COPP 7.4 Visitor Restrictions and Bans

Prison

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| PrinciplesAs referenced in the [Guiding Principles for Corrections Australia 2018](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx):3.1.1 Correctional practices identify, minimise and manage any risks to staff, the community, visitors, prisoners and offenders.3.1.10 Prisoner visits take the safety and best interests of children and other vulnerable persons into account. |

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# Scope

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

This COPP applies to visitors[[1]](#footnote-1) as detailed within [COPP 7.2 – Social Visitors](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) and other visitors[[2]](#footnote-2) that are not deemed official visitors within [COPP 7.3 – Official Visitors](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

# Policy

All prisoners are entitled to visits with family and relations[[3]](#footnote-3). Visits shall be encouraged to assist prisoners to maintain and improve their family relationships and contact with the broader community and aid their successful re-integration back into the community.

The Superintendent may, however, restrict visits, refuse entry or remove a visitor from a prison, where they believe the visitor, or any other person is likely to interfere with the preservation of the good order and security of the prison.

The Superintendent and all staff have a duty of care to ensure the safety of children visiting a prison. Visits by children to prisoners with a history of violence or sexual offences against children shall be assessed and restricted to the degree necessary, in the best interests and protection of the child.

Visitors, in prescribed circumstances, may be banned from visiting a specified prison for a specified period, or issued a state-wide prison ban where the person presents a serious risk to the prison system.

# Refusing Entry to or Removing Visitors from a Prison

### The Superintendent, as delegated by the Chief Executive Officer (CEO) or Officer in Charge (OIC) as delegated by the Superintendent may refuse entrance to, or remove a visitor from a prison, of which they preside, so as to preserve the good order or the security of that prison[[4]](#footnote-4).

### In deciding whether to refuse entry or remove a visitor from a prison, the Superintendent or OIC shall have regard to all relevant factors, including, but not limited to:

### Any visitor behaviour or actions likely to interfere with the good order or the security of the prison

### Any information provided regarding why the visitor should be refused entry or removed

### The relationship of the visitor to the prisoner and the impact that refusing the visitor’s entry may have on the prisoner.

### The visitor shall be informed by the Superintendent or OIC’s decision to refuse entry, or for their removal, and requested to leave prison property.

### Where a visitor refuses to leave prison property as requested, the Superintendent may authorise the use of force to remove the person from the prison property, in accordance with [COPP 11.3 – Use of Force and Restraints](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

### The Superintendent’s or OIC’s decision to refuse entry or remove a visitor from a prison shall be recorded on TOMS as an incident report.

# Non-Contact Visits

### Every visit to a prisoner shall be a contact visit, unless the Superintendent or OIC determines that to preserve the good order and security of the prison the visit be a non-contact visit[[5]](#footnote-5).

### Where the Superintendent or OIC authorises a non-contact visit, the visitor and the prisoner shall be informed of the decision, as soon as possible, and the decision recorded on TOMS.

# Restricted Visits with Children

## No visits with children until prisoners screened

### The interests and safety of children that may visit a prisoner are paramount. All staff have a duty of care to ensure children visiting a prison are not placed at risk, whilst allowing prisoners to receive visits from family and friends.

### Prisoners shall not be permitted to receive visits with children until all relevant screening checks have occurred, this includes E-Visits.

### Upon a prisoner being received into a prison, Reception Officers shall screen prisoners to determine if they have any current charges, convictions and/or prior offence histories for violent and/or sexually related offences committed against children under the age of 18 years. Prisoners identified as such, shall have a ‘Restricted Visits’ alert recorded on TOMS, including justification for the alert (e.g. ANCOR registered, conviction details).

### A prisoner who does not fall within the criteria defined in section 5.1.3, but for whom assessment of that prisoner identifies their potential risk to children, shall have a Restricted Visits alert recorded on TOMS, including justification for the alert (e.g. family domestic violence offences committed in the presence of a child).

### Where a prisoner meets the criteria defined in section 5.1.3 or 5.1.4, the Superintendent shall ensure a Restricted Visits alert is recorded on TOMS. Unless a visit with specific children is approved following further review (see section 5.2), the alert shall specify that the prisoner is **not** permitted visits with children.

### For consideration of prisoners with juvenile convictions, refer to section 9 of [the Sentence Management Manual](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/sentence-management.aspx).

### Prisoners subject to a Restricted Visits alert, shall be:

1. Advised that they will only be able to receive visits from adults and not permitted to receive visits from children, unless the child is an approved visitor and
2. Informed of the processes that apply (see section 5.2) should they want to be further considered to receive a visit from a child.

### As per [COPP 7.2 - Social Visits](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) Superintendents are to ensure:

1. The level of supervision in the visiting area(s) is adequate to safeguard children from prisoners with a Restricted Visits alert and
2. There are adequate procedures in place to monitor other forms of communications by prisoners with a Restricted Visits alert (such as letters and telephone calls) to protect children from grooming and unapproved contact, as these mechanisms can be used to exert undue influence and perpetuate the fear of abuse.

## Application for review of child visits restrictions

### Prisoners subject to a Restricted Visits alert may apply for visits with specific children, where the legal guardian of the child consents for visits to occur, and:

1. The child is an ‘immediate family’ member, meaning a prisoner’s son/daughter, or brother/sister by birth/marriage (ie step-child or adoption). This does not include grandchildren, nephew/niece, cousins or other extended family, and/or
2. The prisoner was the ‘primary care giver’ to the child.

### Prisoners subject to a Restricted Visits alert and who wish to make a request for visits with a particular child shall complete the TOMS Application for Child Visits from a Prisoner with a Restricted Visits Alert form.

### On receiving an Application for Child Visits from a Prisoner with a Restricted Visits Alert request, the Assistant Superintendent shall:

1. Complete the Application for Child Visits from Prisoners with a Restricted Visits Alert checklist on TOMS
2. Assess the prisoner’s application and make a recommendation in the application to the Director of Sentence Management regarding the requested visit
3. Ensure the prisoner completes the [Child Visits - Authority to Release Information Form](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx) and attach it to the checklist on TOMS and
4. Refer the application form to the Director, Sentence Management, via the AC-SM-ChildVisits@justice.wa.gov.au email distribution list, attaching copies of any supporting documentation.

### The Director, Sentence Management shall assess the application and determine whether to:

1. Approve the modification of the Restricted Visits alert to permit visits from specific children or
2. Not approve changes to the prisoner’s visits restrictions.

### In making a determination, the Director, Sentence Management shall consider:

1. The familial relationship between the child and the prisoner
2. Whether the prisoner was the ‘primary care giver’ to the child
3. The nature of the prisoner’s offending
4. The suitability of the proposed guardian facilitating visits
5. Whether any special conditions and/or supervision can be implemented to safeguard against any risks and
6. Any advice from the Department of Communities; Child Protection (DCCP) regarding the visit (if requested).

### Sentence Management shall notify the prison of the decision and record the outcome in a TOMS Note.

### If visits are approved, the Superintendent shall ensure:

1. The Restricted Visits alert is updated and
2. The alert details the name(s) of the children permitted to visit the prisoner.

### Prison Officers shall enter a TOMS note once the prisoner has been advised of the outcome of their application.

### Approved visits for children with prisoners subject to a Restricted Visits alert may be subject to special conditions and/or supervision.

### Sentence Management with approval from the Director Sentence Management can instruct the prison to add or remove a prisoner’s Restricted Visits alert. Where a prisoner wishes to apply to have their Restricted Visits alert removed, Sentence Management shall be consulted by the prison in the first instance to determine whether this is considered an exceptional circumstance.

### If considered to be an exceptional circumstance, Sentence Management will advise the Assistant Superintendent to action an Administrative Decision Slip on TOMS and refer it to the Director, Sentence Management with a recommendation from the prison as to whether the Restricted Visits alert should remain. In making a determination, the Director, Sentence Management shall consider the following:

1. The nature and circumstances of the offending (includes any relevant comments in Judicial Sentencing Remarks)
2. The impact on prisoner placement and
3. Any other reason considered exceptional.

### Sentence Management shall record the decision outcome using a Decision Slip on TOMS and inform the Assistant Superintendent of the decision.

### Prison Officers shall enter a TOMS Note once the prisoner has been advised of the outcome of 5.2.11. If the Director, Sentence Management approves the removal of the Restricted Visits alert, the Assistant Superintendent shall ensure that the alert is removed as soon as practicable.

### The removal of a Restricted Visits alert is required before a prisoner can be transferred to Boronia Pre-Release Centre for Women.

## Children subject to a Court Order

### Where a child is already subject to a Court Order stipulating visits with a prisoner, an application on behalf of the prisoner should be completed as a matter of priority. A signed copy of the Order should be attached to the application.

### The Director Sentence Management may then approve the prisoner’s application in accordance with the Court Order and will notify the DCCP if necessary.

## Prisoner Appeal

### A prisoner shall have the right of one appeal against any decision regarding restricted visits with children. All appeals shall be forwarded to Sentence Management for processing.

### An appeal by a prisoner against any decision regarding restricted visits with children shall be lodged with the Assistant Superintendent, in writing, within 21 days of the date of the prisoner being notified of the decision.

### Appeals shall be considered by the next level of Approving Authority.

### If there is a change of circumstances since the non-approval, the prisoner should re-apply. This should not be undertaken using the appeal process.

# Other Restrictions

## Restraining Orders

### Where a Violence Restraining Order (VRO) or Family Violence Restraining Order (FVRO) is known to be in place, no visit shall be approved between a protected person and a respondent, unless the order specifically permits contact to occur.

## Unlawful Consorting Notices (UCN)

### Where a prisoner displays an alert for a UCN, no visit shall be approved between the prisoner and a person listed in the UCN.

## Gang associations or persons not able to associate

### The Visits Booking Officer shall notify the Security Manager, when:

1. A known or suspected Outlaw Motor Cycle Gang (OMCG) member or other known criminal organisation gang member books a visit.
2. A person not able to associate with a prisoner (e.g. co-accused with bail restrictions) books a visit.

### The Security Manager shall assess the circumstances, prior to the visit, to identify any potential conflict with other visitors and may restrict the visit time or recommend the visitor be refused entry.

### Restrictions, changes to visiting times or visiting days may be required to ensure members of a different OMCG, or other known criminal organisations are not permitted visits at the same time.

### OMCG visitors presenting with clothing depicting club association or political/gang affiliation shall be refused entry, unless they have alternative clothing to change into.

# Authority to Issue Local and State-Wide Visitor Bans

### The CEO has the power to issue a local and state-wide ban of a visitor to a prison[[6]](#footnote-6), in prescribed circumstances and for prescribed periods as defined in the *Prisons Regulations 1982[[7]](#footnote-7)*. This authority has been delegated[[8]](#footnote-8), by the CEO, as follows:

1. The Superintendent of a prison has the authority to issue local visitor bans for that prison
2. The Assistant Commissioner Custodial Operations (ACCO) and Assistant Commissioner Women and Young People (ACWYP) have the authority to issue state-wide visitor bans
3. The Deputy Commissioner Adult Male Prisons (DCAMP) and Deputy Commissioner Women and Young People (DCWYP) have the authority to issue local and state-wide bans.

# Local Visitor Bans

## Circumstances/periods for issuing a local visitor ban

### The circumstances and periods for which a Superintendent can issue a local visitor ban are set out in [Appendix A - Circumstances and Periods Persons may be Banned from Prison Visits](#_Appendix_A:_Circumstances).

### When determining the period of the ban, the Superintendent may consider the following as a guide:

### A first offence may receive a ban of one-third of the maximum period for which they may be banned

### A second offence may attract a ban of two-thirds of the maximum period for which a person may be banned

### Further offences shall attract a ban of the maximum period allowable.

### The Superintendent may, however, apply the maximum ban period for a first or second offence, where they consider the circumstances require it.

### A local visitor ban is only applicable to the specified prison. Should the prisoner transfer to another prison, the receiving Superintendent will need to determine and assess if the visitor ban extends to their facility.

### Where the ban is extended to another prison, the Superintendent shall inform the banned visitor in writing the reason why the ban has been extended.

### Where the ban is extended, the Superintendent shall advise the relevant Assistant Commissioner.

## Process for issuing a local visitor ban

### All incidents involving visitors shall be recorded by Prison Officers in an Incident Report, in accordance with [COPP 13.1 –Incident Notifications, Reporting and Communications.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)

### A Security Report shall be completed, where no incident has occurred, and/or to detail additional information pertinent to an incident.

### The Security Manager shall consider all relevant Incident and/or Security Reports and notify the Superintendent where a local visitor ban is recommended. In circumstances where only a local ban is being imposed, the period imposed shall be in accordance with r. 54B *Prisons Regulations 1982*. Also refer to [Appendix A - Circumstances and Periods Persons may be Banned from Prison Visits](#_Circumstances/periods_for_issuing).

### Where approved by the Superintendent, the Security Manager shall ensure a written notice of the visitor ban is prepared, completing the [Notice of a Ban to Visit a Prison(s](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx)), and signed by the Superintendent.

### The written notice shall include the following information:

1. The prison from which the person is banned
2. The length and expiry of the ban
3. The reason for the ban[[9]](#footnote-9), unless:
* Giving the person a reason would compromise the good order and security of a prison
* The reason is a prescribed reason, as set out in [Appendix B: Reasons that are not required to be given for the purposes of a visitor ban](#_Appendix_B:_Reasons).
1. That the banned visitor may make a submission to the ACCO/ACWYP about the appeal:
* The Superintendent’s decision to ban the person
* Any reason given for the ban.

### A local visitor ban, once approved by the Superintendent, shall commence immediately.

### The Security Manager shall ensure:

1. The signed written notice is posted to the banned person’s last known address
2. All signed copies of the local visitor ban notices are emailed to either Adult Male Prisons, Women and Young People; and AJS-AC-DIV-SecurityManagers email distribution list
3. Details of the ban are entered on TOMS as per the [Visitor Ban Procedures](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/Pages/srs-operational-guidance.aspx).

# State-Wide Visitor Bans

## Prescribed circumstances/periods for issuing a state-wide visitor ban

### In all circumstances a local ban must be issued by the issuing custodial facility prior to making an application for a state-wide ban. The ACCO/ACWYP may issue a state-wide visitor ban if in their opinion the person is deemed a serious security risk[[10]](#footnote-10) and a state-wide ban is necessary to maintain the safety and security of the broader prison system.

### Custodial facilities are mandated to make an application for a state-wide ban, in circumstances where the visitor:

1. Is deemed a serious security risk and has visited more than one prison
2. Has attempted to take a weapon into a prison or on prison grounds (excludes items able to be justified for a lawful purpose, such as a chef who has chef knives in their car etc.) and there is reason to believe they present a similar risk to other prisons
3. Has attempted to traffic unauthorised drugs (e.g. drug trafficking) into a prison or on prison grounds and there is reason to believe they present a similar risk to other prisons, or
4. Has attempted to traffic an unauthorised device (e.g a mobile phone, USB device or smart watch) into a prison or on prison grounds and there is reason to believe they present a similar risk to other prisons.

### The decision by the ACCO/ACWYP to issue a state-wide visitor ban shall be determined on a case by case basis, following review of all the facts and circumstances, including the custodial facility providing clear evidence that the visitor attempted to traffic an item into a prison or on prison grounds. These circumstances may include, although not limited to those outlined in section 9.1.2.

## Process for issuing a state-wide visitor ban

### An email request shall be made to the ACCO/ACWYP to issue a state-wide ban, if a visitor is identified to pose a serious security risk.

### Requests are to be emailed to Adult Male Prisons or Women and Young People and shall include:

1. A detailed written justification of the risks posed by the visitor and recommendation for a state-wide visitor ban. The content shall also be captured in the corresponding Incident Report.
2. Date of incident and Incident Report number
3. Facility location
4. Visitor and Prisoner’s full name/details
5. Confirmation if there is supporting evidence such as CCTV
* CCTV must be saved by the Security team in accordance with the [Content Manager- Audio Visual Guide](https://cmint/HPECMWebDrawer/Record/18070761/file/document) to support any requests for copies in the event of extenuating circumstances on application or an appeal.
1. In circumstances where the prisoner has attended the hospital or been placed in an observation/medical observation cell in accordance with [COPP 11.2 - Searching](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx), the outcome of that incident shall be documented (e.g. did the prisoner pass the item, was a package confirmed via x-ray and/or did the prisoner provide a positive urinalysis sample).
2. Any advice or input provided by Intelligence Services, where requested to support the recommendation.

### On receiving the application, Adult Male Prisons/Women and Young People shall present the information to the ACCO/ACWYP who will determine whether to approve or decline the ban.

### Where approved, the ACCO/ACWYP shall sign the written notice ([Notice of a Ban to Visit a Prison(s)](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx) form), including the following information:

1. That a state-wide ban has been approved
2. The length and expiry of the ban.
3. The reason for the ban[[11]](#footnote-11) unless:
* Giving the person a reason would compromise the good order and security of a prison, or
* The reason is a prescribed reason as set out in [Appendix B: Reasons that are not Required to be Given for the Purposes of a Visitor Ban](#_Appendix_B:_Reasons).
1. That the banned visitor may make a submission to the relevant Deputy Commissioner about:
* The ACCO/ ACWYP decision to ban the person.
* Any reason given for the ban.

### A state-wide ban, once approved, shall commence immediately, backdated to the incident date.

### Adult Male Prisons/Women and Young People shall ensure:

1. The signed written notice is posted to the banned person’s last known address
2. Details of the ban are entered on TOMS as per the [Visitor Ban Procedures](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/Pages/srs-operational-guidance.aspx).
3. Security Managers, including Banksia Hill Detention Centre, are provided a copy of the visitor ban letter, via the business areas shared email inbox (the ban does not extend to Banksia Hill Detention Centre and purpose of the notification is for information only).

# Visitor Appeals Following a Visitor Ban

### The rules of natural justice, or procedural fairness, do not apply in relation to a decision made to ban a visitor[[12]](#footnote-12).

### Visitors issued with a ban may make an appeal (submission) in writing[[13]](#footnote-13), regarding:

1. The decision to ban the person from visiting a priso
2. Any reason given by the delegated authority for the ban.

### Appeals received from a banned person shall be forwarded to Adult Male Prisons/Women and Young People, who shall ensure a record of the appeal is placed on the visitor’s TOMS profile and submit to the relevant delegated authority for consideration.

### Appeals shall be considered by the:

1. ACCO/ACWYP, where a Superintendent has issued the ban.
2. DCAMP/DCWYP, where the ACCO/ACWYP has issued the ban.
3. Commissioner, where the DCAMP/DCWYP has issued the ban.

### Adult Male Prisons/Women and Young People shall ensure:

1. A written letter is sent, in response to the person’s appeal, outlining the decision of the delegated authority and
2. The decision is recorded on TOMS and updated, where the decision is to revoke the visitor ban.

# Annexures

## Appendix

* [Appendix A – Circumstances and Periods Persons May be Banned from Prisons](#_Appendix_A:_Circumstances)
* [Appendix B – Reasons that are not Required to be Given for the Purposes of a Visitor Ban](#_Appendix_B:_Reasons)

## Related COPPs and Rule

* [COPP 2.1 – Reception](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 7.2 – Social Visits](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 10.1 – Prisoner Behaviour Management](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 11.3 – Use of Force and Restraints](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)
* [Rule 7 – Visitor Restrictions](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)

**Document**

* [Visitor Ban Procedures](https://dojwa.sharepoint.com/sites/security-intelligence/security-response/Pages/srs-operational-guidance.aspx)
* [Content Manager- Audio Visual Guide](https://cmint/HPECMWebDrawer/Record/18070761/file/document)

## Definitions and acronyms

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| Term | Definition  |
| Chief Executive Officer (CEO) | Director General of the Department of Justice. |
| Commissioner of Corrective Services | The position designated by the Director General as responsible for the management of the Corrective Services Division of the Department of Justice. The Commissioner also holds the title of Deputy Director General. |
| Commissioner’s Operating Policy and Procedure (COPP) | Operational Instruments that provide instructions to staff on how the relevant legislative requirements are implemented. |
| Contact Visit | As defined in r. 2(1) *Prison Regulations 1982* and means a visit to a prisoner where there is no physical barrier between the prisoner and the visitor but physical contact between them is limited and supervised by a prison officer.  |
| 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. |
| Officer in Charge (OIC) | As defined in s 3(1) [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) and refers to either the 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) [*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. |
| Non-contact Visit | As defined in r 2(1) *Prison Regulations 1982* and means a visit to a prisoner where there is a physical barrier between the prisoner and the visitor, but they are able to able to see each other and to communicate verbally.  |
| Prescribed Period | The duration for which a person may be banned from gazetted prison property, in accordance with r 54B [*Prisons Regulations 1982*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1947_homepage.html). |
| Prescribed Circumstances | The circumstances for which a person may be banned from gazetted prison property, in accordance with r 54B [*Prisons Regulations 1982*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1947_homepage.html). |
| 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. |
| Prison Officer | A person engaged or deemed to have been engaged to be a prison officer under s 13 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). |
| ‘Restricted Category’ Prisoner | A remand or sentenced prisoner is a restricted category prisoner if they have contact restrictions necessitating non-contact or supervised visits or no visits with children (if charged or convicted, includes previous convictions of a violent or sexually related offence against a child aged 18 years or under). |
| Security Manager | The officer in charge of security in a prison, who is responsible for the controlling and administering of security functions in a prison, including intelligence gathering and analysis and risk management.  |
| Staff | All persons employed by the Department of Justice, Corrective Services. 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 [*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 [*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 Justice, Corrective Services to record and manage comprehensive information relating to prisoners. |
| Traffic (unauthorised items) | The act of deliberately concealing an unauthorised item(s) with the intention of entering a prison or prison grounds and avoiding detection by authorities. |
| Unlawful Consorting Notice | Unlawful Consorting Notice issued under the *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021* |
| Visitor | A person who wishes to visit or have access to and speak to a prisoner under s 59 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) |
| Visitor Ban | A ban of a visitor in accordance with s 66 (4) *Prisons Act 1981* which applies to all public and private prisons in Western Australia. |

## Related legislation

* *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021*
* *Prisons Act 1981*
* *Prisons Regulations 1982*

# Assurance

It is expected that:

Prisons will undertake local compliance in accordance with the [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.

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

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 DirectorOperational Projects, Policy, Compliance and Contracts | 25 June 2021 | 19 July 2021 |
| 2.0 | Operational Policy | Approved by the Commissioner  | 16 December 2022 | 20 December 2022 |
| 3.0 | Operational Policy | Approved by the Commissioner CM: S23/112756 | 4 December 2023 | 12 December 2023 |

# Appendix A: Circumstances and Periods for Which Persons May be Banned from Prison Visits

|  |  |
| --- | --- |
| Circumstances in which a person may be banned from visiting a prison | Maximum period for which a person may be banned from visiting a prison |

|  |  |
| --- | --- |
| The person is a serious security risk to the prison or prison system | 12 months |
| The person has attempted to take a weapon into a prison | 12 months |
| The person has coerced or attempted to coerce a visitor to a prisoner to contravene s 50(1) of the *Prisons Act 1981* | 12 months |
| The person has threatened or assaulted a contractor, medical officer, officer, prison officer or subcontractor while that person was carrying out functions under the Act | 12 months |
| The person has threatened to harm or has harmed a drug detection dog | 6 months |
| The person has attempted to take an unauthorised item other than a weapon into a prison | 6 months |
| The person is the subject of a charge relating to or has been convicted of an offence under the following: |  |
| *CS & CS Act 1999* s 90 or s 91 | 12 months |
| *Prisons Act 1981* s 50(1)(a) or (b) | 12 months |
| *The Criminal Code* s 145 | 12 months |
| *Prisons Act 1981* s 52(4)(a) or (b) | 12 months |
| *Young Offenders Act 1991* s 193(2) or s 194 | 12 months |
| *CS & CS Act* 1999 s 92 | 6 months |
| *Prisons Act 1981* s 50(2) | 6 months |
| *Prisons Act 1981* s 52(1)(a) or (b) | 6 months |
| *Young Offenders Act 1994* s.191 and s 192 | 6 months |
| *Prisons Act 1981* s 49(6) | 3 months |
| *Prisons Act 1981* s 50(3) | 3 months |
| *Prisons Act 1981* s 52(3) | 3 months |
| *Prisons Act 1981* s 60(4) | 3 months |

# Appendix B: Reasons that are not Required to be Given for the Purposes of a Visitor Ban

The reasons for not providing a visitor with written details for their ban are it could reasonably be expected to[[14]](#footnote-14):

1. Impair the effectiveness of a lawful method of or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.
2. Reveal the existence of an investigation into a possible contravention of the law, whether or not, proceedings have been taken as a result of the investigation.
3. Enable the existence or non-existence, or identity, of a confidential source of information relating to the enforcement or administration of the law to be discovered.
4. Prejudice the fair trial of a person or the impartial adjudication of a disciplinary matter.
5. Endanger the life or physical safety of a person.
6. To endanger the security of property.
7. Prejudice the maintenance or enforcement of lawful measures to protect public safety.
8. Facilitate the escape of any person from lawful custody or endanger the security of a prison.
1. s 59 *Prisons Act 1981* [↑](#footnote-ref-1)
2. s 65 *Prisons Act 1981* [↑](#footnote-ref-2)
3. s 59 *Prisons Act 1981* [↑](#footnote-ref-3)
4. s 66(1) *Prisons Act 1981* [↑](#footnote-ref-4)
5. r. 53(3) Prison Regulations 1982 [↑](#footnote-ref-5)
6. s 66(3) *Prisons Act 1981* [↑](#footnote-ref-6)
7. r. 54B Prisons Regulations 1982 [↑](#footnote-ref-7)
8. s 8 *Prisons Act 1981* [↑](#footnote-ref-8)
9. s 66(6) *Prisons Act 1981* [↑](#footnote-ref-9)
10. r. 54 Prisons Regulations 1982 [↑](#footnote-ref-10)
11. s 66(6) *Prisons Act 1981* [↑](#footnote-ref-11)
12. s 66(9) *Prisons Act 1981* [↑](#footnote-ref-12)
13. s 66(8) *Prisons Act 1981* [↑](#footnote-ref-13)
14. r. 54BA *Prison Regulations 1982* [↑](#footnote-ref-14)