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| **Funeral Attendance of Aboriginal Prisoners** | | | |
| **Section** | | 1. Security and Control | |
| **CR Number** | 1.2.8 | **Current Issue Date** | June 2021 |
| **Legislation & Policy** | | Corrections Act 1986  Charter of Human Rights and Responsibilities Act 2006  Gender Equality Act 2020  Corrections Administration Permits, Rehabilitation and Transition Permits and Interstate Leaves of Absence Operational Guidelines | |
| **Standard** | | Safety and Security Services - Security | |
| **Attachments** | | Nil | |
| **Forms** | | Corrections Administration Application Form (Schedule 1.1) | |

1. **PURPOSE**

To provide guidance to all staff, in particular prison General Managers, Aboriginal Wellbeing Officers (AWO), Aboriginal Liaison Officers (ALO) and Senior Operations Managers/Operations Managers, regarding Aboriginal prisoner attendance at funerals, under escort, in a safe, secure and sensitive manner that acknowledges and respects Aboriginal culture and family obligations.

1. **REQUIREMENT**

Prisons must have processes in place for prisoners to be temporarily absent from the prison under a Corrections Administration Permit or Rehabilitation and Transition Permit under the auspices of the Custodial Community Permit Program (CCPP).

1. **CONTEXT**

In accordance with recommendation 171 of the Royal Commission into Aboriginal Deaths in Custody, recognition is given to the special kinship and family obligations of Aboriginal prisoners that extend beyond the immediate family.

Corrections Victoria recognises that Aboriginal persons hold distinct cultural rights which are protected under the *Charter of Human Rights and Responsibilities Act* 2006*,* including the right to maintain their kinship ties.

1. **INSTRUCTION**
   1. **Kinship**

Kinship within Aboriginal cultures extends to close relationship ties where a grandparent, aunt, or uncle may assume a parental role, or a cousin a brother/sister relationship. For example, where a woman has raised a niece or nephew she may assume a mothering role and her offspring are regarded as brothers and sisters, and where a mother or father is deceased, the aunt or uncle will often take on the role of parent.

* 1. **Notification**
     1. Notification of an Aboriginal funeral may be received by prison staff from a number of sources including, but not limited to:
* Corrections Victoria’s Naalamba Ganbu and Nerrlinggu Yilam;
* the Aboriginal Funeral Service/or other Funeral Home;
* prisoners;
* a member of a prisoner’s family or community; and/or
* other information sources.
  + 1. Any funeral notifications or notices received must be forwarded to the Naalamba Ganbu and Nerrlinggu Yilam immediately to enable wider circulation of the notice to other locations.
    2. The Naalamba Ganbu and Nerrlinggu Yilam must circulate a copy of the funeral notice to all AWO/ALO, prison General Managers and Senior Operations Manager/Operations Managers as soon as possible.
    3. AWO/ALO are responsible for advising prisoners at their locations of the funeral.
  1. **Applications to attend a funeral**
     1. Any prisoner wishing to attend an Aboriginal funeral is required to make an application and where necessary, provide details of a significant family contact for the purposes of establishing recognition of kinship and family. The application must be made via the AWO/ALO at the location.
     2. It is the responsibility of the AWO/ALO to attempt to verify the kinship prior to progressing the application to the prison General Manager and Senior Operations Manager/Operations Managers.
     3. A representative of the deceased’s family must be nominated and where possible, a reliable contact number provided (preferably a mobile telephone number). In the event that the application is approved, this number can be used by escorting officers to liaise with the nominated person.
     4. The AWO/ALO must notify the Naalamba Ganbu and Nerrlinggu Yilam of all applications made to attend an Aboriginal funeral and include the following details:
* the number of applications from the location;
* whether relationships have been verified; and
* whether the application has been supported or not supported by the prison General Manager.
  + 1. A prisoner must apply for leave to attend a funeral using Schedule 1.1 – Corrections Administration Application Form of the Corrections Administration Permits, Rehabilitation and Transition Permits and Interstate Leaves of Absence Operational Guidelines.
    2. The application must include:
* evidence that the relationship was verified, including;
  + details of family contact
  + relationship to the deceased; and
  + a contact number
* evidence of Intervention Order or Family Violence Order checks. If there are active orders, attempts should be made to confirm if a victim(s) may attend the funeral which is to be reflected on the application.
  + 1. The AWO/ALO must provide a copy of the application to the Naalamba Ganbu and Nerrlinggu Yilam as soon as possible, so that the Naalamba Ganbu and Nerrlinggu Yilam can identify any multiple applications. The Naalamba Ganbu and Nerrlinggu Yilam will inform the Commissioner, Deputy Commissioner, Custodial Operations or Assistant Commissioner, Sentence Management Division of all applications and any issues identified.
    2. In the event that there are no applications from the location, the AWO/ALO is required to advise the Naalamba Ganbu and Nerrlinggu Yilam of nil applications.
  1. **Approval Process**

The decision to grant a permit for a prisoner to attend a funeral is to only be made by the prison General Manager upon confirmation by the AWO/ALO of the following:

* the deceased person was a close family member, recognising the Aboriginal definitions of kinship and family;
* the family of the deceased approve of the prisoner attending the funeral. This is necessary if victims of the prisoner may be attending the same funeral, or there are court orders requiring that the prisoner not be in contact with other members of the community who may be in attendance, or if the prisoner’s attendance is likely to cause distress amongst the mourners or disruption to the service; and
* where multiple applications have been received from prisoners across the State, the prisoner is on the final list approved by a Commissioner, Deputy Commissioner, Custodial Operations or Assistant Commissioner, Sentence Management Division (see also the sections below relating to multiple applications).
  1. **Considerations for community**
     1. The deceased’s family should be made aware of the proposed escort details and arrangements, including whether handcuffs or other form of restraints are to be used. In every circumstance, the safety and security of the prisoner, staff and community attending the funeral will be the primary consideration.
     2. Only those prisoners approved to attend without restraint may act as a pallbearer. Should the family wish the prisoner to be a pallbearer, this should be identified in the application.
     3. In the event that the prisoner is required to wear handcuffs or other forms of restraint, the family must be informed that under no circumstances may a prisoner act as a pallbearer. Corrections Victoria’s position on this matter should also be clearly explained to family members before the funeral to ensure that there is no confusion at the funeral about what is, or is not permissible.
  2. **Multiple applications**
     1. Limitations may be applied to the number of prisoners attending a funeral where:
* supervising large numbers of prisoners attending community events presents risks;
* there are increased risks to security and community safety presented by large groups; and/or
* there is a potential negative impact on mourners given the presence of large numbers of escorting staff.
  + 1. As a guide, no more than three prisoners will be approved to attend a single funeral unless there is a strong case for increasing the number and safety, security and sensitivity of mourners can be managed. Where these circumstances exist, applications must be directed to the Naalamba Ganbu and Nerrlinggu Yilam to progress to the Commissioner, Deputy Commissioner, Custodial Operations or Assistant Commissioner, Sentence Management Division for approval.
  1. **Assessment of multiple applications**

In determining whether the above circumstances apply, the Commissioner, Deputy Commissioner, Operations or Assistant Commissioner, Sentence Management Division must take into account a range of factors including, but not limited to:

* the security ratings of the prisoner applicants;
* the closeness of the prisoners’ relationship to the deceased;
* assessed risks;
* the number of escorting staff required;
* logistical issues; and
* the family’s wishes.
  1. **Considerations for locations with multiple applicants** 
     1. Where the number of applications statewide or from a single location exceeds the number permitted to attend the funeral, consideration must be given to whether prisoners may select a representative to pay their respects at the funeral.
     2. The Naalamba Ganbu and Nerrlinggu Yilam must be notified of multiple applications prior to final approval from the prison locations.
     3. The Naalamba Ganbu and Nerrlinggu Yilam may also liaise with appropriate family members to seek their preferred attendees to the funeral and notify the locations accordingly.
     4. Once final approval has been granted by the Commissioner, Deputy Commissioner, Operations or Assistant Commissioner, Sentence Management Division the Naalamba Ganbu and Nerrlinggu Yilam will contact the prison General Manager(s), notifying them of the outcome. If a decision is made outside of standard business hours, the Manager of the Naalamba Ganbu and Nerrlinggu Yilam will call the prison General Manager and notify them of the outcome, followed up by an email to the prison General Manager, including the prison’s Senior Operations Manager/Operations Managers and the AWO/ALO.
     5. Where attendance cannot be facilitated due to security reasons, consideration should be given to offering the prisoner appropriate support services. Where possible, alternative options such as access to a live stream of the service should also be considered.
  2. **Declined applications** 
     1. For applications declined by a General Manager, the AWO/ALO may consult with the Manager, Naalamba Ganbu and Nerrlinggu Yilam or request the application and accompanying information to be re-assessed by the Commissioner, Deputy Commissioner, Custodial Operations or Assistant Commissioner, Sentence Management Division.
     2. For applications declined by the Commissioner, Deputy Commissioner, Custodial Operations or Assistant Commissioner, Sentence Management Division, the Manager, Naalamba Ganbu and Nerrlinggu Yilam will notify the prison General Manager and include the Senior Operations Manager/Operations Managers and AWO/ALO, providing the reason why the application was not approved.
     3. In the event an application is not approved, or attendance is not possible, consideration must be given to alternative supports or activities (e.g. an on-site service, additional welfare calls, Elders’ visits, a teleconference or video-conference) to enable prisoners to maintain family contact.
     4. The AWO/ALO will generally be responsible for advising the prisoner of the outcome of the application. This must only occur after the formal decision has been made by the General Manager and/or the Commissioner, Deputy Commissioner, Custodial Operations or Assistant Commissioner, Sentence Management Division.
     5. In the event the AWO/ALO is not available to advise a prisoner of the outcome of their application, this should be actioned by the prison General Manager or delegate.
  3. **Interstate travel**

Any associated interstate travel must comply with the Corrections Administration Permits, Rehabilitation and Transition Permits and Interstate Leaves of Absence Operational Guidelines.

* 1. **Conduct of the escort**
     1. Escorts must be conducted in accordance with the Commissioner’s Requirement – External Prisoner Escort Arrangements, with particular consideration being given to:
* an identified AWO/ALO participating in, or undertaking escort duties;
* escorting staff wearing civilian attire, or a civilian jacket over uniform; and
* prior to commencing escort, the escorting officers being adequately briefed on the circumstances and procedures of the escort and the sensitivity and cultural significance of the occasion.
  + 1. Prisoners are to wear civilian (plain) clothes to the funeral.
    2. Where relevant and possible, arrangements should be made for the nominated family representative to meet the escort prior to commencement of the service.
    3. An escorting officer should, as far as possible, minimise public view of restraints at a funeral. Handcuffs that are kept discreet are required to be checked at regular intervals by escorting officers.

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| Larissa Strong  **Acting** **Commissioner** |

**Information below this point is administrative supporting detail**

**only and not subject to Commissioner’s review or approval.**

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| **Acronyms** | |
| ALO | Aboriginal Liaison Officer |
| AWO | Aboriginal Wellbeing Officer |
| CCPP | Custodial Community Permit Program |

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| **Definitions** | |
|  | Nil |

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| **Associated Commissioner’s Requirements** |
| 1.2.1 - External Prisoner Escort Arrangements – **OFFICIAL: Sensitive**  1.3.3 - Reporting and Review of Prisoner Deaths  2.2.2 - Corrections Administration Permits, Rehabilitation and Transition Permits and Interstate Leaves of Absence Operational Guidelines  2.7.1 - Aboriginal and Torres Strait Islander Prisoners |

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| V5 | Sep-20 | Update |
| V4 | Jun-17 | Update |
| V3 | May-17 | Update |
| V2 | Nov-15 | Update |
| V1 | Sep-14 | First Issue |

**SCHEDULE 1.1**

corrections administration PERMIT

PRISONER/OFFENDER APPLICATION FORM

Sections 57‑58D, Corrections Act 1986

pRISONER’S FULL NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ CRN: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE OF APPLICATION: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PRISON:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TYPE OF PERMIT APPLIED FOR:

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| Administration of Justice  🞐 Attend Hearing/Tribunal  🞐 Case Conference between prisoners  🞐 Restorative Justice Meeting (non-Court)  🞐 Attendance at CCS / Community Agency  🞐 Meet with DHS Caseworker | 🞐 Health – Private Medical  🞐 Emergency Funerals/Serious Illness  🞐 Emergency – Exceptional Circumstances  🞐 Inter-Prison Visit |

DATES AND TIMES REQUESTED:

FROM: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ am/pm on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ am/pm on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL HOURS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DETAILS OF REQUESTED PERMIT

REASON FOR APPLICATION:

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PRISONER'S / OFFENDER’S SIGNATURE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PROPOSED LOCATION (where applicable):

**NAME**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**RELATIONSHIP TO APPLICANT:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PROPOSED TRANSPORT (where applicable):

**NAME:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**RELATIONSHIP TO APPLICANT:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**VEHICLE REGISTRATION:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUPPORTING DOCUMENTS ATTACHED TO APPLICATION:

**(a)** ………………………………………………………………………………………………………………

**(b)** ………………………………………………………………………………………………………………

**(c)** ………………………………………………………………………………………………………………

**PREVIOUS APPLICATIONS**:

(State any previous applications of this category and decisions)

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