



Incident Management

Victim Management

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Custodial Operations Practice Directive

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Scope
<ol style="list-style-type: none">1. Human Rights2. Limitation of Human Rights3. Assault4. Sexual Assault5. Investigations6. Perpetrator Management7. Reporting



Official/Public



Custodial Operations Practice Directive

1. 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:

- a) the right to equal and effective protection against discrimination;
- b) the right to life;
- c) the right to protection from torture and cruel, inhuman or degrading treatment;
- d) peaceful assembly and freedom of association;
- e) freedom of movement;
- f) rights in criminal proceedings;
- g) the right to privacy and to reputation;
- h) the right to liberty and security of person;
- i) the right to humane treatment when deprived of liberty;
- j) the right not to be tried or punished more than once; and
- k) 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 prisoner.

2. Limitation of Human Rights

Human rights can be limited if certain conditions are present:

- a) the limit must be provided under law;
- b) the limit must be reasonable; and
- c) any imposition on the 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. People are required to be managed in the least restrictive environment necessary to ensure their safety and security and the safety and security of prisoners, staff and visitors.

A professional and consistent response to emerging incidents is recognised as crucial to managing risk through minimising harm arising from incidents and in meeting duty of care obligations. The Queensland Corrective Services – Incident Management Guide should be reviewed by all senior managers.

Queensland Corrective Services (QCS) staff must treat all prisoners with respect. Prisoners must not be discriminated against or harassed on the grounds of their medical condition, sexual identity, gender identity, intersex status or related issues.

Considerations relevant to the Lesbian, Gay, Bisexual, Trans/transgender, Intersex, Queer/questioning and Asexual (LGBTIQA+) cohort of prisoners (where this is known) must be taken into account during any decision making. Decisions are to be made on a case by case basis following an individualised assessment of relevant factors, including the reasonableness of the actions being considered.





Custodial Operations Practice Directive

3. Assault

Access to medical attention must be available and encouraged for all prisoners, staff and visitors subject to assault within a corrective services facility.

If any person presents with an injury that is indicative of assault, it should be treated as an assault, whether the person states so or not, and the incident must be reported. Refer to the Custodial Operations Practice Directive (COPD) Incident Management: Incident Management Process.

3.1 Types of assaults

Types of situations can be distinguished as either an assault by:

- a) an offender on another offender;
- b) a QCS/Queensland Health (QH) officer or visitor on an offender;
- c) an offender on a QCS/QH officer or visitor; or
- d) a QCS/QH officer or visitor on a QCS/QH officer or visitor.

3.2 Allegations by a prisoner of assault (physical/verbal)

Upon notification of such an incident the QH registered nurse should:

- a) ensure the prisoner attends the health centre as soon as possible;
- b) ensure a corrective services officer is present;
- c) record the complaint and findings in the medical records of the prisoner; and
- d) have the prisoner examined by a doctor, if appropriate.

Reports should be forwarded to the:

- a) Nurse Unit Manager; and
- b) Chief Superintendent of the corrective services facility.

The visiting doctor should also be informed if the prisoner requires further medical attention prior to movement to hospital. Refer to the COPD Sentence Management: Transfers.

3.4 Assault on a corrective services officer

A prisoner who unlawfully assaults a working corrective services officer commits a crime which carries a maximum penalty of 7 or 14 years imprisonment, depending on the circumstances.

The greater penalty applies if the prisoner:

- a) bites or spits on a corrective services officer or throws at, or in any way applies to, the corrective services officer a bodily fluid or faeces;
- b) causes bodily harm to the corrective services officer; or
- c) is, or pretends to be, armed with a dangerous or offensive weapon or instrument.

Refer section 340(2) of the *Criminal Code Act 1899*.





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4. Sexual Assault

QCS has a duty of care to provide a safe environment for prisoners in the correctional system. All staff involved in the management of prisoners must understand their roles and professional accountabilities regarding the prevention and management of sexual assault within the correctional environment.





Incident Management

Victim Management

IM

Custodial Operations Practice Directive

Staff must have an awareness of:

- a) sexual assault prevention strategies;
- b) high-risk periods (e.g. reception, moving units, sharing cells) and high-risk groups (e.g. prisoners who identify as LGBTIQ+);
- c) where and when opportunistic sexual assault may occur (e.g. places of communal interaction such as exercise yards);
- d) the indicators of sexual assault in victims (e.g. "acting out" in some way, withdrawal); and
- e) the characteristics of perpetrators of sexual assault (e.g. exercising of power, previously been a victim of a sexual assault, anger management concerns).

A prisoner must be encouraged to be involved as much as possible in their management within the correctional environment.

If an officer detects any overt signs of prisoner vulnerability to sexual assault, the officer must immediately report their suspicions to the unit manager.

All actions must be handled in such a way as to ensure the privacy and safety of victims and witnesses.

4.1 Incident management

For all operational responses to allegations of sexual assault, refer to the COPD Incident Management: Incident Management Process. All incidences of sexual assault and attempted sexual assault within a corrective services facility must be reported to CSIU for determination if an external charge will progress or not.

Following an allegation of sexual assault, the Chief Superintendent or nominee must:

- a) ensure the alleged victim and alleged perpetrator are identified and separated;
- b) provide a prompt and effective process for dealing with the complaint;
- c) sensitively address the alleged victim's needs;
- d) develop a management plan for the alleged victim;
- e) develop an intensive management plan for the alleged perpetrator of the sexual assault incorporating a degree of supervision appropriate to the circumstances;
- f) initiate an immediate review of placement, which will be undertaken by Sentence Management Services (refer to the COPD Sentence Management: Classification and Placement);
- g) report the matter to CSIU for determination;
- h) ensure the collection and safeguarding of evidence to assist in any future prosecution (refer to the COPD Incident Management: Incident Management Process); and
- i) meet QCS' reporting and notification requirements.

Consideration should also be given for the development of an Intensive Management Plan, implementation of a Safety Order, or completion of a Protection Needs Assessment for the alleged victim. Refer to the COPD Prisoner Accommodation Management: Cell Allocation.

Operational response must ensure safe placement, on-going monitoring and an adequate social support system (including councillors and nursing staff) for the victim and any witnesses (including staff and prisoners), including liaison with the assessing psychologist. These decisions should be made in consultation with the victim.

All prisoners that may have been affected within the unit must be assessed and if necessary, counselled and referred to a psychiatrist.





Custodial Operations Practice Directive

4.2 Victim management (prisoner)

4.2.1 Medical response

Prompt medical intervention must be provided for all prisoners who allege sexual assault to ensure comprehensive medical assessment (e.g. injuries, screening for infectious diseases) and treatment requirements are met (refer to section 3 Assault in this COPD).

Agreement and informed consent must be obtained from the alleged victim following a sexual assault before medical or forensic examination or follow-up commences. The details of a refusal to proceed with medical and/or forensic examination must be documented on the prisoner's Queensland Health medical record (refer to the QCS Consent Procedure).

Timing is an important consideration in obtaining consent. If a prisoner chooses not to proceed with a medical examination and does not provide informed consent, it must be explained to the prisoner that medical specimens may not be obtainable at a later date, and if charges are to be laid, then vital forensic evidence may be lost if not collected immediately. Specimens can be taken and kept while the prisoner decides whether to proceed with legal redress.

If a prisoner wishes to pursue legal redress and consents to a forensic examination, this forensic examination must be undertaken at a Queensland Health facility. This should be determined by the visiting doctor on a case-by-case basis. Prisoners must be made aware that pursuing legal redress could have ramifications on future placement.

Forensic examination of the alleged victim must be undertaken according to standard protocols to ensure preservation of evidence for prosecution purposes.

4.2.2 Psychological support

Any prisoner who makes an allegation of sexual assault must be referred to a Senior Psychologist/Psychologist immediately (or to external services if outside business hours).

The perpetrator/alleged perpetrator of a sexual assault must also be referred to a psychologist to assess their risk of self-harm, refer to the COPD At Risk Management: At Risk.

Decisions regarding placement and monitoring of the prisoner who alleges a sexual assault must be made in consultation with the assessing psychologist. Adequate social support must be provided for the victim and any witnesses following an alleged assault. In consultation with the prisoner, consideration should be given to providing a support person and/or arranging contact with family or a nominated contact person. **The support person must not be seen as part of the Risk Management strategy, but simply as extra support.**

The psychologist must:

- make an initial assessment, including an at-risk assessment;
- assess any witnesses;
- assess the prisoner's level of post-assault trauma;
- with the prisoner's consent, immediately implement a debriefing and treatment plan;
- advise the relevant manager (during business hours) or the Duty Manager (out of business hours) of the outcome of this assessment, along with recommendations in respect of placement and monitoring requirements for the prisoner alleging sexual assault; and
- liaise with Queensland Health centre staff located in the facility to ensure an ongoing multi-disciplinary team approach to the follow-up treatment plan for the prisoner.





Custodial Operations Practice Directive

4.3 Reporting of historical sexual offences committed while the victim prisoner was a child

Where a prisoner reports a historical sexual offence, the officer taking the report must determine whether the offence has previously been reported to an appropriate authority (i.e. the Queensland Police Service or Department of Children, Youth Justice and Multicultural Affairs) and, if not, whether the prisoner wishes to prosecute the matter.

Where the prisoner has previously reported the offence or does not wish to prosecute the matter, the officer taking the report must provide this advice, via email, to their line supervisor/manager while considering any at risk indicators. Refer to the COPD At Risk Management: At Risk.

Where the prisoner victim wishes the matter prosecuted, the officer taking the report must report the offence to Queensland Police via the Police Link online portal at [Reporting a sexual assault | Queensland Police Service](#). The corrective services officer must consider any at risk indicators. Refer to the COPD At Risk Management: At Risk.

5. Investigations

Prior to a victim of alleged sexual assault being formally interviewed, including the completion of the Administrative Form 302 Post Assault Incident Questionnaire, the Senior Psychologist/Psychologist (or a correctional supervisor if outside business hours) is to ask the prisoner whether they would like a support person present during the interview, and if relevant, will make reasonable efforts to arrange for a support person to be present. A case note must be entered in the Integrated Offender Management System (IOMS) to evidence the victim was asked this question.

When a prisoner makes a complaint or notification of a sexual assault the following must apply:

- obtain the prisoner's consent to respond and ascertain if they intend to report the matter to the authorities, refer to the Administrative Form 302 Post Assault Incident Questionnaire;
- the prisoner should not have their body or clothing washed before forensic evidence can be gathered;
- immediately inform the medical staff of the allegation and arrange for the physical examination and collection of specimens;
- ensure that all evidence collected is sealed appropriately and secured until collected by police (refer to the COPD Incident Management: Incident Management Process);
- notify the Chief Superintendent or nominee of the corrective services facility so that the appropriate authorities can be notified;
- arrange for follow-up treatment by psychologist or psychiatrist; and
- ensure that all areas of interest that are designated as crime scenes are isolated and secured.

Follow-up counselling must be arranged. The issue of ongoing safety of the prisoner needs to be discussed and may necessitate liaison with other corrective services officers.

5.1 Alleged perpetrator management

An alleged perpetrator of sexual assault is defined for the purposes of this procedure as a person who is known to have been the subject of allegations of sexual assault.

If possible, after the victim and alleged perpetrator have been accommodated safely, the alleged perpetrator should be notified of the complaint.





Incident Management

Victim Management

IM

Custodial Operations Practice Directive

If assessed as necessary, further strategies can include:

- documenting any concerns raised by staff or prisoners;
- warning the alleged perpetrator regarding the observed behaviours and the possible consequences;
- behaviour monitoring, including restriction of unsupervised movement;
- development of an Intensive Management Plan;
- placement in segregated accommodation; and
- recommendation for alternate accommodation/transfer.

If an alleged perpetrator has been the subject of a proven complaint, an Intensive Management Plan must be developed to ensure that the prisoner is closely supervised. Refer to the COPD Safety Orders and IMPs: Intensive Management Plans.

Under no circumstances should a prisoner who is alleged to be a perpetrator in a sexual assault while in custody be placed in shared accommodation.

If the sexual assault allegation is substantiated by CSIU, the perpetrator must remain in single cell accommodation.

If the sexual assault allegation is unable to be substantiated by CSIU, consideration should be given to returning the prisoner to shared cell accommodation following a new risk assessment as outlined in the COPD Prisoner Accommodation Management: Cell Allocation. The risk assessment must take into consideration any relevant factors relating to why the allegation was not able to be substantiated, (e.g. the victim withdraws the complaint or there was insufficient evidence to proceed with the complaint). Consideration of these factors may exclude a prisoner from being placed in a shared cell accommodation.

A prisoner with a conviction of sexual assault committed while not in custody is not to be excluded from being considered for shared cell accommodation. However, this information should be considered in the risk assessment when deciding a prisoner's suitability for shared cell accommodation. If the decision maker has doubts as to the suitability of a prisoner for shared cell accommodation, they should exclude that prisoner from being placed in shared cell accommodation.

6. Perpetrator Management

A perpetrator of sexual assault is defined for the purposes of this procedure as a person who has been convicted of sexual assault.

For a perpetrator of sexual assault:

- counselling must be offered; and
- an Intensive Management Plan may be developed.

Refer to the COPD Safety Orders and IMPs: Intensive Management Plan.

The Intensive Management Plan must be developed in consultation with staff responsible for the prisoner's supervision and must include, but not be limited to, the Accommodation Manager, corrective services supervisor, psychologist and case officer.





Incident Management

Victim Management

IM

Custodial Operations Practice Directive

The management plan of a perpetrator of sexual assault may include, but is not limited to:

- a) documentation of the incident;
- b) notification of incident to relevant staff;
- c) restriction of unsupervised movement;
- d) restricted access to prisoners and prisoner cells;
- e) change of accommodation within facility;
- f) recommendation for transfer or alternate placement;
- g) assessment and, if appropriate, referral to a relevant program for sexual offending prisoners; and
- h) if the prisoner cannot be managed within the mainstream correctional environment, referral to the Maximum Security Unit. Refer to the COPD Prisoner Accommodation Management: Maximum Security Unit.

7. Reporting

Refer to the COPD Incident Management: Incident Management Process.

All incidents of sexual assault must be recorded in an incident report in IOMS, forwarded to CSIU for investigation and a copy of the report placed on the offender file of both the alleged perpetrator and the alleged victim of the assault.

The incident report must include:

- a) the date of reported incident;
- b) brief details outlining the circumstances of the incident;
- c) the age of victim;
- d) the age of the assailant (if identified);
- e) the ethnicity of the victim;
- f) the ethnicity of the assailant (if identified);
- g) actions taken by staff in relation to the allegation/incident;
- h) whether a police complaint was initiated;
- i) results of police investigation/complaint; and
- j) a completed copy of the Administrative Form 302 Post Assault Incident Questionnaire (refer to the Questionnaire attachment).

All corrective services officers are responsible for remaining vigilant to risk of sexual assault and undertake intervention in accordance with this COPD.

7.1 How prisoners can report sexual assault internally and externally

All Chief Superintendents are to ensure that, at a minimum, there is an information/fact sheet available to prisoners, stakeholders and service providers, and that the information/fact sheet is displayed continuously and in conspicuous locations throughout the centre.

The information should be reviewed periodically to ensure that it is current and relevant to the centre.



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