



**Disclosure of Information to Third Parties – Procedures**

**Table of contents**

1. Purpose..... 1  
 2. Scope..... 1  
 3. Definitions and acronyms..... 1  
 4. Court ordered requests or requests authorised by legislation ..... 2  
 5. Deaths in custody..... 2  
 6. Requests for medical records..... 2  
 7. Requests for psychological records ..... 3  
 8. Requests for program reports or counselling records ..... 3  
 9. Prison based records ..... 3  
 10. Appendices ..... 7  
 11. Approved..... 7  
 12. Amendment history ..... 7

**1. Purpose**

These procedures support and operationalise [Policy Directive 6 – Access to Information](#) and provide clear directions and standards to assist staff and govern the release of prisoner information to third parties.

**2. Scope**

These procedures support and operationalise [Policy Directive 6 – Access to Information](#) and apply to both public and private prisons.

**3. Definitions and acronyms**

<b>Designated Superintendent</b>	The Superintendent as defined in s 36 of the <a href="#">Prisons Act 1981</a> and includes any reference to the position responsible for the management of a private prison under Part IIIA of the <a href="#">Prisons Act 1981</a> . This definition does not include the Officer in Charge of a prison (see 'superintendent').
<b>Freedom of Information (FOI) Branch</b>	Any reference to the Freedom of Information Branch in this document refers to the Department of Corrective Services <a href="#">FOI Branch</a> unless the person to which the records relate is currently imprisoned at a private prison, in which case the reader is to refer to the Contractor’s FOI processes.
<b>Prison based records</b>	Records held at the prison. Does not include medical records, community correction records, psychological records or records pertaining to treatment programmes.
<b>Statutory body</b>	A body set up by law which is authorised to enforce legislation on behalf of the State, an organisation with the authority to check that the activities of an organisation follow laws or an organisation that has been created by a parliament.

**Superintendent** As defined in s 36 of the [Prisons Act 1981](#) and refers to either a designated Superintendent or the Officer in Charge of a prison at a particular time.

**TOMS** Total Offender Management Solution database

## Procedures

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### 4. Court ordered requests or requests authorised by legislation

This section applies regardless of the information being sought.

**4.1** All requests for documentation required to be produced for the purpose of litigation through subpoenas and/or discovery orders, or information the Department is compelled by statute to produce are to be referred to the Manager Information Release.

**4.2** Where the information requested includes medical records, the Manager of Information Release will consult with the Manager Medical Records Services at Central Medical Records prior to releasing the information.

### 5. Deaths in custody

For the release of information following a death in custody, refer to [Policy Directive 30 - Death of a Prisoner](#).

### 6. Requests for medical records

#### 6.1 Current prisoners and released prisoners

Records may be requested by:

- **Health care providers**

These requests are to be referred to the dedicated DCS helpline (1800 077 735). The health care provider must be involved in the ongoing care of the prisoner.

- **Statutory bodies**

These requests should be referred to the Manager Medical Records Services at Central Medical Records.

- **Legal representatives**

These requests may either be made by:

- the legal representative directly to the FOI Branch (refer [Section 3](#) for further information)
- a registered medical practitioner nominated by the legal representative. In these instances, supervised viewing of the patient's medical record at Health Services Head Offices may be permitted. Requests are to be made via the Director Health Services and any fees incurred are to be met by the legal representative.

- **Law enforcement agencies**

Refer to [Section 9.4](#) of these procedures.

## **6.2 Urgent requests**

Where the release of information is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned, or other persons, information may be released by a Senior Nurse or Medical Officer.

Where the request is received from an external party, the name and legitimacy of the person making the request and the reason for which the information is required must be obtained prior to any information being released.

## **6.3 Other requests**

All other requests may be directed to the office of the Director Health Services.

## **7. Requests for psychological records**

Requests from third parties for information contained within psychological records are to be directed to the Manager, Information Release.

Requests for psychiatric reports refer to [Section 6](#).

## **8. Requests for program reports or counselling records**

Requests from third parties for access to information contained within Program reports or counselling records are to be directed to FOI Branch (refer [Section 3](#) for further information).

## **9. Prison based records**

### **9.1 Requests from friends and relatives**

- 9.1.1 Officers are to establish the identity of the person making the request before providing information.
- 9.1.2 Only a prisoner's current location within the prison system may be given in response to an enquiry.
- 9.1.3 No other details such as release dates, details of offences, etc may be given out. Anyone seeking this information should be advised to write to or visit the prisoner concerned.
- 9.1.4 If the enquiry relates to a released prisoner, the caller should be advised only that there is no one by that name in prison custody. Staff should avoid giving any indication that the person has ever been in custody or that a record is held.
- 9.1.5 Callers wishing to book a visit with a released prisoner may be informed of the prisoner's release following appropriate checks of their identity.

If there is any uncertainty about the release of information, advice may be sought from the Manager Information Release.

### **9.2 Requests from victims**

All requests by victims must be referred to the Victim Notification Registry.

Officers should be mindful of the provisions of the [Victims of Crime Act 1994](#) which requires that victims be treated with courtesy and their requests dealt with expeditiously.

### 9.3 Requests from legal representatives

- 9.3.1 Staff should only confirm the current prison location of prisoners in response to any telephone enquiries.
- 9.3.2 Legal representatives need to provide a written authority from their client, or where this has not been supplied, permission should be obtained directly from the prisoner concerned.
- 9.3.3 Requests for any information other than a prisoner's current prison location should be made in writing to the Manager Information Release.
- 9.3.4 Legal representatives should be advised that it may be faster for the prisoner to access documentation using the [Disclosure of Information to Prisoners – Procedures](#), or for the legal representative to lodge a subpoena to the court.

### 9.4 Requests from law enforcement agencies

Refer also Section 9.5 below in regard to the release of information pertaining to the commission of criminal acts committed by prisoners while imprisoned.

This section applies to law enforcement agencies such as the Western Australia Police (WAPol), Australian Federal Police, Corruption and Crime Commission or Australian Security Intelligence Organisation.

- 9.4.1 All requests for information from law enforcement agencies, other than a prisoner's current location within the prison system, should be referred to the Manager, Corrective Services Intelligence Directorate (CSID) who will assess the request for presence of the following:
- The personal details of staff or third parties
  - Intelligence related information, including Incident / Security Reports (other than where an alleged criminal offence has been referred to WAPol by prison staff – refer [Section 9.5](#) for further information)
  - Information, that if released, may affect the safety and security of the prison, or the safety and security of any person, whether in the prison or based in the community
  - Medical information
- 9.4.2 CSID, as a central point of contact, will ensure all such enquiries and the resulting outcome are logged and made available for verification and audit.
- 9.4.3 CSID will ensure that any information, as outlined above, disseminated to a law enforcement agency does not identify any staff member, other than to acknowledge that they are a departmental employee, except where legislation instructs that the original document is provided.
- 9.4.4 In all cases where the identity of a staff member is requested, CSID will consult the staff member in the first instance. Where a legal instrument, such as a warrant, is issued for the original document the staff member(s) will be immediately advised.
- 9.4.5 With respect to requests for medical information, CSID will receive the request and consult with the Manager Medical Records Services at Central Medical Records who may release the information.

- 9.4.6 Where staff provide a statement to a law enforcement agency in relation to an event that has occurred as part of, or in connection to, their departmental duties, they should provide the prison address and not their home address.
- 9.4.1 Where the staff member being requested for information is advised that the request concerns potential misconduct or criminal conduct, Integrity Services is to be advised. Refer also to [Reporting and Management of Suspected Misconduct and/or Criminal Activity by Employees Policy](#).

Where applicable, the information disseminated to the WAPol shall be dealt with in accordance with [Memorandum of Understanding 0004/2005](#).

## **9.5 Referring criminal acts committed by prisoners whilst imprisoned or visitors to a prisoner/prison to WAPol**

- 9.5.1 From time to time, it may be necessary to provide WAPol with information pertaining to an alleged criminal offence referred to WAPol by prison staff, committed by prisoners whilst imprisoned, or by visitors to a prisoner / prison.
- 9.5.2 In the event that WAPol assistance is requested to investigate a criminal matter as defined in Section 9.5.1 above, the prison officer making the request shall seek formal written approval from the prison's Security Manager, Assistant Superintendent Operations or Designated Superintendent to provide WAPol with:
- Any physical evidence collected (handled in accordance with Procedures for the Preservation of Evidence, Continuity of Exhibits, Drug Movements and Inventory Control)
  - TOMS Incident Reports pertaining to the incident only
  - Copies of photographs or video taken during the incident
  - Any other information deemed relevant to the investigation of the alleged criminal offence in line with this subsection, as determined by the Designated Superintendent.
- 9.5.3 The delegated authority approving the release of the information in line with the above subsections shall assess the information contained within the Incident Report for the following before authorising its release:
- Personal details of staff or third parties (other than names and TOMS ID Numbers)
  - Information, that if released may affect the safety and security of the prison, or any person, whether in the prison or based in the community
  - Medical information.
- 9.5.4 If the report includes information detailed in Section 9.5.2 above and any doubts exist as to possible safety or security issues which may arise if the relevant Incident Reports are released, advice may be sought from CSID.
- 9.5.5 A receipt should be obtained from WAPol at the point of the exchange of any information with WAPol Officers. Details in regard to the information and items handed to WAPol are to be recorded by the relevant delegated authority in the applicable Incident Report's minutes. The receipt received from WAPol shall be forwarded to the prison's Security Manager.

9.5.6 If WAPol request any information other than that listed above, or information for any other purpose than for the investigation of an alleged criminal offence committed by a prisoner whilst imprisoned or a visitor to a prisoner, refer [Section 9.4](#) above.

## **9.6 Requests from service providers**

Information released to service providers shall be conducted in accordance with the [Principles and procedures for disclosing or exchanging information under section 113\(2\) of the Prisons Act 1981](#). The service provider should refer to their specific Contract, Service Agreement or Memorandum of Understanding for further information regarding the release of information to service providers.

## **9.7 Requests from specified statutory bodies**

### **Office of the Inspector of Custodial Services (OICS)**

- Requests for intelligence related information should be referred to the Manager CSID.
- In line with [Section 6](#) of these procedures, requests for medical information are to be referred to the Manager Medical Records Services at Central Medical Records.
- Prison staff are to respond fully to any other official enquiry from OICS, including relating to the provision of documentation. For further information, refer to the [Inspector of Custodial Services Act 2003](#) and [Policy Directive 43 – Inspector of Custodial Services](#).

If there is any uncertainty about the release of information, advice may be sought from the [Coordinator Custodial Inspections](#).

### **Office of the Information Commissioner**

Any requests should be referred to the FOI Branch (refer [Section 3](#) for further information).

### **Parliamentary Commissioner for Administrative Investigations**

Any requests should be referred to the Manager Ministerial Liaison Branch.

## **9.8 Requests from Government agencies generally**

Only the prisoner's current prison location should be provided. Requests for further information should be directed to the Manager Information Release.

## **9.9 Media requests**

All media enquiries are to be referred direct to the Department's Strategic Communications Branch.

## **9.10 Requests from other organisations or person**

Only the prisoner's current prison location should be provided. Requests for further information should be directed to the Manager Information Release.

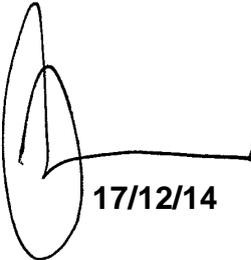
## 10. Appendices

Useful contact information can be found at [Appendix 3 – Relevant Contacts](#).

If prisoner consent is required to release information to Third Parties in accordance with these Procedures, [Appendix 4 – Prisoner’s Consent to Release Information](#) is to be used.

## 11. Approved

Commissioner or delegated authority as per Policy Directive 6

Signature: 

Date: 17/12/14

## 12. Amendment history

Version	Approved	Effective from
1. First published as: Schedule of documents available to prisoners outside FOI - Appendix 1	N/K	14 May 2001
2. Divided into 2 appendices – this one and ‘Disclosure of Information to Prisoners – Procedures’	13 January 2014	29 January 2014
3. Amended	17 December 2014	29 December 2014