



# Prisoner Entitlements

## Prisoner Communications

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### Custodial Operations Practice Directive

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### Custodial Operations Practice Directive

## 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) the right to recognition and equality before the law, and to equal and effective protection against discrimination;
- b) the right not to be treated or punished in a cruel, inhuman or degrading way;
- c) the right to privacy and reputation, including the right not to have their privacy, family or correspondence unlawfully or arbitrarily interfered with;
- d) cultural rights – generally and for Aboriginal and Torres Strait Islander peoples;
- e) the right to humane treatment when deprived of liberty;
- f) the right to freedom of religion, including their right to demonstrate their religion individually or as part of a community;
- g) the right to freedom of expression including the freedom to seek, receive and impart information in writing;
- h) the protection of families as the fundamental group unit of society and the protection of children;
- i) the rights in the criminal process, including the right to minimum guarantees as set out in section 32(2) of the *Human Rights Act 2019*; and
- j) the right to have access, based on their abilities, to further vocational education and training that is equally accessible to all.

## 2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justified, 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 freedom of expression includes the right to hold an opinion without interference and the right to seek, receive and impart information and ideas of all kinds, including in writing, or print, or by way of art, or another medium chosen by the person. The right to privacy provides the right for a person not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with.
- b) The nature and purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. In this policy document, the restrictions placed on a prisoner's communication, by mail, telephone and video conference are there to protect the safety and security of the corrective services facility and to protect the safety of others. For example, the purpose of searching prisoner mail is to:
  - i. prevent prohibited items and contraband from entering the corrective services facility by this means;





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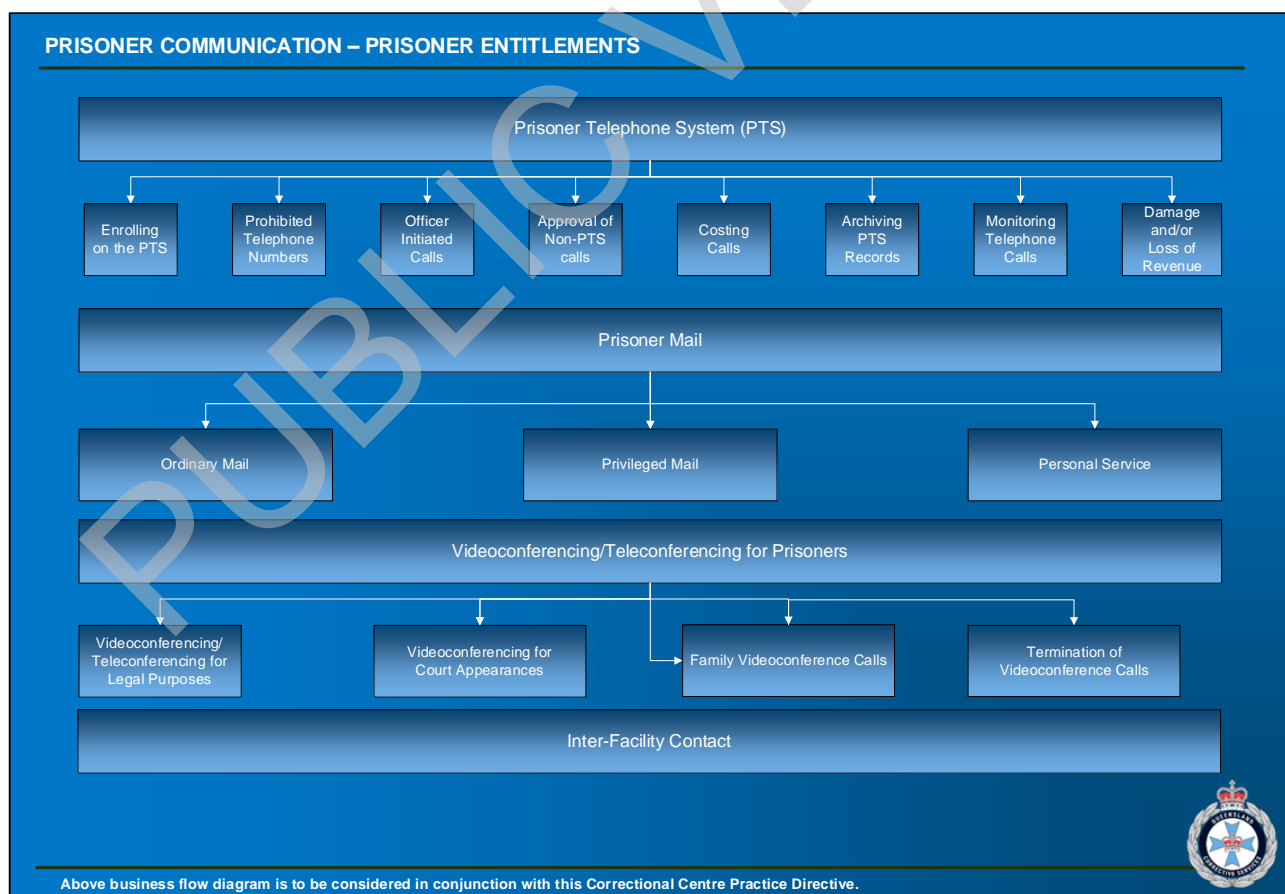
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- ii. prevent prisoners subject to domestic and family violence orders or similar from violating the order by contacting the victim; and
  - iii. prevent unlawful associations or activity from occurring.
- c) The relationship between the limitation and its purpose – this involves considering the connection between the limitation of the right and whether this will assist with achieving the purpose or legitimate aim. For example, does the monitoring and limiting of prisoner communication achieve the enhanced security of the centre and the safety of officers, prisoners and others?
- d) Whether there are less restrictive and reasonable ways to achieve the purpose – this involves a ‘necessity analysis’ where it is necessary to consider the purpose of the limitation and whether it can be achieved in any other way. For example, is there a less restrictive way of ensuring that contraband doesn’t enter the centre via mail, rather than searching the mail?
- e) The importance between the purpose of the limitation and preserving the human right – this involves balancing the benefits obtained by the limitation with the harm caused to the human right. For example, does the safety and security of the centre and security of person provided to officers, prisoners and others, outweigh the impact of the limitation on the communications of prisoners?

### 3. Prisoner Communication – Prisoner Entitlements Process Map



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#### 4. Prisoner Telephone System (PTS)

Prisoners accommodated in corrective services facilities must use the PTS to make telephone calls.

The Chief Superintendent of a corrective services facility must establish systems for the management, control and administration for prisoners to access the PTS.

In locations where the PTS can only be facilitated through staff, for example, Detention Units, consecutive calls should be enabled on the PTS to ensure access is tailored for individual prisoners' needs.

In accordance with section 50(3) of the *Corrective Services Act 2006* (CSA) the Chief Superintendent of a corrective services facility may determine:

- a) the periods in which the PTS is able to be used by prisoners; and
- b) the time limit and frequency of phone calls made on the PTS.

Prisoners may have reasonable access to the PTS without limitation other than for disciplinary reasons or in the event of industrial action, riot, general unrest or for the good order and security of the facility.

Facility routines including prisoner attendance at an approved activity have precedence over a prisoner's use of the PTS. A prisoner may be granted permission to use the PTS by the corrective services officer responsible for the approved activity.

Should translating and/or interpreting be required for a prisoner, refer to the Appendix PE2 Translating and Interpreting Services.

##### 4.1 Common Auto Dial List (CADL) numbers

Each corrective services facility must have a generic list of Common Auto Dial List (CADL) numbers that are approved and shown

##### 4.2 Diverting telephone calls

A prisoner must not:

- a) call an approved telephone number knowing the call will be diverted to another telephone number to allow the prisoner to contact someone other than an approved person (refer to section 50(5)(a) of the CSA);
- b) intentionally continue with a call that:
  - i. the prisoner knows is diverted from an approved telephone number to another telephone number; and
  - ii. allows the prisoner to contact someone other than an approved person (refer to section 50(5)(b) of the CSA); or
- c) call an approved telephone number and ask the person called to make a conference call to someone else (refer to section 50(5)(c) of the CSA).

Maximum penalty - 6 months imprisonment.

If call diversion to a non-approved person is evident then the relevant number must be removed from the auto dial list.





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#### 4.3 Recorded message preceding PTS calls

A recorded message advising that telephone call may be recorded or monitored must be played at the commencement of all calls.

#### 4.4 Enrolling/amending numbers on the PTS

Prisoners are required to enrol on the PTS by submitting the Administrative Form 28 Application to Enrol/Amend the Prisoner Telephone System (PTS).

Prisoners in the Maximum Security Unit are required to enrol on the PTS by submitting the Administrative Form 28A Application to Enrol/Amend the Prisoner Telephone System (PTS) – Maximum Security. The relevant form is also to be used by prisoners wishing to amend their PTS Auto Dial List. The application is to be considered and nominated contact's details verified and validated by the nominated corrective services officer.

Prisoners enrolling on the PTS must submit a written application listing a maximum of 10 telephone numbers to be included on an auto dial list. All sections of the Administrative Form 28 Application to Enrol/Amend the Prisoner Telephone System (PTS) or the Administrative Form 28A Application to Enrol/Amend the Prisoner Telephone System (PTS) – Maximum Security need to be completed by the prisoner.

Each private number submitted by a prisoner must be checked and verified by a corrective services officer.

#### 4.5 PTS account limit

When enrolling onto or amending the PTS using the Administrative Form 28 Application to Enrol/Amend the Prisoner Telephone System (PTS) or the Administrative Form 28A Application to Enrol/Amend the Prisoner Telephone System (PTS) – Maximum Security, prisoners must also complete the Administrative Form 28B Transfer of Funds for Prisoner Telephone System (PTS) to transfer any required funds into their telephone system account.

Funds held in a prisoner's telephone system account are not to exceed \$300. Suitable controls should be set in place to ensure that the prisoner's account does not exceed \$300.

Prisoners are not to have access to more than \$1000 however funds in the prisoner's telephone system account are not included in the \$1000 limit.

#### 4.6 Domestic Violence Orders (DVOs)

A prisoner is required to state if they are the respondent of a current domestic violence, protection or restraining order if the person they are nominating to include on the prisoner's auto dial is a subject of that order.





Refer to [REDACTED], the Administrative Form 28 Application to Enrol/Amend the Prisoner Telephone System (PTS) and the Administrative Form 28A Application to Enrol/Amend the Prisoner Telephone System (PTS) – Maximum Security.

#### 4.7 Lawyers engaged by Legal Aid Queensland

An approval letter from Legal Aid Queensland is sufficient confirmation from an appointed law firm for the nominated telephone number to be added to the prisoner telephone list. The Legal Aid Queensland approval letter should be attached to a copy of a prisoner's request, Administrative Form 30 Prisoner Telephone Access Request (Legal Practitioner), to have an appointed law firm telephone number added to their prisoner telephone list.

#### 4.8 Legal practitioner/s not engaged with Legal Aid Queensland

Prior to the telephone number being listed on the prisoner's PTS as a legal number, the checking officer must confirm:

- a) the nominated person listed by the prisoner is a legal practitioner;
- b) the legal practitioner represents the prisoner; and
- c) the legal practitioner's relevant contact details.

It is not permissible to list only the name of the law firm representing the prisoner on the PTS. Rather, a specific person who is performing the role of the prisoner's legal practitioner, must be identified on the PTS.

The following review process must be undertaken before placing the telephone number on the PTS:

- a) for solicitors, contact the Queensland Law Society on telephone (07) 3842 5805;
- b) for barristers, contact the Queensland Bar Association on telephone (07) 3238 5100; or
- c) details can be confirmed online via the Queensland Law Society or Queensland Bar Association website.

If the prisoner has engaged a solicitor outside of Queensland, checks must be conducted with the equivalent Law Society or Bar Association interstate. A corrective services officer must ensure that the prisoner has completed Part A of Administrative Form 30 Prisoner Telephone System Access Request (Legal Practitioner).







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The form must be sent to the prisoner's legal practitioner by way of electronic communication or mail and returned to certify that they act for the prisoner in a legal capacity and acknowledge the provisions of section 50(5) of the CSA by completing and returning Part B of the form.

Part C of the form must be approved by an authorised corrective services officer following which the number may be added to the prisoner's auto dial list.

The Chief Executive must not record or monitor a prisoner communication the Chief Executive has authorised to be made between a prisoner and their lawyer as per section 52(2) of the CSA.

If the prisoner has nominated a person on the Administrative Form 28 Application to Enrol/Amend the Prisoner Telephone System (PTS) or the Administrative Form 28A Application to Enrol/Amend the Prisoner Telephone System (PTS) – Maximum Security as a personal contact and that person is a legal practitioner, the checking officer must do the following:

- a) the prisoner must be made aware that the purpose of any phone call to the nominated person should be for personal reasons only and not for legal discussion, as all calls are recorded and may be monitored;
- b) verify the following with the nominated contact person that:
  - i. despite their occupation as a legal practitioner, they consent to have their telephone number listed on the PTS as a personal contact only; and
  - ii. calls made by prisoners to personal contacts listed on the PTS are recorded and may be monitored and that discussions should only be of a personal nature (excluding any legal discussion or advice).

#### 4.9 Law enforcement agency or Ombudsman

If a prisoner applies to include an officer from a law enforcement agency, the Ombudsman or any other similar agency in their PTS auto dial list, the details of the nominated contact must be verified and further confirmed that the contact is prepared to receive calls from the prisoner.

If approved, the details of the nominated contact must be entered on the Controlled Telephone System database using the format "Surname; First Name".

Phone calls authorised by the Chief Executive between a prisoner and an officer of a law enforcement agency, the parole board or the ombudsman must not be recorded or monitored as per section 52(2) of the CSA.

#### 4.10 Prisoner interview via PTS

A prisoner must not apply for approval or list the telephone number of any person for the purpose of an interview being conducted by that person or another person with the prisoner. Refer to section 132 of the CSA.





### 5. Prohibited Telephone Numbers

Telephone numbers that must not be listed on a prisoner's application include:

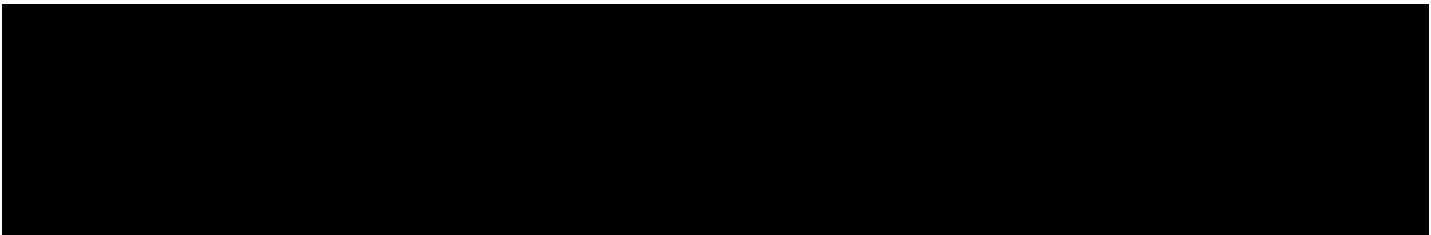
- a) a financial institution;
- b) a TAB or any gaming agency;
- c) a government agency [REDACTED]
- d) an information service (e.g. services with telephone numbers commencing with the digits 0055, 1800, 1900);
- e) an Official Visitor;
- f) a paging service;
- g) another corrective services facility (unless approved); or
- h) a Community Corrections office (unless approved).

### 6. Officer Initiated Call on the PTS

A prisoner may at the Chief Executive's expense, make one phone call on admission to a corrective services facility as per section 50(1)(a) of the CSA.

A corrective services officer may initiate a call on the PTS on behalf of a prisoner for urgent/compassionate reasons. [REDACTED]

If a prisoner requires an officer initiated phone call, the prisoner must complete the Administrative Form 31 Officer Initiated Call Request which must be approved by a corrective services manager/duty manager.







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Law enforcement agencies or other authorised persons requiring access to PTS recordings should make application to the Manager, QCSIG by email at [REDACTED]

PTS digital media is held in accordance with the Queensland Corrective Services Retention and Disposal Schedule which provides:

Disposal Authorisation	Description of Records	Retention Period and Trigger
2437	<b>Security related data – other</b> Records and data such as audio or radio recordings and security management system point data recordings (i.e. doors opening and closing). Includes electronic access control. See COMMON ACTIVITIES – PROACTIVE PROTECTION OF VULNERABLE PERSONS - RELEVANT RECORDS in the General Retention and Disposal Schedule (GRDS) for records relating to vulnerable persons.	100 years after business action completed.

The Queensland Corrective Services Retention and Disposal Schedule provides that all of the retention periods in this schedule are the minimum period for which the sentenced records must be maintained. Public records cannot be disposed of prior to the expiration of the appropriate retention period. However, there is no requirement for public records to be destroyed at the expiration of a minimum retention period.

Prisoner communication recordings required as part of the management of an incident or an investigation as specified are to be retained in accordance with the QCS Retention and Disposal Schedule: CENTRE SECURITY MANAGEMENT: INVESTIGATIONS.

All digital technology used in the PTS recording process and recorded conversations must be stored by QCSIG in a secure location in the event they are required for investigative purposes.

Refer to the *Public Records Act 2002* and the QCS Retention and Disposal Schedule.

Refer to the COPD Intelligence.

## 9. Monitoring Telephone Calls

Refer to the QCS Instrument of Delegation of Chief Executive Powers.

Prisoner telephone calls must be monitored within the provisions of section 52 of the CSA [REDACTED]



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### 12. Obligations Under the Agreement with [REDACTED]

The Chief Superintendent of a corrective services facility or nominee must ensure [REDACTED] is notified of any:

- a) defect or failure of the PTS or part of it;
- b) vandalism/damage caused to the PTS and equipment; and

### 13. Prisoner Mail

The Chief Superintendent of a corrective services facility must provide for the administration and control of incoming and outgoing prisoner mail including:

- a) payment for costs required for the prisoner's mail if the Chief Superintendent of the corrective services facility is satisfied that a prisoner does not have enough money to cover the postage costs. Refer to section 44(2) of the CSA;
- b) payment for postage costs associated with a prisoner's participation in an approved activity, course or program that requires the prisoner to send things by mail (refer to section 44(4) of the CSA);
- c) monitoring of all incoming and outgoing mail to and from a corrective services facility;
- d) compliance of all outgoing mail with the *Australian Postal Corporation Act 1989*;
- e) the prompt forwarding on of all mail and packages to a prisoner following their transfer, to another corrective services facility; and
- f) for prisoners who have been released or discharged, all mail/packages are to be promptly returned to the sender. If the mail/package is then returned to the corrective services facility, it is to be redirected to Australia Post with the comment 'recipient unknown at this address'.

Prisoners subject to a domestic or family violence protection order are not permitted to contact any persons identified in the order, where it will constitute a contravention of the conditions of the order.

Prisoner mail may be scanned by:

- a) a Passive Alert Drug Detection (PADD) dog;
- b) a hand held metal detector;
- c) an x-ray machine; or
- d) an electronic drug/explosive detection device.





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For safety and security purposes, QCS are unable to accept cash payments to prisoners received via ordinary or privileged mail. Any money received via mail will be returned to the sender, if identifiable, or placed in the prisoner's relevant sub-account. Refer to the Receipt of Cash and Payments to Prisoners section of the COPD Prisoner Entitlements: Prisoner Finances.



#### 14. Ordinary Mail

All money and valuables received in a prisoner's mail must be managed in accordance with sections 311, 311A and 312 of the CSA. A receipt must be issued for money or valuables received and given to the prisoner. Refer to the Receipt of Cash and Payments to Prisoners section of the COPD Prisoner Entitlements: Prisoner Finances.

Any items of property not previously authorised for issue received by mail must be returned to the sender if there is a return address. If there is no return address, the item is to be managed in accordance with section 317 of the CSA and section 43 of the Corrective Services Regulation 2017. The requirement to return property to the sender where it has not been authorised for issue to a prisoner does not include photographs. For information on the approval process for photographs, refer to the COPD Property: Management of Prisoner Property.



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#### 14.1 Cost of ordinary mail

A prisoner must purchase anything required for a prisoner's ordinary mail. However, if the Chief Executive is satisfied that the prisoner does not have enough money to pay postage cost, the cost may be paid for by the Chief Executive.

If the Chief Executive meets the cost of postage in this circumstance, the prisoner may post a letter no more than twice a week, unless otherwise approved by the Chief Executive.

If a prisoner is participating in an approved activity, course or program that requires the prisoner to send things by mail, the postage costs associated with the prisoner's participation must be paid for by the Chief Executive.

Refer to section 44 of the CSA and the QCS Instrument of Delegation of Chief Executive Powers.

#### 14.2 Distribution and handling of ordinary mail

Refer to sections 45 and 46 of the CSA and the QCS Instrument of Delegation of Chief Executive Powers.

All outgoing ordinary mail must be left unsealed by the prisoner for monitoring purposes by corrective services officers prior to posting.

Outgoing ordinary mail must be addressed on the front of the envelope as follows:

- a) full name of the recipient;
- b) residential street address/post office box number; and
- c) suburb, state, post code.

The prisoner must clearly write their name on the back flap of the envelope. The back of the envelope must be stamped with the corrective services facility's mail address and a contact phone number.

Only a corrective services officer authorised by the Chief Executive may open, search and censor ordinary mail and this should be done in the presence of another corrective services officer.

#### 14.3 Child sex offenders

The Chief Superintendent of a corrective services facility must ensure that any prisoner who is received or accommodated in their facility who has been convicted of or is on remand for a sex offence committed against a child in their current custodial episode, may only send ordinary prisoner mail to a person who has provided consent and been approved to receive mail from the prisoner in accordance with the Administrative Form 300 Restricted Access – Ordinary Prisoner Mail Approval.

The Chief Superintendent must ensure that the following processes are implemented for prisoners (remand only and sentenced) convicted or charged with a sex offence committed against a child in their current custodial episode:

- b) the prisoner is to be advised that they may only send mail to a person that has provided consent and been approved to receive mail from the prisoner, refer to the Administrative Form 300 Restricted Access – Ordinary Prisoner Mail Approval (there is no limitation on the number of persons for which approval can be sought);
- c) a corrective services officer nominated by the Chief Superintendent or Superintendent, must make direct contact with a person nominated on the Administrative Form 300 Restricted Access – Ordinary Prisoner Mail Approval form and record if consent or no consent is provided;





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- d) the Chief Superintendent or Superintendent must approve the Administrative Form 300 Restricted Access – Ordinary Prisoner Mail Approval. Where a nominated person does not provide consent, the prisoner must not be approved to send mail to the person;
- [REDACTED] – any ordinary mail addressed to a non-approved person must be returned to the prisoner; and
- f) the prisoner's ordinary mail to approved person/s is routinely searched.

#### 14.4 Stop mail process

If a person receives unwanted mail from a prisoner and notifies a corrective services officer either verbally or in writing that they do not want to receive any further mail from the prisoner, this must be immediately communicated to the Chief Superintendent or Superintendent of the corrective services facility.

The Chief Superintendent or Superintendent must ensure that the prisoner is prohibited from sending any further mail to the person and is responsible for ensuring a local process is developed to facilitate this requirement.



Refer to the Appendix PE4 Rubber Stamp Template for Returned Correspondence.

#### 14.5 Return to sender of ordinary mail received

Where a decision is made to return prisoner mail received to the sender (e.g. an item which does not meet the criteria for issue approval or, the prisoner has been discharged or released), the envelope/package should be secured and addressed "Return to Sender" on the front with only a stamp placed on the back of the envelope/package.

No other corrective services facility identifiers should be placed on the envelope/package.

#### 14.6 Mail addressed to primary or secondary educational institutions

Prisoners are prohibited from sending correspondence addressed to primary or secondary educational institutions except in the following cases:

- a) if there is an identified and demonstrable familial relationship between the prisoner and the addressee (e.g. a prisoner writing to their child who is domiciled at a boarding school);
- b) if the correspondence is necessary to enrol or manage the enrolment of a dependent child in an educational institution; or
- c) if a prisoner is undertaking an approved course of study at an approved educational institution and the correspondence is course related.



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Child sex offenders must not send mail to a primary or secondary educational institution under any circumstances.

#### 14.7 Seizing of ordinary mail

For the storing and disposing of seized property (including ordinary mail), refer to the COPD Property: Management of Prisoner Property and section 48 of the CSA.

#### 14.8 Facsimile mail

Facsimile mail may be received by, or sent on behalf of a prisoner, with the permission of the Chief Superintendent of the corrective services facility if operationally convenient (refer to sections 45, 52 and Schedule 4 of the CSA)

#### 14.9 Email a Prisoner (EMAP) process - including email attachments

Prisoners may receive emails from senders who register with a contracted third-party provider via the Email a Prisoner (EMAP) process. The sender pays a fee to the third-party provider to send the email, with options to pay additional fees to request a reply from the prisoner and/or attach image files to the email.

The image files may be any content which would be accepted via incoming postal mail and not necessarily restricted to photographs.

The third-party service will conduct an initial automated scan of any attachments to reject obvious inappropriate content before the email is forwarded to the corrective services facility. Corrective services staff must further assess the email and attachments in line with the current processes for scanning and reviewing hardcopy ordinary mail and photographs. Refer to sections 13. Prisoner Mail and 14. Ordinary Mail of this COPD and section 7. Approved Photographs of the COPD Property: Management of Prisoner Property.

If an email message or image received via the EMAP process is deemed unapproved, the Centre must inform the third-party provider via email to [uts.au@unilink.com](mailto:uts.au@unilink.com) and refer to section 8.3 Other delivery of property in the COPD Property: Management of Prisoner Property. If the message and reply sheet are still being delivered but just the photo attachments are being withheld it is helpful for this to be noted next to the message ID in the email to the third-party provider. For example:

- a) Message ID: 1256988 - not delivered not at this location;
- b) Message ID: 5565265 - not delivered as message content inappropriate; or
- c) Message ID: 6565689 - photo attachments not delivered, message and reply still delivered.

It is expected only the unacceptable photos will be rejected, which may require cutting it from other images on the sheet of photographs.

Emailed photographs will be printed in black and white at no cost to the prisoner. Printed photographs will still be subject to approved limits for property kept in cells. Refer to the COPD Property: Management of Prisoner Property, Appendix PRO8 Prisoners Authorised Cell Property (Male) and Appendix PRO9 Prisoners Authorised Cell Property (Female).

Electronic image files of completed Statutory Declarations that are required to accompany photographs of children under section 7.1 of the COPD Property: Management of Prisoner Property, can be sent as email attachments. Any Statutory Declarations that are illegible or do not sufficiently demonstrate the parent/guardianship status or established family relationship of the child/ren, and the associated photographs, are to be referred back to the third-party email service as inappropriate emails. Refer to the Email a Prisoner Quick Reference Guide for Correctional Centres.







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Ownership of photographs emailed to prisoners is to be shown in accordance with section 7.1 of the COPD Property: Management of Prisoner Property.

## 15. Privileged Mail

Privileged Mail is mail that is sent to, or by, a person who is prescribed under section 17 of the CSR and the Appendix PE3 Schedule of Authorised Persons for the Purposes of Privileged Mail.

A prisoner who uses the blue envelope system to post privileged mail is not required to meet the cost of postage.

Only officers authorised by the Chief Executive may open, search or censor privileged mail in accordance with section 45(2) of the CSA. Refer to the Queensland Corrective Services Instrument of Authorisation, noting custodial correctional officers generally have not been authorised to conduct these functions.

### 15.1 Received privileged mail

Refer to sections 45 to 47, 49, 52, 263 and 265 of the CSA.

All privileged mail (including legal mail) received by a prisoner must:

- a) be recorded in a register detailing the category of the prescribed person;
- b) not be subject to any form of opening or searching except as provided for under section 45(2) of the CSA;
- c) not be read other than to establish that it is privileged mail (other than with the prisoner's written consent);
- d) be immediately delivered once it is established that it is from a prescribed person;
- e) prior to handing privileged mail to a prisoner, a corrective services officer confirms the identity of the prisoner to whom they are giving the privileged mail (e.g. ensure the prisoner's full name matches the name that appears on the privileged mail);
- f) be forwarded unopened to another corrective services facility without delay if a prisoner has been transferred to another facility;
- g) if the prisoner's current address is known, be forwarded to that address when received for a prisoner who has been released or discharged from a corrective services facility;
- h) if the prisoner's current address is unknown, be returned to the sender with an indication of the prisoner's status no longer in custody;
- i) privileged mail which is addressed ambiguously (e.g. with only a surname) be returned unopened to the sender; and
- j) full details of any misdirected (e.g. privileged mail provided to the wrong prisoner) or damaged privileged mail recorded along with an explanation of the occurrence.

A corrective services officer may:

- a) hand unopened privileged mail to a prisoner and request that the prisoner remove any contents and demonstrate to the officer that no unauthorised articles are contained (e.g. prisoner to shake the contents or flip through the pages of the mail) - the officer must not physically handle or read the contents of the mail at this point; and/or
- b) request that the empty envelope be handed to the officer for inspection.

If the officer reasonably suspects the privileged mail contains an unauthorised article or may not be privileged mail or the prisoner refuses to comply with either of the above, refer to the Search of Privileged Mail section of this COPD. Refer to sections 45, 263 and 265 of the CSA.





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#### 15.2 Search of privileged mail

Privileged mail to or from a prisoner is not subject to a standard search.

Only officers authorised by the Chief Executive may open, search or censor privileged mail in accordance with section 45(2) of the CSA. Refer to the Queensland Corrective Services Instrument of Authorisation, noting custodial correctional officers generally have not been authorised to conduct these functions.

If a corrective services officer considers privileged mail may contain an unauthorised article or may not be privileged mail, the officer must advise the Chief Executive or delegate who must decide whether to authorise a search of the mail in accordance with section 45 of the CSA..

Under no circumstance should the Chief Executive or delegate read mail that is marked “privileged”, other than to establish that it is privileged mail in accordance with sections 45(2) and (3) of the CSA unless express written permission has been received from the prisoner to whom the mail is addressed.

If a search of privileged mail reveals information about the commission of an offence, the corrective services officer who has been authorised to conduct the search should first confirm that the mail is not merely discussing details of the offence for which the prisoner is currently detained.

Each corrective services facility must maintain a register that records the details of searches carried out on privileged mail (refer to section 49 of the CSA). The information recorded in the register must be completed as thoroughly as possible and the register made available for inspection by an Official Visitor upon request.

#### 15.3 Seizure of privileged mail

Refer to sections 46 and 47 of the CSA and the QCS Instrument of Authorisation.

If a search of privileged mail reveals a prohibited thing or something that may physically harm the person to whom the mail is addressed, the Chief Executive or delegate may seize the harmful or prohibited thing.

Where it is determined an offence has been committed, the Chief Executive or delegate must give the information revealed in the mail to the relevant law enforcement agency, in accordance with section 46(1) of the CSA.





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#### 15.4 Sent privileged mail

Privileged mail sent by a prisoner to a prescribed person may be sealed by the prisoner without the presence of a corrective services officer and may be processed unopened, except in accordance with section 45 of the CSA and sections 17(2) and (3) of the CSR.

#### 15.5 Service of documents on a prisoner

Documents required to be served personally on a prisoner may be served on the person in charge of the prison in which the prisoner is imprisoned, refer to section 110 *Uniform Civil Procedure Rules 1999* and Part 5 *Queensland Civil and Administrative Tribunal Rules 2009*.

The Chief Superintendent of a corrective services facility must ensure that documents are accepted and provided to a prisoner consistent with the requirements of relevant legislative authority and this COPD.

Staff must ensure that documents to be personally served on a prisoner are provided to a prisoner as soon as practicable. Proof of personal service of documents may be required to be attested in court as part of a judicial process.

The Chief Superintendent of the corrective services facility or nominee may require a process server to identify if documents have been issued by a person who is prescribed for the CSA as a person who may send or receive privileged mail. Refer to Schedule 4 of the CSA definition of privileged mail, section 17 of the CSR and the Appendix PE3 Schedule of Authorised Persons for the Purposes of Privileged Mail. Unless it is clearly identified that documents to be served on a prisoner are not privileged mail, the documents must be managed as privileged mail.

#### 15.6 Privileged mail from a prisoner addressed to the Parole Board Queensland (PBQ)

Privileged mail from a prisoner addressed to the PBQ may be sent electronically (to the PBQ) with the prisoner's consent. If sending privileged mail electronically to the PBQ, Sentence Management Services (SMS) must ensure:

- the prisoner's consent is received prior to SMS providing submissions to the PBQ electronically. Consent may be provided as indicated on an Administrative Form 08 Consent to Provide Submissions Electronically to Parole Board Queensland (which is to then be attached to the PBQ matter on IOMS);
- once consent has been provided, any submissions received are to be scanned and emailed to [paroleboardqld@pbq.qld.gov.au](mailto:paroleboardqld@pbq.qld.gov.au) (unless the prisoner requests otherwise, e.g. the prisoner may choose for a particular submission to be sent to the PBQ via the blue envelope system as it may contain particularly sensitive information). Prior to sending the email, ensure that the submission has been scanned correctly (i.e. all pages of the submission are included and all content is visible). When emailing the submission, the subject of the email is to include the prisoner's name and IOMS ID to assist with ease of identification and the text of the email should include that "in accordance with section 45(3) of the *Corrective Services Act 2006* this mail has not been read by SMS. If there are safety and security concerns in the content of the correspondence, please ensure the relevant QCS business unit is notified". As the mail is privileged, SMS should not read any submission (excluding for the reasons outlined in section 15.2 Search of privileged mail in this COPD);
- once the relevant submission has been emailed, the sent email is to be deleted from "sent items" and subsequently deleted from "deleted items" and that the original submission is returned to the prisoner via internal mail;





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- d) if consent has not been provided and a submission is received by SMS, the submission is to be returned to the prisoner (and the prisoner should be explained the options for their submission to be delivered to the PBQ);
- e) if the PBQ Secretariat, upon reviewing a submission, identifies information relevant for the corrective services facilities attention and management and provides notification of such, SMS are to take relevant action (e.g. notify Psychological Services); and
- f) a case note is entered detailing what actions have occurred. The case note should include the date on the prisoner's submission (if any is listed), the number of pages of the submission, and the date and time the email was sent to the PBQ.

If a prisoner provides consent for their submissions to be provided to the PBQ by SMS scanning and emailing it, the prisoner is to place their submissions in a blue envelope with "to the Parole Board Queensland via Sentence Management Services – consent provided" written on the front.

If a prisoner chooses to withdraw their consent at any stage, the prisoner is to complete an Administrative Form 09 Withdrawal of Consent to Provide Submissions Electronically to Parole Board Queensland and provide this to SMS. SMS are to attach the completed form to the relevant PBQ matter and enter a case note to reflect that consent has been withdrawn.

### 15.7 Providing Victims Register correspondence to prisoners who are registered on the QCS Victims Register

A prisoner who meets the criteria detailed in section 320 of the CSA, can apply to register on the QCS Victims Register (VR) as an eligible person (EP).

Sections 324A and 325 of the CSA detail the information to be provided to EPs about the nominated prisoner of interest and the time period for the release of the information.

The VR will send the correspondence to the Chief Superintendent/Superintendent of the corrective services facility, with the correspondence to the prisoner attached, to be issued to the prisoner EP. Where there are security/safety risk concerns with the release of this correspondence, VR will make direct contact with the Chief Superintendent/Superintendent of the corrective services facility prior to sending the correspondence.

The Chief Superintendent/Superintendent of the corrective services facility is responsible for ensuring the prisoner is provided the correspondence.

Information from VR is confidential and **must not** be placed or attached on any prisoner's Offender File or prisoner's records.

A case note is to be added stating that the prisoner received the sealed envelope from VR, ensuring Victims Register subcategory is selected (refer to the Appendix DO3 Case Noting Categories).

## 16. Personal Service

Queensland legislation and court rules with respect to the service of documents may require some documents to be served personally in some circumstances, e.g. with an originating process in civil matters or with a subpoena in Federal Court matters.

Accordingly, it is necessary to implement a process to facilitate the personal service of documents on prisoners.







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A case note must be recorded in the Integrated Offender Management System (IOMS) confirming that a prisoner has been provided documents that were required to be personally served on the prisoner.

#### 16.1 Before accepting personal service

Prior to accepting personal service, the Chief Superintendent of the corrective services facility or nominee should:

- request that the process server confirm that the document/s is required to be personally served on the prisoner. The Chief Superintendent of the corrective services facility or nominee may decline to accept service of a document/s where it is not established that the document/s is required to be personally served; and
- identify that the prisoner being served is actually accommodated at the corrective services facility.

For any matters other than the below, the documents may be accepted on behalf of the prisoner:

- determine the nature of the proceedings the subject of the document – where the proceedings relate to a property matter or recovery of a debt or damage and the Public Trustee is the manager of the prisoner's affairs, the process server is to be advised that the documents must be served on the Public Trustee (refer to section 110(a) *Uniform Civil Procedure Rules 1999*); and/or
- determine if the prisoner has a litigation guardian – if the prisoner has a litigation guardian, the process server is to be advised that the documents must be served on the litigation guardian (refer to section 110(b) *Uniform Civil Procedure Rules 1999*).

#### 16.2 When accepting personal service

The Chief Superintendent of a corrective services facility or nominee when accepting personal service of documents must:

- provide their full name and position title to the process server;
- make note of the date and time the documents were received;
- make note of the nature of the documents they have accepted service for; and
- ensure the documents are provided to the prisoner as soon as possible after service - court documents may contain a time limit in which the prisoner must respond.

#### 16.3 Consideration for DPSOA offenders

Section 47 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) states:

- “(1) If a document is required under this Act to be given to a prisoner detained in custody, the document is taken to have been given to the prisoner if the document is given to the chief executive or delegate.
- (2) If, under subsection (1), a document is given to the chief executive or delegate, the chief executive or delegate must give the document to the prisoner without undue delay”.

Refer to the QCS Instrument of Delegation of Chief Executive Powers.

### 17. Videoconferencing/Teleconferencing for Prisoners

The Chief Superintendent of a corrective services facility must establish systems for the management, control and administration for prisoner access to:

- videoconferencing for legal, professional and family purposes (if available) – refer to the processes in this COPD and section 24. Virtual Personal Visits in the COPD Visitors to a Facility: Visits Process;
- teleconferencing for legal and professional purposes (if available);
- nominated contact officers; and
- inter-facility contact application process.



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#### 17.1 Videoconferencing/teleconferencing for legal purposes

Utilisation of video/teleconferencing technology for the provision of legal advice and representation will be in accordance with this COPD and the following:

- a) video/teleconferencing between legal practitioners and/or law clerks and their clients for the purpose of legal representation must not be subject to audio recording or be audible by third parties to maintain confidentiality;
- b) video/teleconferencing for legal purposes are to be conducted in the dedicated legal videoconferencing suites where available;
- c) video/teleconferencing facilities must be booked in advance by the Legal Aid Queensland (LAQ) or legal practice booking officer who must contact the liaison officer of the corrective services facility;
- d) only approved legal practitioners and/or law clerks are permitted to videoconference directly from their business premises;
- e) request for a legal teleconference or videoconference must be requested in writing or via email to the corrective services officer;
- f) to be approved the legal practitioner or law clerk must complete the Approved Form 27(a) Application to Visit (In Person/Virtual) – Professional, Official or Other Business Purposes, nominating their preferred mode(s) of contact (in-person, videoconferencing and/or teleconferencing) and forward to the Chief Superintendent or nominee for approval, unless the videoconference or teleconference is booked directly by LAQ on the legal practitioner's behalf;
- g) a separate Approved Form 27(a) is not required to be completed for each prisoner or Centre that the legal practitioner is required to visit. The original approval by virtue of the Approved Form 27(a) will be valid for a period of 12 months; and
- h) any access approval instructions are to be recorded in the practitioner's re-visit instructions on IOMS in a similar method to in-person visit access approvals.

The Chief Superintendent or delegate may approve what is considered an appropriate amount of legal documentation that staff will issue to prisoners for the purpose of their videoconference including:

- a) Legal correspondence sent via email, to clients (prisoners) by a government funded legal representative, for the purpose of providing prisoners with information prior to legal video appearances.

When the delivery of legal correspondence is approved (via email, to clients by government funded legal representatives only) the legal representative must be advised by the liaison officer of the corrective services facility that emails must be received 2 business days prior to the booked appointment time. For example, legal declarations for LAQ to represent the prisoner for their court appearance.

Prior to this process taking place, the prisoner must provide informed consent for the handling of legal documents by QCS staff by signing the Administrative Form 161 Consent to Receive and Provide Submissions Electronically to a Legal Practitioner/Court.

Refer to the COPD Prisoner Entitlements: Legal Resources.

#### 17.2 Videoconferencing/teleconferencing by law clerks

A law clerk is a person that performs specialised clerical work associated with legal practice and law courts. If a law clerk seeks approval to participate in telephone or videoconferencing, the Approved Form 27(a) must be endorsed by the Principal or Partner of the law firm employing the law clerk, advising that the law clerk is acting on behalf of the relevant law firm. A law clerk is required to disclose their criminal history in completing the Approved Form 27(a).







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A separate authority must be provided for each prisoner that the law clerk is required to conference with in the course of their duties or in circumstances where the period of time detailed in the original letter of introduction has lapsed.

A separate Approved Form 27(a) is not required to be completed for each Centre or prisoner that the law clerk is required to visit. The original approval by virtue of the Approved Form 27(a) will be valid for a period of 12 months, subject to the conditions of the letter of introduction supplied by the law clerk and apply to all prisoners currently in custody at a QCS facility.

These instructions do not apply in circumstances where a law clerk wishes to undertake a personal visit to a prisoner at a corrective services facility, unrelated to their duties as a law clerk.

Refer to the COPD Visitors to a Facility: Visits Process for information regarding in-person visits by law clerks.

### 17.3 Videoconferencing for court appearances

Videoconferencing for court purposes must be in accordance with Part 7A of the *District Court of Queensland Act 1967*, Part 9 of the *Supreme Court of Queensland Act 1991* and section 23EC and Part 6A of the *Justices Act 1886*.

Videoconferencing facilities at Queensland Corrective Services facilities are available for all court proceedings which includes criminal, civil and tribunals. All bookings are to be made via the established booking process.

QCS in consultation with the courts will determine which courts and which suites within the centre's designated videoconferencing area will operate as part of the video court system.



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### 17.6 Prisoners' presentation and appearance during a court videoconference

QCS are obligated to produce a prisoner for a court appearance (whether in person or via video appearance) in accordance with section 69 of the CSA.

### 17.7 Maximum security prisoner considerations

The Chief Superintendent of a corrective services facility or nominee must establish a process to manage the attendance of a maximum security unit (MSU) prisoner to attend the centre's designated videoconferencing area where a suite in the MSU is not available. This may involve negotiations with the relevant court to schedule the appearance of a MSU prisoner at a time when no other prisoners will be present.





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#### 17.8 Duration of videoconferencing court call

Allocated timeframes of 15 minute timeslots are available for the courts to secure however, the Magistrate or Justice will determine the time required for each prisoner. When a prisoner has been dealt with, court staff will advise centre staff that the court matter has been completed whereupon the prisoner may be removed from the video suite.

The Chief Superintendent or nominee must prioritise the use of all videoconferencing facilities with the courts being the first priority. QCS is not expected to resolve booking conflicts by separate courts for the same time period, as courts will negotiate a resolution themselves.

#### 17.9 Videoconferencing for professional reasons

The videoconferencing facilities at a corrective services facility may be utilised to facilitate other professional interviews.

A written application must be submitted to a corrective services officer and approved by the Chief Superintendent or delegate if deemed as appropriate and is operational viable.

#### 17.10 Technical support for videoconferencing

In the event that a corrective services facility requires technical support to resolve a loss of service or make an administrative change to the Offender Booking System (OBS), the following contacts should be used:

- For issues such as loss of connection to the internet, unable to load the OBS, issues with QCS devices etc, contact the QCS ICT Service Desk on [REDACTED]
- For issues relating to the Court network or infrastructure, please contact Court Technology Services Team:
  - [REDACTED] or
  - [REDACTED]
- For administrative changes to the OBS, please speak with the OBS Administrator at your corrective services facility, or contact the QCS IT Service Desk on [REDACTED]

### 18. Family Videoconference Calls

The Chief Superintendent or delegate of a corrective services facility may approve access to video/teleconference calls for the purpose of helping approved prisoners maintain relationships with family members.

Family videoconferences are only to be conducted during business hours and are subject to operational availability.

Any person applying for participation in a videoconference call under a false identity or who knowingly provides false information in the Administrative Form 32 Application for a Family Videoconference commits an offence under section 134 of the CSA.

#### 18.1 Inter-facility videoconferencing

Prisoners may also make videoconference calls to other approved prisoners. Refer to the Appendix PE7 Inter-facility Prisoner Contact. If access is granted, approved prisoners are only permitted to make videoconference calls from QCS videoconferencing equipment.





### Custodial Operations Practice Directive

#### 18.2 Application initiated by prisoner

A prisoner can request a family videoconference via the contact officer at the corrective services facility. The contact officer should then contact the nominated family member/s and forward the Administrative Form 32 Application for a Family Videoconference to the family member/s to complete.

#### 18.3 Application initiated by family member

Where a family member initiates the request and the prisoner agrees to accept the call, the family member and all other participants must complete and return the Administrative Form 32 Application for a Family Videoconference. This form is available from the facility.

The family member must state if they or any children on the application are subject to a current domestic violence, protection or restraining order where they are listed as a respondent, aggrieved or named person. If this is identified, copies of relevant orders must be provided [REDACTED]. If an order contains a non-contact provision the videoconferencing call must not take place.

#### 18.4 Application includes details of a child

Where an application for a family videoconference includes details of a child, the child is not required to complete a separate application. However, the applicant must complete the relevant details concerning the child as required in the Administrative Form 32 Application for a Family Videoconference.

All applications to call prisoners, made by or on behalf of children under the age of 18 years must be approved by the Chief Superintendent of the corrective services facility. Approval must only be granted if the call is assessed as being in the best interests of the child.

#### 18.5 Special considerations for funerals

The Chief Superintendent should give special consideration to any videoconference application that is due to a death in the family or a funeral.

These considerations should include:

- a) it is unrealistic to expect that all family attending the funeral and wishing to participate in the videoconference, will be able to fill out the required form in a timely manner;
- b) the reduced risk to the centre compared to a funeral escort;
- c) the location of the videoconference (funeral directors);
- d) if the prisoner is of Aboriginal or Torres Strait Islander heritage;
- e) if the cultural liaison officer is available to organise and facilitate the videoconference; and
- f) the benefit to both the prisoner and family members in regard to maintaining strong family connections.

#### 18.6 Special considerations for international videoconferences

The Chief Superintendent should give special consideration to any international videoconference application.

These considerations should include:

- a) the location of the of the videoconference (may be in a private residence);
- b) the nature and extent of any risk to the centre; and
- c) if the facility calling has compatible software and infrastructure.





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## 19. Approval of Request for Family Videoconference

An application to contact a prisoner via family videoconferencing may be approved by the Chief Superintendent or delegate of a corrective services facility.

The Chief Superintendent or delegate of a corrective services facility is to treat an application for a Family Videoconference in the same way they would a special visit and must consider the following prior to approving a videoconference call instead of a phone call:

- videoconference technology is available for use in the corrective services facility where the prisoner is accommodated;
- the benefit to both prisoner and family members in regard to maintaining strong family connections;
- the proposed location that the family videoconference is to be conducted from is suitable and approved;
- whether the prisoner's family is unable to visit because of the distance from their location to where the prisoner is accommodated;
- whether the safety and security of the corrective services facility would be put at risk; and,
- the prioritised usage of the videoconferencing facilities.

Where approval for a videoconference is granted, the prisoner must be informed of the date, time, and family members approved to be present. The family members must also be notified and advised of the location of the videoconference site for the videoconference. No unauthorised parties are to attend the scheduled videoconference.

If a prisoner is transferred to another corrective services facility before an approved videoconference occurs, the Chief Superintendent of the receiving facility must determine whether the videoconference will proceed at the receiving facility.

All completed application forms should be retained on the prisoner's Offender File.

### 19.1 Approved family videoconference sites

Contact through videoconferencing should be conducted at an authorised site (Community Corrections office or Reporting Centre, selected Aboriginal and Torres Strait Islander Legal Service offices and/or selected Centrecare sites). The Chief Superintendent or delegate of the corrective services facility may consent to the videoconference occurring at an alternative location.

NOTE: A family videoconference must not be facilitated at a private residence.

Applications requesting approval to videoconference with multiple centres and/or from various locations for family videoconferences must be approved by the Chief Superintendent.

### 19.2 Duration of family videoconference

The Chief Superintendent or delegate of a corrective service facility may decide the length and frequency of an approved prisoner's videoconference as per section 51(3) of the CSA.

Prisoner family videoconference visits must be recorded in IOMS as a special visit.

### 19.3 Commencement of family videoconference

At the commencement of a family videoconference the designated corrective services officer is to determine the identity (if possible) of the family members and confirm the number of family members in attendance.







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The corrective services officer is also to confirm (within reason) that the family members are compliant with the dress standards. Refer to the Appendix V1 Appropriate Dress Standards Notice.

#### 19.4 Payment for family videoconference

The Chief Superintendent or delegate of a corrective services facility may pay for a videoconference call if it is considered there is sufficient reason to do so, for example, if the prisoner has insufficient funds to pay for the call. Refer to section 51(2) of the CSA.

The corrective services facility initiating the call will pay costs at the facility. The family or prisoner must meet the costs of any charge imposed by the videoconference site.

#### 19.5 Booking a family videoconference

All contact with a prisoner via a videoconference must be booked in advance. Applicants for family videoconferencing must be advised of the dress and behaviour requirements of the facility at the time the booking is made, refer to the Appendix V1 Appropriate Dress Standards. They should also be advised that they may be asked for identification when they report to the videoconference site to receive the call.

Any person wishing to initiate a videoconference must contact the corrective services facility during business hours to book the videoconference. The Chief Superintendent or delegate of a corrective services facility may make provisions for permanent bookings.

#### 19.6 Recording or monitoring the family videoconference

The Chief Superintendent or delegate of the corrective services facility may determine that a family videoconference is monitored by a corrective services officer.

At the commencement of the family videoconference call, prisoners and family members must be advised that the videoconference may be recorded or monitored in accordance with section 52 of the CSA.

Refer to the COPD Facility Security: Security Management Systems (SMS) and Intercoms.

### 20. Termination of Family or Professional Videoconference Call

Videoconference calls may be terminated for reasons including, but not limited to, where:

- doubt exists about the identity of any person attending the videoconference call or unauthorised participants are in attendance;
- an officer reasonably considers the content of the videoconference call constitutes a threat to the security or good order of the corrective services facility;
- the prisoner or any other party involved in the videoconference call fails to comply with any direction regarding dress standards or behaviour; and
- for any other reason in accordance with section 52(4) of the CSA.

### 21. Virtual Personal Visits

Virtual Personal Visits (VPV) may be used as an available option to facilitate continued contact with a prisoner's approved visitors. Where operationally viable, this may be in addition to an on-site personal visit at a corrective services facility.

VPV technology may also be considered in circumstances where a request for a leave of absence for funeral attendance or on other compassionate grounds, is not possible and/or a prisoner is not approved to physically attend.







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This process is separate from the existing Family Videoconferencing process and is for approved personal visitors.

Refer to the COPD Visitors to a Facility: Visits Process and Appendix V13 Virtual Personal Visits: Booking, Operational Practice and Guidelines.

## 22. Inter-Facility Contact

Inter-facility contact is an important link in maintaining relationships with significant members of a prisoner's family support system. Maintenance of these relationships may assist in reducing a prisoner's risk of self-harm and the reunification of the family unit when the prisoner is released from custody.

Inter-facility visits, telephone or video-conference calls may be granted between family members, including kinship relationships, where compassionate or exceptional circumstances exist and such contact is considered necessary for the welfare of all parties concerned.

### 22.1 Eligibility

A prisoner may apply for inter-facility visit with a prisoner at another corrective services facility or a detainee accommodated at a youth detention centre if the requesting prisoner can establish that:

- a) the prisoner is a relative or has family ties;
- b) the prisoner has been the primary care giver of the prisoner or detainee being visited;
- c) there is a cultural connection; or
- d) if there are verifiable compassionate or exceptional circumstances.

If permission is granted for video-conference calls, these are only permitted from QCS video-conferencing equipment.

For relevant forms to facilitate the process see the:

- a) Appendix PE7 Inter-Facility Prisoner Contact; and
- b) Administrative Form 290 Application for Inter-Facility/Youth Detention Centre Prisoner Contact.

### 22.2 Proof of relationship

Proof of relationship with a family member may be confirmed by a reasonable review of applicable records (including IOMS) of the relevant prisoners in order to identify if there is sufficient information to form a reasonable opinion of such a relationship and if applicable, make reasonable enquiries with appropriate external parties.

If this is not practical or unable to be confirmed, the prisoner is to provide documentary proof of the relationship.





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#### **23. Prisoner Advisory Committees**

To engage prisoners and provide a process for them to have input into the corrective services facility's functioning and to promote positive communication between facility management and prisoners, a facility should have a Prisoner Advisory Committee. Refer to the Appendix PE12 Prisoner Advisory Committees.

PUBLIC VERSION

