COPP 4.5 – Residential Children

Prison

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| Principles As referenced in the Guiding Principles for Corrections Australia 2018:  3.1.1 Correctional practices identify, minimise, and manage any risks to staff, the community, visitors, prisoners, and offenders.  3.1.9 Children residing in custody with mother/primary carers are housed in safe and secure accommodation that adequately meets their needs and facilitates access to essential services.  3.1.11 Persons in custody are transported using fit for purpose vehicles that are safe and meet relevant standards and are subject to regular and routine safety checks  As referenced in the [National Child Safe Principles](https://childsafe.humanrights.gov.au/national-principles)  2.1 Children and Young people are informed about all of their rights, including to safety, information and participation.  2.3 Where relevant to the setting or context, children may be offered access to sexual abuse prevention programs and to relevant related information in an age-appropriate way.  2.4 Staff and Volunteers are attuned to signs of harm and facilitate child-friendly ways for children to express their views, participate in decision-making and raise their concerns.  3.1 Families participate in decisions affecting their child.  3.2 The organisation engages and openly communicates with families and the community about its child safe approach and relevant information is accessible.  3.4 Families, carers and the community are informed about the organisation’s operations and governance. |

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# Scope

This Commissioners Operating Policy and Procedure 9COPP) applies to those prisons who facilitate extended day stays, overnight visits, and residential stays of mother/primary carer’s and their child/children in prison.

# Policy

Mother/primary carer’s are able to care for their child in prison for extended day stays, overnight visits, and residential stays where it has been established a significant caring relationship exists and is considered to be in the best interests of the child.

Extended day stays, overnight visits, and residential stays aim to encourage, foster, and maintain mother/primary carer and child relationships while the mother/primary carer is in prison.

The environment provided for children living with their mother/primary carer in prison is, as far as practicable, similar to normalised housing in the community, stimulating and allows for interaction with other children, where practicable.

Decisions to allow a child to stay with their mother/primary carer in prison is from a multi-disciplinary approach, with consideration given to the welfare of the mother/primary carer, the best interests of the child, and the good order and security of the prison is not threatened.

The Department shall consider the individual responsibilities, obligations, cultural, religious, and diverse needs of mother’s/primary carer’s, including kinship ties when making decisions relating to children in their care, ensuring dignity, humanity, and respect at all times.

The management of mother’s/primary carer’s and their child/children is governed by a rigorous recording and reporting regime which provides transparency and accountability.

The need for a child to leave a prison to be placed in the care of another should occur in a manner that is planned and considerate of the impact on the child.

All communications with mother’s/primary carer’s shall be embedded in such a way that language diversity is acknowledged and understood.

Mother’s/primary carer’s unable to communicate in spoken and/or written English shall be made aware of their right to communicate in their preferred language and if necessary provide interpreters who are certified by the National Accreditation Authority for Translators and Interpreters (NAATI).

# General Requirements

## Best interest of the child

### The best interests of the child are the primary consideration when assessing if a child should be accommodated with their mother/primary carer in a Department of Justice, Corrective Services facility.

### In determining the best interests of the child, the following shall be considered:

1. safety of the child
2. physical, emotional, and spiritual wellbeing of the child
3. preservation of the relationship and emotional ties between the mother/primary carer and the child
4. continuity and stability of care, including the likely effect on the child of any changes in their circumstances to include home, school, community, religious life, and maintenance of family and significant relationships
5. provision of a safe and supportive environment appropriate to the age and development of the child
6. strengthening of families in culturally appropriate ways
7. child’s age, sex, cultural background and mental and physical health
8. any wishes or views expressed by the child, having regard to the child’s age and level of understanding
9. the mother’s/primary carer’s capacity to ensure the physical and emotional wellbeing of the child
10. the best alternative long-term living arrangements irrespective of the mother’s/primary carer’s wishes and capacity to care for the child.

## Duty of care

### Mother’s/primary carer’s permitted to have their child on extended day stays, overnight visits, and residential stays within a prison are expected to assume full responsibility for the child’s safety and wellbeing. However, the Department has a duty of care and shall take all reasonable steps to minimise, where practicable, potential risks of harm that may occur to a child residing or visiting a prison.

### Where applicable, each prison in maintaining a duty of care to the safety and wellbeing of the child in a prison environment shall:

1. ensure a contract is signed by the mother/primary carer detailing the responsibilities of the prison and the mother/primary carer
2. provide mother’s/primary carer’s information on responsible and safe child-rearing practices
3. establish and implement procedures within the prison to promote the safety and wellbeing of children in prison
4. adhere to the application process in section 6
5. adhere to the service agreement between the Department of Justice, Corrective Services and the Department of Communities, Child Protection (DCCP)
6. ensure care plans are implemented prior to admission of all approved overnight visits or residential children within the prison
7. ensure all assessments, care plans, case reviews, incidents, and decisions in relation to children who have overnight visits or are a residential child are documented.

## Prison facilities

### Prison accommodation housing mother’s/primary carer’s for extended day stays, overnight visits, and residential stays shall be suitable and similar, as far as practicable, to housing in the community, and comply with [Australian Kidsafe Standards](https://kidsafe.com.au/), ensuring it:

1. provides for the mother/primary carer and child’s safety and wellbeing
2. restricts access by other prisoners
3. is suitable to accommodate older children, where applicable.

# Eligibility Requirements

## General requirements

### Both sentenced and remand prisoners may apply for extended day stays, overnight visits, or residential stays where children can be accommodated.

### All children and babies eligible to be considered to enter a prison for extended day stays, overnight visits, and residential stays are required to be up to date with their immunisations according to community standards.

## Age limits of children

### Extended day stays:

1. the age limit at which a child may be permitted to make regular extended day stays with their mother/primary carer shall be up to 12 years of age

### Overnight visits:

1. in a medium/maximum security prison the age limit a child may be permitted to attend regular overnight visits with their mother/primary carer shall be up to 6 year of age
2. in a minimum security facility the age limit a child may be permitted to attend regular overnight visits with their mother/primary carer shall be up to 12 years of age

### Residential stays:

1. in a medium/maximum security prison the age limit a child residency ceases shall generally be when the child turns 12 months of age
2. in a minimum security facility the age limit a child residency ceases shall generally be when the child turns 4 years of age
3. where a mother’s/primary carer’s term of imprisonment extends beyond the age limitations, a process shall be determined for the gradual separation of the child from the mother/primary carer and the child’s subsequent re-entry to the community.

### The Superintendent may allow older children to stay in exceptional circumstances where there is an identified need (eg child coping with a particular grief or loss). Each case shall be assessed individually, taking into consideration the safety of other children and the appropriateness of the child’s gender in that setting.

# Child Care Management Committee

### A Child Care Management Committee (CCMC) shall be established to ensure the best interests of the child are considered.

### The Superintendent shall be responsible for, but not participate in the CCMC.

### The Superintendent shall be responsible for determining the composition of the CCMC and where practicable shall consist of:

1. the chairperson, determined by the Superintendent
2. a member of the prison’s Senior Management Team
3. unit management staff
4. clinical nurse manager or delegate
5. psychological health services (PHS)
6. senior family links officer, DCCP

### the Superintendent may request additional representatives be part of the CCMC as required.

### The CCMC shall be responsible for:

1. making recommendations to the Assistant Superintendent Operations (ASO) or Superintendent following consideration of all extended day stay, overnight visits, and residential stay applications.
2. seeking and providing advice in matters relating to the best interests of the child
3. conducting, at a minimum, monthly progress reviews of mother’s/primary carer’s and their child/children approved for extended day stay, overnight visits, and residential stays.

### The CCMC, in determining the best interests of the child shall consider the factors detailed in section 3.1.2.

### the CCMC shall make recommendations to the:

1. ASO for extended day stays and overnight visits applications
2. Superintendent for residential stay applications

### The CCMC chairperson shall be responsible for:

1. ensuring all recommendations are minuted and recorded on the Total Offender management System (TOMS)
2. the applicant is informed in person of the recommendations
3. approved decisions are entered into the ‘Child Visits’ module on TOMS.

### the CCMC chairperson shall ensure the applicant is involved in the process and made aware of the consultation process.

# Application Process

## General requirements

### Mother’s/primary carer’s requesting extended day stay, overnight visits, or residential stays shall be provided the appropriate information and support to ensure they understand the application process and intended outcomes. Additional support and consideration shall be given to applicants with cultural, diversity, and disability needs as required.

### Prior to commencing an application, the pregnant prisoner or mother/primary carer shall be required to:

1. complete a Unit Interview Form
2. provide written consent for the exchange of information with service providers, eg DCCP, family, and other relevant parties using the [Consent to Release Information](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx)
3. arrange for a nominated community carer to sign a [Consent for Release of Information – Community Carer](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx) and the [Community Carer Agreement](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx).
4. provide sufficient evidence a significant relationship primary caring relationship exists with the child if already born (mother/primary carer responsibility)
5. provide up to date immunisation record/s as per section 4.1.2.

### The CCMC chairperson or delegate initiating an application shall record the child’s details on the TOMS visits module for requests by the mother/primary carer for extended day stay, overnight visits, and residential stays. This identity shall then be linked to the relevant ACM checklist on TOMS.

### If an application is being made for a child who is not yet born, the child’s details shall be recorded on the TOMS visits module at the first opportunity following birth.

## Extended day stay and overnight visits applications

### The application for Extended Day or Overnight Child Visits shall be completed on TOMS and submitted to the ASO for approval.

### Overnight visits applications shall be considered by a prison, only where applicable.

### Following a recommendation from the CCMC, the ASO may approve a mother’s/primary carer’s application for overnight visits following completion of the successful outcome or required extended day stays.

## Residential child applications

### Pregnant prisoners and prisoners who can demonstrate they were the primary carer of the child prior to being in custody may apply for residential stays, taking into consideration the best interest of the child.

### For prisoners requesting residential stays the CCMC chairperson shall ensure the Application for Residential Child on TOMS is complete prior to submitting it to the Superintendent for consideration.

### Following the recommendation from the CCMC the Superintendent only shall approve or decline a residential child application.

### The mother/primary carer shall arrange for a nominated prison carer to complete a [Consent and Agreement – Prison Carer](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx) where applicable.

## Assessing an application

### The ASO/Superintendent may decide not to proceed with an application:

1. on advice from an authorised mental health practitioner
2. if the applicant is actively engaged in self-harm or displays suicidal behaviour
3. if the applicant is displaying violent behaviour in the prison environment
4. if the applicant is regularly/routinely testing positive to drugs not lawfully issued or prescribed and/or other unauthorised substances
5. if there is a potential risk of escape from custody of the applicant
6. if it is considered the security of the prison may be threatened
7. if there is an inability to segregate the child from prisoners who present a threat to their safety
8. if the child is in the care of DCCP and/or endorsement by DCCP of the mother’s/primary carer’s capability to care for the child cannot be provided
9. if there is no capacity for a child residence program due to prison population demands
10. if suitable accommodation cannot be provided.

### If the above circumstances do not apply, the ASO/Superintendent on assessing all information and reports in accordance with [Appendix A: Application Information](#_Appendix_A:_Application), shall assign an authorised officer the task of preparing the application for consideration at CCMC.

## Approving an application

### The ASO/Superintendent, having taken into consideration all relevant information, shall decide whether the approval of an application is in the best interest of the child.

### The CCMC chairperson shall advise the mother/primary carer of the decision to approve or deny an application and provide the reason(s) for the decision.

### The CCMC chairperson shall record the decision in the minutes of the next CCMC and a decision slip on TOMS.

### The CCMC shall ensure the mother/primary carer is provided appropriate support following the outcome of their application, if required.

### Approved and signed application shall be forwarded to the CCMC chairperson for the purpose of creating and completing a Child Care Plan on TOMS as per section 7.

## Appeal process

### The mother/primary carer has the right to appeal a decision to deny an application by completing an [Appeal Against Decision](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx) and submit to the Superintendent within 14 days of being notified of the decision. The Superintendent shall forward this to the relevant Assistant Commissioner for consideration.

# Requirements prior to Entry

### Mothers/primary carers who are approved to have their child reside with them shall be required to sign a contract acknowledging their understanding and agreement of the required conditions.

### The required conditions may include (but are not limited to):

1. Confirmation of health and wellbeing check by the child’s General Practitioner (GP) for extended day stays and overnight visits and/or local community health, child health nurse check.
2. mother’s/primary carer’s attendance at programs
3. Engagement with support services, as directed by the authorised officer
4. behaviour expectations of the mother/primary carer
5. cooperation with DCCP if applicable
6. any other conditions as directed by the Superintendent.

# Child Care plans

## Initial care plan

### In the case of a mother/primary carer accompanied by a child at reception, the child care plan shall be formulated and approved on TOMS within 48 hours following arrival.

### The mother/primary carer shall be consulted in the development of the child care plan.

### Child care plans shall consider:

1. participation by the mother/primary carer in available programs or counselling to develop parenting skills
2. any restrictions on the movement of the mother/primary carer and the child within the prison, and contact with prisoners
3. details of the approved community and prison carer/s
4. details of any childcare arrangement to enable the mother/primary carer to attend education/constructive activities, or programs
5. level of contact/involvement with DCCP, if applicable
6. any relevant information about a child’s health requirements or health issues that shall/may require to be treated outside of the prison, including any associated costs and details of the child’s nominated GP practice.
7. the child’s other needs, including (but not limited to) recreational, educational, and developmental
8. frequency, type, and duration of visits. Visits by school age children, during school hours shall only be considered in exceptional circumstances
9. details of visits in the community taking into consideration family and cultural needs
10. assessment of a male prisoner (in mixed prisons) with a significant familial or cultural relationship with the child, to determine whether he is approved to have contact with the child
11. process for the child’s re-entry to the community and provision for the separation of mother/primary carer and child, if applicable
12. provisions for responding to emergencies involving the mother/primary carer and their child.

## Review of care plans

### Child care plans shall be regularly reviewed. The Superintendent may determine the frequency of reviews, ensuring reviews are conducted at a minimum once every 6 months. the CCMC chairperson shall ensure the child care plan reviews are completed.

### The Superintendent may call an out of session CCMC progress meeting if there are concerns about a mother/primary carer and the child identified in the child care plan.

# Mother’s/Primary Carer’s with a Residential Child

## General requirements

### The Superintendent in the best interest of the child and for the purpose of the management of mother’s/primary carer’s with a resident child shall ensure:

1. appropriate operational processes are in place
2. processes are developed for staff to raise issues concerning a mother/primary carer and their child
3. indicators of child abuse are known to all staff at prisons where residential children reside
4. mother’s/primary carer’s follow normal prison routine as far as practicable. In the first 6 weeks of birth, a mother/primary carer may be exempt from following the daily routine.

### Mother’s/primary carer’s are responsible for organising their daily routine to meet the individual demands of their child.

### Prison staff shall ensure mother’s/primary carer’s are dressed and prepared for daytime activity within the daily prison routine, in accordance with the signed contract of conditions detailed in section 8.1.3.

### The Superintendent in the best interest of the child shall determine the suitability of the child remaining a resident if a mother/primary carer has been charged with an offence in accordance with [COPP 10.5 – Prison Offences and Charges](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) which may impact the safety and/or wellbeing of the child.

## Reporting on a child’s wellbeing

### The Department has a duty of care to report any concerns for the wellbeing of a residential child, or a child on extended day stays, or overnight visits.

### Prison staff may monitor a child’s wellbeing through the following:

1. censoring incoming and outgoing mail
2. monitoring telephone calls
3. observation of children and the mother/primary carer onsite
4. supervision of visitors and children within the visits area.

### Prison staff shall immediately report any concerns regarding the wellbeing of a child to the Principal Officer and document this on TOMS. the Principal Officer shall immediately notify the Superintendent. Concerns may include, but are not limited to:

1. observation the child is unwell
2. parenting practises that are potentially damaging to the child’s welfare (eg lack of supervision, nutrition, shelter, co-sleeping, medical attention)
3. alleged incidents of physical, emotional and/or sexual abuse.

### The Superintendent on receiving any alleged reports of physical, emotional and/or sexual abuse shall immediately:

1. notify the Deputy Commissioner Young People
2. report the alleged concerns to the Senior Family Links Officer, DCCP, or the Crisis Care Unit if afterhours.
3. ensure staff reporting the alleged concerns independently complete a TOMS Incident Report as per [COPP 13.1 – incident Notifications, Reporting and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
4. ensure contact has been made with the community carer to assist with the removal of the child, if required
5. schedule an out of session CCMC meeting at the earliest opportunity.

## Release plans

### The CCMC shall establish a release plan with a mother/primary carer and other services to assist them prepare for their release into the community.

### The release plan shall be developed no later than 1 month prior to the expected release of the mother/primary carer and at a minimum shall address the following where applicable:

1. confirm where the child shall reside, if required in consultation with the Senior Family Links Officer, and develop a plan with the proposed community carer for extended day and overnight visits, if the mother/primary carer and the child are to be separated
2. confirm accommodation for the mother/primary carer and child, in consultation with relevant external services
3. eligible income support for the mother/primary carer
4. employment and/or educational/vocational opportunities
5. counselling support and/or program intervention
6. childcare options
7. engagement with the community child health nurse in the local residential area.

# Separation of a Mother/Primary Carer and a Residential Child

### The CCMC chairperson in consultation with the Superintendent as part of the release plan determine a process for the gradual separation of the child and placement in the community, where the mother’s/primary carer’s sentence extends beyond their child attaining:

1. 12 months of age – medium/maximum prisons
2. 4 years of age – purpose-built minimum facilities.

### Decisions about when a residential child is to be separated from their mother/primary carer shall be based on the best interests of the child, individual assessments and on a case by case basis.

### Following recommendation from the CCMC, the decision regarding the separation of a residential child and their mother/primary carer shall be made by the Superintendent.

### The Superintendent may approve the separation of a residential child and their mother/primary carer if it is determined there is a greater risk to the child remaining in the prison.

### When the CCMC recommends the child is no longer able to reside with the mother/primary carer, the CCMC chairperson shall record the recommendation on the prisoner offender notes on TOMS, in addition to recording on the minutes.

### The CCMC shall inform the mother/primary carer of the recommendation and the Superintendent’s decision, and their reasons for the decision.

### The separation of a mother/primary carer and their child shall be undertaken with sensitivity at all times, and the best interests of the child considered.

# Health and Wellbeing of the Child

## Health and wellbeing prior to admission

### When a child has been approved to reside in a prison, the nominated community carer shall take the child to an external General Practitioner to conduct a health and wellbeing check of the child immediately prior to admission.

### Where practicable, a health and wellbeing check with an external General Practitioner (to be facilitated by the community carer) shall also apply to children participating in extended day stays and overnight visits.

### The Superintendent is authorised to refuse a child entry to the prison if concerns are raised regarding the health and wellbeing of the child. The approved community carer shall be requested to take the child into their care, in the community.

## Health and wellbeing of residential children

### The Clinical Nurse Manager shall notify the community child health nurse when a child becomes a resident in the prison.

### Health services staff, in consultation with the community child health nurse shall arrange regular child health visits, the frequency of these visits shall be determined by the community child health nurse.

### A residential child who has been signed out to a community carer due to illness or contracting a contagious disease (advised by external General Practitioner) shall require medical clearance by a community health provider prior to child returning to the prison.

### The Superintendent shall approve a mother/primary carer to attend and remain at a medical/health appointment with their child, where practicable, and in consideration of the best interests of the child.

## Medical emergencies

### In the event of a medical emergency an ambulance shall be called.

### Prison health services staff, if available, can be called to render assistance until the ambulance arrives.

### The mother/primary carer may be permitted to accompany the child and escorting staff in the ambulance in accordance with section 11.2.6.

### A mother/primary carer is expected to meet all medical costs for their child, including ambulance charges.

# Gratuities and Finances

## Gratuities

### Mother’s/primary carer’s shall not be disadvantaged and gratuity payments shall reflect the extent of engagement in a constructive activity in accordance with [COPP 8.1 – Prison Based Constructive Activities](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

### Generally, mother’s/primary carer’s on standard supervision shall be allowed up to level 1 gratuity in their private cash account.

## Family tax benefit

### Mother’s/primary carer’s with a residential child are entitled to receive Centrelink Family Tax Benefit. These payments shall be held in a separate private cash account to the mother’s/primary carer’s personal expenditure (private cash – Centrelink account) and shall only be spent on goods and/or services relating to their child.

# Other Considerations

## Residential children temporarily leave

### A mother/primary carer may choose to have their child temporarily leave the prison to be placed with a community carer.

### A mother/primary carer shall complete the temporary sign out advice to notify staff of their intentions for their child to temporarily leave the prison.

### If the mother/primary carer wishes the child to leave the prison with a person in the community who has not been assessed and approved as a community carer, and significant concerns are raised regarding the carer the Superintendent, in the best interests of the child and as a duty of care shall:

1. inform the mother/primary carer of the concerns regarding the unapproved carer
2. suggest the mother/primary carer consider an approved community carer
3. advise the mother/primary carer of actions that may occur as a result of the child being placed with an unapproved community carer
4. immediately notify the Senior Family Links Officer or if afterhours the Crisis Care Unit, and other relevant external agencies as necessary.

### The Superintendent may consult with the Senior Family Links Officer, if the child is in the care of DCCP, to arrange a child’s removal from the prison if required and the approved community carer cannot be contacted.

## Unplanned receival of a mother/primary carer to prison with a child

### There may be occasions when a mother/primary carer is received into custody at a prison, accompanied by a child. Given the diverse nature of prisons throughout the state, each prison shall establish procedures on the management of these occasions.

### The Superintendent, following an unplanned arrival, shall ensure an out of sessions CCMC meeting is conducted at the earliest opportunity and shall consider recommendations by the CCMC.

### The CCMC chairperson shall formulate a child care plan at the earliest opportunity or within 48 hours following the receival of the mother/primary carer and child.

## Smoking

### Smoking is not permitted in the presence of children in prison.

### Children shall not be permitted to enter designated smoking areas or be in the vicinity of a designated smoking area.

## Meals

### The prison is responsible for providing food suitable for children, pregnant women, and breastfeeding mothers.

### A mother/primary carer is responsible for preparing meals for themselves and their child/ren in their own kitchen where practicable. If the child is on temporary leave the mother/primary carer may obtain meals through the normal prison routine.

### The prison in consultation with the community child health nurse shall exercise an educational role regarding the provision of a nutritious diet for residential children.

## Management of children’s property

### The prison shall supply initial items (eg nappies, baby formula etc.) as required and additionally supply and maintain bedding, a pram, a highchair, a cot for babies, and/or a bed for older children who are approved for overnight visits or residential stays.

### A residential child’s items are permitted to be accepted at the gate following approval by the Superintendent.

### The Superintendent shall approve requested items for a child, taking into consideration age appropriateness, which may include:

1. clothing
2. toys
3. nursery equipment.

### Children’s items are not required to be inventoried on TOMS, except approved items of considerable value including prams and pushchairs shall be recorded on the mother’s/primary carer’s TOMS property record.

### The prison accepts no responsibility for the loss, damage, or theft of children’s property.

### Children’s property may be checked for contraband on entry and exit to the prison in accordance with [COPP 11.2 – Searching.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)

## Disciplinary charges

### The child should not be removed from the mother/primary carer as a form of punishment.

## Searching

### A child may be subject to a search in accordance with [COPP 11.2 – Searching.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)

## Transport of babies/children in departmental vehicles

### The transportation of babies and children in Departmental vehicles shall be in accordance with [COPP 12.1 – Escort Vehicles](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

## Safety and health of children in the workplace

### The mother/primary carer is responsible for ensuring the safety of their child/ren while they are undertaking paid work within the prison. However, the Superintendent is responsible for ensuring, as far as is reasonably practicable, that any working areas within the prison environment is safe. The approved child care plan shall define which areas of the prison the child shall have access to.

# Death of a child in prison

## Procedures

### The death of a child in prison requires to be lawfully confirmed, and any actions following the death shall be conducted within the law, with respect for the spiritual, religious, and cultural beliefs of the child’s mother/primary carer and where applicable, in accordance with the relevant procedures in [COPP 13.2 – Death of a Prisoner](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) and [COPP 13.1 – Incident Notifications, Reporting and Communications.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) Also refer to the [prison’s Emergency Management Plan](file:///\\DMCBDPFPS05\Public$\Standards%20and%20Procedures\Operating%20Standards%20and%20Procedures\New%20Operating%20Policies%20and%20Procedures\1.%20Admin%20-%20Project\10.%20Project%20Steering%20Committee\31%20March%202020\) (EMP).

### On confirmation of life extinct of a child by Health Services, the scene of death and items which may be potential evidence are to be managed as a crime scene in accordance with the [Procedures for the Preservation of Evidence, Continuity of Exhibits, Drug Movements and Inventory Control](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/Pages/Emergency-Management.aspx).

### The Superintendent/OIC, immediately following the confirmed death of a child shall apply the relevant procedures in [COPP 13.2 – Death of a Prisoner](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) and ensure:

1. the mother/primary carer is immediately assessed under the At Risk Management System (ARMS)
2. the child’s mother/primary carer and one support person is allowed to remain with the deceased child under custodial supervision, if applicable
3. adequate emotional, cultural and/or religious support is provided to the mother/primary carer
4. the mother/primary carer is provided access to a telephone to inform her family of the death (including the potential for the approved family members to visit the prison and spend time with the mother/primary carer and child).

### The Superintendent shall arrange for appropriate cultural and/or religious rites to be carried out in consultation with the child’s mother/primary carer and their family, the prison chaplain and cultural adviser (including the potential for the family to participate in a blessing of the unit, with other prisoners and staff).

### The Superintendent may, at the request of staff or other prisoners and with the mother/primary carer’s consent, arrange religious and/or cultural rites (eg a blessing of the unit/facility) once the child’s body has been removed from the prison if the mother/primary carer does not request any religious or cultural support.

### The officer(s) discovering the death and any other staff who witnessed, or were involved, shall independently complete an Incident Report on TOMS, to include factually accurate, comprehensive details of times and actions from the time staff first came upon the incident scene to when the child’s body is removed from the incident scene, with the relevant procedures in [COPP 13.1 – Incident Notifications, Reporting and Communications.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)

### The child’s body shall only be removed after a member of the Western Australian (WA) Police Force has authorised the removal. This should be done with due consideration for the mother/primary carer who may want to spend some further time with the child, prior to the body being removed.

### The Superintendent shall ensure all staff involved in the incident are offered support from the Department’s Employee Assistance Program (EAP) team or another person with appropriate training.

# Record Keeping

## Processes

### All records relating to the application, assessment, decision-making and ongoing management of a child are to be kept in a separate file (child’s information file) within the mother/primary carer’s prisoner management file and all records on TOMS.

### The child’s information file should include information relevant to the management of the child in accordance with the child care plan.

### The child’s information file shall be sent to Operational Records Management for filing, with the mother’s/primary carer’s prisoner management file, when the mother/primary carer is released from custody.

# Standing Order

### Each Superintendent shall develop a Standing Order for the provision of mothers/primary carers applying for extended day, overnight and resident placements of their child/ren, to include:

1. current mother/primary carer and child unit plan, outlining the operation of the unit
2. the number of successful visits or extended day stays required prior to overnight visit approval
3. frequency of CCMC meetings
4. development of contracts and the standard requirements once approved
5. frequency, days and times for extended day and overnight stays
6. designated areas for extended day/overnight stays
7. procedures for unplanned receivals of the mother/primary carer and child from custody
8. entitlements and processes the mother/primary carer can expect
9. approval and management of children’s property
10. the supply of additional baby equipment, as required.

# Annexures

Related COPPs and documents

* [COPP 3.1 – Managing Prisoner Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 8.1 – Prisoner Constructive Activities](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 10.5 – Prison Offences and Charges](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 11.2 – Searching](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 12.1 – Escort Vehicles](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.1 – Incident Notifications, Reporting and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.2 – Death of a Prisoner](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 14.4 – Authorised Absences and Absence Permits](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)

Documents

* [Procedures for the Preservation of Evidence, Continuity of Exhibits, Drug Movements, and Inventory Controls](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/Pages/Emergency-Management.aspx)
* [Australian Kidsafe Standards](file:///\\DMCBDPFPS05\Public$\Standards%20and%20Procedures\Operating%20Standards%20and%20Procedures\New%20Operating%20Policies%20and%20Procedures\6.%20Prison%20Current\4.%20Specific%20Prisoners\4.5%20Residential%20Children\Drafts\)
* [National Child Safe Principles](https://www.childsafety.gov.au/system/files/2024-04/national-principles-for-child-safe-organisations.PDF)

## Definitions and acronyms

|  |  |
| --- | --- |
| Term | Definition |
| Approved carer | The mother/primary carer of a child who has been approved to either have a child residing with them in prison or has been granted permission to receive extended visits. The term ‘approved carer’ also includes alternative carers (prisoners who have been assessed and approved as a carer for a child in the event that the approved carer is unable to care for the child) (refer also [COPP 4.3 – Women Prisoners](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)). |
| Authorised Officer | An officer authorised by the Superintendent to manage the application, assessment and management of prisoner’s who have applied for or have their child on extended day, overnight stays or long-term residential placements. |
| At-Risk Management System (ARMS) | The At-Risk Management System is the Department's multi-disciplinary suicide prevention strategy for offenders. The tri-level system includes:  Primary prevention - strategies to create physical and social environments in the detention centre that limits stress on detainees.  Secondary prevention - strategies to support detainees at statistically higher risk of self-harm or suicide.  Tertiary prevention - strategies aimed directly at individuals identified as at risk of self-harm or suicide. |
| Commissioner’s Operating Policy and Procedure (COPP) | Operational Instruments that provide instructions to staff on how the relevant legislative requirements are implemented. |
| Child Care Plan | The approved ‘child care plan for Child Residency and extended Visits’, completed on TOMS, which details the agreed management of a residential child or a child participating in extended visits. |
| Child resident | A child approved to reside with its mother/primary carer within a custodial environment. |
| Child Care Committee Management Meeting | A committee established locally at each prison to make collaborative recommendations on applications for child residency and extended visits. |
| Community carer | A person nominated and approved as part of the Care Plan whose role is to attend the prison to collect a child in the event the mother/primary carer is not able to care for the child or the child needs to leave the prison and not remain with the mother/primary carer. |
| Extended visits | Visits which either take up the majority of a day or take place overnight. |
| 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. |
| Maltreatment | refers to the provision of sufficient information to indicate that a child:  may have been or has been physically or emotionally harmed or injured  may be at risk of significant physical or emotional harm or injury  may have been exposed or subjected to sexual behaviour or activities which are exploitative or inappropriate to his/her development level, or  may be the subject of persistent actions which have or are likely to result in the child’s development being significantly impaired. |
| Mother/primary carer | Refers to a biological mother or primary carer or the main person responsible for the custody or care of a child or children. This may also refer to a male primary carer and also includes a prisoner who culturally identifies as the mother of the child. |
| Misconduct Restraining Order (MRO) | Misconduct Restraining Order made under the [*Restraining Orders Act 1997*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_822_homepage.html)*.* |
| Officer in Charge (OIC) | As defined in s 3(1) of the Prisons Act 1981and refers to either the designated Superintendent or the officer in charge of a prison at a particular time.  Also includes any contract worker authorised by the Commissioner in accordance with s. 15I (1) (a) of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)to perform the functions of a superintendent in a privately operated prison. |
| prisoner carer | A prisoner who has been assessed and approved as an alternative carer for a child as part of the Care Plan. |
| Staff | All persons employed by the Department of Justice. Also includes all contract workers authorised by the Commissioner in accordance with s. 15I (1) of the *Prisons Act 1981* to perform a function. |
| Standing Order | Legislated Operational Instruments where the Superintendent of a prison may, with the approval of the Chief Executive Officer, make and issue written standing orders with respect to the management and routine of that prison (s. 37 of the *Prisons Act 1981*) |
| Superintendent | The Superintendent as defined in s 36 of the *Prisons Act 1981* includes any reference to the position responsible for the management of a private prison under Part IIIA of the *Prisons Act 1981*. |
| Total Offender Management Solution (TOMS) | The computer application used by the Department of Justice for the management of prisoners in custody. |
| Violence Restraining order (VRO) | Violence Restraining Order made under the [*Restraining Orders Act 1997*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_822_homepage.html)*.* The person protected by the order and the person bound by the order are not in a family relationship with each other. |
| WA Police Force | Western Australian Police Force |
| Woman | An adult female human being. |

## Related legislation

* *Prisons Act 1981*

# Assurance

It is expected that:

* Prisons will *undertake* local compliance in accordance with the [Operational Compliance Manual](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/monitoring.aspx).

The relevant Deputy Commissioner will ensure that management oversight occurs as required.

The Operational Compliance Branch will undertake checks in accordance with the [Operational Compliance Framework](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/monitoring.aspx).

Independent oversight will be undertaken as required.

# Document Version History

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Effective Date |
| 1.0 | Operational Policy | Approved by Commissioner |  | 28 December 2021 |
| 2.0 | Operational Policy | Approved by A/Director Operational Projects, Policy, Compliance and Contracts | 02 March 2022 | 03 March 2022 |
| 3.0 | Operational Policy | Approved by Deputy Commissioner Operational Support  Ref: S24/45590 | 21 October 2024 | 22 October 2024 |

Appendix A: Application Information

The Superintendent shall list an application for consideration by the CCMC on assessing the following information and reports:

1. criminal record
2. social history
3. psychiatric reports, where relevant
4. an assessment from the Senior Family Links Officer. This will consider any past contact the Department of Communities may have had with the mother/primary carer and will assess the mother’s/primary carer’s capacity to care for her child in the prison setting. The assessment shall make a recommendation based on the best interests of the child
5. a report from the Psychological Health Services (PHS), if applicable
6. reports from any local service providers involved with the mother/primary carer
7. family court orders relating to custody and access of the non-custodial parent
8. Violence Restraining Orders (VROs) or Misconduct Restraining Orders (MRO’s), and the nature of that order
9. any confirmed medical issues for the mother/primary carer or child that could not be appropriately managed within the prison
10. availability of appropriate prison accommodation and facilities at an acceptable community standard
11. availability of approved alternative carers in the community (all alternative carers must be assessed)
12. other prisoners with whom the child may have contact with and the safety of the child in that environment
13. risks posed to the child’s emotional and intellectual development from being in the prison environment
14. whether the mother/primary carer’s length of sentence significantly exceeds the time the child can remain in the prison with them and if so, whether the resulting separation is assessed as not to be in the child’s best interests.
15. prior maternal contact (ie whether the mother/primary carer has been the main carer in the community)
16. appropriate immunisation of the child as determined by Health Services staff.