



Custodial Operations Practice Directive

Process Owner: Custodial Operations

Security Classification: Official/Public

Version: 5.1

Implementation date: 01/09/2022

Review date: 2025

Scope

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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, including but not limited to:

- a) the right 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;
- d) the right to not be deprived of liberty except on grounds, and in procedures, established by law, including the right not to be subjected to arbitrary detention;
- e) the right not to be arbitrarily deprived of property;
- f) the right to be treated with humanity and respect, and with respect for the inherent dignity of the human person; and
- g) cultural rights – generally and for Aboriginal and Torres Strait Islander peoples.

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.

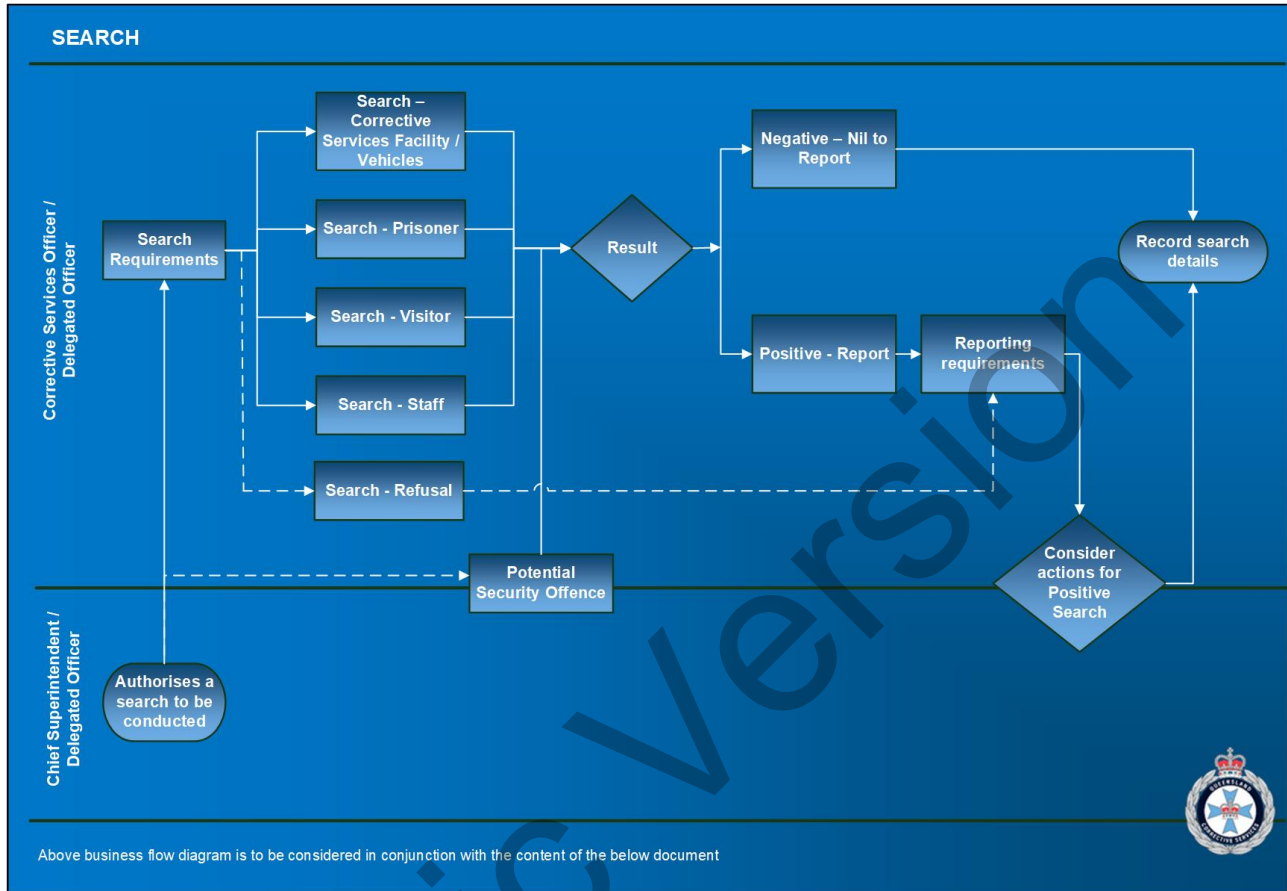
A person's human rights should only be limited to the extent that is reasonably and demonstrably justified.





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3. Staff Search Process Map



4. Search of a Staff Member

This Custodial Operations Practice Directive (COPD) outlines the processes governing the searching of staff members, including guidelines for the conduct of those searches. These procedural requirements are to ensure the integrity of staff searches, including planned operations that may be undertaken on staff members at any time the staff member is within a corrective services facility and also in circumstances where a staff member 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 human rights, dignity, professionalism and integrity of the staff member concerned.

Section 173 of the *Corrective Services Act 2006* (CSA), authorises the search of staff members at any time the staff member is at the facility or prior to the staff member entering a corrective services facility.

A Chief Superintendent of a corrective services facility or authorised delegate *may* require a staff member at a corrective services facility to submit to a general search or scanning search at any time the staff member is at the facility or before entering the facility.

Appendix S2 'Approved Items for Staff' lists the items that may be bought into a corrective services facility by a staff member in a clear bag.





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If a staff member does not submit to a general search when required to do so, the Chief Superintendent or authorised delegate may direct the person to leave the corrective services facility. Refer section 173 of the CSA.

A **staff member** means an employee of Queensland Corrective Services (QCS) or an engaged service provider, or a corrective services officer.

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 his or her hands or mouth for visual inspection; or
 - ii. shake his or her hair vigorously.

Approval should be sought from the Chief Superintendent prior to asking a staff member to submit to the requirement to open their mouth for visual inspection or to shake their hair vigorously

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

An ion scanning device is prescribed by the Corrective Services Regulations 2017 (CSR) as the apparatus to be used in a scanning search of a person.

Examples of a scanning search-

- a) using an electronic apparatus through which the person is required to pass; or
- b) using a corrective services dog trained to detect the scent of a substance that is a prohibited thing to search a person.

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.

Refer Schedule 4, Definitions, of the CSA and Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

4.1 Staff search operation

The Chief Superintendent must ensure that planning for a staff search operation, where scanning and general searches of staff are to occur, is done in-confidence with the Superintendent, Intelligence Adviser and essential staff only. The scanning and general search of staff may occur at any time the staff member is at the facility or prior to the staff member entering the corrective services facility. Search activities must be undertaken at a minimum of once per quarter.

The Chief Superintendent must delegate an appropriate officer to develop an operational order, using the Administrative Form 263 Operational Order, prior to the commencement of a staff search operation. The operational order must incorporate a risk management strategy to maintain the confidential nature of the search operation and be approved by the Chief Superintendent.





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To ensure the integrity and confidential nature of the staff search operation, the Chief Superintendent must nominate an officer to conduct a briefing prior to the commencement of the operation. The operational planning/ briefing must include:

- a) reinforcing the need to ensure the integrity of the search operation is not compromised, including ensuring officers do not notify other staff in advance;
- b) ensuring that officers undertaking searches ensure reasonable care is taken to protect the human rights, dignity and respect of the staff member being searched;
- c) a senior officer attending key centre entry and monitoring posts to advise the officers assigned to those posts that staff searches are commencing if the search operation is conducted prior to entry to the corrective services facility;
- d) that officers are advised they must report any suspicious behaviour they may have observed; and
- e) that officers are advised that audio and CCTV recordings may be reviewed at the completion of the staff search operation to ensure that the integrity of the search process was maintained.

5. Search Relating to a Security Offence

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

- a) finds a staff member committing a security offence; or
- b) finds a staff member in circumstances that lead, or has information that leads, the officer to reasonably suspect the staff member 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:

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

In accordance with section 136 of the CSA and the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers, if a person, including a staff member, is found in the above circumstances, authorised officers may search anything in the staff member's possession, including a motor vehicle. In accordance with section 173 of the CSA, authorised officers may conduct a general search or scanning search of the staff member at any time the staff member is at the facility or before entering the facility.

If it is reasonably practicable to do so, before conducting the search the officer must tell the staff member that they intend to conduct the search and what they intend to search, the reason for the search, and request the staff member's co-operation. The search must be conducted as quickly as possible and in a way that respects the staff member's dignity and human rights.

Refer sections 136 and 173 of the CSA, section 46 of the CSR, Queensland Corrective Services Instrument of Limitation of Corrective Services Officers' Powers and Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.





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6. Requirements of a Staff Search

The search of a staff member must be supervised by an officer senior to the officer conducting the search.

Where available, the following staff should also be present:

- a) intelligence officer; or
- b) dog handler and Passive Alert Drug Detection (PADD) dog.

When a staff search is conducted the manager or officer who is senior to the officer conducting the search must ensure that:

- a) the senior officer informs the staff member the search will be conducted and that this may include a general search, scanning search, and/or search by a passive alert drug detection (PADD) dog (where available);
- b) staff undertaking the search have the appropriate personal protection equipment - refer Appendix S3 Safety Considerations for Searching;
- c) the search is conducted in an area that prevents as far as practicable avoidance or prior identification that the search is in progress;
- d) care is taken to respect the dignity and professionalism of the staff member being searched;
- e) care is exercised when searching to avoid damage to property;
- f) hand luggage carried by staff is to be screened visually, which can include the searching officer moving items for better visibility, or by x-ray equipment; and
- g) the staff member is informed of any requirement to empty the contents of hand luggage for further inspection, which can include the searching officer moving items for better visibility.

6.1 Refusal by a staff member to submit to a search

- a) a staff member should not refuse a direction to submit to a search process as detailed in this COPD without a reasonable excuse;
- b) the Chief Superintendent or Superintendent of a corrective services facility must be immediately advised if a staff member refuses to undergo a search detailed in this COPD;
- c) the Chief Superintendent or Superintendent of a corrective services facility must determine what action, if any, is to be taken including whether the staff member should be allowed to enter or remain in the facility and any conditions that may be imposed in those circumstances;
- d) if the staff member does not submit to a general search when directed to do so, the Chief Superintendent or Superintendent of a corrective services facility may direct the staff member to leave the corrective services facility;
- e) staff members employed by Queensland Corrective Services (QCS) as public service officers may be the subject of disciplinary processes under section 187(d) of the *Public Service Act 2008*; and
- f) if a staff member employed by an engaged service provider refuses to submit to a search the service provider must be notified.

6.1.1 Queensland Health staff

Where the Chief Superintendent or Superintendent of a corrective services facility does not authorise entry for a staff member of Queensland Health as a result of the staff member's failure to comply with a direction to undergo a search, they must advise the Senior Queensland Health Officer to determine any further action in relation to the staff member.





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7. Staff Found in Possession of Unauthorised Item/Prohibited Thing

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

The Chief Superintendent or Superintendent of a corrective services facility when responding to a staff member found in possession of an unauthorised item or a prohibited thing should base decisions on:

- an assessment of the likelihood or possibility that the staff member's actions were either deliberate or accidental that led to the search result;
- an assessment of the level of risk posed to the facility; and
- any other relevant factor.

All determinations must be made on a case by case basis.

The Chief Superintendent or Superintendent of a corrective services facility, after considering all circumstances, including any explanation provided by the staff member, may determine that the staff member be:

- allowed to commence or complete their duties as normal and/or approve the item in accordance with Appendix S2 Approved Items for Staff;
- where the item is not a prohibited thing, instructed to leave the item outside the facility and retrieve it at the completion of the shift;
- directed to carry out duties that do not involve contact with prisoners for part or all of the shift;
- allowed to commence or complete their duties and that a warning be issued to the staff member;
- prevented from entering or directed to leave the corrective services facility; or
- referred to the Corrective Services Investigation Unit (CSIU) and the Ethical Standards Group (ESG). The matter may subsequently be referred to the Crime and Corruption Commission, where appropriate.

Pursuant to section 136 of the CSA, where a staff member is found committing a security offence, or in circumstances where it is reasonably suspected that the staff member has just committed a security offence, the staff member may be detained until they can be handed over to a police officer, but they must not be detained for longer than 4 hours. The decision to detain a staff member must take into account all the circumstances, including the seriousness of the incident and other options available.

In the case of a staff member of Queensland Health, the Chief Superintendent or Superintendent of a corrective services facility must advise the Senior Queensland Health Officer of any actions taken.

The CSIU must immediately be notified of a decision to temporarily detain a staff member in these circumstances.





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8. Recording the Search of a Staff Member

The Chief Superintendent or Superintendent of a corrective services facility must:

- a) establish a hardcopy register for recording details of searches of staff members; and
- b) ensure that the details of each search of a staff member, are recorded in the hardcopy register as soon as practicable after the search is conducted.

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

- a) date of the search;
- b) time of the search;
- c) staff member's name;
- d) staff member's position held at the time of the search;
- e) type of search conducted;
- f) officers present and the name of the officer who conducted the search;
- g) location where search conducted;
- h) reason for the search;
- i) results of the search, including the description of any unauthorised item or prohibited thing located;
- j) relevant statements made by the staff member; and
- k) any relevant post search action taken.

The register and its contents is a confidential document. The Chief Superintendent or Superintendent of a corrective services facility must ensure that the register is kept in a secure place and that no access to the register is gained without their authority.

An incident report must be completed if a prohibited thing or a thing which poses a risk to the safety and good order of the facility including on persons within the facility is found. Refer Appendix S1 Prohibited Things.

The COPD Incident Management: Incident Management Process details the requirement for incident reporting.

9. Post Search Actions

9.1 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.

9.2 Preservation of evidence and disposal of seized property

As per section 138 of the CSA, 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.

A corrective services officer may also seize a prohibited thing.





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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 staff member.

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

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 – 141 of the CSA.

Refer Appendix S1 Prohibited Things, Appendix S2 Approved Items for Staff and COPD Incident Management: Incident Management Process.

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