COPP 4.1 Remand Prisoners

Prison

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| PrinciplesAs referenced in theGuiding Principles for Corrections in Australia, 2018*:*2.3.9 Remand prisoners are subject to fewer restrictions than sentenced prisoners provided the conditions under which they are managed do not adversely affect good order, security and safety. |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all prisons who receive remand prisoners administered by or on behalf of the Department of Justice (the Department).

# Policy

This COPP provides the provisions for remand prisoner entitlements in accordance with legislation[[1]](#footnote-1).

A remand prisoner is a person (not otherwise a prisoner) who is:

* on commitment for trial for an indictable offence and awaiting trial or during trial or on remand;
* has been committed to prison pending or during proceedings or the hearing of a prosecution notice under the provisions of the *Criminal Procedure Act 2004*; or
* on commitment to await extradition or any other commitment[[2]](#footnote-2).

In accordance with the [Guiding Principles for Corrections in Australia](https://justus/intranet/prison-operations/Documents/guidelines-for-corrections-in-aus.pdf), remand prisoners are subject to fewer restrictions than sentenced prisoners provided the conditions under which they are managed do not adversely affect the good order, security and safety of the prison.

Entry into prison may be a stressful experience for remand prisoners. Prison Officers play an important role in providing a safe and supportive environment by being mindful of a prisoner’s mental and emotional wellbeing whilst being on remand.

# Reception

### Reception of a remand prisoner shall be in accordance with [COPP 2.1 – Reception.](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)

# Placement of Remand Prisoners

### A newly received remand prisoner shall be assessed to determine their security rating and prison placement in accordance with [COPP 2.3 – Assessments and Sentence Management](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

### All remand prisoners shall, as far as practicable, be kept separate from sentenced prisoners in the interests of security[[3]](#footnote-3).

### A remand prisoner may apply to be treated as a sentenced prisoner by writing to the Commissioner, Department of Justice, Corrective Services and shall be treated as such if the application is granted.

### A remand prisoner shall keep their cell and any other areas in a thorough state of cleanliness[[4]](#footnote-4).

# Telephone Calls

### A remand prisoner with bail/surety set shall be given telephone calls for the purposes of arranging a surety to secure their release in accordance with [COPP 2.1 – Reception](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

### During lockup hours, a remand prisoner shall be given an opportunity to call a person for the above reason from Reception and, prior to placement in a unit/cell, if practicable. During unlock hours, these calls may be made with the assistance of Prison Officers from the prisoner’s placement unit.

### A remand prisoner may make 5 local telephone calls per week at the prison’s expense. The Superintendent may approve additional telephone calls in exceptional circumstances.

# Property

### Property shall be managed in accordance with [COPP 3.1 – Managing Prisoner Property](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

# Work

### A remand prisoner is not required to work[[5]](#footnote-5) unless they choose to.

### Reception Officers shall ask the remand prisoner if they wish to work while in prison and record the answer on TOMS in the Receiving Module under the assessment/at-risk tab.

### Reception Officers shall advise the prisoner to complete an [Application for Remand Prisoners to be Employed](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) if they wish to work.

### A remand prisoner who wishes to work may be employed in any duties as directed.

### A remand prisoner shall be credited with gratuities[[6]](#footnote-6), where an application to work is granted and carried out, in accordance with [COPP 8.2 – Prisoner Employment Program](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

# Recreation and Time out of Cell

### Remand prisoners shall have recreation and time out of their cell as determined by the Superintendent within the [Standing Order 10.1 – Prisoner Behaviour Management](https://justus/intranet/prison-operations/StandingOrders/Forms/AllItems.aspx).

# Clothing and Haircuts

## Clothing

### A remand prisoner may wear their own clothing unless[[7]](#footnote-7):

1. the clothing is inadequate or unfit to be worn; or
2. the clothing is required to be preserved for the purposes of justice; or
3. the Superintendent believes the remand prisoner’s clothing may interfere with the interests of prison security.

### Where a remand prisoner wears their own clothing, they shall[[8]](#footnote-8):

1. clean and maintain their clothing
2. not part with their clothing or destroy any item of clothing without the approval of the Superintendent
3. wear their own clothing at their own risk.

## Haircuts

### A remand prisoner shall not be required to have their hair cut or shave or cut a beard or moustache, unless a medical officer otherwise directs in the interests of the health or cleanliness of the prisoner or the prison[[9]](#footnote-9).

### Additional information relating to haircuts is available in [COPP 6.5 – Prisoner Hygiene and Laundry](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

# Visits

## Social visits

### A remand prisoner shall be entitled to social visits in accordance with [COPP 7.2 – Social Visits](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

### A remand prisoner shall be permitted to receive social visits from their spouse, de facto partner, friends and relations unless that person is subject to a ban or the Superintendent believes that person might likely interfere with the good order or the security of a prison.

### A remand prisoner shall be permitted to receive social visits as soon as practicable after admission. They shall be permitted to receive two social visits per week, thereafter, subject to the physical capacity of the prison’s visiting facilities[[10]](#footnote-10), at times specified in [COPP 7.2 – Social Visits Appendix A – Visit Times Friends and Family](https://justus/intranet/prison-operations/Pages/prison-copps.aspx). A remand prisoner may be permitted to receive more than two social visits per week when there is physical capacity available within the prison’s visiting facility.

## Official visits

### A remand prisoner shall be entitled to official visits in accordance with [COPP 7.3 – Official, Religious, Spiritual and Other Visitors](https://justus/intranet/prison-operations/Pages/prison-copps.aspx), with a focus on access to their legal practitioner.

# Standing Orders

### Superintendents may develop Standing Orders compliant with this COPP as operationally required.

### For prisons requiring a standing order this shall be compliant with [COPP 1.3 – Standing Orders](http://justus/intranet/prison-operations/Pages/prison-copps.aspx) and the Departments [Operational Policy and Procedure Framework](http://justus/intranet/department/standards/Documents/opp-framework-prisons.docx).

# Annexures

## Related COPPs and documents

* [COPP 1.3 – Standing Orders](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 2.1 – Reception](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 2.3 – Assessments and Sentence Management](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 3.1 – Managing Prisoner Property](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 6.5 – Prisoner Hygiene and Laundry](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 7.2 – Social Visits](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 7.3 - Official, Religious, Spiritual and Other Visitors](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 8.2 – Prisoner Employment Program](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 10.1 – Prisoner Behaviour Management](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [Guiding Principles for Corrections in Australia](https://justus/search/Pages/results.aspx?k=guiding%20principles%20asutralia#k=guiding%20principles%20australia)

## Definitions and acronyms

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| Term | Definition  |
| Commissioner’s Operating Policy and Procedure (COPP) | COPPs are policy documents that provide instructions to staff as to how the relevant legislative requirements are implemented. |
| Guiding Principles for Corrections in Australia, 2018 | The guidelines and the accompanying principles constitute outcomes or goals to be achieved, rather than a set of absolute standards or laws to be enforced. They represent a statement of intent that each Australian State and Territory can use to develop their own range of relevant legislative policy and performance standards to reflect best practice and community demands. |
| Prison Officer | A person engaged or deemed to have been engaged to be a prison officer under s.13 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)or deemed to have been appointed under s.6 to an office designated. |
| Prisoner | Any person as defined in s.3 of the *Prisons Act 1981*; also includes a person not yet in the custody of a prison, but in the custody of a Contractor under the *Court Security and Custodial Services Act 1999*. |
| Public Service Officer | An officer employed in the State Government Public Service, subject to Part 3 of the *Public Sector Management Act 1994* and includes such officers and other persons as are necessary to implement or administer this Act. |
| Remand Prisoner | All prisoners as defined in r. 55 *Prisons Regulations 1982*. |
| Staff | Any person in the paid or unpaid employment of the Department of Justice, Corrective Services, including contractors, subcontractors and volunteers. |
| Superintendent (Prison) | The Superintendent as defined in s.36 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) includes any reference to the position responsible for the management of a private prison under Part IIIA of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a prison. |
| Total Offender Management Solution (TOMS) | An electronic database used by the Department of Corrective Services to record and manage comprehensive information relating to prisoners and detainees. |

## Related legislation

* *Prisons Act 1981*
* *Prisons Regulations 1982*
* *Criminal Procedure Act 2004*

# Assurance

It is expected that:

* Prisons will undertake local compliance in accordance with the [Compliance Manual](https://justus/intranet/department/standards/Pages/monitoring.aspx).
* The relevant Deputy Commissioner within Head Office will undertake management oversight as required.
* Monitoring and Compliance Branch will undertake checks in accordance with the [Operational Compliance Framework](https://justus/intranet/department/standards/Pages/monitoring.aspx).
* Independent oversight will be undertaken as required.

# Document Version History

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| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Effective date |
| 0.1 | Operational Policy | Initial draft | 15 November 2019 | N/A |
| 0.2 | Operational Policy | Updated following consultation | 13 March 2020 | N/A |
| 0.3  | Operational Policy  | Tabled for approval with the Project Steering Committee | 17 March 2020 | N/A |
| 0.4 | Operational Policy | Minor formatting and grammar amendments | 19 August 2021 | N/A |
| 1.0 | Operational Policy | Approved by Director Operational Policy, Compliance and Contracts | 14 September 2021 | 11 October 2021 |
| 1.1 | Operational Policy | Minor Change following legislation amendment, r56 of the *Prisons Regulations 1982* | 25 November 2022 | N/A |
| 2.0 | Operational Policy | Approved by the Commissioner  | 7 December 2022 | 14 December 2022 |

1. *Prisons Act 1981* [↑](#footnote-ref-1)
2. r.55 *Prisons Regulations 1982* [↑](#footnote-ref-2)
3. r.57 *Prisons Regulations 1982* [↑](#footnote-ref-3)
4. *r.61 Prisons Regulations 1982* [↑](#footnote-ref-4)
5. r.43(2) *Prisons Regulations 1982* [↑](#footnote-ref-5)
6. r.43(3) *Prisons Regulations 1982* [↑](#footnote-ref-6)
7. r.60(1) *Prisons Regulations 1982* [↑](#footnote-ref-7)
8. r.60 *Prisons Regulations 1982* [↑](#footnote-ref-8)
9. r.62 *Prisons Regulations 1982* [↑](#footnote-ref-9)
10. r.56b *Prisons Regulations 1982* [↑](#footnote-ref-10)