COPP 4.2 Aboriginal Prisoners

Prison

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| PrinciplesAs referenced in theGuiding Principles for Corrections in Australia, 2018*:*1.1.4 Management systems, policies and procedures are evidence based and are informed by human rights principles and operational practice.1.2.5 Staff training strengthens understanding between people and contributes to cultural competency.2.1.1 Custodial environments provide safe and humane containment of prisoners, commensurate with the assessed risk, recognising that the deprivation of liberty is deemed as punishment.2.1.2 Prisoners are accommodated in a safe, clean and liveable environment which considers both risk and individual needs, particularly the needs of those who are most vulnerable.2.1.5 Prisoners/offenders of all cultural backgrounds are treated and managed within the principles of substantive equality and according to their individual needs.3.1.6 Risk factors, historical information and cultural considerations are taken into account when assessing and responding to prisoners/offenders at-risk of self-harm or suicide. 4.1.4 Prisoners are assessed and allocated to accommodation compatible with their assessed risks and needs to ensure their safety and security and the good order of the facility.4.1.10 Holistic health services are provided to Aboriginal and Torres Strait Islander prisoners that encompass mental and physical health; cultural and spiritual health needs; and recognise how connection to land, ancestry and family and community affect each individual. |

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# Scope

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

# Policy

The purpose of this document is to establish clear and consistent practices when working with Aboriginal prisoners.

The Department is committed to providing culturally appropriate and collaborative initiatives that reduce the over-representation and recidivism rates of Aboriginal people.

The Department respectfully acknowledges Aboriginal people as the First Peoples of Australia and recognises the diversity of Aboriginal people and values their strength, resilience and capacity.

Staff shall show respect for Aboriginal prisoner’s life experiences and provide support to ensure that all prisoners have opportunities to achieve equal outcomes.

A prisoners Aboriginality is determined as part of the reception process and recorded accordingly, refer to [COPP 2.1 - Reception](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

The management of Aboriginal prisoners, shall involve a multidisciplinary team approach which includes communications with Aboriginal staff, communities and organisations, and shall occur in a manner that is sensitive and appropriate to prisoners individual needs and treats them with dignity, humanity, respect and with due consideration to cultural and religious requirements.

All communications with Aboriginal prisoners shall be in such a way that language diversity is acknowledged, understood and accommodated, as per the [WA Language Services Policy](https://www.omi.wa.gov.au/resources-and-statistics/publications/publication/language-services-policy-2020) and the obligations that form it:

Aboriginal prisoners who are not able to communicate in spoken and/or written English are made aware of:

* their right to communicate in their language
* when and how to ask for an interpreter
* the complaints processes.

The management of Aboriginal prisoners is governed by a rigorous recording and reporting regime which provides transparency and accountability.

# Overview

## Reconciliation Action Plan (RAP)

### The Departments Reconciliation Action Plan (RAP) aims to provide services in a manner that is equitable, responsive and relevant to Aboriginal people. This includes (but is not limited to) the following:

1. celebrating National Reconciliation Week theme each year through appropriate activities and engagement to further reconciliation
2. celebrating NAIDOC Week theme each year through appropriate activities and engagement to recognise the unique contribution of Aboriginal people to Australia
3. use the Aboriginal Services Committees in prisons to identify, develop and implement appropriate programs and strategies to improve outcomes for Aboriginal prisoners
4. ensure all prison staff undertake cultural competency training on a regular basis and as a continuum (not as a one off but a continual and ongoing set or series of learnings)
5. follow Departmental guidance on adhering to Aboriginal protocols for events and meetings
6. develop ongoing relationships with local Aboriginal communities
7. ensure staff are aware of the requirements of the RAP
8. aim to have a strong representation of local Aboriginal staff in each prison, in a range of roles
9. promote the use of the Aboriginal Visitor Scheme and prisoner support services in facilities.

## Collaborations

### Staff shall ensure they continuously strengthen partnerships with Aboriginal community organisations to support and create linkages for effective through care treatment of Aboriginal prisoners.

### The Superintendent shall provide opportunities for Aboriginal prisoners to connect to country and strengthen their spirituality.

## Placement

### Superintendents shall ensure the placement of Aboriginal prisoners takes into consideration kinship groups, language groups, extended families and other Aboriginal prisoners.

### Reception staff shall ask Aboriginal prisoner’s if there are any feuding issues to assist with appropriate placement within the prison.

### Superintendents shall ensure the placement of Aboriginal prisoners on country, wherever possible.

## Food

### Superintendents shall ensure, where possible and practicable, Aboriginal prisoners are offered foods that meet their cultural needs.

### The Superintendent (or delegate) shall ensure liaison with Aboriginal prisoners, staff and elders to develop appropriate menus.

### Cultural events, ceremonies or Aboriginal specific programs may be catered for in accordance with the Department’s RAP and at the discretion of the Superintendent.

### The Superintendent, in consultation with Aboriginal staff, may give approval for traditional food to be brought into a prison for significant cultural events or Aboriginal specific programs.

## Art

### Staff shall ensure that they show respect for prisoner art as it may have cultural, personal or religious significance. The management of Aboriginal artwork shall be in accordance with [COPP 8.5 – Prisoner Art](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

## Cultural meeting place

### The Superintendent, in conjunction with Aboriginal staff, shall identify a designated area as a cultural meeting place for Aboriginal prisoners.

### The cultural meeting place shall be appropriate to the location and cultural practice which may include a physical environment made up of local native plants around seating areas.

## Spiritual and cultural issues

### In the event an Aboriginal prisoner is identified as possibly experiencing a spiritual or cultural related issue, staff shall liaise with the Prison Support Service and/or an external community support member in accordance with the [Support and Monitoring System (SAMS) Manual](https://justus/intranet/prison-operations/Documents/SAMS-manual.docx).

## At-risk Aboriginal prisoners

### As referenced in the [At Risk Management System Manual](http://justus/intranet/prison-operations/Documents/arms-manual.docx), Aboriginal prisoners may demonstrate slightly different characteristics when they are at risk of suicide or self-harm. These characteristics include, but are not limited to:

* withdrawal in normal activities or communication with prisoners or staff
* presentation of having mental health issues
* refusal to eat
* hearing voices, chanting or singing
* describing things such as animals, birds or ‘Lore Man’
* not responding to staff requests
* a development of an unexplained fear of a particular area within the prison
* a refusal to discuss what is happening with uninitiated men
* an insistence on ‘going home’
* requests that appear different such as ‘not to be alone’, wanting to make a phone call to a particular person but unable to articulate why
* an appearance that they are frightened of particular people within the custodial setting.

### Where there are concerns for an Aboriginal prisoner’s risk of suicide or self-harm, staff shall manage the prisoner, including engaging with supports such as services and community members, in accordance with the [Support and Monitoring System (SAMS) Manual](https://justus/intranet/prison-operations/Documents/SAMS-manual.docx) and the [At Risk Management System Manual](http://justus/intranet/prison-operations/Documents/arms-manual.docx).

## Death of an Aboriginal person

### In the event of a death of an Aboriginal prisoner, refer to [COPP 13.2 – Death of a Prisoner](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

### In the event of the death of an Aboriginal person in the community, Aboriginal prisoners may apply to the Superintendent for an Authorised Absence Permit to meet cultural obligations, refer to [COPP 14.5 – Authorised Absences and Absence Permits](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

## Cultural consultants

### The Superintendent may approve the use of a cultural consultant for one of the following reasons:

* to provide advice as requested in prisoner assessment and management
* during de-briefs to provide feedback on the appropriateness of processes used
* as a broker for the non-Aboriginal practitioner working with Aboriginal clients to enhance culturally competent cultural awareness
* individual cultural interventions (ceremonies, translation, healing, counselling) for Aboriginal prisoners
* to promote cultural awareness for prison staff
* to advise prison management and security on relevant issues (feuds, funerals, family relationships)
* assist in the development of resources for Aboriginal prisoners.

### Payment of cultural consultants shall be carried out in accordance with the Department of Corrective Services Guidelines for the Payment of Cultural Consultants noted in the [Support and Monitoring System Manual](https://justus/intranet/prison-operations/Documents/SAMS-manual.docx).

# Annexures

## Related COPPs and documents

**COPPs**

* [COPP 2.1 – Reception](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 8.5 – Prisoner Art](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.2 – Death of a Prisoner](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 14.5 – Authorised Absences and Absence Permits](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)

**Documents**

* [Guiding Principles for Corrections in Australia](https://justus/search/Pages/results.aspx?k=guiding%20principles%20for%20corrections%20in%20australia)
* [Support and Monitoring System Manual](https://justus/intranet/prison-operations/Documents/SAMS-manual.docx)
* [WA Language Services Policy](https://www.omi.wa.gov.au/resources-and-statistics/publications/publication/language-services-policy-2020)
* [Support and Monitoring System (SAMS) Manual](https://justus/intranet/prison-operations/Documents/SAMS-manual.docx)
* [At Risk Management System Manual](http://justus/intranet/prison-operations/Documents/arms-manual.docx)

## Definitions and acronyms

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| Term | Definition  |
| Commissioner’s Operating Policy and Procedure (COPP) | Operational Instruments that provide instructions to staff how the relevant legislative requirements are implemented. |
| Cultural Consultant | A person who has both cultural knowledge and expertise relevant to the community from which the prisoner has come; and that they also have a community and/or regional authority as a result of their role in society. |
| 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. |
| Officers and Employees of Particular Classes | The following descriptions of classes of officers and employees are prescribed for the purpose of s 11(1a)(b) of the *Young Offenders Act 1994*, in r 49(2) of the *Young Offender Regulations 1995*:(a) Medical staff persons who have undergone medical, nursing or health training and hold qualifications indicating successful completion of that training.(b) Teaching staff persons who provide recreation or sports supervision, teachers, vocational trainers and social trainers.(c) Program support staff counsellors, program facilitators and librarians.(d) Centre support staff cleaning staff, laundry staff, gardening staff, vehicle driving staff, maintenance staff and hairdressers. |
| Prison Officer | As defined in s. 3(1) *Prisons Act 1981*. Also includes any contract worker authorised by the Commissioner in accordance with s.15I (1)(b) *Prisons Act 1981* to perform the functions of a prison officer. |
| Prisoner | Any person in lawful custody and referred to as a prisoner in s. 3 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html); 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 contract |
| 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. |
| Staff | All persons employed by the Department of Justice. Also includes all contract workers authorised by the Commissioner in accordance with s. 15I (1) *Prisons Act 1981* to perform a function. |
| Superintendent | 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).  |
| Total Offender Management Solution (TOMS) | The computer application used by the Department of Justice for the management of prisoners in custody. |

## Related legislation

* *Prisons Act 1981*
* *Prisons Regulations 1982*
* *Public Sector Management Act 1994*

# Assurance

It is expected that:

* Prisons will undertake local compliance in accordance with the [Compliance Manual](http://justus/search/Pages/results.aspx?k=assurance%20framework#k=Monitoring%20and%20Compliance%20framework).
* The relevant Deputy Commissioner will undertake management oversight as required.
* Operational Compliance Branch will undertake checks in accordance with the [Operational Compliance Framework](http://justus/search/Pages/results.aspx?k=assurance%20framework#k=Monitoring%20and%20Compliance%20framework).
* 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 |
| 1.0 | Operational Policy | Approved by the Director Operational Policy, Compliance and Contracts | 15 September 2021 | 11 October 2021 |
| 2.0 | Operational Policy | Approved by the Commissioner  | 31 July 2023 | 3 August 2023 |
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