



Community Engagement

CE

Dangerous Prisoners (Sexual Offenders) Act and Reportable Offenders

Custodial Operations Practice Directive

Process Owner: Custodial Operations <u>and</u> Specialist Operations	Security Classification: Official/Public
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Scope	
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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) recognition and equality before the law, including the right to equal and effective protection against discrimination;
- b) freedom of movement, including the right to move freely within Queensland and to enter and leave it;
- c) protection of families as the fundamental group of society and the protection of children;
- d) the right to liberty and security of a person;
- e) the right to humane treatment when deprived of liberty;
- f) the right to protection from torture and cruel, inhuman or degrading treatment;
- g) the right to access health services without discrimination including the right not to be refused emergency medical treatment that is immediately necessary to save the prisoner's life or prevent serious impairment to the prisoner;
- h) the right to privacy and to reputation; and
- i) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples.

The human rights of victims and the safety of the broader community, such as the right to life and the right to security, are also relevant to consider in matters relating to prisoners detained under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) and reportable offenders.

2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justifiable, the following factors are relevant to consider:

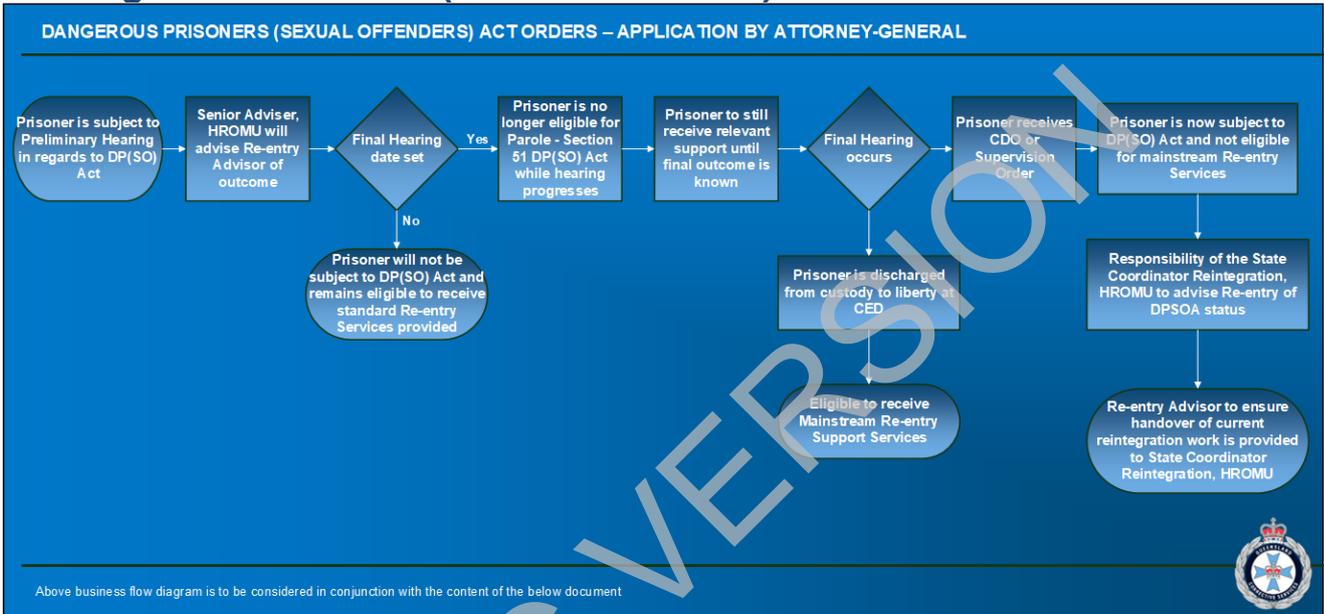
- a) The nature of the human right – this involves looking at the purpose and underlying value of the human right. For example, the purpose of the right to liberty is to protect against the unlawful or arbitrary arrest or detention of a person. A person must not be deprived of their liberty except on grounds, and in accordance with procedures, established by law.
- b) The nature of the purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, the purpose of referring a prisoner for consideration of an application for the Supreme Court to grant a detention order under the DPSOA, would be to enhance the safety of the community.
- c) The relationship between the limitation and its purpose – this involves considering the rational connection between the limitation of the right, and whether this will actually help to achieve said purpose or legitimate aim. For example, will limiting the right to liberty by referring a prisoner for consideration of a DPSOA application achieve an enhancement to the safety and security of the community?
- d) Whether there are any less restrictive and reasonably available ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way. For example, is there any other way to achieve the purpose of enhancing community safety which is both as effective and practical and has less of an impact on the right to liberty?





- e) The importance between the purpose for the limitation and preserving the human right – this involves a balancing exercise of the benefits obtained by the limitation vs. the harm caused to the human right. The greater the incursion of the right, the more important the purpose will need to be to justify the limitation. For example, does the importance of enhancing community safety outweigh the impact on an individual’s right to liberty?

3. Dangerous Prisoners (Sexual Offenders) Act Orders



The DPSOA section 5 provides that the Attorney-General may apply to the Supreme Court to make a continuing detention order or a supervision order for a prisoner if the court is satisfied that the prisoner is a serious danger to the community in the absence of a division 3 order.





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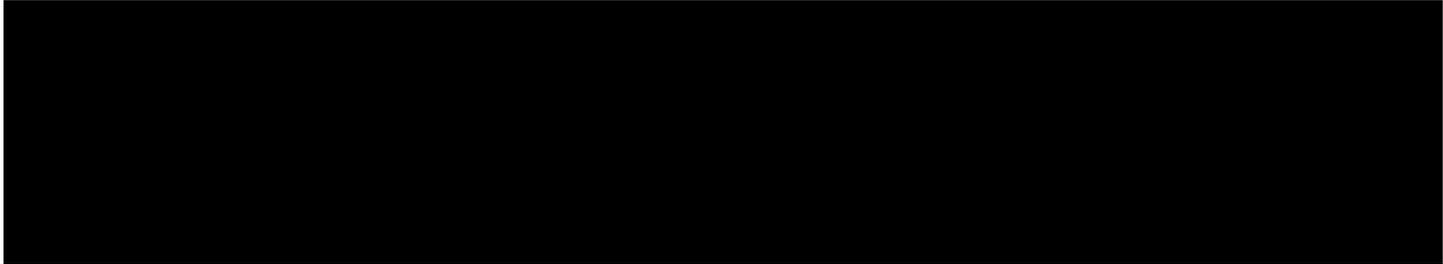
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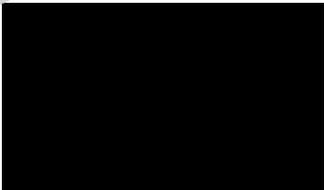
6. Guidelines for Behavioural and Employment Case Reporting

Care must be taken to ensure that the date/s of contact with the prisoner is recorded in all documents.

The recording of information will assist in determining:

- a) goals and milestones including pre-release planning for the next review period (to be established or confirmed from the plan);
- b) the prisoner's classification; and
- c) the prisoner's placement.

For DPSOA offenders, all IOMS records are used as evidence in the Supreme Court as part of the DPSOA process. Case notes therefore need to be accurate and concise.



A detailed statement and/or reasons must be included in each box selected in IOMS. Each statement must be explained and validated by descriptive information.

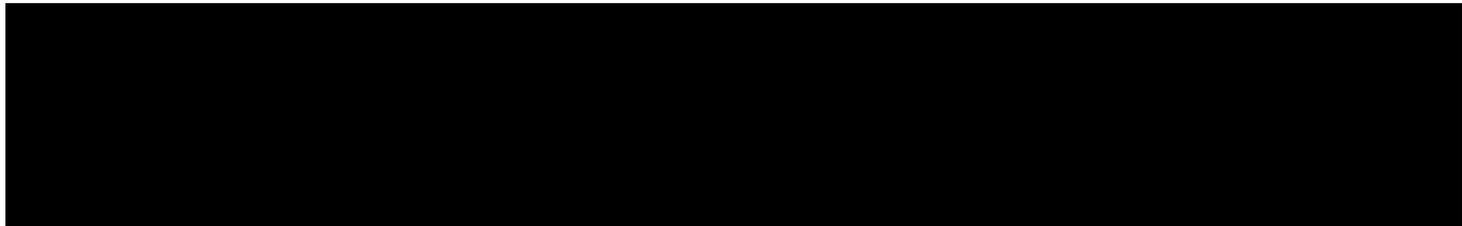
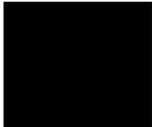
Corrective services supervisors will monitor and audit the completion of case notes on a monthly basis and record a case note identifying that an audit has been conducted.



7. Intervention Case Reporting

Intervention case reports provide an overview and rating of a prisoner's participation and attitude associated with addressing their criminogenic, non-criminogenic, planning, responsivity or throughcare needs. These case reports will be completed by an Offender Management staff member

[Redacted]





7.1 Frequency for intervention case reporting

An intervention case report will be completed upon request of Sentence Management Services and recorded in IOMS.

7.2 Guidelines for intervention case reporting

At a minimum the information in the intervention case report must:

- a) describe the prisoner's attitude towards:
 - i. the course;
 - ii. the facilitator/s; and
 - iii. other participants.
- b) describe the prisoner's motivation towards:
 - i. attendance;
 - ii. completion/response to course; and
 - iii. application of skills.
- c) describe the prisoner's conduct. For example:
 - i. shows respect; and
 - ii. adheres to rules and regulations.
- d) describe the prisoner's interaction with:
 - i. the facilitator/s; and
 - ii. other participants.

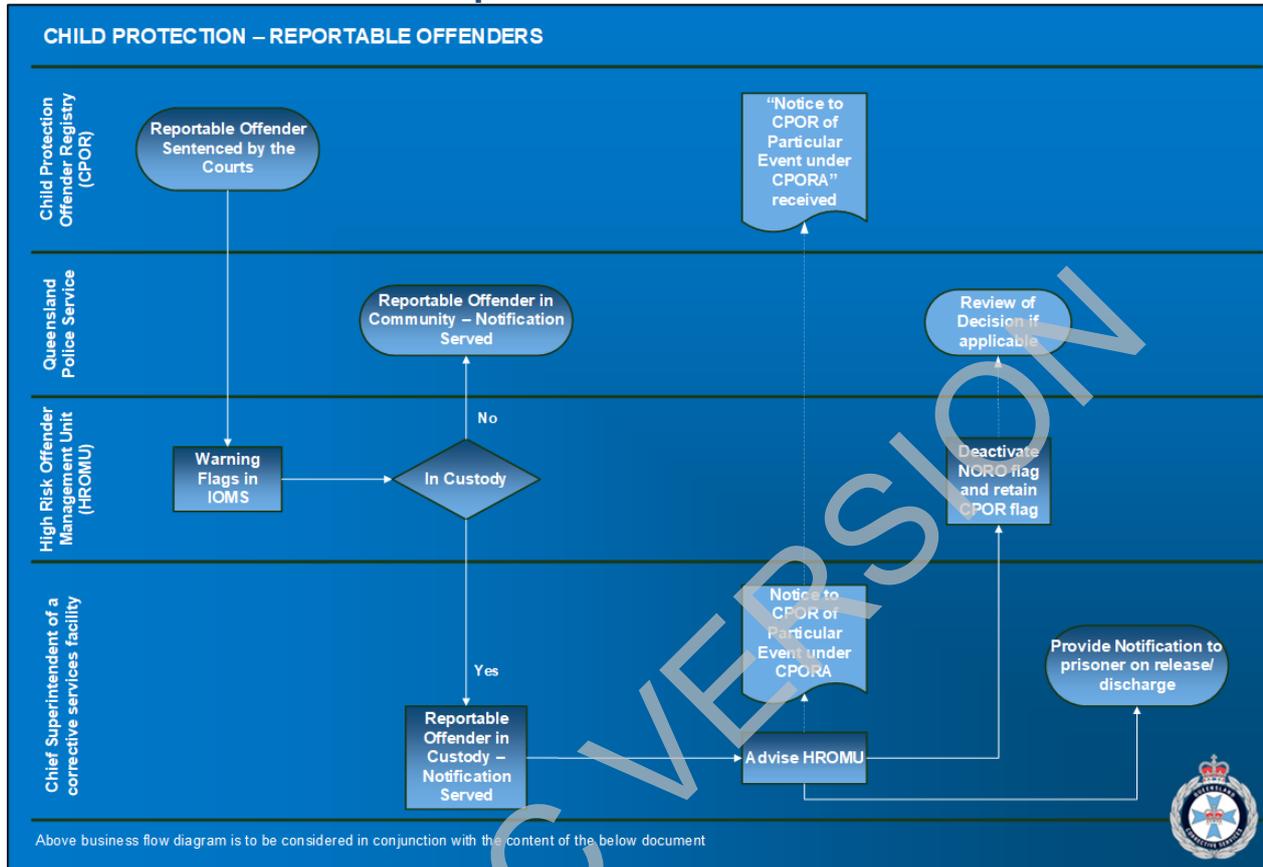
Any recommendations for the next review period must be included in the case report. This may include the completion of currently enrolled interventions/programs/courses/additional courses.

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11. Child Protection - Reportable Offenders



11.1 Reportable offender sentenced by the courts

A reportable offender is defined under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CP(OROPO)A) and is not classified as such because of a decision made by the Commissioner of Police. A reportable offender is primarily classified as such due to the nature of the offences for which they have been convicted.

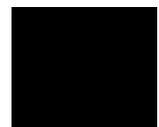
When a reportable offender is convicted of a reportable offence and sentenced to either a term of imprisonment or a community based order, the Child Protection Offender Registry (CPOR) will advise the Advisor, HROMU of the offender’s CPOR status. A notification will be created advising of their obligations to report to the police. The notification kit includes:

- a) An Initial Reporting Obligations Notice (In Custody) ('the notification'); and
- b) Instructions for Service.

The notification has been drafted specifically in accordance with the CP(OROPO)A. Refer to sections 54, 54A and 55 of the CP(OROPO)A and sections 13, 14 and 15 of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015.

The Advisor, HROMU must ensure that:

- a) the notification is forwarded to the Chief Superintendent or delegated officer of the corrective services facility where the prisoner is accommodated; and
- b) warning flags are activated in IOMS. Refer to the Appendix SM1 Criteria for Warning Flags Indicators.





11.2 Warning flags in IOMS

The CPOR flag in IOMS identifies a reportable offender and will remain active until the Queensland Police Service (QPS) advise the offender's reporting period under the CP(OROPO)A has been completed.

The NORO flag in IOMS identifies that a notification is required to be issued to the reportable offender. NOTE: The warning flag remains 'NORO' despite the notification form being renamed from Notification of Reporting Obligations to Initial Reporting Obligations Notice. This is manually deactivated by HROMU once the prisoner has been served with the notification, refer to section 11.5 below.

11.3 Reportable offender in custody – notification served

Refer to sections 54 and 54A of the CP(OROPO)A and sections 13, 14 and 15 of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015.

The Chief Superintendent of the corrective services facility at which the reportable offender is accommodated must ensure that:

- a) the notification is served on the prisoner within five working days after the notification is received;
- b) both the prisoner and the corrective services officer must sign the notification;
- c) if the prisoner refuses to sign the notification then this must be noted on the form;
- d) the signed notification is photocopied and a copy placed on the prisoner's file;
- e) a copy of the notification is also placed in the prisoner's valuables with the prisoner's property to be issued on release or discharge;
- f) a copy of the Notification may be provided to the prisoner;
- g) the original Notification is immediately emailed to the Officer in Charge, CPOR at [REDACTED];
- h) the original Notification is posted to the CPOR; and
- i) a case note is produced in IOMS detailing the date when the original acknowledgement was given to the prisoner and forwarded to the Officer in Charge, CPOR.

The details for posting the notification to CPOR are as follows:

Officer in Charge
Child Protection Offender Registry
Sexual Crimes Investigation Unit Crime
Operations Branch
GPO Box 1440
BRISBANE QLD 4001

The CPOR can be contacted on 1300 552 931 for further information.

11.4 Advise the High Risk Offender Management Unit (HROMU)

The Chief Superintendent of the corrective services facility at which the reportable offender is accommodated must ensure that HROMU is advised that the prisoner has been issued with the notice. A confirmation email must be sent to [REDACTED]

11.5 Deactivate NORO flag

On advice that the reportable offender has been issued with the notification, the Advisor, HROMU must ensure that the NORO flag in IOMS is deactivated.





11.6 Notifications to the CPOR of particular events

Refer to sections 72 and 89 of the CSA, section 58 of the CP(OROPO)A, section 15 of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015 and the COPD Confidential Information: Disclosure of Confidential Information.

The CPOR must be advised using the Administrative Form 2 Notice to CPOR of Particular Event under CP(OROPO)A [REDACTED]

- a) unescorted leave of absence under section 72 of the CSA; or
- b) prisoner in custody temporarily travelling interstate.

The CPOR must also be advised when a notification is made by QCS to the Department of Children, Youth Justice and Multicultural Affairs or QPS regarding any suspicions of abuse of a child or reoffending against a child.

Sentence Management Services are to advise the CPOR of a reportable offender's interstate transfer as soon as practicable using the Administrative Form 2 Notice to CPOR of Particular Event under CP(OROPO)A.

An automatic notification to CPOR is generated by IOMS for the following events involving a reportable offender:

- a) prisoner is discharged or released from custody (including discharge to liberty, community supervision, interstate custody or Australian Border Force custody);
- b) prisoner contravening a parole or community based order and placed into custody; and
- c) death of a reportable offender.

For the above automatic notifications, a relevant system generated Case Note will also be generated on the prisoner's IOMS file.

11.7 Information sharing

The Commissioner of Police may require QCS to give details about a reportable offender.

In accordance with the CP(OROPO)A and the COPD Confidential Information: Disclosure of Confidential Information, corrective services officers must cooperate with requests in this regard.

Refer to the COPD Confidential Information: Disclosure of Confidential Information.

11.8 Obligations of Reportable Offenders

A reportable offender whose reporting obligations to the police have commenced is required to advise the police station on the notification of a change of details within seven days after the change occurs. A reportable offender must be reminded about their obligations to report changed details to the police. Refer to sections 16 and 19A of the CP(OROPO)A.

11.9 Review of decision to place person on register

A reportable offender is required to report to CPOR upon release regardless of whether the offender accepts the notification or not. Section 74 of the CP(OROPO)A outlines what an offender can do if they believe:

- a) they have been placed on the CPOR in error (e.g. they believe that they do not qualify under the definition of a reportable offender); or
- b) an error has been made in working out the length of their reporting period (e.g. they think their reporting period should be eight years instead of 15 years).





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A reportable offender may apply in writing to the Commissioner of Police to review the decision of being placed on the register. The application must be made within 28 days after the prisoner is given notice of their reporting obligations. A reportable offender's reporting obligations are not suspended because the reportable offender made the application.

Section 74(5) of the CP(OROPO)A outlines the review process.

A reportable offender seeking a review will need to forward their letter to:

Commissioner of Police
Queensland Police Service
GPO Box 1440
Brisbane QLD 4001

In the letter to the Commissioner of Police, the reportable offender simply needs to state that they seek a review of the decision to place them on the CPOR.

While a reportable offender may include their grounds for the review if they wish, section 74(5) of the CP(OROPO)A provides that once the application to review is received, the Commissioner of Police must provide reasonable opportunity for the reportable offender to state their case before making a decision on the matter.

Refer to sections 54 and 74 of the CP(OROPO)A.

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11.11 On release or discharge

On release or discharge, the reportable offender must be given the copy of the notification and reminded of their obligation to report to the police.





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The corrective services officer who gives the notice to the reportable offender must produce a case note in IOMS detailing that the prisoner has been reminded of their reporting obligations and that a copy of the notice has been given to the prisoner.

Refer to the COPD Sentence Management: Release/Discharge.

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