



Visitors to a Facility

Interview Prisoner

V

Custodial Operations Practice Directive

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Scope

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PUBLIC VERSION



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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:

- a) the prisoner's right to recognition and equality before the law, including the right to equal and effective protection against discrimination;
- b) the prisoner's right to protection from torture and cruel, inhuman or degrading treatment;
- c) the prisoner's right to freedom of expression;
- d) peaceful assembly and freedom of association;
- e) the right to privacy and to reputation;
- f) the right to humane treatment when deprived of liberty;
- g) the prisoner's rights in criminal processes, including the right to minimum guarantees as set out in section 32(2) of the *Human Rights Act 2019*.

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 impositions 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.

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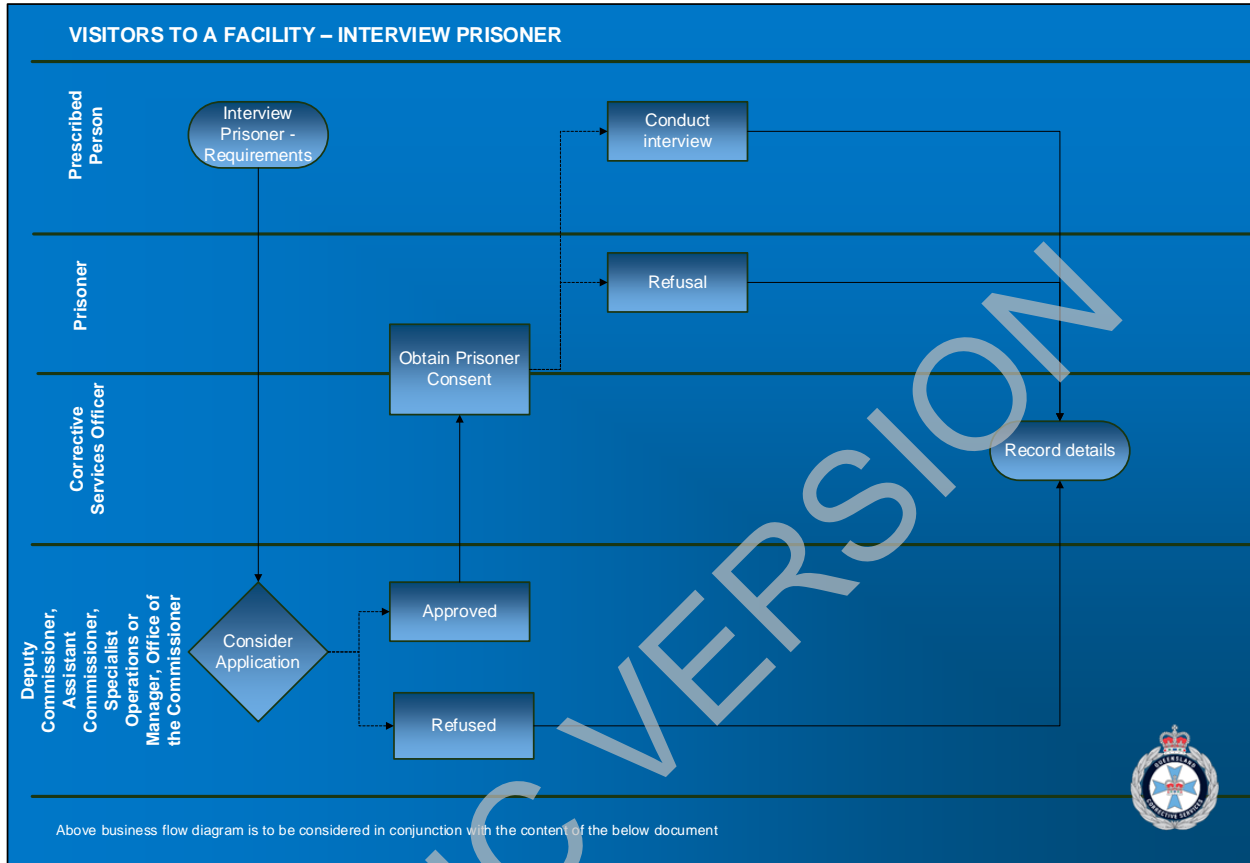
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3. Requirements to Visit a Corrective Services Facility



A person requires the Chief Executive or their delegate’s written approval to interview a prisoner, obtain a written or recorded statement from a prisoner, photograph a prisoner inside a corrective services facility or photograph any part of a corrective services facility.

Written approval is not required if the person is:

- the prisoner’s lawyer;
- an employee of a law enforcement agency; or
- the ombudsman.

Additionally, an accredited or government visitor may visit a prisoner, or access any part of a corrective services facility, in order to perform the functions or exercise the powers of the visitor’s office or position. Official visitors and inspectors may interview prisoners under section 164(1) of the *Corrective Services Act 2006* (CSA).

An “accredited visitor” is defined in schedule 4 of the CSA and includes an inspector and an official visitor. “Government visitor” means a person who is an employee of another government department.

An accredited visitor, other than a person authorised under section 132(2) of the CSA, while carrying out the functions of their office or position, may visit a prisoner, however must not interview the prisoner without specific approval.

An interview must occur out of the hearing but within the sight of a corrective services officer.

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4. Law Enforcement Visitors

An employee of a law enforcement agency seeking to interview a prisoner may do so in accordance with section 167 of the CSA.

The law enforcement visitor must be registered as a visitor on IOMS and the visit entered on IOMS as visitor type "extra" and categorised according to the law enforcement agency that they represent.

Schedule 4 of the CSA states a law enforcement agency means:

- a) the Crime and Corruption Commission, a commission of inquiry under the *Commissions of Inquiry Act 1950*, or the police service; or
- b) the Australian Federal Police; or
- c) the Australian Crime Commission established under section 7 of the *Australian Crime Commission Act 2002* (Cth); or
- d) a police force or service of another State or of a foreign country; or
- e) an entity established under the law of the Commonwealth or a State to investigate corruption or crime; or
- f) the Australian Security Intelligence Organisation under the *Australian Security Intelligence Organisation Act 1979* (Cth); or
- g) a Commonwealth department that administers the *Australian Border Force Act 2015* (Cth), *Customs Act 1901* (Cth) (other than parts XVB and XVC), or the *Migration Act 1958* (Cth); or
- h) another entity declared under a regulation to be a law enforcement agency.

The prisoner may:

- a) refuse to see the law enforcement visitor; or
- b) agree to see the law enforcement visitor but refuse to answer any of the law enforcement visitor's questions (refer to section 167(2) of the CSA).

5. Child Safety Officers

A child safety officer wishing to visit a corrective services facility to interview a prisoner for the purpose of case planning must contact the facility a minimum of **seven days** beforehand to arrange the visit. This notice is to allow the Chief Superintendent of a corrective services facility sufficient time to arrange the relevant professional staff to be available for the meeting. At the time of arranging the visit, the corrective services officer must request that the child safety officer complete and send the Administrative Form 204 Child Safety Visit Notice to the corrective services facility a minimum of 24 hours prior to the visit.

If a child safety officer requests to interview a prisoner in an emergency situation, an application may be made directly to the Chief Superintendent or Superintendent of the corrective services facility.





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6. Interview Approval

The Chief Executive or delegate (refer to section 132(2)(d) of the CSA) may grant approval for a prisoner to be interviewed provided:

- the purpose of the interview is considered reasonable;
- the prisoner wishes to be interviewed;
- the security or privacy of any person or of a corrective services facility is not compromised as a result of interview;
- any harm is likely to come from the interview is considered – for example, if the interview will jeopardise the integrity of an investigation, or the interview is likely to have an adverse impact on any members of the community; and
- the interview, or any portion of the interview, will not be published or made public except with permission of the relevant Deputy Commissioner, Assistant Commissioner, Specialist Operations or Manager, Office of the Commissioner.

Refer to the Administrative Form 208 Request to Interview Prisoner/Photograph Facility and Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

7. Research

Approval to conduct research must first be obtained prior to seeking approval for a research related interview.

Approval to:

- conduct research in a corrective services facility;
- use data held by the Department; and/or
- interview a prisoner;

can only be granted by the QCS Research and Evaluation Committee.

The approval to conduct research does not authorise access to a corrective services facility or a prisoner. Approval to access a corrective services facility or to interview a prisoner must be obtained in accordance with the requirements of this Custodial Operations Practice Directive (COPD) and the COPD Visitors to a Facility: Visits Process.

8. Prisoner Consent

The written consent of a prisoner must be obtained prior to an interview being conducted or a written or recorded statement obtained from the prisoner, unless by a person authorised under section 132(2) of the CSA. Refer to the Administrative Form 209 Consent for Third Party Interview.

Prior to an interview occurring with a law enforcement officer, the prisoner must consent to the interview by signing an Administrative Form 210 Prisoner Consent to be Interviewed by Law Enforcement. This form must contain the interviewing officer's name and details. A copy of this form must be filed on the prisoner's file.

Should the prisoner give consent for an interview with a law enforcement visitor, the visit should be out of the hearing, but not out of the sight of a corrective services officer.





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9. Conduct Interview

During the interview, the prisoner is not to be allowed unsupervised access to any communication device. Any phone calls are to be made as an officer initiated call and, if possible, recorded. Any authorised telephone call that is not recorded, must be monitored

