COPP 10.5 Prison Offences and Charges

Prison

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| Principles As referenced in the [Guiding Principles for Corrections Australia 2018](https://www.corrections.vic.gov.au/guiding-principles-for-corrections-in-australia):  3.4.1 Rules and routines provided to prisoners encourage their responsible behaviour and support the security, good order and management of the prison.  3.4.2 Allegations of prisoner misconduct are investigated and managed appropriately, promptly and fairly.  3.4.3 Prisoner discipline is lawful, proportionate and timely. Discipline decisions are based on evidence and are made without bias.  3.4.4 Prisoners/offenders are aware of the reasons for any imposed sanctions and acknowledge they understand their rights of appeal. Appeals are facilitated by an independent decision maker in a timely manner. |

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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).

It also applies to any organisation contracted to the Department of Justice in Western Australia under the *Court Security and Custodial Services Act 1999* (Part 2, Division 2, Section 18), for the provision of custodial services.

# Policy

All prisoners charged with a prison offence shall be treated fairly and lawfully at all times. Prisoners shall be notified in writing that they have been charged and provided with all necessary information, either written or verbally, to ensure they understand the hearing process and their rights.

Charges shall be dealt with as soon as practicable, without undue adjournment or delay to conducting proceedings[[1]](#footnote-2). The Superintendent shall ensure officers undertaking the role of the Prosecutions Officer have successfully undertaken the approved training required for that function.

# Prison Offences

## Minor and aggravated prison offences

### Prisoners may be charged under the *Prisons Act 1981* (the Act) with either a minor or aggravated prison offence.

### A prisoner commits a minor[[2]](#footnote-3) prison offence if they:

1. disobey a rule or standing order of the prison or a lawful order of an Officer; or
2. are idle, negligent or careless in their work; or
3. behave in a disorderly manner; or
4. swear or use indecent language; or
5. use insulting or threatening language or behave in an insulting or threatening manner; or
6. pretend illness or injury; or
7. wilfully or maliciously break, damage or destroy any property; or
8. prefer a false or frivolous complaint against an officer; or
9. do any act or omission of insubordination or misconduct subversive of the order and good government of the prison; or
10. fail to return to prison on or before the expiry of a period of absence authorised by an absence permit or fails to comply with a condition or restriction set out in an absence permit; or
11. fail to return to prison when no longer required for the purposes of legal or investigative proceedings to which an order was made[[3]](#footnote-4).

### A prisoner commits an aggravated[[4]](#footnote-5) prison offence if they:

1. behave in a riotous manner; or
2. assault a person; or
3. escape, or prepare or attempt to escape from lawful custody or from a cell or place within a prison in which they are confined or from any place where they are obliged to remain by prison routine or any order; or
4. use, or are in possession of drugs not lawfully issued to them
5. use drugs otherwise than as prescribed; or
6. consume or are in possession of alcohol not lawfully issued to them; or
7. are without the permission of the Superintendent, in possession of glue containing toluene or another intoxicant; or
8. are in possession of a weapon or a facsimile of a weapon; or
9. do not submit themselves for the purpose of having a body sample taken where required to do so under the Act.

### Prisoners may not be charged with an aggravated prison offence where a positive drug test falls within the substance testing window period, in accordance with [COPP 10.4 Drug and Alcohol Testing](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

## Charges of prison offences

### A charge of a prison offence alleged to have been committed by a prisoner may be made by any Prison Officer, or any person authorised (Authorised Person) to exercise a power as set out in the *Court Security and Custodial Services Act 1999[[5]](#footnote-6)*.

* + 1. An incident report shall be completed, before the Prison Officer or Authorised Person ceases duty, in accordance with [COPP 13.1 – Incident Notifications Reporting and Communications](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx), detailing the nature and circumstances of the incident and request the prisoner be charged.
    2. The Senior Officer/Principal Officer responsible for the incident minutes, shall consider the incident information to determine whether a charge of a prison offence is recommended, or the prisoner’s conduct can be managed by use of a management option, such as withdrawal of privileges, refer [COPP 10.1 – Prisoner Behaviour Management](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

### Where a formal charge is recommended, the Prosecutions Officer on receiving the finalised incident report, shall consider whether there is sufficient evidence to support a charge.

### In the case of a charge of a false or frivolous complaint against an officer, the Prosecutions Officer shall ensure there is clear evidence, founded from an independent investigation by a person not directly involved with the incident that gave rise to the charge that the prisoner knowingly made a false allegation.

### Where a formal charge is not recommended; the Prosecutions Officer may consider the incident minute recommendations when making a final determination whether to charge or not. A formal charge may proceed if the Prosecutions Officer considers it appropriate.

### Where an incident has been reported to the Western Australian (WA) Police Force for investigation (e.g. assault), a charge for a prison offence is not to proceed until the WA Police Force have concluded their investigation. Where a criminal charge is laid by the WA Police Force and the prisoner dealt with by a court, a prison charge based on the same set of facts shall not proceed.

### Where a charge is preferred, the Prosecutions Officer shall bring the matter to the attention of the Superintendent and determine a hearing date. The prisoner shall also be advised, in advance of the hearing date, and provided with a:

1. copy of the formal charge
2. written explanation of the process for conducting proceedings, including the options available to the prisoner and their right to call witnesses.

### A prisoner should be given sufficient time to prepare for a hearing, dependent on the nature of the charge, evidence to be called and how long the prisoner may have been aware of the charge.

### In any case, the time and date set for the hearing shall provide the prisoner with at least 24-hours’ notice, unless the prisoner otherwise agrees to an earlier time.

### The management and placement of a prisoner following an incident may require them to be separated from other prisoners pending investigation, inquiries or the hearing of the charge. Immediately following the incident, the Superintendent/OIC may order[[6]](#footnote-7) the prisoner’s confinement to:

1. their own cell
2. another cell or unit
3. an exercise yard.

### Where out of necessity, the Superintendent/OIC orders the confinement of a prisoner for the purpose of maintaining the good order, government or security of the prison, the procedures for ordering confinement shall be in accordance with [COPP 10.7 – Separate Confinement](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx).

### Multiple charges may be laid against a prisoner based on a single urine sample or if the prisoner commits a drug offence[[7]](#footnote-8), if the source of evidence contains multiple drugs.

## Charges where prisoner due for release[[8]](#footnote-9)

### Where a minor offence charge is laid against a prisoner who is due for release before the charge has been determined, the prisoner may be detained in custody for no more than 24 hours to enable the charge to be determined.

### Where a Visiting Justice is not available within that period, the Superintendent shall proceed to inquire into and determine the charge.

### A prisoner sentenced to punishment for a prison offence at a time when the sentence on which they were imprisoned expires, or they were otherwise entitled to be released, shall undergo or complete such punishment, as the case may be, and be treated as a sentenced prisoner until entitled to be released, (refer to section 5.2.5 separate confinement).

### Where an aggravated prison offence is laid against a prisoner who is due for release before the charge has been dealt with, the prisoner shall, when due for release, be delivered to the custody of a Police Officer to be dealt with, whether by release on bail or otherwise, according to law.

### In such circumstances, the Superintendent or a Prison Officer authorised by the Superintendent shall commence a prosecution in a court of summary jurisdiction for the offence accordingly.

# Hearing and determination of charges

## General procedures

### Every charge of a prison offence shall be heard in the presence of the prisoner, in either the prison where it is alleged the offence was committed or some other suitable place[[9]](#footnote-10).

### The Superintendent or Visiting Justice may direct that the prisoner and any witnesses appear by video-link from a suitable place in this State, provided video-link facilities are available, the prisoners and witnesses (if any) can reasonably be available to appear by video-link and the Superintendent or Visiting Justice considers it appropriate to do so.

### A request by a prisoner to defer the hearing of a prison charge must be made in writing to the Assistant Superintendent by completing the [Request to Defer the Hearing of a Prison Charge](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/copp-forms.aspx) form. All decisions relating to the request shall be recorded in writing on the form and the Prosecutions Officer shall be advised accordingly.

### A prisoner is not to be represented by a legal practitioner[[10]](#footnote-11) in proceedings before a Superintendent or Visiting Justice.

### The Superintendent or Visiting Justice may determine, following appropriate inquiries, that a prisoner charged with a prison offence does not comprehend the nature or circumstances of the alleged offence or proceedings. This may include, but is not limited to a:

1. prisoner that cannot understand English
2. mentally impaired accused prisoner subject to a custody order[[11]](#footnote-12)
3. prisoner with a recognised cognitive impairment or disability (i.e. Disability Services Commission Alert)
4. prisoner with a mental health condition (i.e. Medical Alert).

### In such cases, the Superintendent or Visiting Justice may appoint a person nominated or agreed to by the prisoner, or in the absence of such nomination or agreement, some other person to assist the prisoner and represent him in the proceedings[[12]](#footnote-13).

### Generally, this would be a person within prison, such as a family member or peer support prisoner, but may be a prisoner’s guardian or other such person, having regard for the person’s safety and the prison’s security.

### The Superintendent or Visiting Justice in determining a prison offence, where the prisoner charged denies the truth of the charge, shall be in accordance with the procedures set out in s.66 of the *Prisons Regulations 1982*.

### The Superintendent or Visiting Justice shall not be bound by the rules of evidence but may admit any evidence which in their opinion is relevant to the charge and may decline to admit repetitious material.

## Superintendent hearings

### All charges, whether minor or aggravated prison offences, will be first heard by the Superintendent.

### The Superintendent shall, as they think appropriate and having regard to the nature and circumstances of the alleged prison offence:

1. if the prisoner so agrees, suspend further action with respect to the charge on condition of the good behaviour of the prisoner for a stated period not exceeding 2 months and order the withdrawal of the charge at the end of that period if the condition has been observed; or
2. direct that the charge be withdrawn or that a further or different charge be laid; or
3. refer the charge to a Visiting Justice; or
4. if the prisoner so requests and the Superintendent agrees to the request, inquire into and determine a s.69[[13]](#footnote-14) charge.

### The Superintendent might consider it appropriate to withdraw a charge, utilising alternative prison management options, where in their individual assessment of a prisoner with a recognised cognitive impairment or mental health condition, the impact of proceedings or the imposition of a penalty may be overly detrimental.

### Where the Superintendent proposes to refer a charge to a Visiting Justice, they shall call upon the prisoner to admit or deny the charge, noting the prisoner’s response on the charge.

### The Prosecutions Officer shall ensure the Superintendent endorses any determination, referral or adjournment in the Punishment Book.

## Visiting Justice hearings

### A Visiting Justice may inquire into and determine any charge of a minor prison offence[[14]](#footnote-15), referred by the Superintendent.

### Where a charge of an aggravated prison offence alleged to have been committed by a prisoner is referred to a Visiting Justice, the Visiting Justice may, as they think appropriate and having regard to the nature and particulars of the alleged prison offence and the extent of their powers to impose a penalty (Section 5.2.1):

1. direct the Superintendent to commence a prosecution for an aggravated prison offence in a court of summary jurisdiction; or
2. inquire into and determine the charge as a minor prison offence.

### Where a charge of an aggravated prison offence is referred to a court of summary jurisdiction, a Prison Officer authorised in writing by the Superintendent may appear before the hearing and conduct the prosecution.

### The Prosecutions Officer shall ensure the Superintendent, or the Visiting Justice endorses any determination, referral or adjournment in the Punishment Book[[15]](#footnote-16).

### The Prosecutions Officer shall record the audio of the Visiting Justice hearings in accordance with [Appendix C – Procedure for Digital Audio Recording of Visiting Justice Hearings](#_Appendix_C_–)

## Review and/or appeal of a determination

### An application for judicial review (writ of certiorari) of the Visiting Justice's determination must be made to the Supreme Court of Western Australia.

# Imposition of Penalties

## Penalties by a Superintendent[[16]](#footnote-17)

* + 1. Where a minor prison offence is heard and either the prisoner admits the charge or the Superintendent finds the charge proved, the Superintendent may impose one or more of the following penalties:

1. a caution
2. a reprimand
3. cancellation of gratuities for a period not exceeding 14 days
4. confinement in the prisoner’s sleeping quarters for no more than 72 hours.

### The Superintendent in imposing a penalty or penalties ([Appendix A](#_Appendix_A_–)), may suspend them for a period not exceeding 2 months, on condition of the prisoner’s good behaviour during that period. If the prisoner then observes that condition, then no penalty shall be imposed.

## Penalties by a Visiting Justice[[17]](#footnote-18)

### Where a minor prison offence is determined by a Visiting Justice and either the prisoner admits the charge or the Visiting Justice finds the charge proved, the Visiting Justice may impose one or more of the following penalties:

1. separate confinement in a punishment cell for a period not exceeding 7 days
2. confinement in the prisoner’s sleeping quarters for a period not exceeding 7 days
3. separate confinement in a punishment cell for specified hours during a weekend or during 2 weekends
4. restitution in the manner specified by the Visiting Justice
5. confiscation of property associated with the offence and destruction or disposal otherwise of that property if the Visiting Justice thinks appropriate.

### Where an order of restitution for damage is made by a Visiting Justice, the Prosecutions Officer shall ensure the amount debited against the prisoner is for the actual cost of restitution and not an amount based on a quote.

### The Visiting Justice should be asked, where the actual cost is not known at the time of the hearing, to consider ordering restitution for:

1. the amount of the quote or any lesser figure that represents the final actual cost; or
2. the actual cost where higher than the quote, the prison bears the extra cost.

### Where the Visiting Justice is imposing a penalty on the same occasion for more than one minor prison offence, if a penalty of separate confinement in a punishment cell or confinement in a prisoner’s sleeping quarters is to be imposed for each offence, in no case shall the period of separate confinement exceed 21 days.

### A prisoner undergoing punishment of separate confinement in a punishment cell for a period exceeding 7 days shall spend 48 hours out of the punishment cell after each period of 7 days in separate confinement and, unless the prisoner is in custody only for the purpose of undergoing that punishment, any such period of 48 hours shall not be reckoned as time spent undergoing the punishment of separate confinement.

### Where a Visiting Justice considers that in the circumstances it is inappropriate to impose one or more of the penalties specified in section 5.2.1, they may impose one or more of the penalties available to the Superintendent.

## Penalties by a court of summary jurisdiction[[18]](#footnote-19)

### A court of summary jurisdiction that convicts a prisoner of an aggravated prison offence, other than an escape related offence[[19]](#footnote-20), may impose one or more of the following penalties:

1. imprisonment for a term not exceeding 6 months, the term to be cumulative upon any term or terms of imprisonment that the offender is undergoing or is liable to undergo
2. a fine of $300
3. separate confinement in a punishment cell for a period not exceeding 28 days, but a prisoner undergoing punishment under this subparagraph shall spend 48 hours out of the punishment cell after each period of 7 days in separate confinement and, unless the prisoner is in custody only for the purpose of undergoing that punishment, any such period of 48 hours shall not be reckoned as time spent undergoing the punishment of separate confinement.

### A court of summary jurisdiction that convicts a prisoner of the aggravated prison offence of escape, or prepares or attempts to escape from:

1. lawful custody; or
2. a cell or place within a prison in which they are confined; or
3. any place where they are obliged to remain by the prison routine or any order,

may impose a penalty of imprisonment for a term not exceeding 12 months, the term to be cumulative upon any term or terms of imprisonment that the offender is undergoing or is liable to undergo.

### Where a court of summary jurisdiction considers that in the circumstances it is inappropriate to impose a penalty specified above (section 5.3.1), they may impose a penalty as if the offence were a minor prison offence.

## Penalty of confinement

### Where a penalty of confinement has been imposed, to either the prisoner’s sleeping quarters or a punishment cell, the cell used for the confinement or separate confinement shall be well-lit, ventilated and of such a size not to cause any injury to the prisoner’s health. Additionally, the prisoner shall have time out of their cell and access to daily exercise for not less than one hour[[20]](#footnote-21).

### A penalty of separate confinement[[21]](#footnote-22) in a punishment cell shall be deemed to have commenced to run from 1 p.m. on the day that the penalty was imposed and shall determine at 1 p.m. on the day that the penalty determines. .

### A penalty of separate confinement[[22]](#footnote-23) in a punishment cell for a specified number of hours during a weekend shall be served during the hours specified in the Visiting Justice’s order.

### A penalty of confinement in sleeping quarters for a specified number of hours or days shall be reckoned from the time of pronouncement of that penalty[[23]](#footnote-24).

### A prisoner’s supervision level shall be managed in accordance with [COPP 10.1 – Prisoner Behaviour Management](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) and the following punishment regimes and as determined by the Superintendent:

1. [Appendix A – Regime for Prisoners Sentenced to Confinement in Sleeping Quarters](#_Appendix_A_–) S82
2. [Appendix B – Regime for Prisoners Sentenced to Confinement in a Punishment Cell](#_Appendix_B_–) S82.

### The Unit Manager shall ensure the TOMS supervision plan and supervision logs are completed for all prisoners held in separate confinement.

### The Superintendent shall ensure a copy of the supervision plan is provided to the prisoner. This document is placed on the prisoner’s unit file.

### The Superintendent may suspend or alter the supervision plan where a healthcare worker advises it necessary for a prisoner’s physical or mental health. The confinement will restart when the prisoner is considered fit to serve the remainder of the punishment.

### Prisoners completing a period of separate confinement imposed following conviction for a prison offence are to be returned to basic or standard supervision level, unless their behaviour requires placement on close supervision.

# Post Hearing Administration

### Where a Superintendent or Visiting Justice has imposed a punishment for a prison offence, a record shall be entered into the Punishment Book, signed and dated by the Superintendent or Visiting Justice, to include:

1. a statement of the nature of the offence for which the punishment was imposed
2. the date of the offence
3. the name of the prisoner and the punishment imposed[[24]](#footnote-25).
   * 1. The Prosecutions Officer shall ensure that all actions and information regarding the charges, outcomes/penalties imposed are entered into TOMS.

# Standing Orders

### Superintendents may develop a Standing Order, compliant with this COPP as operationally required.

### For prisons requiring a Standing Order this shall be compliant with [COPP 1.3 – Standing Orders](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx) and the Department’s [Operational Policy and Procedure Framework](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx).

# Annexures

## Related COPPs

* [COPP 1.3 – Standing Orders](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 7.1 – Prisoner Communication](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 10.7 – Separate Confinement](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)

## Definitions and acronyms

| 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. |
| Evidence | Items or things which may be used to determine the facts associated with a particular incident or to prove or disprove a fact in a court of law. Physical evidence need not be visible to the naked eye and may include fingerprints, footprints, footwear impressions that may need to be recorded or analysed. |
| 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 | A person appointed or deemed to have been appointed for the purposes of the [*Prisons Act 1981*](#_top) under, or as referred to in, s.6 or s.13. Also includes any contract worker authorised by the chief executive officer under s. 15I(1)(b) of the [*Prisons Act 1981*](#_top) to perform the functions of a prison officer. |
| Officer in Charge (OIC) | An officer designated as having the charge and superintendence of a prison in the absence of the Superintendent. |
| Prison Offence | Refers to a minor prison offence or an aggravated prison offence as defined respectively under s.69 and s.70 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)*.* |
| 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. |
| Prosecutions Officer | A Prison Officer who has successfully completed the formal and practical components of Department of Corrective Services 'Prosecutor's Course' and authorised to conduct the prosecution of prison charges before a Superintendent or Visiting Justice. |
| Punishment Book | A book as defined in s.80 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) where the Superintendent or Visiting Justice enters details associated with the punishment imposed on a prisoner for a prison offence. |
| Punishment Cell | A cell certified by the CEO in writing as fit for the purpose of punishment (r.68 of the *Prisons Regulations 1982*). |
| Superintendent | The Superintendent as defined in s.36 of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)and includes any reference to the position responsible for the management of a private prison under Part IIIA of the [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a prison. |
| Video-link | A visit that is conducted between two or more participants at different sites by using computer networks to transmit audio and video data. Generally used for Official purposes such a Court appearance via video. |
| Visiting Justice | A person who is appointed to be a visiting justice as defined in s.54 of the *Prisons Act 1981* |
| TOMS (Total Offender Management Solution) | An electronic database used by the Department of Corrective Services to record and manage comprehensive information relating to prisoners and detainees. |

## Related legislation

* *Prisons Act 1981*
* *Prisons Regulations 1982*
* *Criminal Law (Mentally Impaired Defendants) Act 1996*

# 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 undertake management oversight as required.
* 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 the Director Operational Policy, Projects, Compliance and Contracts | 1 December 2021 | 28 December 2021 |
| 2.0 | Operational Policy | Approved by the Deputy Commissioner Operational Support  CM ref: D23/927313 | 16 October 2023 | 10 November 2023 |
| 3.0 | Operational Policy | Approved by the Deputy Commissioner  Operational Support  CM ref: D24/203960 | 18 June 2024 | 27 June 2024 |

Appendix A – Supervision Plan for Prisoners Sentenced to Confinement in Sleeping Quarters S82

| ***If any regime conditions are not met a note must be made in the TOMS Supervision Log*** | |
| --- | --- |
| **Entitlements** | **Regime / Access to Services** |

|  |  |
| --- | --- |
| **Clothing and footwear** | Prison issued |
| **Food and water** | Provided food and water, at the usual hours  Meals provided in sleeping quarters with disposable utensils |
| **Personal hygiene** | Daily shower, separate from other prisoners. The Unit Manager may approve additional access.  Prison issued personal hygiene items |
| **Accommodation** | Within cell or otherwise with clean bedding  Normal cell furniture |
| **Exercise and out of cell hours** | Minimum of 1 hour per day.  The minimum time allowed to a prisoner for taking air and exercise shall not include the time taken for carrying out normal daily routines (making the bed, going to the shower, and for ablutions, etc.) |
| **Medical care** | Yes, prisoner provided medical care in sleeping quarters and in sight of, but out of hearing of the Prison Officer, except in emergencies.  Regular, preferably daily, review by Health Services staff. |
| **Social visits** | Nil, except where the Superintendent directs otherwise |
| **Official visits** | As required for official visits, separate from other prisoners |
| **Movements** | Under escort of a Prison Officer at the discretion of the Superintendent |
| **Religious and spiritual observance** | Upon request by the prisoner and provided where practicable, separate from other prisoners |
| **Telephone** | Legal calls for any matter currently before the courts and approved common contact list.  Minimum of 1 daily call to approved social contact, 10 min per call. Additional calls at the discretion of the Unit Manager |
| **Writing material** | Writing materials at request of the prisoner and at the discretion of the Unit Manager.  At the request of the prisoner, writing material and a sealable envelope shall be made available for privileged correspondence with the Parliamentary Commissioner (refer [COPP 7.1 – Prisoner Communication](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)). |
| **Letters (per month)** | 12  16 if long term\* or no visitors\*\* |
| **Mail services** | Normal receipt and dispatch |
| **Access to property in storage** | Legal papers relating to any matter currently before the courts. Additional access at the discretion of the Unit Manager. |
| **Employment** | Nil, however where practicable, the Superintendent may arrange for constructive activities to be undertaken by the prisoner in sleeping quarters which may include hobby/craft work for community use or sale (proceeds to Revenue). |
| **Gratuities** | Nil |
| **Spends (weekly)** | Nil but may retain items already in cell.  Unit Manager may restrict access to some items e.g. cigarette lighters. |
| **Leave of absence** | Suspended or cancelled |
| **Education / offender programs** | At the discretion of the Superintendent.  In cell access and may be in sight of a Prison Officer. |
| **Study materials** | Yes, if part of an approved education/offender course |
| **Library** | In cell, a prisoner may request reading materials from Prison Officers |
| **Personal electrical items per cell** | Nil |
| **Access to cell based hobbies and materials** | Nil, except as specified below under employment |
| **Musical instrument** | Nil |
| **External recreation activities** | Nil |

\* for mail, a ‘long term’ prisoner is defined as a prisoner who is serving an effective sentence of ten years or more

\*\* for mail, ‘no visitors’ refers to prisoners who have not received more than 6 social visits during the 6 previous months.

Appendix B – Supervision Plan for Prisoners Sentenced to Confinement in a Punishment Cell S82

| **If any regime conditions are not met a note must be made in the TOMS Supervision Log** | |
| --- | --- |
| **Entitlements** | **Regime / Access to Services** |
| **Clothing and footwear** | Prison issued |
| **Food and water** | Provided food and water, at the usual hours  Meals provided in cell with disposable utensils |
| **Personal hygiene** | Daily shower, separate from other prisoners. The Unit Manager may approve additional access.  Prison issued personal hygiene items |
| **Accommodation** | In a designated punishment cell with clean bedding |
| **Exercise and out of cell hours** | Minimum of 1 hour per day.  The minimum time allowed to a prisoner for taking air and exercise shall not include the time taken for carrying out normal daily routines (making the bed, going to the shower, and for ablutions, etc.) |
| **Medical care** | Yes, prisoner provided medical care in cell and in sight of, but out of hearing of the Prison Officer, except in emergencies.  Regular, preferably daily, review by Health Services staff. |
| **Social visits** | Nil, except where the Superintendent directs otherwise |
| **Official visits** | As required for official visits, separate from other prisoners |
| **Movements** | Escort at the discretion of the Superintendent |
| **Religious and spiritual observance** | Upon request by the prisoner and provided as practicable, separate from other prisoners |
| **Telephone** | Legal calls for any matter currently before the courts and approved common contact list.  1 daily call to an approved social contact, 10 min per call. Additional calls in special circumstances at the discretion of the Unit Manager. |
| **Writing material** | Writing materials at request of prisoner and at the discretion of the Unit Manager.  At the request of the prisoner, writing material and a sealable envelope shall be made available for privileged correspondence with the Parliamentary Commissioner (refer [COPP 7.1 – Prisoner Communication](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/prison-copps.aspx)). |
| **Letters (per month)** | 12  16 if long term\* or no visitors\*\* |
| **Mail services** | Normal receipt and dispatch |
| **Access to property in storage** | Legal papers relating to any matter currently before the courts. Additional access at the discretion of the Unit Manager. |
| **Employment** | Nil |
| **Gratuities** | Nil |
| **Spends (weekly)** | Nil |
| **Leave of absence** | Suspended or cancelled |
| **Education / offender programs** | At the discretion of the Superintendent.  In cell access and may be in sight hearing of a Prison Officer |
| **Study materials** | Nil |
| **Library** | In cell, a prisoner may request reading materials from Prison Officers |
| **Personal electrical items per cell** | Nil |
| **Access to cell based hobbies and materials** | Nil |
| **Musical instrument** | Nil |
| **External recreation activities** | Nil |

\* for mail, a ‘long term’ prisoner is defined as a prisoner who is serving an effective sentence of ten years or more

\*\* for mail, ‘no visitors’ refers to prisoners who have not received more than 6 social visits during the 6 previous months.

Appendix C – Procedure for Digital Audio Recording of Visiting Justice Hearings

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| Procedure |
| 1. The security of the recording device and the subsequent recordings are the responsibility of the Prosecutions Officer at the relevant prison. 2. To commence the recording follow the manufacturer's instructions contained in the box. 3. A notice is to be placed on the entrance door of the hearing room informing prisoners and escorting staff that the hearing is being recorded. 4. Prior to commencing the recording, inform all parties in the hearing room that the recorder is about to be turned on. 5. When the recording is commenced, the Prosecutions Officer is to read the following statement;  * “This is a recording of the Visiting Justice Parade conducted at \_\_\_\_\_\_\_\_ prison, the date is \_\_\_\_\_\_\_, the time is \_\_\_\_\_\_\_, Visiting Justice \_\_\_\_\_\_\_\_presiding”.  1. The recorder is to remain on for the duration of the hearing. 2. Once the hearing is complete and prior to turning the recorder off the Prosecutions Officer is to read the following statement;  * “The Visiting Justice Parade at \_\_\_\_\_\_\_\_prison on \_\_\_\_\_\_\_\_ (date) is now complete, the time is \_\_\_\_\_\_\_”.  1. Inform all parties in the hearing room that the recorder is now turned off. 2. After the hearing, following the manufacturer's instructions and transfer the recording from the recorder to a dedicated file for Visiting Justice hearing recordings**.** |

1. r.67(1)(a) *Prisons Regulations 1982* [↑](#footnote-ref-2)
2. s.69 *Prisons Act 1981* [↑](#footnote-ref-3)
3. s.85 *Prisons Act 1981* [↑](#footnote-ref-4)
4. s.70 *Prisons Act 1981* [↑](#footnote-ref-5)
5. clause 14 of schedule 2 *Court Security and Custodial Services Act 1999* [↑](#footnote-ref-6)
6. s.36(3) *Prisons Act 1981* [↑](#footnote-ref-7)
7. s.70(d) *Prisons Act 1981* [↑](#footnote-ref-8)
8. s.32 *Prisons Act 1981* [↑](#footnote-ref-9)
9. s.74(1) *Prisons Act 1981* [↑](#footnote-ref-10)
10. s.76(1) *Prisons Act 1981* [↑](#footnote-ref-11)
11. s.19(5) *Criminal Law (Mentally Impaired Defendants) Act 1996* [↑](#footnote-ref-12)
12. s.76(2) *Prisons Act 1981* [↑](#footnote-ref-13)
13. s.69 *Prisons Act 1981* [↑](#footnote-ref-14)
14. s.72 *Prisons Act 1981* [↑](#footnote-ref-15)
15. r.67(1)(b) *Prisons Regulation 1982* [↑](#footnote-ref-16)
16. s.77 *Prisons Act 1981* [↑](#footnote-ref-17)
17. s.78 *Prisons Act 1981* [↑](#footnote-ref-18)
18. s.79 *Prisons Act 1981* [↑](#footnote-ref-19)
19. s.70(c) *Prisons Act 1981* [↑](#footnote-ref-20)
20. s.82 *Prisons Act 1981* [↑](#footnote-ref-21)
21. r.69(1) *Prisons Regulations 1982* [↑](#footnote-ref-22)
22. r.69(2) *Prisons Regulations 1982* [↑](#footnote-ref-23)
23. r.71 *Prisons Regulations 1982* [↑](#footnote-ref-24)
24. s.80 *Prisons Act 1981* [↑](#footnote-ref-25)