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| **Media Access**  |
| **Section** | 1. Security and Control |
| **CR Number** | 1.4.6 | **Current Issue Date** | July 2021 |
| **Legislation & Policy**  | Corrections Act 1986Corrections Regulations 2019Charter of Human Rights and Responsibilities Act 2006Privacy and Data Protection Act 2014Sentence Management Manual  |
| **Standard** | Custody and Supervision Services - Security |
| **Attachments** | Nil |
| **Forms** | Nil |

1. **PURPOSE**

To provide guidelines for the assessment of requests from the media for access to correctional facilities, correctional staff, prisoners and offenders and for the assessment of potential risk posed to prisoners by media reporting.

1. **REQUIREMENT**
	1. Corrections Victoria must consider all requests made by the media to have access to correctional facilities, correctional staff, prisoners and offenders.
	2. In this Requirement, ‘media’ includes organisations, agencies or individuals who use print or digital media to report the news, current affairs, social commentary, film production, television programs, documentaries, magazines, blogs, diaries, podcasts, fiction and non-fiction books. It does not include individuals or organisations seeking to conduct research. Refer to Commissioner’s Requirement 1.4.4 – Access to and Security of Corrections Victoria Data for Research and Evaluation Purposes.
	3. Where a senior departmental officer or a private prison operator is considering a request for media access at their correctional facility, Corrections Victoria must approve such media access, prior to it being permitted by the officer or operator.
	4. In relation to departmental correctional staff, this requirement should be read in conjunction with the *Code of Conduct for Victorian Public Sector Employees*, specifically Section3.5 – *Public Comment* and Commissioner’s Requirement 1.4.8 – Conduct and Ethics.
	5. Correctional staff employed by a private prison operator and other contractors should refer to their contracts, their respective employee *Code of Conduct* policies and obligations under Part 9E of the *Corrections Act* 1986 and Commissioner’s Requirement 1.4.8 – Conduct and Ethics in relation to the disclosure of information.
	6. Key considerations prior to providing media access include:
		* legitimate public interest in the matter that is to be the subject of the media reporting;
		* the extent to which such media reporting will serve to educate and maintain the confidence of the public on matters relating to the administration of Victoria’s correctional system and how it contributes to community safety;
		* ensuring that the good order, security and management of correctional locations and the welfare of prisoners and offenders can be appropriately managed; and
		* minimising any unintended negative consequences to members of the community, victims or their families or staff.
2. **GUIDING PRINCIPLE**
	1. Section 13 of the *Charter of Human Rights and Responsibilities Act* 2006 (the Charter) recognises an individual’s right to privacy, to not have their privacy unlawfully or arbitrarily interfered with and to not have their reputation unlawfully attacked.
	2. Section 15 of the Charter prescribes an individual’s freedom of expression including the right to impart information or ideas orally, in writing or in print, where this does not infringe the rights and reputation of other persons or hinders the protection of national security, public order, public health or public morality.
	3. The correlation between media access to and by prisoners and offenders, and the rights prescribed under sections 13 and 15 of the Charter is recognised.
	4. The welfare and rights of victims must also be considered when assessing media access to a prisoner or offender, particularly where the prisoner or offender is identified as part of the media report.
3. **CONTEXT**
	1. The department may be required to restrict media access to correctional facilities, correctional staff, prisoners and offenders, in order to comply with relevant correctional and privacy legislation and government policies, and, where access is permitted, must ensure that such access is responsibly managed and reflective of community expectations.
	2. The department acknowledges that it has a responsibility to support media reporting on matters that directly relate to the manner in which it serves to keep the community safe and on matters concerning the proper administration of the correctional system.
4. **INSTRUCTION**
	1. **General Guidelines**
		1. Corrections Victoria is able to place restrictions on media accessing departmental facilities, including prisons, Corella Place, Emu Creek, Rivergum Residential Treatment Centre, Wulgunggo Ngalu Learning Place and Community Correctional Services (CCS) locations, and communicating with prisoners and staff.
		2. The *Code of Conduct for Victorian Public Sector Employees* stipulates that employees may make public comment about their duties, a public sector body, or government policies and programs, only where specifically authorised to do so. The comments made should be restricted to factual information and staff should avoid the expression of personal opinion. Public comment includes speaking engagements and providing information or comment through any media, including social media.
		3. When making a comment in a private capacity, public sector employees must ensure that their comments are not related to any government activity in which they are involved (or with which they are connected) and must make it clear that they are expressing their own view. They must ensure that their personal comments do not compromise their capacity to perform their public sector role in an unbiased manner, and that their comments are not seen or perceived to be an official comment.
		4. Media contact that does not comply with the formal processes outlined in this Commissioner’s Requirement will not be considered. These include the following situations:
		* where a media representative or multiple media organisations gather outside a correctional location seeking to speak with a correctional staff member or offender (the ‘doorstop’ interview), or seek to take film footage of either. **In these circumstances, correctional staff should not make any public comment unless authorised to do so and may advise media that they are not permitted on departmental property.** Correctional staff must immediately notify the Deputy Commissioner, Custodial Operations for prisons, or the Deputy Commissioner, Offender Services for CCS, in addition to the Strategic Communications Branch to advise them of media presence at their correctional location. Media should be directed to contact the Strategic Communication Branch; and
		* where air traffic (usually involving media filming from a helicopter) is observed in the vicinity of a prison, a No Fly Zone (NFZ) may be initiated to ensure the management, good order and security of the prison. In the event that a General Manager believes that a NFZ should be initiated, approval must first be sought from the Deputy Commissioner, Custodial Operations or Assistant Commissioner, Security & Intelligence. If approved, the General Manager or delegate will be required to liaise with a Victoria Police member to initiate the request through the Civil Aviation Safety Authority. Refer to Commissioner’s Requirement 1.3.1 – Incident Reporting.
		1. Prisoners’ access to the media via correspondence will be considered in the context of all relevant statutory provisions.
		2. While a prisoner has right to hold an opinion and freedom of expression (s15 of the Charter), consideration must be given to the protection of others.
		3. Section 47D of the *Corrections Act* allows the General Manager to stop or censor a letter sent by a prisoner, or to a prisoner by any person, not listed in 47(1)(m) (exempt persons and bodies), where the General Manager reasonably believes that the letter:
		* is a threat to prison security; or
		* may be a threat to the good order, management or security; or
		* may be of a threatening or harassing nature; or
		* may be used to further an unlawful activity or purpose; or
		* contains indecent, abusive, threatening or offensive material (written or pictorial); or
		* may be regarded by a victim[[1]](#footnote-1) as distressing or traumatic (written or pictorial), or an indecent or an offensive article or substance; or
		* would contravene the restriction on change of name applications, without approval in section 47H of the *Corrections Act*.
		1. Prison General Managers are to properly consider s47D criteria against the prisoner’s Charter rights and form a view about whether such contact is reasonable or appropriate.
		2. Prisoners’ access to reporters and journalists via visits may be similarly considered on a case-by-case basis, but treated in accordance with the principles set out elsewhere in this Requirement, as if the reporter had sought an interview with the prisoner.
		3. In the event that a General Manager is advised that a media representative has been communicating with a prisoner as a result of having misrepresented (or not disclosed) their relationship with a prisoner, such contact is to immediately cease while the matter is reviewed. If, as a result of this review, it is established that the media representative was communicating with a prisoner while in their professional capacity, further communication between the media representative and prisoner may not be permitted.
		4. The following principles will guide decisions on media access to correctional facilities and/or prisoners or offenders:
		* access is more likely to be supported where the issue or matter on which the media intend to report has a significant level of perceived or established public interest. This may include individual prisoners being permitted to participate in broader educational or media campaigns relating to community safety (e.g. culpable driving, gambling, family violence);
		* access may be permitted where media contact with correctional locations and/or prisoners or offenders will serve to provide a balanced, accurate view of correctional programs, or where the reporting is likely to promote the activities of the department;
		* the express consent of all relevant persons, including victims (where possible or appropriate), must be obtained in the event that individuals can be identified in print or electronic media;
		* access will not be granted where the reporting is likely to serve to sensationalise or glorify criminal activity or where pending or current trials or legal proceedings are likely to be adversely affected by publicity;
		* access will not be granted where the motivation (for the media representative and/or the prisoner) is thought likely to be financial gain, to enhance notoriety or reputation, or where as a result of this contact, the prisoner may acquire or reinforce a public profile which may make transition back into the community upon release more difficult;
		* prisoners and offenders are not to be identifiable in any footage unless (where appropriate) prior contact is made with, and agreement obtained from, relevant victims (or, in their absence, groups which represent victims), or the crimes of those persons are considered to be minor or non-violent in their nature or that the prisoner is considered very low risk;
		* access will not normally be granted to prisoners who are mentally unstable, cognitively impaired, or otherwise vulnerable, on departmental property or on an approved program;
		* access will not be approved if it poses any threat to the management, good order and security of the correctional location or jeopardises the welfare of prisoners or offenders;
		* access will not be approved where it may result in members of the community, victims or their families, departmental staff, prisoners or offenders being unreasonably affected by such reporting; and
		* where media access will place an unreasonable resource burden on correctional locations, access will not be granted unless a compelling reason exists. Where this is the case, the department may seek recompense for facilitating such access.
	2. **Submissions by media representatives to access correctional locations, correctional staff, prisoners or offenders**
		1. Media representatives seeking access to prisons, prison staff and/or prisoners must submit their request to the Deputy Commissioner, Custodial Operations; with respect to CCS staff and offenders, or staff and residents of residential facilities including Rivergum, Corella Place or Emu Creek, the Deputy Commissioner, Offender Services; and for staff and offenders residing at Wulgunggo Ngalu Learning Place (WNLP), the Regional Director, Gippsland.
		2. In those circumstances where it is departmental staff or a private prison operator or staff that is seeking to initiate the access of media to their respective facility, prior approval from Corrections Victoria must be obtained prior to any access being permitted. For private prisons, this approval will be via the Deputy Commissioner, Custodial Operations.
		3. In both of the above situations, the submission must address:
		* the purpose of the media contact, including details of when and how the media reporting will occur;
		* the proposed timing of the media contact, including proposed duration of attendance at the location; and
		* any request to access particular areas of the prison, correctional location, correctional staff and/or prisoners or offenders.
		1. The Deputy Commissioner, Custodial Operations or the Deputy Commissioner, Offender Services will consider the submission and, if deemed to have merit, liaise with the Department’s Strategic Communication Branch to ascertain its views on the submission.
		2. In the event that the application is supported, the Deputy Commissioner, Custodial Operations or Deputy Commissioner, Offender Services will provide advice regarding the outcome of this assessment to the Commissioner.
		3. In relation to requests received by the department from the media requesting access to, or reporting on matters primarily relating to the operations of private prisons, these requests should be raised by the respective private prison with the Deputy Commissioner, Custodial Operations.
		4. Any unsolicited media contact with correctional staff or a prisoner must be reported to the General Manager, who must immediately report the matter to the Deputy Commissioner, Custodial Operations.
		5. In the event that an offender advises a CCS officer of unsolicited or unwelcome media contact, the CCS officer must immediately report this to a senior CCS officer. A report must be immediately forwarded to the relevant Regional Director and the Department’s Strategic Communications Branch. The Regional Director must inform the Director, Community Operations or the Deputy Commissioner, Offender Services.
		6. In the case of Rivergum, Corella Place or Emu Creek, any media inquiry or contact must be reported to the respective General Manager, then the Assistant Director, Post Sentence Branch, who is to report the matter to the Deputy Commissioner, Offender Services.
		7. Offenders who initiate or respond to media contact, and subsequently advise CCS officers or Rivergum, Corella Place or Emu Creek staff, in advance of providing a formal interview or statement, are to be counselled by their case manager regarding the appropriateness and consequences of agreeing to such contact, including:
		* the likely negative impact that media reporting may have on their victims and the general community;
		* how the publicity that is likely to result from media contact may adversely impact upon their risk (e.g. drawing unwanted attention, being required to relocate as a result of their residence being identified); and
		* any adverse impact such contact may have on their ability to comply with the conditions of any court or Adult Parole Board order (e.g. media publicity may result in the offender having a reduced number of community work placement options).
	3. **Guidelines to determine the approval of submissions made by the electronic media - Television**
		1. Filming within or around a prison is likely to be approved in most circumstances where prior approval has been obtained from Corrections Victoria, and where such filming will not pose or represent an unacceptable privacy or security risk.
		2. In order for the department to manage the security risks that filming within a prison may pose, some submissions will only be approved where the organisation agrees to film areas within the prison nominated by the department and / or provides an assurance that it will allow the department to review footage prior to its broadcasting to ensure there is nothing that would impact on the security and good order of the system.
		3. Where significant media events are scheduled to occur within a prison, it is expected that the relevant General Manager will only authorise access of the media to approved and appropriate areas of the prison.
		4. All conditions of filming (e.g. not showing prisoners’ faces or otherwise identifying individuals, or accessing certain categories of prisoner or offender in accordance with the principles set out in this Requirement) should be agreed prior to the media organisation’s attendance at the correctional facility.
	4. **Guidelines to determine the approval of submissions made by the electronic media - Radio**

A range of culturally significant or other events[[2]](#footnote-2) are celebrated throughout any given year across the prison system or in specific prisons. Some of these cultural events have been historically supported through permitting media access to nominated prisons to broadcast radio programs (e.g. NAIDOC Celebrations). Even in those circumstances where there has been an established arrangement in place for media to access a prison for this purpose, departmental officers should check with the relevant Deputy Commissioner to ensure that the attendance of media still remains appropriate.

* 1. **Media requests relating to prison emergencies**
		1. In an emergency, the prison’s Emergency Command Centre (ECC) will consult with the Commissioner or Deputy Commissioner, Custodial Operations, or the central ECC (where an emergency has warranted that a central ECC be established) to select an appropriate spokesperson to speak to the media.
		2. While the approved spokesperson will in most instances be the Commissioner (or delegate), irrespective of incident command arrangements, there may be some occasions, based on the circumstances and requirements of the emergency where a nominated prison staff member undertakes this responsibility.
		3. Each prison General Manager should therefore identify suitable staff to speak to the media, in the event that this is required. These nominated staff are to be of an appropriate seniority and, where possible, have completed media training.
		4. However, in all emergency situations, all written and social media will be managed by Corrections Victoria or the central ECC, in consultation with the Strategic Communications Branch.
	2. **Media requests relating to minor matters of local or social interest**
		1. The Deputy Commissioner, Custodial Operations may provide permission to the prison General Manager to brief the media in the event of a minor matter of local or social interest.
		2. The Director, Post Sentence Branch or the Deputy Commissioner, Offender Services may provide permission to the General Managers, Rivergum, Corella Place or Emu Creek to brief the media in relation to minor matters which are of local or social interest.
		3. Permission for a General Manager to brief the media will only be granted after consideration of the duration and extent of the local community’s interest in the matter being reported.
	3. **Media Risk Assessment Protocol**
		1. Media reporting can heighten a prisoner’s profile which may result in an increased risk to the safety of a prisoner, dependent on the context of the media report.
		2. The Media Risk Assessment Protocol (MRAP) defines the risk assessment process to be followed should a prisoner feature prominently in the media, which may contribute to an escalated risk to the safety of the prisoner.
		3. Any staff member who becomes aware of media, including print, radio, television or on the internet, that could compromise the security and good order of the prison, or the safety of a prisoner, must log an Information Report in Centurion and notify their line manager.
		4. Managers are required to assess the potential risk in accordance with the Media Risk Assessment.
		5. The Media Risk Assessment outlines media reporting that does not require action, and that which does. If a manager, as specified above, regards the media as requiring action, they must notify the prison General Manager and/or the Corrections Victoria Executive Committee (CVEC) member that they may report to (including Assistant Commissioners, Custodial Operations).
		6. Once the media has been reported to the prison General Manager or CVEC member, that person must take steps to mitigate any risks presented by the media, including the completion of the Media Risk Assessment Form.
		7. Staff should refer to the *Sentence Management Manual – IM4 Media Risk Assessment* for further guidance on the MRAP including access to the Media Risk Assessment and Media Risk Assessment Form.

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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** |
| CCS | Community Correctional Services |
| CVEC | Corrections Victoria Executive Committee |
| ECC | Emergency Command Centre |
| MRAP | Media Risk Assessment Protocol |
| NAIDOC | National Aborigines and Islanders Day Observance Committee |
| NFZ | No Fly Zone |
| WNLP | Wulgunggo Ngalu Learning Place |

| **Definitions** |
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| Media | ‘Media’ includes organisations, agencies or individuals who use print or electronic media to report the news, current affairs, social commentary, film production, television programs, documentaries, books, magazines, blogs, diaries, fiction and non-fiction books. It does not include individuals or organisations seeking to conduct research. |
| Offender | ‘Offender’ is regarded as a person who is supervised by Community Correctional Services on a court based or Adult Parole Board order or who is an offender under a Supervision Order residing at Corella Place, Emu Creek or elsewhere. |
| Risk Information  | ‘Risk information’ is information received by staff that has the potential to threaten the good order and security of a prison or CCS location.  |
| Victim | A ‘victim’ refers to a person who has suffered injury, loss or damage (including grief, distress, trauma, or other significant adverse effect) as a direct result of an offence, or a family member of a person to whom this applies.  |

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| **Associated Commissioner’s Requirements** |
| 1.3.1 - Incident Reporting 1.4.4 - Access to and Security of Corrections Victoria Data for Research and Evaluation  Purposes1.4.5 - Prisoner Communications 1.4.8 - Conduct and Ethics |

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| V2 | Jul-21 | Update |
| V1 | Apr-16 | First Issue |

1. The potential impact on victims includes both the impact on a particular prisoner’s direct victims (who may be distressed at seeing, hearing or reading the prisoner or his or her prison conditions, views, attitudes etc), and victims of similar offences more broadly. [↑](#footnote-ref-1)
2. For example, Prisoners on the Run events, Prison Officer Pre-Service Training Course Graduations [↑](#footnote-ref-2)