COPP 4.10 Protection Prisoners

Prison

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| PrinciplesAs referenced in the[Guiding Principles for Corrections in Australia, 2018](http://justus/search/Pages/results.aspx?k=guiding%20principles%20australia):1.1.4 Management systems, policies and procedures are evidence based and are informed by human rights principles and operational practice.1.2.3 Staff have access to and are informed of current policies and procedures including those which set performance and behavioural expectations.3.1.1 Correctional practices identify, minimise and manage any risks to staff, the community, visitors, prisoners and offenders.3.1.5 All appropriate measures are taken to ensure no injuries or unnatural deaths occur to staff, visitors or prisoners/ offenders.  3.2.1 Comprehensive strategies, systems and procedures to detect, deter and prevent incidents that impact on the safety or security of correctional services, staff, the community or prisoners/ offenders are developed and implemented.3.2.3 Dynamic security practices support and optimise prisoner safety and the good order and management of the prison.3.3.1 Prisoner classification and placement is based on an objective assessment of prisoners security risk, rehabilitation and reintegration needs.3.3.2 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. |

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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 Department is responsible for the safety and security of all prisoners in their care.

This COPP sets out the policies and procedure that apply to prisoners that are deemed to require protection (protection prisoners). Protection is granted for a number of reasons, including direct or indirect threats from other prisoners, the nature of the prisoner’s offences, prior employment history or being a target for retribution.

A number of units within Hakea Prison, Casuarina Prison and Acacia Prison have been declared as Protection Units for the placement of protection prisoners.[[1]](#footnote-2) Protection prisoners may also be placed in another unit or prison without a Protection Unit.

Prisoners are placed on protection as a last resort and the purpose of protection placement is to minimise protection prisoners contact with mainstream prisoners and maintain protection prisoners safety and security.

# Identifying the Requirement for Assessment and Referral

## Referral for protection assessment

* + 1. When prisoners are admitted to prison, the Reception Officer shall identify prisoners that they consider require referral for protection assessment.
		2. When considering whether a prisoner should be referred for assessment, the Reception Officer shall consider potential risk factors to the prisoner including (but not limited to):

### does the prisoner have an existing protection alert?

### any information/ security/ alerts available?

### is the prisoner directly or indirectly threatened by another prisoner or prisoners?

### is the prisoner a possible target for vengeance or retribution due to the nature of their offence or other activities inside or outside of the prison?

### has the prisoner given or is in the process of giving information to Prison Officers, Police or evidence in court concerning other prisoners, relatives or associates?

* + 1. The Reception Officer shall review the Total Offender Management Solution (TOMS) for protection alerts on prisoners transferred from another prison in accordance with [COPP 2.1 – Reception](http://justus/intranet/prison-operations/Pages/prison-copps.aspx).
		2. Where a TOMS protection alert exists or a prisoner is assessed as potentially requiring protection, the Reception Officer shall enter the information on the Reception Intake Assessment Form and commence the [Protection Referral Form](https://justus/intranet/prison-operations/Pages/copp-forms.aspx).
		3. Where a prisoner requests protection, the Reception/ Prison Officer shall assess the prisoner’s request and commence the [Protection Referral Form](http://justus/intranet/prison-operations/Pages/copp-forms.aspx), ensuring the prisoner has signed the form.
		4. Once a [Protection Referral Form](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) is commenced, the Reception/ Prison Officer shall inform the Senior Officer or Officer in Charge (OIC).
		5. The Senior Officer or OIC shall determine the prisoner’s initial placement.
		6. The Senior Officer or OIC shall interview the prisoner and complete section 3 of the [Protection Referral Form](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) outlining the prisoners interim protection risk management plan prior to any referral to the Protection Multi-Disciplinary Team (PMDT).
		7. The interim protection risk management plan shall determine the prisoner’s placement and restriction options including (but not limited to):
1. closer supervision by officers in the prisoner’s normal environment
2. supervision plan
3. level of interaction with other prisoners in the wing/ unit
4. cell placement
5. escorts within the prison
6. security/ welfare requirements
7. interim wing or unit placement
8. activities, employment and exercise requirements
9. health requirements
10. placement in crisis care or confinement.
	* 1. The Senior Officer or OIC shall forward the [Protection Referral Form](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) to the Chair of the PMDT.

# PMDT Review

## Role of the PMDT and Chair of PMDT

* + 1. Each prison shall have a PMDT. Minimum membership of the PMDT shall include (but is not limited to):
1. Assistant Superintendent Operations and in their absence, the Principal Officer (PMDT Chair)
2. relevant Senior Officer
3. security representative
4. other staff as required.
	* 1. The role of the PMDT is to:
5. review all [Protection Referral Forms](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) and make a recommendation regarding protection
6. recommend a management plan for prisoners placed on protection
7. recommend alternative management strategies for prisoner's not placed on protection
8. review and make recommendations regarding a prisoner's ongoing protection status
9. recommend removal from protection
10. add, update or remove protection alerts as required.
	* 1. The PMDT Chair shall consider the PMDT's recommendation and make a determination as to the prisoner's protection status.
		2. Each PMDT shall determine how often it shall meet.
		3. Prior to each PMDT meeting, the Assistant Superintendent Operations or Principal Officer shall provide to the panel a list of prisoners referred for protection, those protections prisoners whose status requires review and any prisoner who has requested removal from protection.

## Review of prisoners referred for protection

* + 1. The PMDT shall review all prisoners referred under a [Protection Referral Form](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) at the next scheduled PMDT meeting or within 28 days of receipt of the [Protection Referral Form](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) (whichever is earlier).
		2. Prior to the PMDT meeting, the Assistant Superintendent Operations or Principal Officer shall provide the panel with all [Protection Referral Forms](https://justus/intranet/prison-operations/Pages/copp-forms.aspx).
		3. In assessing a prisoner's protection status and placement, the PMDT shall refer to the [Appendix A – Protection Prisoner Review Risk Assessment Matrix](#_Appendix_A_-) and consider the following:
1. type and severity of the offence(s)
2. the likelihood of any risk to the safety of the prisoner
3. current placement
4. length of sentence remaining
5. any previous custodial history
6. any intelligence received
7. external risks to the prisoner whilst on escort
8. links to organised crime or gang related activities.
	* 1. The PMDT shall make a recommendation regarding the prisoner's protection status. If the PMDT recommends protection, the PMDT shall also recommend their placement within either a Protection Unit, the Special Protection Unit (SPU) or another unit within the prisoner's current prison or at a different prison.
		2. The PMDT Chair shall consider the PMDT's recommendation and make a determination as to the prisoner's protection status and, if placed on protection, their placement. All decisions shall be recorded on the [Protection Referral Form.](https://justus/intranet/prison-operations/Pages/copp-forms.aspx)
		3. Where the PMDT has recommended that a prisoner be placed in the SPU, the process in section 4.6 below applies.
		4. If the prisoner is not placed on protection, the PMDT shall outline alternative management strategies in the [Protection Referral Form](https://justus/intranet/prison-operations/Pages/copp-forms.aspx).
		5. If the prisoner is placed on protection:
9. the PMDT shall prepare a [Protection Management Plan](http://justus/intranet/prison-operations/Pages/copp-forms.aspx)
10. a member of the PMDT shall place a protection alert on TOMS and update the next scheduled review date and comments section.
11. the PMDT Chair shall brief the Superintendent where required; and
12. the relevant Senior Officer shall inform the prisoner and note the prisoner’s response on TOMS.
	* 1. Where a prisoner disagrees with the PMDT Chair's decision, the prisoner may submit a request for review of that decision, as per section 4.5.
		2. The PMDT Chair's decision regarding protection will not take effect until the 7 day review period has lapsed in accordance with section 4.5. The prisoner shall remain on their current status for this 7 day period.

## Ongoing review of prisoner's protection status

* + 1. The PMDT shall conduct, at a minimum, a 6-monthly review of each prisoner with protection status to determine, if:
1. the prisoner shall remain on protection
2. the prisoner shall be removed from protection
3. the prisoner's management plan or placement (within the prison or at an alternative facility) requires amendment.
	* 1. The PMDT shall update TOMS with the outcome of the review and set a new review date where required.

## Removal from protection

* + 1. If the PMDT Chair determines that a prisoner shall be removed from protection, they shall complete a [Protection Removal Request Form](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) and inform the prisoner.
		2. If a prisoner requests removal, they shall complete a [Protection Removal Request Form](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) and provide it to the PMDT for consideration. The PMDT Chair shall make a determination regarding the prisoner's request.
		3. Where a prisoner disagrees with the PMDT Chair's decision, the prisoner may submit a request for review of that decision as per section 4.5.
		4. The PMDT Chair's decision to remove a prisoner from protection will not take effect until the 7 day review period has lapsed.

## Prisoner review of PMDT decision

* + 1. Where a prisoner disagrees with a PMDT Chair decision regarding their protection status, the prisoner may apply to the PMDT Chair for a review of the decision.
		2. A prisoner's request for review of a decision shall be within 7 days of the PMDT Chair's decision and shall be in writing and contain any new information for consideration.
		3. The relevant Senior Officer shall progress the request to the PMDT Chair for consideration.
		4. The prisoner shall remain on their current status until the review is determined.
		5. Where possible, the PMDT Chair review decision shall be issued within 28 days.

## Special Protection Unit - Casuarina Prison

* + 1. The PMDT may recommend that a prisoner be placed in the SPU at Casuarina Prison where the PMDT considers that the prisoner requires a higher level of protection. Such prisoners may include, but are not limited to:
1. ex-police or prison officers
2. witnesses
3. prisoners who exhibit predatory behaviour.
	* 1. The PMDT shall forward all SPU recommendations along with the [Protection Referral](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) Form, [Protection Management Plan](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) and any supporting documentation to the Casuarina PMDT for a decision.
		2. The Chair of the Casuarina PMDT shall determine if a prisoner is placed in the SPU.
		3. Where a protection prisoner is declined SPU placement, the Casuarina PMDT shall advise the originating prison’s PMDT and provide reasons.
		4. The originating PMDT shall reconsider alternative placement options and the PMDT Chair shall make a determination as to the prisoner's placement.

## Prisoners not placed in a Protection Unit

* + 1. Where a protection prisoner is not placed in a Protection Unit, the PMDT shall prepare a supervision plan which outlines the prisoners individualised protection risk management plan on TOMS.

# Incident reporting

* + 1. Incidents shall be reported in accordance with [COPP 13.1 – Incident Reporting and Notifications](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

# Standing Orders

## General requirements

* + 1. A Superintendent of prison with a Protection Unit may issue a Standing Order aligned with this COPP and in accordance with Prisoner Rule 2 in relation to the management and routine of protection prisoners and Protection Units, including procedures regarding:
1. placement options
2. movement restrictions
3. employment options
4. recreational options
5. library and educational options
6. prisoner’s placed on close supervision or separate confinement
7. the manner in which visits are conducted.

# Annexures

## Related COPPs

* [COPP 2.1 – Reception](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.1 – Incident Reporting and Notifications](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)

## Definitions and acronyms

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| --- | --- |
| Term | Definition  |
| Commissioner’s Operating Policy and Procedures (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. |
| 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*. |
| 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. |
| Protection Prisoner | Prisoners who the PMDT Chair has determined are at risk for a number of reasons, including direct or indirect threats from other prisoners, the nature of the prisoner’s offences, prior employment history or being a target for retribution. |
| Senior Officer (SO) (Prison) | 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) and a person appointed or deemed to have been appointed under s.6 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) to an office designated by rules for the purposes only of this definition, who has successfully completed the ELTP and the Department’s Senior Officer promotional process. |
| Staff | Any person in the paid or unpaid employment of the Department of Justice, Corrective Services, including contractors, subcontractors and volunteers. |
| Standing Order | An order issued by a Superintendent under s.37 of the *Prisons Act 1981* |
| 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). This does not extend to the Officer in Charge of a prison. |

## Related legislation

* *Prisons Act 1981*
* *Prisons Regulations 1982*

# Assurance

It is expected that:

* Prisons will undertake local compliance in accordance with the [Compliance Manual](http://justus/intranet/department/standards/Pages/monitoring.aspx).
* The relevant Deputy Commissioner within Head Office will undertake management oversight as required.
* Operational Compliance will undertake checks in accordance with the [Operational Compliance Framework](http://justus/search/Pages/results.aspx?k=Compliance%20Framework).
* Independent oversight will be undertaken as required.

# Document version history

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version  | Primary author(s) | Description of version | Date completed | Effective date |
| 0.1 | Operational Policy | Initial draft | 18 July 2019 | n/a |
| 0.2 | Operational Policy | Second draft | 14 March 2020 | n/a |
| 0.3 | Operational Policy | Tabled for approval with the Project Steering Committee | 31 March 2020 | n/a |
| 0.4 | Operational Policy | Amended following feedback from the Project Steering Committee | 4 April 2020 | n/a |
| 0.5 | Operational Policy | Approved by the Project Steering Committee | 22 April 2020 | n/a |
| 0.6 | Operational Policy | Updated following consultation  | 19 May 2021 | n/a |
| 0.7 | Operational Policy | Approved by the Commissioner, Corrective Services  | 31 May 2021 | n/a |
| 0.8 | Operational Policy | Updated following consultation | 3 November 2021 | n/a |
| 1.0 | Operational Policy | Approved by the Director Operational Projects, Policy, Compliance and Contracts | 4 November 2021 | 28 December 2021 |

# Appendix A - Protection Prisoner Review Risk Assessment Matrix

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|  |
| LOW | MEDIUM | HIGH |

|  |  |
| --- | --- |
|  | **LIKELIHOOD** |
|  |  | **UNLIKELY** | **POSSIBLE** | **LIKELY** |
| **CONSEQUENCE** | **LIMITED** | **LOW** *- <RISK>* might occur in unforeseen circumstances though is not expected and would pose little or barely evident danger to the prisoner | **LOW *-*** <*RISK>* is possible and could occur though would result in little or barely evident danger to the prisoner | **MEDIUM** - <*RISK>* may occur though would result in little or barely evident danger to the prisoner |
| **MODERATE** | **LOW** *- <RISK>* might occur in unforeseen circumstances though is not expected; however would result in moderate danger to the prisoner  | **MEDIUM** - <*RISK>* is possible and could occur and would result in moderate danger to the prisoner | **HIGH** - <*RISK>* may occur and would result in moderate danger to the prisoner |
| **SIGNIFICANT** | **MEDIUM** *- <RISK>* might occur in unforeseen circumstances though is not expected; however would result in significant danger to the prisoner | **HIGH** - <*RISK>* is possible and could occur, and would result in significant danger to the prisoner | **HIGH** - <*RISK>* may occur and would result in significant danger to the prisoner |
| Protection Prisoner Risk Assessments provide assessment of the risk of an act of violence against prisoner |

1. Declaration of prison areas for the placement of protection prisoners [↑](#footnote-ref-2)