



Search

Visitors Search

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Custodial Operations Practice Directive

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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:

- the right to equal and effective protection against discrimination;
- the person's right to privacy;
- the person's cultural rights,
- the person's right to be treated with humanity and respect;
- protection of families and children;
- the rights of a child; and
- freedom of expression, that is the right to hold an opinion without interference.

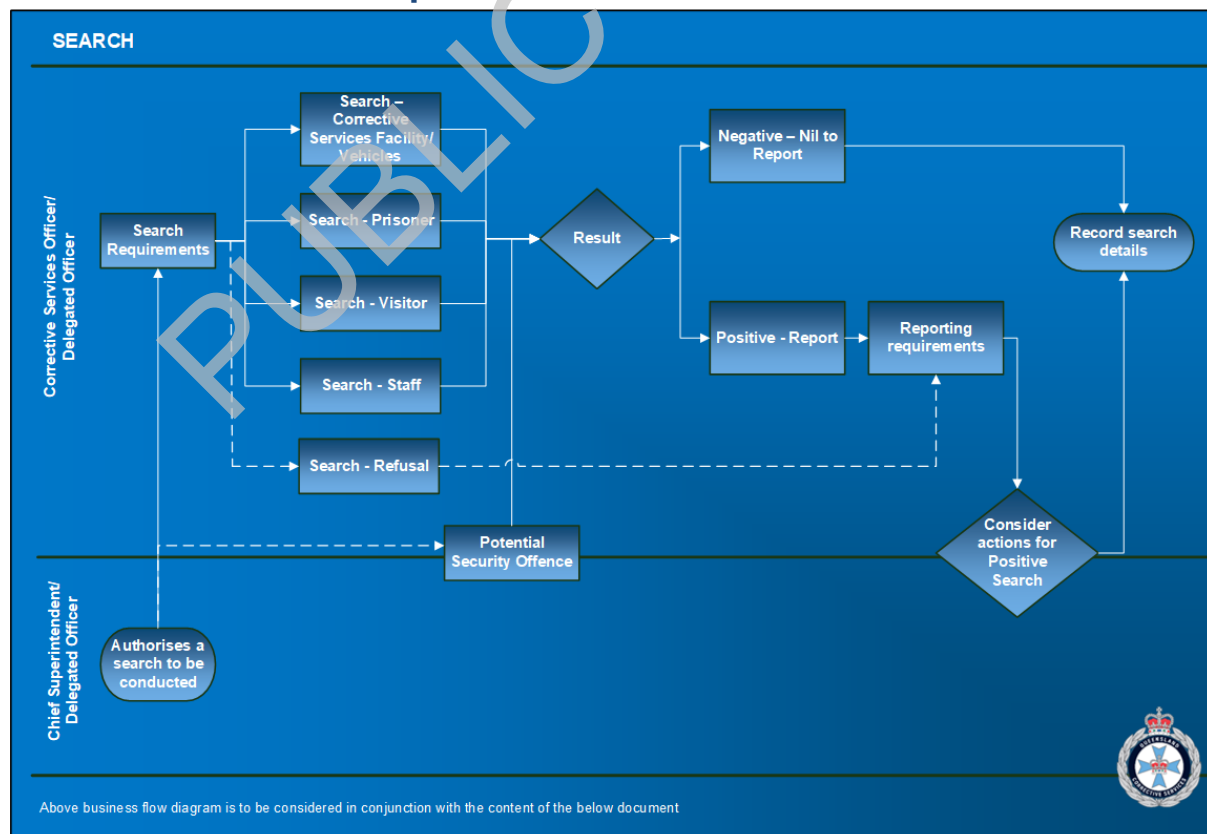
2. Limitation of Human Rights

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 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.

3. Search Process Map



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4. Purpose

This Custodial Operations Practice Directive (COPD) outlines the processes governing the search of visitors, including guidelines for the conduct of these searches. These procedural requirements are to ensure the integrity of the search of visitors prior to entering a corrective services facility and also in circumstances where a visitor may be suspected of having committed a security offence. Importantly, this COPD highlights the need for these searches to be undertaken in a manner that respects the dignity of the visitor concerned.

The *Corrective Services Act 2006* (CSA), authorises the search of visitors in two separate circumstances:

- a) before the visitor enters a corrective services facility – section 159 of the CSA; and
- b) where the visitor is found committing, or is reasonably suspected of having just committed, a security offence – section 136 of the CSA.

5. Definition of General Search

A general search, of a person, means a search -

- a) to reveal the contents of the person's outer garments or general clothes, or of a thing in the person's possession, including touching or moving the thing without touching the person;
- b) in which the person may be required to -
 - i. open their hands or mouth for visual inspection; or
 - ii. shake their hair vigorously.

Refer to Schedule 4 of the CSA.

6. Definition of Scanning Search

A scanning search of a person is a search of a person by electronic or other means that does not require a person to remove the person's clothing but may require another person or an apparatus to touch or come into contact with the person.

Where a scanning search involves the use of an apparatus for touching or coming into contact with a person who is submitting to a scanning search, the apparatus must be prescribed by regulation.

Examples of a scanning search:

- a) using a portable electronic apparatus that can be passed over the person;
- b) using an electronic apparatus through which the person is required to pass; and
- c) using a corrective services dog trained to detect the scent of a substance that is a prohibited thing.

The only exceptions to the above are those people with a recognised medical condition who may react to electronic scanning devices.

An ion scanning device is prescribed by section 48 of the *Corrective Services Regulation 2017* (CSR) for use in conducting a scanning search of a person. Refer to section 7.4 IONSCAN testing process.

A corrective services officer conducting a scanning search of a person must:

- a) ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person; and
- b) take reasonable care to minimise any physical contact with the person.





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Refer to section 175A of the CSA.

7. Search of a Visitor Before Entering a Corrective Services Facility

7.1 Accredited visitor

The Chief Executive may require an accredited visitor to submit to a scanning search before entering a corrective services facility.

An accredited visitor includes:

- a) the Minister;
- b) a member of the Legislative Assembly;
- c) a judicial officer;
- d) a board member;
- e) the ombudsman;
- f) an inspector, including the chief inspector;
- g) the inspector of detention services;
- h) an official visitor;
- i) a community visitor (child) under the *Public Guardian Act 2014*;
- j) a child advocacy officer under the *Public Guardian Act 2014*; or
- k) any of the following persons:
 - i. a member of the UN subcommittee;
 - ii. a UN expert accompanying the UN subcommittee;
 - iii. an interpreter or other person assisting the UN subcommittee accompanying the subcommittee.

Refer to section 159(1) and Schedule 4 of the CSA.

7.2 Other visitors

The Chief Executive may require a visitor, other than an accredited visitor, to submit to a general search or scanning search before entering a corrective services facility.

All personal visitors to a high security corrective services facility must be subject to a scanning search by a static or handheld metal detector. All personal property of the visitor must be subject to a scanning search by an x-ray device and general search by a corrective services officer.

Personal visitors of a prisoner who enter a high security corrective services facility may be required to submit to both a scanning search and a general search where the visit is a contact visit.

Refer to section 159(2) of the CSA.

7.3 How the search of a visitor is to be conducted

When conducting a search, the delegated officer (refer to the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers) must ensure that:

- a) reasonable care is taken to protect the dignity and self-respect of the person being searched and to ensure minimal embarrassment to the person, without impeding the effectiveness of the search;
- b) specific consideration needs to be given to any cultural rights including cultural headwear and the gender of the searching officer (in culturally sensitive situations); and
- c) care is exercised when searching private property to avoid damage to the property.



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Only searches authorised by the CSA may be conducted by corrective services officers within a corrective services facility.

7.4 IONSCAN testing process

A visitor may be required to undergo a scanning search utilising the IONSCAN testing process.

8. Search of a Visitor – Relating to a Security Offence

The Chief Superintendent or nominee must be notified immediately if a corrective services officer:

- finds a person committing a security offence; or
- finds a person in circumstances that lead, or has information that leads, the officer to reasonably suspect a person has just committed a security offence.

A security offence means an offence against Part 3 – General offences of the CSA or another offence that poses a risk to:

- the security or good order of a corrective services facility; or
- the security of a prisoner or a prisoner of a court.

The corrective services officer may, using reasonably necessary force to:

- conduct a general search or scanning search of the person; or
- search anything in the person's possession, including a motor vehicle.

The corrective services officer may, using reasonably necessary force, detain the person until the person can be handed over to a police officer.

A person must not be detained for a period longer than four hours. Where a corrective services officer detains a person in these circumstances, they must immediately advise the Chief Superintendent of the corrective services facility or nominee.

Refer to section 136 of the CSA and Instrument of Limitation of Corrective Services Officers' Powers.

8.1 How the search of a visitor is to be conducted – security offences

In addition to the considerations for conducting a general search or scanning search of a visitor, if it is reasonably practicable to do so, the corrective services officer must, before conducting the search:

- tell the person the officer intends to conduct a search and what the officer intends to search;
- tell the person the reason for the search; and
- ask for the person's cooperation.





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The corrective services officer must conduct the search in a way that respects the person's dignity and must also conduct the search as quickly as possible.

Refer to section 46 of the CSR.

8.2 Response to a search relating to a security offence – no item found

When the result of a search does not identify an unauthorised item or prohibited thing, the record of the details of the search are to be recorded in the relevant register. The Chief Superintendent may determine what further action, if any, is required in the circumstances.

9. Refusal by a Visitor to Submit to a Search

If a visitor does not submit to a general search when required to do so, the Chief Executive may revoke:

- a) for a personal visitor:
 - i. the visitor's access approval; or
 - ii. the visitor's approval for the visit to be a contact visit; or
- b) for another visitor, the visitor's access approval.

Refer to section 159(3) of the CSA.

The Chief Executive must give consideration to the individual circumstances of the scheduled visits, these considerations are to include:

- a) the human rights of the visitor and the prisoner;
- b) the reason the search has been refused;
- c) any available intelligence regarding the visit; and
- d) if there is an identified risk to the safety and security of the centre.

The Chief Executive may:

- a) deny access to the centre for the visitor;
- b) move the visit to a non-contact visit; or
- c) allow the visit to proceed as scheduled.

The visitor must comply with the direction, unless the visitor has a reasonable excuse.

Refer to section 163 of the CSA.

9.1 Direction to a visitor

Where an accredited visitor fails to comply with a requirement to undertake a scanning search, the visitor may be directed to leave the corrective services facility.

Where a visitor, other than an accredited visitor, fails to comply with a requirement to undertake a scanning search or general search the visitor may also be directed to leave the corrective services facility.

A corrective services officer may give a visitor a direction the officer reasonably considers necessary for the security or good order of the corrective services facility or a person's safety. The visitor must comply with the direction, unless the visitor has a reasonable excuse.

Refer to section 163 of the CSA.





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If the visitor fails to comply with a direction given under section 163(2) of the CSA, the visitor may be directed to leave the corrective services facility.

If the visitor fails to leave the corrective services facility, a corrective services officer may, using reasonably necessary force, remove the visitor from the facility.

Refer to section 161 of the CSA.

9.2 Refusal to allow searches involving children

The Chief Executive or authorised delegate may request of an adult visitor who is responsible for an accompanying child, including an infant, that the child undergo a scanning and/or general search.

Where an adult visitor, responsible for an accompanying child, refuses to give permission for the child to submit to a scanning and/or general search or to provide assistance for the child to be searched:

- a) the deciding officer must give consideration to the individual circumstances of the scheduled visits, these considerations are to include:
 - i. the human rights of the child, the visitor and the prisoner;
 - ii. the reason the search has been refused;
 - iii. any available intelligence in regard to the visit; and
 - iv. if there is an identified risk to the safety and security of the centre; and
- b) the deciding officer may:
 - i. deny access to the centre for both the adult and child visitor;
 - ii. deny access to the centre for the adult or child visitor;
 - iii. move the visit to a non-contact visit; or
 - iv. allow the visit to proceed as scheduled.

10. Personal Protective Equipment (PPE)

Supplied PPE must be utilised by staff when conducting a search to prevent needle-stick/blood and body fluids exposure (e.g. needle-stick resistant gloves or nitrile protective gloves).

Stocks of disposable PPE equipment must be maintained in each corrective services facility.

11. Visitor Found in Possession of Unauthorised Item/Prohibited Thing

The Chief Superintendent of a corrective services facility or nominee must be notified where a search reveals that the visitor is in possession of an unauthorised item/or prohibited thing, or if there is a reasonable suspicion that the visitor is in possession of an unauthorised item and/or prohibited thing. Refer to the Appendix S1 Prohibited Things.

11.1 Preservation of evidence and disposal of seized property

A corrective services officer may seize anything found in a corrective services facility, whether or not in a person's possession that the officer reasonably considers poses or is likely to pose a risk to:

- a) the security or good order of the facility; or
- b) the safety of persons in the facility.





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A corrective services officer may also seize a prohibited thing. However, a corrective services officer must not seize a document to which legal professional privilege attaches.

Refer to section 138 of the CSA.

All seized property will be dealt with in accordance with the COPD Incident Management: Management of Evidence and Seized Property. The Chief Superintendent or Superintendent will make a determination on whether an unauthorised item or prohibited thing is to be retained as a result of the search of a visitor.

Where an item is seized, a receipt is to be provided to the visitor using the Approved Form 25 Receipt for Seized Property.

Refer to section 139 of the CSA.

Any seized item, which is to be retained, is to be stored in a secure location determined by the Chief Superintendent until a determination is made on whether the item is to be disposed of in accordance with sections 140 and 141 of the CSA.

12. Recording the Search of a Visitor

The Chief Superintendent of a corrective services facility must:

- a) establish a hardcopy register for recording the details of searches of visitors;
- b) there is no requirement to record a routine scanning search or general search of a visitor entering a corrective services facility. This includes circumstances where the search is limited in nature and there is no reasonable suspicion that the visitor may have possession of an unauthorised item or prohibited thing (i.e. as part of the general entry process to the corrective services facility);
- c) a search of a visitor must be recorded in a register in circumstances where the officer reasonably suspects the visitor may be in possession of an unauthorised item or prohibited thing and there is a need to undertake a more thorough general search or scanning search of the visitor for example;
 - i. where a Passive Alert Drug Detection dog provides a positive indication and as a consequence the corrective service officer undertakes a more thorough general search of the visitor;
 - ii. where a corrective services officer has received intelligence holdings;
 - iii. where it is necessary for the corrective services officer to direct the visitor to a room or other location for the purpose of undertaking the general search or scanning search;
- d) any search of a visitor relating to a security offence must be recorded in a register;
- e) a search of a visitor must be recorded in a register where the visitor is found in possession of an unauthorised item or prohibited thing; and
- f) the hardcopy register must be completed as soon as practicable after the search is conducted.

Details of a search recorded in the register must include the:

- a) date of the search;
- b) time of the search;
- c) visitor's name;
- d) type of search conducted;
- e) officers present and the name of the officer who conducted the search;



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- f) location where the search was conducted;
- g) reason for the search;
- h) results of the search, including the description of any unauthorised item or prohibited thing located;
- i) relevant statements made by the visitor; and
- j) any relevant post search action taken.

13. Powers of the Queensland Police Service (QPS) to Search a Person/s Without a Warrant

Officers of QPS have a powers to search a person, including a search requiring the removal of clothing, refer to sections 29 and 30 of the *Police Powers and Responsibilities Act 2000* (PPRA).

A QPS officer who reasonably suspects any of the prescribed circumstances for searching a person without a warrant may:

- a) stop and detain a person; and
- b) search a person and anything in the person's possession for anything relevant to the circumstances for which the person is detained.

For prescribed circumstances where a QPS officer may search a person without a warrant, refer to section 30 of the PPRA.

13.1 Search of a visitor acting at the direction of a QPS officer

A corrective services officer of the same sex as the visitor, acting at the direction of a QPS officer, may conduct a search of a person, including a search requiring the removal of clothing of a visitor, if there is no QPS officer of the same sex available to conduct the search. Refer to section 624 of the PPRA.

In these circumstances the corrective services officer is acting at the direction of the QPS officer. Specific advice must be sought from the QPS officer regarding the nature of the search to be undertaken.

The PPRA provides limitations regarding removal of clothing searches at the direction of a QPS officer. These differ to the powers of a corrective services officer relating to removal of clothing searches under the provisions of the CSA.

A corrective services officer acting at the direction of a QPS officer to conduct a search of a visitor, must ensure the search is conducted in a manner that causes minimal embarrassment to, and protects the dignity of, the visitor.

If reasonably practicable, the QPS officer must, before conducting the search:

- a) tell the visitor they will be required to remove clothing during the search;
- b) tell the visitor why it is necessary to remove the clothing; and
- c) ask for the visitor's cooperation.

For a search requiring the removal of clothing, the visitor must be given the opportunity to remain partly clothed during the search, for example, by allowing the visitor to dress their upper body before being required to remove items of clothing from the lower part of the body.

The search must be conducted in a way providing reasonable privacy for the visitor.





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Also, the search must be conducted as quickly as reasonably practicable and the visitor searched must be allowed to dress as soon as the search is finished.

The corrective services officer conducting the search must not make physical contact with the genital and anal areas of the visitor searched, but may require the visitor to hold their arms in the air or to stand with legs apart and bend forward to enable a visual examination to be made. It is important for the corrective services officer to clarify the specific requirements of the QPS officer prior to the search being conducted.

If the QPS officer seizes clothing because of the search, the QPS officer must ensure the visitor is left with or given reasonably appropriate clothing. The corrective services officer assisting the QPS officer may assist in the provision of reasonably appropriate clothing.

The corrective services officer assisting the QPS officer must consider any special needs of the person being searched.

Refer to sections 629 and 630 of the PPRA.

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