



Sentence Management

Manage Unlawful Detention / Discharge in Error

SM

Custodial Operations Practice Directive

Version: 1.4

Implementation date: 29/06/2023

Availability: Official/Public

Performance Standard: Prisoners are discharged from corrective services facilities inclusive of managing unlawful detention and discharge in error.

Outcomes:

Appropriate response and management of unlawful detention and discharge in error incidents.

Accountability:

Chief Superintendent,
Sentence Management
Services

- Ensures all discharge processes are completed by appropriate staff members and to procedural standard.

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- Manages the prisoner's physical file, sentence calculation and administration and incidents arising from sentence calculation errors.

Process Owner: Specialist Operations maintains ownership and responsibility for review and amendment of the Custodial Operations Practice Directive (COPD).

Internal Oversight and Review Controls: Sentence Management Services (SMS) are responsible for the internal oversight and review of key risk areas. Refer to the Internal Oversight and Review Controls document attached in the Related Directives and Documents menu of this COPD and the Administrative Form 140 Internal Oversight Control – Temporary Role Variation Request Form .

Human Rights

To ensure corrective services officers act or make decisions in a way that is compatible with human rights, officers must give proper consideration to human rights relevant to the decision including but not limited to:

- the right to equal and effective protection against discrimination;
- the right to protection from torture and cruel, inhuman or degrading treatment;
- freedom of movement;
- the right to have access, based on the person's abilities, to further vocational education and training that is equally accessible to all;
- the right to privacy and to reputation;
- the right to access health services without discrimination including the right not to be refused emergency medical treatment that is immediately necessary to save the offender's life or prevent serious impairment to the offender;
- the protection of families as the fundamental group of society and the protection of children;
- the right to liberty and security of person;
- cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples; and
- the right to be treated with humanity and respect.

Limitation of Human Rights

Human rights can be limited if certain conditions are present:

- the limit must be provided under law;
- the limit must be reasonable; and
- any imposition on human rights must be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

A person's human rights should only be limited to the extent that is reasonably and demonstrably justified.

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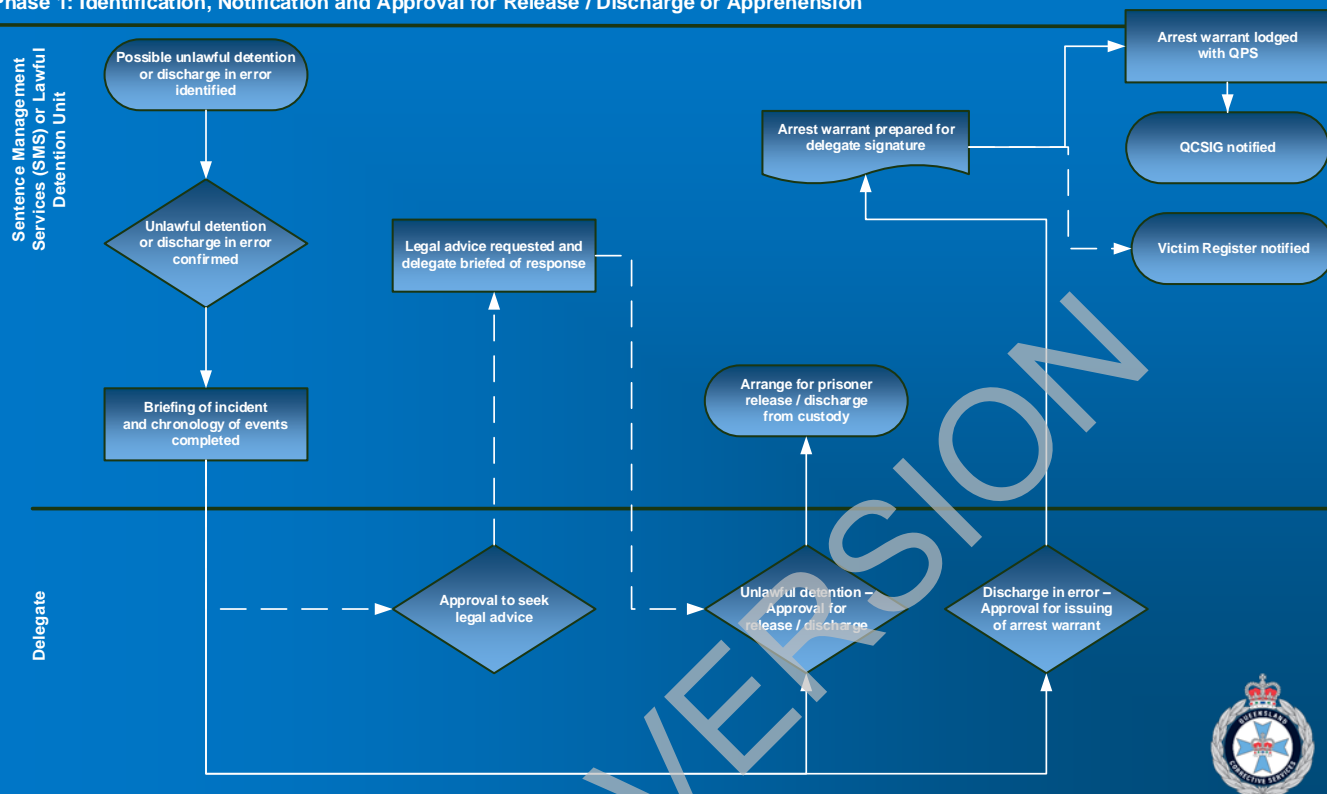
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Incident Management – Unlawful Detention / Discharge in Error
Phase 1: Identification, Notification and Approval for Release / Discharge or Apprehension



Above business flow diagram is to be considered in conjunction with this Custodial Operations Practice Directive.

Notification of Error

When a possible incident is identified, notification must immediately be made to the Manager, Lawful Detention Unit (LDU). The Manager, LDU will review the case and confirm an incident has occurred in addition to ensuring all relevant sentencing documents and warrants have been attached in IOMS.

If the Manager, LDU confirms the prisoner was unlawfully held or discharged in error they must immediately notify the Regional Manager, LDU of the incident through an initial telephone call. Immediate briefing of senior management must occur and be documented when an incident has been confirmed.

The Manager, LDU is responsible for providing a detailed chronology of events immediately upon incident confirmation to the Principal Advisor and Regional Manager, LDU for briefing the Chief Superintendent, Sentence Management Services (SMS) and the Assistant Commissioner, Specialist Operations.

The chronology must include:

- prisoner's name;
- prisoner's date of birth;
- prisoner's IOMS number;
- prisoner's ethnicity;
- sentencing / remand details;
- offences (including domestic violence flag);
- parole release/eligibility date;
- full time discharge date;
- last known address;
- last Community Corrections reporting location (if applicable); and
- summary of events that have contributed to the incident.



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Example of 'Chronology'

On 19 December 2016 Prisoner Unknown was admitted into Random Correctional Centre on remand for matters listed before Magistrates Court Toowoomba on 20 December 2016 appearance was via video link.

On 20 December 2016 at 1.02pm the Magistrates Court Toowoomba emailed RCC Sentence Management inbox the court outcome for all charges. The prisoner was convicted and not further punished. VJR attached.

RCC Sentence Management took no action on this court outcome. Prisoner Unknown has been unlawfully detained for 1 day on 21 December 2016.

Seeking permission to discharge from custody.

The Manager, SMS at the originating location must immediately notify the Chief Superintendent of the corrective services facility of the incident of unlawful detention or discharge in error upon confirmation being received.

Release or apprehension approval

The LDU is responsible for briefing and seeking written approval from the Chief Superintendent, SMS or the Assistant Commissioner, Specialist Operations to release/discharge the prisoner. Should arrangements need to be made for the prisoner to be returned to QCS custody, the LDU must be notified. Where necessary, phone contact is made to alert the recipient to the email for immediate action.

The Chief Superintendent, SMS or Assistant Commissioner, Specialist Operations may require the LDU to seek legal advice in relation to the incident prior to approving the prisoner's release/discharge or return to QCS custody.

The prisoner is not to be released/discharged, until confirmation has been provided by the Chief Superintendent, SMS or the Assistant Commissioner, Specialist Operations. A warrant must not be issued until confirmation of lawfulness to do so has been obtained. Refer to the Appendix SM6 Issuing and Withdrawing Warrants.

The Principal Advisor or the Regional Manager, LDU is responsible for preparing, having the warrant endorsed and lodging the warrant with the Queensland Police Service (QPS). A warrant is to be issued in accordance with the Appendix SM6 Issuing and Withdrawing Warrants. Once lodged, the Principal Advisor, LDU will attach the warrant documents to IOMS and raise the arrest warrant flag in IOMS.

[REDACTED]

[REDACTED] SMS may utilise endorsed local process guides in relation to incident management, inclusive of further stakeholder liaison.





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Additional Considerations – Victims Register (VR)

After the identification of a discharge in error from QCS custody, regardless of cause or Agency responsibility, the LDU must immediately confirm whether a current or historical eligible person is registered with the Victims Register (VR) for the mistakenly discharged prisoner. If the mistakenly discharged prisoner has an eligible person identified, the LDU will enact the communication process of immediately notifying the VR via the generic email account:

victims.register@corrections.qld.gov.au.

Under section 324A(1)(c) and (d) of the *Corrective Services Act 2006* (CSA), the chief executive must give an eligible person the following information about a prisoner in relation to whom the eligible person is registered –

- the fact, and date, of the death or escape of the prisoner;
- the fact, and date, of any particular circumstances relating to the prisoner that could reasonably be expected to endanger the eligible person's life or physical safety e.g. the prisoner is mistakenly discharged before their discharge day, or the prisoner is granted unsupervised leave.

(A staff member from the QCS VR or the QCS officer responsible for the management of the incident will assess and determine if the information relating to the prisoner could reasonably be expected to endanger the eligible person's life or physical safety).

Section 324A(2)(b) of the CSA stipulates that information under s324A(1)(c) and (d) **must** be given to the eligible person immediately after the chief executive becomes aware of the information.

All prisoners with an eligible person registered against them will have a VR flag on IOMS.

The QCS officer responsible for the oversight and/or management of the incident will identify if the prisoner has an IOMS VR flag.

If the prisoner has an IOMS VR flag, the QCS officer will access the eligible person's contact details in the IOMS VR section.

The QCS officer will contact the eligible person and advise of the incident and detail the contact and response in the IOMS VR case notes.

When contacting the eligible person, the QCS officer will:

- provide their name and position & advise the contact is occurring on behalf of the QCS VR;
- the nature of the incident involving the prisoner of concern; and
- if necessary, encourage the eligible person to contact QPS if they have any immediate or future safety concerns.

If contact cannot be established, where practicable a voice mail message will be left requesting the eligible person contact the QCS officer at the earliest opportunity or the QCS VR on the next business day.





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Additional Considerations – Victims Register (VR)	<p>The QCS officer will also send an email to victims.register@corrections.qld.gov.au detailing:</p> <ul style="list-style-type: none">• QCS officer initiating contact;• if contact was established;• if contact was not established was a voice mail message left requesting contact;• nature of the incident;• information provided to the eligible person;• any issues raised by the eligible person; and• if a case note was completed.
Additional Considerations – Victims Register (VR)	<p>If the prisoner is arrested outside of business hours, the officer responsible for the management of the incident will again contact the eligible person and provide an update on the prisoner's status. The contact is to be recorded in an IOMS VR case note and detailed in an email to victims.register@corrections.qld.gov.au.</p> <p>Staff employed within the QCS VR will be responsible for the release of information to eligible persons during business hours.</p> <p>The Assistant Commissioner, Specialist Operations, and Chief Superintendent, or Superintendent, SMS or should be advised if the eligible person raises any issues that may result in media attention.</p> <p>The QCS officer responsible for the management of an incident will be responsible for the release of information relevant to Section 324A(1)(c) and (d) of the CSA to an eligible person outside of business hours in accordance with section 341(3)(e)(i) of the CSA.</p> <p>It is the responsibility of each operational unit to contact the QCS VR victims.register@corrections.qld.gov.au and request IOMS VR access for QCS staff who manage and or have oversight of incidents.</p> <p>It is the responsibility of the QCS VR to provide an overview of the IOMS VR section to all QCS staff who have been approved access.</p>
Additional Considerations – Incident outside of business hours	<p>Should an unlawful detention or discharge in error be identified outside of normal business hours. The notification process and issuing of a warrant/permission to release will be organised by the 'on call manager' in liaison with the Chief Superintendent, SMS, inclusive of managing if there is a relevant Victims Register flag.</p> <p>As soon as possible on the following business day, the 'on call manager' is to ensure notification of the incident is provided to the LDU.</p>





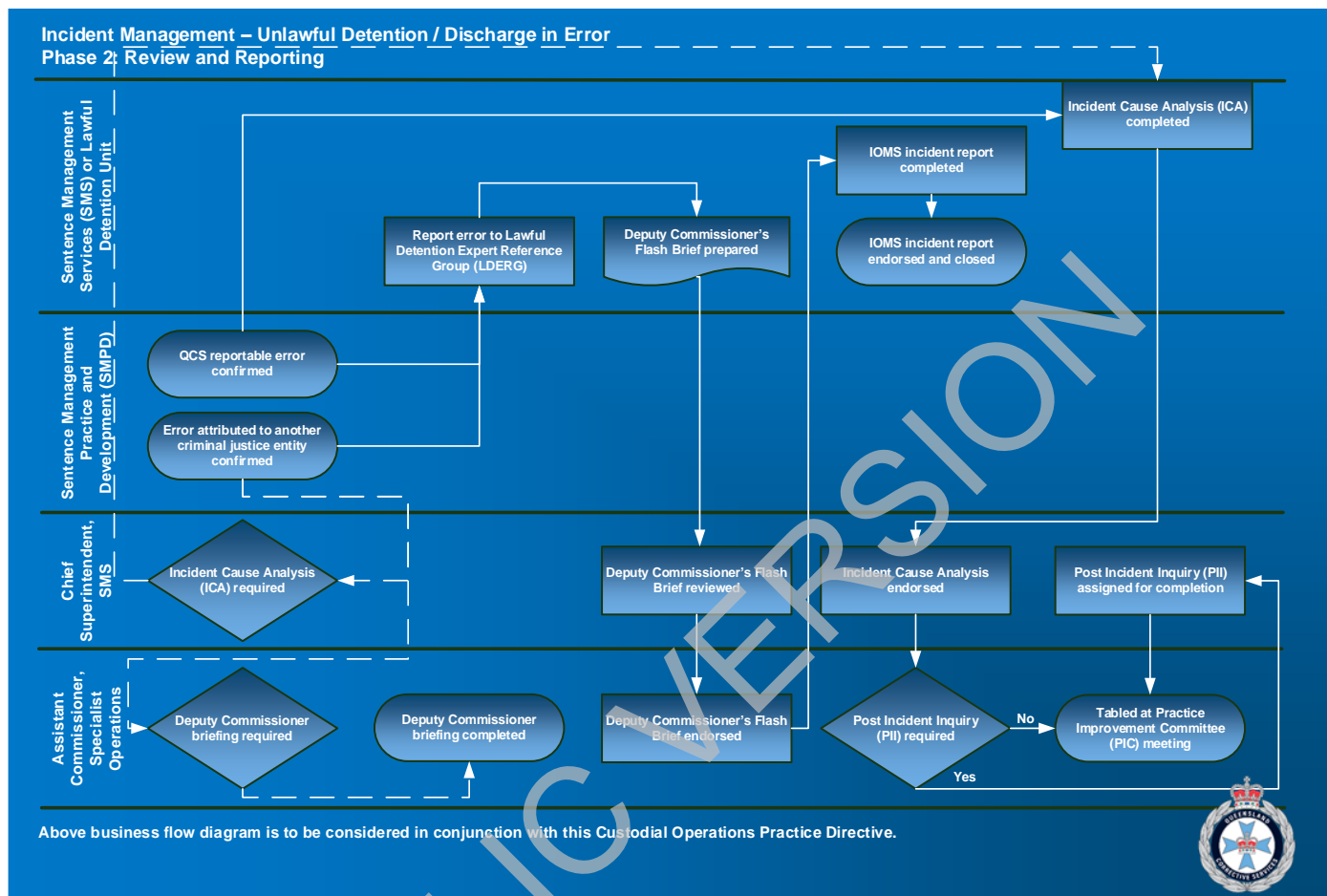
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Review and reporting of incident



All identified incidents of unlawful detention and discharge in error of a QCS prisoner, regardless of cause or Agency responsibility, require immediate notification to the Regional Manager and Principal Advisor, LDU and the Chief Superintendent, SMS immediately upon becoming aware of the incident.

A QCS reportable error is when a prisoner is unlawfully detained or discharged in error from QCS custody due to a QCS error.

For QCS reportable errors, and ONLY when a brief is requested by the Assistant Commissioner, Specialist Operations or the Chief Superintendent, SMS, the Principal Advisor or the Regional Manager, LDU is responsible for preparing and forwarding the Flash Brief to the Chief Superintendent, SMS for review, and on-forwarding to the Assistant Commissioner, Specialist Operations for endorsement and distribution by the next business day of the incident's confirmation,

For those errors resulting from the actions of other agencies, a Flash Brief may not be required unless requested by the Assistant Commissioner, Specialist Operations, the Deputy Commissioner, Community Corrections and Specialist Operations or the Chief Superintendent, SMS. Errors determined to be the responsibility of another criminal justice entity will be reported by the Principal Advisor or the Regional Manager LDU to the Lawful Detention Expert Reference Group in accordance with the process in its Terms of Reference.

By the next business day after the incident, the Principal Advisor or the Regional Manager, LDU is required, for QCS reportable errors, to complete an IOMS incident report that includes any immediate local or state-wide remedial actions identified in the Flash Brief. The Chief Superintendent, or Superintendent, SMS are responsible for endorsing and closing the IOMS incident report.

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Incident Cause Analysis

An SMS officer identified by the Chief Superintendent, or Superintendent, SMS must undertake an Incident Cause Analysis (ICA) within five business days of the incident's identification.

The Chief Superintendent, or Superintendent, SMS may require an SMS officer to complete an ICA with sentence management staff for an error determined to be the responsibility of another criminal justice entity. The purpose of the ICA will be for QCS practice improvement.

The ICA must provide:

- a summary of the incident;
- an analysis as to its cause;
- localised remedial actions implemented to address the identified issue; and
- a recommendation as to whether a further inquiry is warranted and the reasons to support the recommendation endorsed by the Regional Manager aligned to the incident location.

The ICA is not to include any personal details of the prisoner within the document. A unique identifier will be provided by the SMPD for the purpose of referencing. The ICA is to be completed according to the Appendix SM25 Incident Cause Analysis Guidelines and the Administrative Form 13 Incident Cause Analysis template and completed in addition to other reports and briefing notes.

The completed ICA is to be forwarded to the Chief Superintendent or Superintendent, SMS within five business days of the incident occurring. The Chief Superintendent or Superintendent, SMS is responsible for endorsing or rejecting the remedial actions, and if necessary, recommendation for a further inquiry. The Chief Superintendent or Superintendent, SMS will record reasons for their decision within the ICA.

Refer to the Appendix SM25 Incident Cause Analysis Guidelines and the Administrative Form 13 Incident Cause Analysis template.

Post Incident Inquiry (PII) and Practice Improvement Committee (PIC)

The ICA is used by the Assistant Commissioner, Specialist Operations, to determine whether a Post Incident Inquiry (PII) is required.

If the Assistant Commissioner, Specialist Operations decides a PII is not required, the reasons for the decision will be recorded on the ICA. The ICA must be included as an agenda item at the next scheduled Practice Improvement Committee (PIC) meeting. The endorsed remedial actions are to be approved by the PIC and recorded on the PIC Action Register for tracking and communication to sentence management staff.

If the Assistant Commissioner, Specialist Operations determines a PII is required in relation to the incident, the Chief Superintendent, SMS will allocate completion of the PII to an appropriate person. [REDACTED]

[REDACTED] The endorsed remedial actions are to be approved by the PIC and recorded on the PIC Action Register for tracking and communication to SMS staff.

SMS is responsible for ensuring any PIC endorsed amendments to the Sentence Administration and Calculation Manual or associated sentence administration practices occur and communicating these changes to sentence management staff. SMS is responsible for ensuring any PIC endorsed procedural document amendments occur and for communicating these changes to sentence management staff.

SMS is responsible for maintaining the PIC Action Register and reporting the number of incidents to the Chief Superintendent, SMS on an as needed basis.

