the status of the outstanding court outcome and all key contacts should there be any queries in relation to the court outcome.

10. Complying with the Order of the Court

In completing a sentence calculation, sentence management officers must comply with the court order/s regardless of whether they may appear contrary to law.

In complying with the court order/s, additional consideration must be made, where relevant, to the legislative provisions for presentence custody as per section 159A of the *Penalties and Sentences Act 1992*, and the legislative provisions of section 33 of the *Bail Act 1980*. Refer to the Appendix SM18 Basic Sentence Administration, the Appendix SM19 Sentence Structure, the Appendix SM20 Pre Sentence Custody Certificate, the Appendix SM21 Specific Orders and the Appendix SM27 Bail Processes.

10.1 Youth Justice Sentence calculations

Sentences calculations for sentences imposed under the *Youth Justice Act 1992* are actioned by Youth Justice. Refer to the *Youth Justice Act 1992* and the Appendix SM21 Specific Orders.





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11. Clarifying Orders of the Court

The process for seeking clarification of a court order or resolving matters with a court or prosecution authority is provided in the Appendix SM18 Basic Sentence Administration.

All phone calls and/or emails to court staff must be case noted in IOMS (file path: SCAL – court contact). If correspondence to the prosecuting authority is subsequently required, the letter must be scanned and attached in the sentence calculation attachments in IOMS.

A bring up must be entered in the IOMS Event Manager to ensure the matter is followed up within two weeks or earlier as required.

12. Applications for Sentence Re-Openings

The process for applying for a sentence re-opening is provided in the Appendix SM18 Basic Sentence Administration.

Any application for a sentence re-opening that QCS has standing before the court must be completed by the Manager, LDU and emailed to the relevant court.

The LDU is responsible for tracking the status of the sentence re-openings with the LSSG, advising the relevant Manager, LDU when a response is provided by the LSSG.

13. Sentence Transcripts

If the centre-based SMS staff identify that the sentencing transcript differs from the VJR, they must advise the LDU who must take urgent action to clarify the orders of the court in accordance with the Appendix SM18 Basic Sentence Administration.

SMS staff in centres can access Court of Appeal transcripts from the Supreme Court Library Queensland: <https://www.sclqld.org.au/>.

14. Court Reports

If a court report has been ordered but not received/provided, a copy of the report must be requested by the LDU staff member who is verifying the sentence calculation. Upon receipt, the LDU staff member is to forward the court report to the relevant area (e.g. intelligence unit, psychological and counselling services). Copies of court reports are not to be attached in IOMS.

14.1 Court requests for pre-sentence reports

A request for QCS to prepare a pre-sentence report is made by a court using the Approved Form 50 Request by Court for Pre-Sentence Report.

Where the prisoner is case managed by a Case Management Unit (CMU), the CMU is responsible for preparing the pre-sentence report (refer to the DCI 03/2024 End to End Case Management Model – Phase Four (post April 2024 IOMS enhancement): section 8 Advisory Report). Where the prisoner is not case managed by the CMU, Community Corrections is responsible for preparing the pre-sentence report. The report is to be submitted to the court within 28 days of a request being made as per section 344 of the *Corrective Services Act 2006*.

Upon receipt of an Approved Form 50 Request by Court for Pre-Sentence Report, SMS must ensure it is forwarded by email to the relevant business unit (i.e. District Manager at the Community Corrections office closest to the corrective services facility or the Manager of the CMU), within 24 hours of receipt. A case note is to be entered in IOMS to record the action.

