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# Detention Services Manual- Safety and security management - Incident response and management

## Standard Operating Procedure

This Standard Operating Procedure describes the procedures for managing incidents within immigration detention facilities.

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# 1. Introduction

## 1.1. Purpose

- 1.1.1. This Standard Operating Procedure (SOP) describes the procedures for managing incidents within immigration detention facilities (IDFs). It aligns to and **must** be implemented in conjunction with [DM-616](#) in PPCR (*DSM – PI – Safety and security management - Incident management and reporting*).
- 1.1.2. In resolving an incident, including an emergency, where the number of staff involved continues to increase and exceeds a manageable span of control, the respective Forward Commander and Op Commander need to establish a command and control structure. Its design is driven by the incident to be managed and the structure and functions required. This structure in the held detention environment differs from other areas of the Australian Border Force (ABF) due to the ABF, Facilities and Detainee Service Provider (FDSP) and Detention Health Service Provider (DHSP) relationship within the IDF.
- 1.1.3. Considerations in establishing and maintaining a command and control structure can be summarised as follows:
- delegate tasks in order of priority and take into account the skills and expertise of individuals
  - as the number of staff involved increases and causes the span of control principle to be reconsidered, appoint additional managers of functions or tasks
  - when delegating a function, provide advice to the function manager as to which task/s of that function have priority or are not included
  - ensure function and task managers have the necessary resources to undertake their respective activities and
  - function and task managers become responsible for the staff and other resources assigned to that function or task and the reporting of activities.

1.1.4. s22(1)(a)(ii)

# 2. Scope

## 2.1. In Scope

- 2.1.1. This SOP outlines the procedures for:
- responding to incidents - including minor incidents, major incidents and critical incidents
  - reporting on incidents
  - deploying emergency response teams
  - engaging with law enforcement agencies
  - post incident review (PIR) and reporting.
- 2.1.2. This SOP applies to detainees, suspected Illegal Foreign Fishers (IFFs) and suspected Foreign Offenders held in an IDF.

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## 2.2. Out of Scope

2.2.1. This SOP excludes discussion of the following:

- management of offences against the person (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [redacted])
- engaging with police (routine and extraordinary incidents) (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [redacted])
- transport of detainees by police (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [redacted] and [redacted])
- placement of detainees within correctional facilities (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [redacted]).

## 3. Glossary

3.1.1. The terms and their accompanying definitions that have specific meanings in the context of the suite of detention instructions is at s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [redacted].

## 4. Standard Operating Procedure

**Note:** The protocols described in this SOP are scalable depending on the size of an incident as it progresses.

s47E(d)

### 4.1. Immediate action

An incident occurs and triggers a first response

Step	Action	Person Responsible
4.1.1.	Once an incident type has been identified, s47E(d) [redacted]	First responder
4.1.2.	Ensure the DHSP is notified s47E(d) [redacted] of the emerging incident. For outside clinic hours, s47E(d) [redacted]	s47E(d) [redacted]
4.1.3.	Go to the site of the incident, observe and assess what is occurring.	
4.1.4.	Implement the appropriate national and site specific work instructions to deal with the incident.	
4.1.5.	Forward an s47E(d) [redacted]	
4.1.6.	Classify the incident s47E(d) [redacted]	

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Step	Action	Person Responsible
	Notify the FDSP Centre Manager. s47E(d)	
4.1.7.	Conduct ongoing safety and risk assessments as the situation evolves and consider the need to secure any crime scene/site in accordance with s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	s47E(d)
4.1.8.	s47E(d) at the incident site: s47E(d)	
4.1.9.	Account for all detainees, officers, visitors and contracted service providers.	
4.1.10.	In the case of Immigration Guardianship of Children (IGOC) minors, the IGOC delegate (ABF Detention Superintendent of the IDF) is required to oversee the care and welfare of IGOC minors and must be notified of any incidents or non-routine decision making involving IGOC minors.	

### Ongoing incident

Step	Action	Person Responsible
4.1.11.	Assume role s47E(d)	s47E(d)
4.1.12.	If necessary, raise a s47E(d)	
4.1.13.	s47E(d)	
4.1.14.		
4.1.15.	Give consideration to: <ul style="list-style-type: none"> <li>evacuating the area immediately surrounding the incident site</li> <li>the general welfare and safety of detainees and need for containment throughout the facility.</li> </ul>	
4.1.16.	s47E(d)	

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Step	Action	Person Responsible
4.1.17.	s47E(d)	
4.1.18.		
4.1.19.	Depending on the type of incident and its risk level, inform all persons within the facility of the incident and what they should do to stay safe.	
4.1.20.	s47E(d)	
4.1.21.	Determine if suspending routine activities and other non-essential services that might impact on, or be impacted by, the incident is necessary.	
4.1.22.	Determine the need for additional resources to contain or resolve the incident.	
4.1.23.	Continue monitoring the tactical response to ensure the safety and good order of the facility.	
4.1.24.	Continue to monitor the need s47E(d) to maintain safety.	

## 4.2. Reporting requirements

The procedure below commences once the FDSP has identified an incident. The reporting requirements described below are in accordance with the policy instructions in the s22(1)(a)(ii)

### Reporting incidents

Step	Action	Person Responsible
4.2.1.	s47E(d)	
4.2.2.		
4.2.3.		

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Step	Action	Person Responsible
4.2.4.	s47E(d)	ABF Officer
4.2.5.		ABF Detention Inspector (Facility)
4.2.6.		ABF Officer
4.2.7.		FDSP Officer
4.2.8.		ABF Officer

### Comcover reporting

Step	Action	Person Responsible
4.2.9.	Where an incident occurs notify the Department's Comcover manager as soon as possible at s47E(d)	Departmental officers and Contracted Service Providers
4.2.10.	s47E(d), s33(a)(iii)	Departmental officers and Contracted Service Providers

### Comcare notifiable incident

Step	Action	Person Responsible
4.2.11.	<p>Determine if an incident is notifiable and immediately contact the Incident Management team in National Office by:</p> <ul style="list-style-type: none"> <li>calling s47E(d) (24 hrs, 7 days a week) or</li> <li>emailing s47E(d) (monitored 9 am to 5 pm Monday to Friday AEST).</li> </ul> <p>Note: For more information on what classifies as a notifiable incident, refer to <i>Annex C – What is a Comcare Notifiable Incident</i>.</p>	ABF Detention Superintendent (Facility)
4.2.12.	Provide as much information to the Incident Management team so that it can immediately be submitted to Comcare by telephone.	ABF Detention Superintendent (Facility)

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Step	Action	Person Responsible
4.2.13.	Complete and submit a Comcare incident form to the incident management team as it must immediately be submitted to Comcare.	ABF Detention Superintendent (Facility)
4.2.14.	Should Comcare want to further investigate a notifiable incident, advise the ABF Detention Superintendent (Facility) of the details of the Comcare enquiry/investigation.	Workforce Health and Safety (WHS) team
4.2.15.	Provide the ABF Detention Superintendent (Facility) advice as required.	WHS team
4.2.16.	On receiving the request to investigate further, the ABF Detention Superintendent (Facility) is to: <ul style="list-style-type: none"> <li>organise, provide and clear information required by Comcare</li> <li>coordinate any on-site investigations</li> <li>action any recommendations found in Comcare Investigation Reports and</li> <li>provide WHS team with all reports and updates.</li> </ul>	ABF Detention Superintendent (Facility)
4.2.17.	Send updates to Comcare in agreed timeframes and update the Comcare Notifiable Incident Register.	WHS team

### Mandatory reporting requirements in relation to child protection

Step	Action	Person Responsible
4.2.18.	<p>If appropriate, report any 'child protection issue' related to the incident.</p> <p>A 'child protection issue' means any information received, any observation made or any incident witnessed by a departmental officer(s) or contracted service provider(s) that triggers a reasonable suspicion that a minor in an IDF is being, has been, or is likely to be, abused or neglected.</p> <ul style="list-style-type: none"> <li>For guidance on child protection issues and family or domestic violence contact Child Wellbeing Branch s47E(d)</li> <li>Refer to s22(1)(a) in PPCR s22(1)(a)(ii)</li> <li>Family or domestic violence causing death or serious injury or illness in detention must also be reported to the Workforce Health and Safety Section on s47E(d) (24hrs, 7 days a week).</li> </ul>	Departmental officers and Contracted Service Providers
4.2.19.	Child protection matters/reports involving minors <b>must not</b> be 'closed' on any departmental system without the approval of the Assistant Secretary, Child Wellbeing Branch.	ABF Detention Superintendent (Facility)
4.2.20.	<p>Seek approval from the Assistant Secretary, Child Wellbeing Branch via email to review and close actions taken in regards to a child protection matter.</p> <p>s47E(d)</p>	ABF Detention Superintendent (Facility)

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Step	Action	Person Responsible
4.2.21.	On receipt of express approval, close the relevant cases within departmental systems.	ABF Detention Superintendent (Facility)

### 4.3. Media

Step	Action	Person Responsible
4.3.1.	Where a media presence is anticipated, ensure they are informed not to enter the facility, including surrounding property.	s47E(d)
4.3.2.	Refer all media enquiries immediately to Media Operations Section at s47E(d) or contact them on s47E(d) (24 hrs, 7 days a week).	Departmental officers and Contracted Service Providers
4.3.3.	For critical incidents, refer to s22(1)(a)(ii)	Departmental officers and Contracted Service Providers

### 4.4. Emergency Response Team use

Step	Action	Person Responsible
4.4.1.	Determine whether additional Emergency Response Team (ERT) personnel will be required s47E(d)	s47E(d)
4.4.2.	s47E(d)	
4.4.3.		
4.4.4.	If ERT resources are approved in 4.4.3, advise s47E(d)	
	s47E(d)	

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### ERT Deliberate Action

Step	Action	Person Responsible
4.4.4.	Brief ERT resources s47E(d)	s47E(d)
4.4.5.	s47E(d)	
4.4.6.	Seek authorisation for any planned use of force (UoF) in accordance with <a href="#">DM-3291</a> in PPCR ( <i>DSM – SOP – Safety and security management - Use of Force</i> ).	
4.4.7.	s47E(d)	
4.4.7.	Make a decision on the s47E(d)	
4.4.8.	s47E(d)	
4.4.9.	Take s47E(d)	

## 4.5. Control of situation

If the FDSP s47E(d)

s47E(d)

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### 4.6. Post resolution

Any incident/crime scene may need to be preserved until both Comcare and police have authorised its release. Ensure **both** have approved its release prior to entering any preserved scene.

#### Immediately on incident resolution

Step	Action	Person Responsible
4.6.1.	Account for all detainees, officers, visitors and contractors.	s47E(d)
4.6.2.	Assess the damage to the IDF.	
4.6.3.	s47E(d) are assessed in accordance with the procedures outlined in s22(1)(a)(ii) in PPCR s22(1)(a)(ii).	
4.6.4.	Assess personnel safety and well-being and provide employee assistance if required.	
4.6.5.	Assess the safety and well-being of visitors impacted by any incident.	
4.6.6.	Initiate activities to restore routine operations.	
4.6.7.	s47E(d)	
4.6.8.		
4.6.9.	Provide a final s47E(d) to the s47E(d)	
4.6.10.	Conduct hot debriefs s47E(d) with s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	

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Submit a 'post incident review' within s47E(d) after resolution of the incident

Step	Action	Person Responsible
4.6.11.	Conduct a post incident review (PIR). <b>All PIRs must be complete, accurate and provided s47E(d) after resolution of the incident.</b> <b>Note:</b> s47E(d)	s47E(d)
4.6.12.	s47E(d)	
4.6.13.		

Submit an 'after action review' s47E(d) after resolution of the incident

Step	Action	Person Responsible
4.6.14.	Submit an after action review s47E(d) s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	s47E(d)
4.6.15.	Ensure that relevant information s47E(d) is incorporated into lessons learnt.	

## 5. Accountability and responsibilities

- 5.1.1. For accountability and responsibilities, refer to [DM-616](#) in PPCR (DSM – PI – Safety and security management – Incident management and reporting).

## 6. Records management

- 6.1.1. All records created as a result of this procedure **must** be managed in accordance with the Records Management Policy Statement. Records created as a result of this procedure **must** be saved in TRIM RM8 or an approved business system.

## 7. Further assistance

- 7.1.1. If you require further advice or assistance, or would like to provide feedback in relation to this P, please contact the Detention and Removal Operational Policy section at s47E(d)

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## 8. Statement of Expectation

- 8.1.1. The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).
- 8.1.2. Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.
- 8.1.3. The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all IBP workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.
- 8.1.4. Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.
- 8.1.5. For all other provisions of PPCF documents, the Secretary and the Commissioner ABF expect all IBP workers to:
- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
  - consider the risks of departing from any provision set out in a PPCF document
  - be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
  - be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.
- 8.1.6. IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

## 9. Related Framework documents

- 9.1.1. For related framework documents, refer to [DM-616](#) in PPCR (*DSM – PI – Safety and security management – Incident management and reporting*).

## 10. References and legislation

- 10.1.1. For references and legislation, refer to [DM-616](#) in PPCR (*DSM – PI – Safety and security management – Incident management and reporting*).

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# 11. Consultation

## 11.1. Internal consultation

- 11.1.1. For internal stakeholders consulted in the development of this Standard Operating Procedure, refer to [DM-616](#) in PPCR (*DSM – PI – Safety and security management – Incident management and reporting*).

## 11.2. External consultation

- 11.2.1. For external stakeholders consulted in the development of this Standard Operating Procedure, refer to [DM-616](#) in PPCR (*DSM – PI – Safety and security management – Incident management and reporting*).

# 12. Document details

<b>BCS Category/Function</b>	Detention Management
<b>BCS Sub-Category/Sub-Function</b>	DM-11 – Incident management
<b>Period of Effect</b>	19 December 2021

## 12.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
2.0	30/06/2017	Detention and Removals Operational Policy	Update of detention instructions to reflect PPCF requirements.
3.0	22/12/2017	Detention and Removals Operational Policy	Reviewed as per Deputy Commissioner's request for 'extraordinary review'.
4.0	14/08/2018	Detention and Removal Operational Policy	Update PPCF review
5.0	07/12/2018	Detention and Removal Operational Policy	Update post-legal review.
6.0	19/12/2018	Detention and Removal Operational Policy	Update post-Superintendent review.

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<b>Document owner</b>	Commander, ABF Governance
<b>Approval date</b>	19 December 2018

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## Annex A

s47E(d)



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## Annex B

s47E(d)



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# Annex C - What is a Comcare Notifiable Incident?

## Comcare notification

Section 35 of the *Work Health and Safety Act 2011* (the WHS Act) defines a notifiable incident as the following:

- a) the death of a person
- b) a serious injury or illness of a person
- c) a dangerous incident.

Section 38 of the WHS Act requires the Department to notify Comcare (the Commonwealth WHS regulator) immediately after becoming aware that a notifiable incident arising out of the conduct of its business or an undertaking has occurred, by the fastest possible means.

See also the 'Comcare Incident Notification Flowchart' below.

## Serious injury or illness of a person

Section 36 of the WHS Act states that a serious injury or illness of a person means an injury or illness requiring the person to have:

- immediate treatment as an inpatient in a hospital
- immediate treatment for:
  - amputation of any part of the body
  - serious head injury
  - serious eye injury
  - serious burn
  - separation of skin from underlying tissue
  - spinal injury
  - loss of bodily function (this includes such things as loss of consciousness, loss of movement of a limb or loss of the sense of smell, taste, sight or hearing, or loss of function of an internal organ. It does not include a sprain, strain, fracture or fainting)
  - serious lacerations.
- medical treatment within 48 hours of exposure to a substance.

The following conditions are prescribed serious illnesses (section 699 of the WHS Act):

- any infection to which the carrying out of work is a significant contributing factor, including any infection that can be reliably attributable to the carrying out of work that involves providing treatment or care to a person, contact with human blood or body substances, or handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products.
- the following zoonoses (diseases that are transferable between animals and humans) contracted in the course of work involving handling or contact with animals:
  - Q fever
  - Anthrax
  - Leptospirosis
  - Brucellosis
  - Hendra Virus
  - Avian influenza

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- Psittacosis.

In deciding whether something is a serious injury or illness, it does not matter whether a person actually received treatment, just that the injury or illness could reasonably be considered to warrant such treatment.

### Dangerous incident

Section 37 of the WHS Act describes a dangerous incident as an incident in relation to a workplace that exposes a worker, or any other person, to a serious risk to a person's health or safety emanating from an immediate or imminent exposure to the following:

- uncontrolled escape, spillage or leakage of a substance
- uncontrolled implosion, explosion or fire
- uncontrolled escape of gas or steam
- uncontrolled escape of a pressurised substance
- electric shock
- fall or release from a height of any plant, substance or thing
- collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use in accordance with the regulations
- collapse or partial collapse of a structure
- collapse or failure of an excavation or of any shoring supporting an excavation
- inrush of water, mud or gas in workings, in an underground excavation or tunnel
- interruption of the main system of ventilation in an underground excavation or tunnel.

### Only work-related incidents are notifiable

Incidents are only notifiable to Comcare if the incident arises out of the conduct of the business or undertaking of the Department.

An incident is **not** notifiable just because it happens at or near a workplace.

Incidents may occur for reasons which do not have anything to do with the conduct of the business or undertaking.

### Additional information for determining whether an incident is notifiable

In addition to the information outlined above, the following common questions may assist in determining whether an incident is to be notified to Comcare:

- Did this incident relate to the Department's business or an undertaking?
- Did the incident cause death, serious injury or illness or was it a dangerous incident?
- Did the Department cause it?
- Did the Department contribute in any way to the incident (e.g. detainee gets chest pains and is taken to hospital – did they receive an unfavourable departmental decision)?
- Did the incident occur while performing work duties?
- Did the Department (i.e. Departmental officers including contracted service providers) perform any action that may have triggered or caused the incident to occur?

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### Multiple Persons Conducting a Business or Undertaking (PCBU) and incident investigation

Where multiple PCBUs exist in a workplace, such as SERCO, a contracted company or IHMS, the Department is responsible for ensuring that the other organisation is aware of their responsibilities in relation to conducting the internal investigation (i.e. who will be the lead role or assisting role etc.).

If another organisation or company has a lead role in conducting WHS investigations in a departmental workplace, the Department must validate that this is occurring and ensure that the process is both thorough and effective. For example, if Serco has responsibility for conducting a WHS investigation at a detention facility, work area management (either the Contract Manager or the Centre Manager) **must be directly involved** in the investigation process and endorse the investigation report.

For more significant incidents such as a notifiable incident, a serious injury has occurred or where the incident had the potential to be more serious in nature, the Department **must be directly involved** in conducting the investigation in conjunction with the other PCBU.

### Information required by Comcare when notifying an incident.

Initially Comcare will ask for a clear description of the incident with as much detail as possible. This will help them assess whether or not the incident is notifiable and the need for a follow-up investigation. The following information is usually requested:

<b>What happened: an overview</b>	<ul style="list-style-type: none"> <li>• Provide an overview of what happened.</li> <li>• Nominate the type of notifiable incident—was it death, serious injury or illness, or 'dangerous incident' (as defined above)?</li> </ul>
<b>When did it happen?</b>	Date and time.
<b>Where did it happen?</b>	Incident address.  Details that describe the specific location of the notifiable incident—for example section of the warehouse or the particular piece of equipment that the incident involved—to assist instructions about site disturbance.
<b>Has the site been preserved?</b>	Ideally, the site of the incident should not be disturbed until Comcare has inspected and given clearance.  However, most often, the site will be disturbed because: <ul style="list-style-type: none"> <li>• The injured person requires assistance</li> <li>• A deceased person has to be removed</li> <li>• A police investigation is facilitated on site.</li> </ul> When the reason for disturbing the site is given to Comcare during the call, an investigation officer will assess the information and, if reasonable, will give clearance. They will provide their name and a time in giving such permission for recordkeeping purposes.
<b>What happened?</b>	Detailed description of the notifiable incident.
<b>Who did it happen to?</b>	<ul style="list-style-type: none"> <li>• Injured person's name, date of birth, address and contact number.</li> <li>• Injured person's occupation.</li> <li>• Relationship of the injured person to the entity notifying.</li> </ul>



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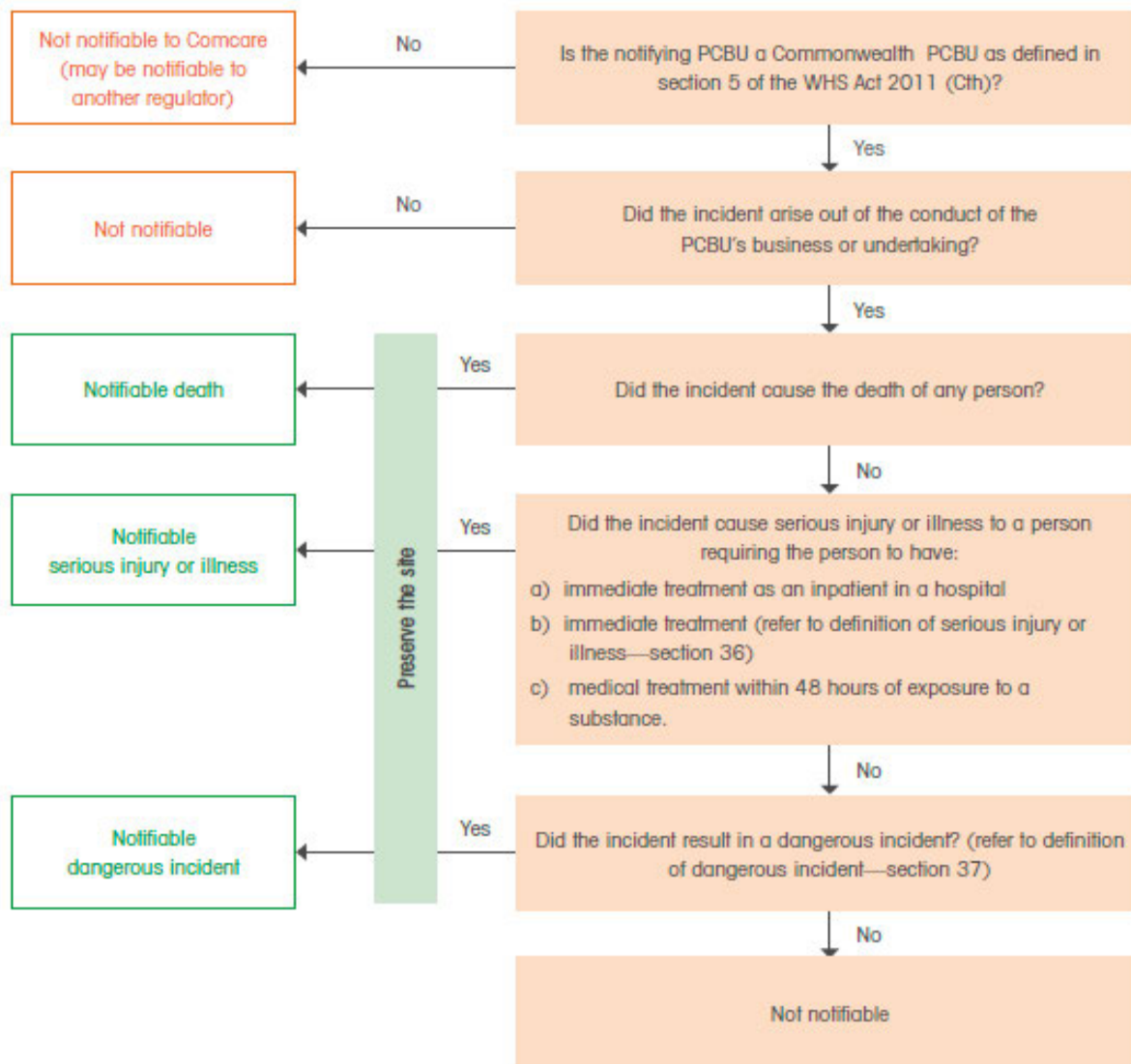
<b>How and where are they being treated (if applicable)?</b>	<ul style="list-style-type: none"> <li>• Description of serious injury or illness—i.e. nature of injury</li> <li>• Initial treatment of serious injury or illness.</li> </ul>
	<ul style="list-style-type: none"> <li>• Where the patient has been taken for treatment.</li> </ul>
<b>Who is the person conducting the business or undertaking (there may be more than one)?</b>	<ul style="list-style-type: none"> <li>• Legal and trading name.</li> <li>• Business address (if different from incident address), ABN/ACN and contact details including phone number and email.</li> </ul>
<b>What has/is being done?</b>	Action taken or intended to be taken to prevent recurrence (if any).
<b>Who is notifying?</b>	<ul style="list-style-type: none"> <li>• Notifier's name, contact phone number and position at workplace.</li> <li>• Name, phone number and position of person to contact for further information (if different from above).</li> </ul>

Notify immediately, and provide the information you can, even if you do not have all of the required information.

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### INCIDENT NOTIFICATION FLOWCHART



Upon becoming aware that a notifiable incident has occurred the PCBU must notify Comcare immediately.

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# Detention Services Manual- Safety and security management - Incident management and reporting

## Procedural Instruction

This Procedural Instruction provides guidance to officers for managing incidents within immigration detention facilities.

<b>Document approval date</b>	15 November 2018
<b>Last PPCF review date</b>	9 August 2018
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<b>Primary influencing Legislation(s)</b>	<i>Migration Act 1958</i> <i>Work Health and Safety Act 2011</i>

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# 1. Introduction

## 1.1. Purpose

- 1.1.1. The Department, including Australian Border Force (ABF), is committed to providing a safe environment for all persons in an immigration detention facility (IDF). Effective planning is necessary to safeguard the good order and security of an IDF and minimise the occurrence of incidents.
- 1.1.2. Departmental officers and detention service providers (DSP) must be enabled to respond in an appropriate, timely and coordinated way to incidents when they arise, with their first priority being the safety of all persons in the facility.
- 1.1.3. The kind of incidents that might arise at an IDF include:
- assault
  - assault of a child
  - barricades
  - rooftops demonstrations
  - serious injuries
  - major disturbances and hazards
  - hostage situations
  - escape of a detainee and
  - death of a person in a facility.
- 1.1.4. This Procedural Instruction (PI) is to be implemented in conjunction with:
- [DM-3303](#) in PPCR (*DSM - SOP- Safety and security management - Incident response and management*)
  - s22(1)(a)(ii) in PPCR s22(1)(a)(ii) and
  - s22(1)(a)(ii) in PPCR s22(1)(a)(ii).

## 1.2. Legislative Framework

- 1.2.1 The *Migration Act 1958* (the Migration Act) provides legislative powers that act as disincentives for disruptive or destructive behaviour by detainees:
- under section 189 of the Migration Act, if an officer knows or reasonably suspects that a person in the migration zone is an unlawful non-citizen, the officer must detain the person
  - s5 of the Migration Act defines detain as keep, or cause to be kept, in immigration detention and includes taking such action and using such force as are reasonably necessary to do so

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- s501(6)(aa)(i) of the Migration Act, which deals with the character test, provides that a person will fail this test if they are convicted of an offence that was committed while in immigration detention. Failing this test may form the basis for refusing a visa application and
- under s197B of the Migration Act, any detainee found guilty of manufacturing, possessing, using or distributing a weapon can face a maximum penalty of five years imprisonment.

1.2.1. There are also legislative obligations under the Work Health and Safety Act 2011 (WHS Act) that obligate the Department to notify Comcare of notifiable incidents relating to a death, serious injury or illness, dangerous incident or near miss involving workers, contractors, volunteers and any other person, including detainees arising out of the conduct of the Department's business or an undertaking.

1.2.2. As these provisions have the potential to significantly impact on persons in immigration detention, including resolution of their status, incident reporting must be accurate and contain detailed descriptions.

### 1.3. Guiding principles

1.3.1. The incident management system relies on departmental officers and contracted service providers to provide accurate, comprehensive, consistent, clear and timely information. The quality of the information in incident reports is essential for the interpretation, analysis and response to incidents. In turn, this analysis will facilitate reporting of those incidents to the Minister, Comcare (where applicable) and other stakeholders. In the event of an incident at a detention facility, the following principles should guide all actions:

- ensure the safety and wellbeing of all departmental officers, contractors, detainees and visitors
- comply with the Department's obligations to take reasonable steps to manage incidents which may pose a major risk to the safety and security of all persons inside an IDF. During an incident, reasonable steps should be taken to ensure:
  - compliance with applicable law
  - assets are protected and prevent harm to the IDF and
  - that normal operations are maintained or resumed as quickly as possible
- community expectations are met by ensuring:
  - a visible and professional response and
  - cooperation with the relevant law enforcement agencies in any criminal investigations against any person and
- processes are improved by:
  - identifying significant problems within an IDF
  - undertaking action to prevent recurrence, and to improve future responses and
  - analysing and investigating incidents to ensure that risk mitigation measures are reviewed and improved as required.

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## 2. Scope

### 2.1. In Scope

- 2.1.1. This Procedural Instruction (PI) provides guidance to officers regarding:
- responding to incidents (minor, major and critical incidents)
  - reporting on incidents
  - deploying emergency response teams
  - engaging with law enforcement agencies and
  - post-incident review (PIR) and reporting.
- 2.1.2. This PI applies to detainees, suspected Illegal Foreign Fishers and suspected Foreign Offenders held in an IDF.

### 2.2. Out of Scope

- 2.2.1. This PI excludes discussion of the following:
- management of offences against the person (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) )
  - transport of detainees by police (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) and )
  - placement of detainees within correctional facilities (see s22(1)(a)(ii) in PPCR s22(1)(a)(ii) ).

## 3. Glossary

- 3.1.1. The terms and their accompanying definition that have specific meaning in the context of the suite of detention instructions is at s22(1)(a)(ii) in PPCR s22(1)(a)(ii)

## 4. Procedural Instruction

### 4.1. Definitions of critical, major and minor incidents

#### Critical incident

- 4.1.1. A critical incident in an IDF is an incident where:  
s47E(d)

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s47E(d)



### Major incident

- 4.1.2. A major incident in an IDF is an incident where:

s47E(d)



### Minor incident

- 4.1.3. A minor incident in an IDF is an incident where:

s47E(d)



### Extraordinary incident

- 4.1.4. An extraordinary incident is s47E(d)

s47E(d)



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§47E(d)

- 4.1.5. This definition can vary depending on each Memoranda of Understanding (MoU) within the relevant jurisdiction.

### 4.2. Memoranda of understanding

- 4.2.1. The Department maintains a number of MoUs with state, territory and federal policing jurisdictions relating to §47E(d)

- 4.2.2. These MoUs set out the arrangements entered into by §47E(d)

- 4.2.3. §22(1)(a)(iii) in PPCR §22(1)(a)(ii) outlines the process for §47E(d)

### 4.3. Law enforcement attendance at immigration detention facilities

- 4.3.1. Relevant law enforcement agencies may attend and investigate incidents of suspected criminal behaviour within an IDF. All personnel engaged in responding to these incidents will work cooperatively with the law enforcement agency through their respective department or service provider management structure.

- 4.3.2. Effective liaison and interoperability with emergency services is essential to effective incident management. §47E(d)

### 4.4. Evidence preservation

- 4.4.1. When incidents arise, departmental officers and contractors must remain mindful of evidence relating to the incident and take reasonable and timely steps to identify, gather, secure and preserve evidence for future investigations.

- 4.4.2. Evidence is anything that might be used by law enforcement, coroner, internal or external investigation teams, and external scrutiny bodies, to assist in establishing the relevant facts of an incident.

- 4.4.3. §37(2)(b)

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s37(2)(b)

4.4.4.

s37(2)(b)

4.4.5.

Departmental officers and contractors have an obligation to handle material carefully and to ensure that any questions of the origin and handling of the evidence (continuity) can be answered.

4.4.6.

Evidence preservation, security and continuity, is critical to ensuring appropriate response, management and potential prosecution of any offence. The response and evidentiary requirements will vary on a case-by-case basis.

4.4.7.

s37(2)(b)

4.4.8.

Evidence is relied upon in numerous circumstances to successfully prosecute offenders and to ensure that departmental officers and contractors are accountable for their actions. Evidence, in particular documentary evidence, is also relied upon to investigate, assess and determine any potential liability in relation to claims for compensation and to respond to scrutiny by external bodies.

4.4.9.

The response and evidentiary requirements may vary on a case-by-case basis. The necessity for accurate documentation and storage of evidence so that it is available for later use if required will remain.

4.4.10.

s22(1)(a)(ii) in PPCR s22(1)(a)(ii)

provides the process to be used by departmental officers and contractors when handling and managing evidence, or material that might be suspected to be evidence found in an IDF.

**4.5.**

s33(a)(i), s37(2)(b), s47E(d)

4.5.1.

4.5.2.

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### 4.6. Immediate action

- 4.6.1. Overall command of an ongoing incident within an IDF is the responsibility of s47E(d) [REDACTED]
- 4.6.2. s47E(d) [REDACTED] For procedures, refer to [DM-3303](#) in PPCR (*DSM - SOP - Safety and security management - Incident response and management*).

### 4.7. Use of Emergency Response Team

- 4.7.1. s47E(d) [REDACTED]
- 4.7.2. For procedures, refer to [DM-3303](#) in PPCR (*DSM - SOP - Safety and security management - Incident response and management*).

### 4.8. Control of situation

- 4.8.1. s47E(d) [REDACTED]
- 4.8.2. For procedures, refer to s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [REDACTED].

### 4.9. Post resolution

- 4.9.1. Once an incident has been resolved, normal operations are to be resumed as soon as practicable.
- 4.9.2. Any incident/crime scene may need to be preserved until both Comcare and the police have authorised its release. Ensure both have released the scene and approved resumption of normal operations prior to entering any preserved scene.
- 4.9.3. The [DM-3303](#) in PPCR (*DSM – SOP - Safety and security management - Incident response and management*) outlines the steps for resumption of routine operations, including resolution of detainee needs and post incident review and reporting procedures.
- 4.9.4. A post incident review is a s47E(d) [REDACTED] for s47E(d) [REDACTED] and is used to review the incident, the response and capture any lessons learnt.

### 4.10. Reporting requirements

- 4.10.1. All incidents must be accurately reported to provide visibility for senior management and external agencies and enable effective incident management and responses. Incident reports can be provided to the FDSP, Department and external agencies.
- 4.10.2. All reports created by the s47E(d) [REDACTED]

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### Child protection issues and family or domestic violence

- 4.10.3. A 'child protection issue' means any information received, any observation made or any incident witnessed by a departmental officer or contractor that triggers a reasonable suspicion that a minor in an immigration detention facility is being, has been, or is likely to be, abused or neglected.
- 4.10.4. For guidance on child protection issues and family or domestic violence, contact Child Wellbeing Branch at s47E(d) for policy advice and s47E(d) for operational support.
- 4.10.5. For information on the reporting of child protection incidents and mandatory reporting requirements refer to, s22(1)(a)(ii) in PPCR s22(1)(a)(ii).
- 4.10.6. Family or domestic violence causing death, serious injury or illness in detention must also be reported to the Workforce Health and Safety section on s47E(d) (24hrs, 7 days a week).

### Work health and safety reporting

- 4.10.7. The WHS Act requires the Department and the FDSP to, as far as is reasonably practicable, consult, co-operate and co-ordinate in relation to activities at an IDF. Incidents that involve a death, serious injury or illness, or are a dangerous incident must be notified to the Workforce Health and Safety section's Incident Management team as soon as practicable to determine whether they are notifiable to Comcare under the WHS Act:
- Workforce Health and Safety Section on s47E(d) (24hrs, 7 days a week)
  - s47E(d) (monitored 9am to 5pm, Monday to Friday AEST).
- 4.10.8. For guidance on work health and safety reporting contact the Workforce Health and Safety section's Incident Management team or go to s47E(d).

### Comcare notifiable incidents

- 4.10.9. The Comcare notification process requires immediate action from the ABF Detention Superintendent (Facility) or their delegate.
- 4.10.10. Section 38 of the WHS Act requires the Department to give notice to Comcare, the Commonwealth WHS regulator, as soon as the ABF Detention Superintendent (Facility) determines that an incident is notifiable. The ABF Detention Superintendent (Facility) must immediately contact the Incident Management team in National Office on:
- s47E(d) (24 hrs, 7 days a week)
  - s47E(d) (monitored 9 am to 5 pm Monday to Friday AEST)
- 4.10.11. Section 35 of the WHS Act defines a notifiable incident as the following:
- the death of a person
  - a serious injury or illness of a person or
  - a dangerous incident.
- 4.10.12. For more detailed guidance, refer to [DM-3303](#) in PPCR (DSM – SOP- Safety and security management – Incident response and management).

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4.10.13. The ABF Superintendent (Facility) will be sent a Comcare incident form with the incident notification number (NOT #) to complete and return to the Incident Management team within 24 hours, as it must be immediately submitted to Comcare.

4.10.14. The following are examples of what is not a notifiable incident:

*Table 1 – Example of incidents that are not required to be notified to Comcare*

Examples of incidents not required to be notified to Comcare	
Aggressive behaviour by a detainee where no injury is sustained by any person.	Actual self-harm by a detainee where an injury is sustained, however, it does not meet the definition of a 'serious injury or illness' under the WHS Act.
Aggressive behaviour by a detainee where an injury is sustained, however, it does not meet the definition of a 'serious injury or illness' under the WHS Act.	Detainee is impacted by an injury or illness that is pre-existing where there is no apparent connection to the Department's business or work undertaking, e.g. chest pains, epilepsy etc.
Threatened self-harm by a detainee where there is no actual injury.	Motor vehicle accidents where there is no apparent connection to the Department's business or work undertaking.
Detainee is injured while playing a friendly game on the IDF soccer field and requires medical treatment.	Detainee is injured during a fight with another detainee in the IDF and requires medical treatment.

4.10.15. An incident is not notifiable just because it happens at or near a workplace. Incidents may occur in the workplace for reasons which do not have anything to do with the conduct of the business or undertaking (Person Conducting a Business Undertaking - PCBU), i.e. the Department.

4.10.16. If unsure of a notifiable incident, ABF Superintendents or their delegates are encouraged to seek advice or clarification from Workforce Health & Safety section by emailing s47E(d)

### Comcover reporting

4.10.17. Comcover is the Commonwealth of Australia's general insurance fund which provides insurance cover to the Department and other Commonwealth agencies.

4.10.18. The Department is required to notify Comcover of an incident occurring, a claim being made against a departmental employee, or whenever the Department becomes aware of circumstances that are likely to give rise to a claim against it as soon as reasonably practicable. The Department's Comcover Manager is the first point of contact for Comcover reportable incidents.

4.10.19. For guidance on Comcover reporting email s47E(d)

## 4.11. Media

4.11.1. Where media are likely to be present at the scene of an incident, or enquiries are made, contact Media Operations section immediately at:

- s47E(d) or call s47E(d) (24 hrs, 7 days a week).



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### 4.12. Debriefing

- 4.12.1. Debriefing is the process of reviewing an activity, incident or occurrence to verify officers' well-being, understand the causal factors and consider the appropriateness of any organisational response. For procedures, refer to s22(1)(a)(ii) in PPCR s22(1)(a)(ii).

## 5. Accountability and responsibilities

Table 2 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
ABF Detention Superintendent (Facility)	<p>The ABF Detention Superintendent (Facility) s47E(d)</p> <p>In the ABF Detention Superintendent's absence, s47E(d)</p> <p>The ABF Detention Superintendent (Facility) approves the use of force (UoF) within the IDF.</p> <p>The ABF Detention Superintendent (Facility) is responsible for s47E(d)</p> <p>The ABF Detention Superintendent (Facility) is also responsible for: s47E(d)</p>
ABF Detention Inspector (Facility)	Is responsible for:

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Position	Accountability and/or responsibility
	s47E(d)
ABF Forward Commander	Is responsible for: s47E(d)
ABF Security Liaison Officer (SLO)	Is responsible for: s47E(d)
Emergency Response Team (ERT)	The ERT comprises s47E(d) s47E(d)
FDSP Officer(s)	Is responsible for: s47E(d)

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Position	Accountability and/or responsibility
FDSP Director Operations	Is responsible for: s47E(d)

## 6. Records management

- 6.1.1. All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this procedure must be saved in TRIM RM8 or an approved business system.

## 7. Further assistance

- 7.1.1. If you require further advice or assistance, or would like to provide feedback in relation to this PI, please contact the Detention and Removal Operational Policy section at s47E(d).

## 8. Statement of Expectation

- 8.1.1. The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).
- 8.1.2. Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.
- 8.1.3. The Secretary's Professional Standards Direction, issued under subsection 55(1) of the Australian Border Force Act 2015 (the ABF Act), requires all IBP workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.
- 8.1.4. Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.
- 8.1.5. For all other provisions of PPCF documents, the Secretary and the Commissioner ABF expect all IBP workers to:
- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
  - consider the risks of departing from any provision set out in a PPCF document

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- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

8.1.6. IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

## 9. Related Framework documents

9.1.1. Related Framework documents include:

- s22(1)(a) in PPCR s22(1)(a)(ii)
- s22(1)(a) in PPCR s22(1)(a)(ii)
- s22(1)(a) in PPCR s22(1)(a)(ii)
- s22(1)(a) in PPCR s22(1)(a)(ii)
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii)
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- s22(1)(a)(ii) in PPCR s22(1)(a)(ii)
- [DM-3303](#) in PPCR (DSM - SOP - Safety and security management - Incident response and management)
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii)
- [DM-3291](#) in PPCR (DSM - SOP - Safety and security management - Use of force)
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii)
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- s22(1)(a)(ii)
- s22(1)(a)(ii)

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- s22(1)(a) in PPCR s22(1)(a)(ii)
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii)
- s22(1)(a)(ii)

## 10. References and legislation

### 10.1.1. References and legislation include:

- *Australian Border Force Act 2015*
- Australian Public Service Code of Conduct
- Comcare Guide to Work Health and Safety Incident Notification
- Facilities and Detainee Services Contract, Immigration Detention Services
- *Migration Act 1958*
- *Privacy Act 1988*
- *Public Governance, Performance and Accountability Act 2013*
- *Public Interest Disclosure Act 2013*
- *Public Service Act 1999*
- *Work Health and Safety Act 2011*

## 11. Consultation

### 11.1. Internal consultation

#### 11.1.1. The following internal stakeholders were consulted in the development of this PI:

- Relevant policy and/or program management area
  - Child Wellbeing Branch
  - Detention Assurance Branch
  - Detention Operations Command, including regional commands
  - Detention Health Operations
  - UHM & Guardianship Section
  - National Compliance Programme
  - Onshore Contracts Section
- Australian Border Operations Centre
- Civil Litigation & Compensation
- FOI, Privacy and Records Management Branch
- Integrity and Professional Standards Branch

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- Legal Advice and Operational Support Branch
- Risk and Assurance Branch
- s37(2)(b)
- Workforce Health and Safety section

### 11.2. External consultation

11.2.1. The following external stakeholders were consulted in the development of this PI:

- N/A

## 12. Document details

<b>BCS Category/Function</b>	Detention Management
<b>BCS Sub-Category/Sub-Function</b>	DM-11 Incident management
<b>Period of Effect</b>	15 November 2021

### 12.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
2.0	30/06/2017	Detention and Removal Operational Policy	Update of detention instructions to reflect PPCF requirements
3.0	22/12/2017	Detention and Removal Operational Policy	Reviewed as per Duty Commissioner's request for 'extraordinary review'.
4.0	29/10/2018	Detention and Removal Operational Policy	Reviewed in accordance with PPCF review
5.0	12/11/2018	Detention and Removal Operational Policy	Update post-legal and Superintendent review

### 12.2. Procedural Instruction approval

<b>Document owner</b>	Commander, ABF Governance
<b>Approval date</b>	15 November 2018



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# Detention Services Manual – Safety and security management - Use of force

## Standard Operating Procedure

This Standard Operating Procedure describes use of force and how force may be applied and be reported when used in the immigration detention network.

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TRIM record number	ADD2018/5549614
Primary influencing Legislation(s)	<i>Migration Act 1958</i>

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# 1. Introduction

## 1.1. Purpose

- 1.1.1. This Standard Operating Procedure (SOP) provides Australian Border Force (ABF) and Facilities and Detainee Services Provider (FDSP) officers with guidance on the use of force (UoF) and/or restraint to achieve lawful and operational outcomes in the immigration detention network (IDN), as specified in the *Migration Act 1958* (Migration Act).
- 1.1.2. This SOP describes the concept of UoF and how force may be applied, and must be reported, when used in held detention by ABF and FDSP officers.
- 1.1.3. This SOP aligns to and must be implemented in conjunction with [DM-623](#) in PPCR (*DSM – PI – Safety and security management – Use of force*).

# 2. Scope

## 2.1. In Scope

- 2.1.1. This SOP applies to all ABF and FDSP officers who may be required to use force in the performance of their duties in the immigration detention network.

## 2.2. Out of Scope

- 2.2.1. This SOP does not address procedures for using force when ABF and FDSP officers are not performing official duties.

# 3. Glossary

- 3.1.1. The terms and their accompanying definitions that have specific meanings in the context of the suite of detention instructions is at [s22\(1\)\(a\)\(ii\)](#) in PPCR [s22\(1\)\(a\)\(ii\)](#)

# 4. Standard Operating Procedure

## 4.1. Use of force

### Planned use of force (UoF) in screening, search and general activities

Step	Action	Person Responsible
4.1.1.	Requirement for possible UoF identified to complete task. For minors, refer to <a href="#">DM-623</a> in PPCR ( <i>DSM – PI – Safety and security management – Use of force</i> ).	FDSP Officer
4.1.2.	Advise FDSP Facility Operations Manager (FOM) of the possible need and reasons for UoF request, in line with legislation, the Department of Home Affairs (the Department) and ABF policy and procedures.	FDSP Officer



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Step	Action	Person Responsible
4.1.3.	Consider circumstances of tasks and behaviours of detainees. Decide whether the UoF might be appropriate and lawful.	FDSP FOM
4.1.4.	Review <sup>s37(2)(b)</sup> [redacted] and assess need for UoF in the completion of lawful activity.	FDSP FOM
4.1.5.	Consult the Detention Health Services Provider (DHSP) about particular detainee(s) and whether UoF will be appropriate. Document, in writing, the request for information from the DHSP.	FDSP FOM
4.1.6.	Provide written advice to FDSP FOM on UoF.	DHSP
4.1.7.	Consider DHSP advice.  Note: Advice received from the DHSP must be included in any UoF approval request submitted to the ABF Detention Superintendent (Facility).	FDSP FOM
4.1.8.	If the risk assessment results in the potential UoF being required: <ul style="list-style-type: none"> <li>decide on mitigation strategies</li> <li>develop and complete an operational plan or order (if appropriate and necessary)</li> <li>seek approval from ABF Detention Superintendent (Facility) for tasking and UoF.</li> </ul>	FDSP FOM
4.1.9.	Provide approval to FDSP FOM for UoF and any limitations to be applied as per operational plan or order.	ABF Detention Superintendent (Facility)
4.1.10.	Provide approval to FDSP officer for UoF and any limitations to be applied.	FDSP FOM
4.1.11.	Make an audio visual recording of all planned UoF in accordance with <sup>s22(1)(a)(iii)</sup> in PPCR <sup>s22(1)(a)(ii)</sup> [redacted]	FDSP Officer
4.1.12.	Apply approved UoF in accordance with training and qualifications. If the UoF includes the use of restraints refer to <i>Use of equipment</i> .  <b>Note:</b> The use of restraints <b>must</b> always be necessary, proportionate and reported. <sup>s47E(d)</sup> [redacted]	FDSP Officer
4.1.13.	Conduct regular wellbeing checks of detainee while UoF is being applied. Ensure, as far as possible and practicable, that the detainee's comfort and dignity is maintained and that the detainee is safe while subjected to UoF.  <b>Note:</b> This is particularly important when a detainee is restrained in a vehicle or their movement is restricted.	FDSP Officer
4.1.14.	Use force for only as long as is necessary and reasonable in the circumstances.  Remove restraints at the first reasonable and practicable opportunity.	FDSP Officer
4.1.15.	Follow considerations and actions as per section 4.2. <i>Aftercare</i> .	FDSP Officer
4.1.16.	Report as per section 4.4. <i>Reporting requirements</i> .	FDSP Officer

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### Planned use of force transport and escort tasks

Step	Action	Person Responsible
4.1.17.	After task is identified - develop and finalise an Escort Operational Order (EOO) in accordance with s22(1)(a) in PPCR s22(1)(a)(ii)	Transport and Escort (T&E) Manager
4.1.18.	Review s37(2) and assess need for UoF to complete the identified activity.	T&E Manager
4.1.19.	Consider site risk assessment and assess need for mitigation measures.	T&E Manager
4.1.20.	Consult the DHSP about the detainee and whether UoF is appropriate if there are known health issues with the detainee. Document the written request for information from the DHSP.  The DHSP may also provide advice on appropriate strategies given any known health issues.	T&E Manager
4.1.21.	Provide written advice to T&E Manager on UoF.	DHSP
4.1.22.	Consider DHSP advice.  Note: Advice received from the DHSP must be included in any UoF approval request submitted to the ABF Detention Superintendent (Facility).	T&E Manager
4.1.23.	If the risk assessment(s) result in identifying the need for UoF, decide if it will be recommended for implementation to the ABF Detention Superintendent (Facility).	T&E Manager
4.1.24.	Finalise EOO in accordance with s22(1)(a) in PPCR s22(1)(a)(ii)	T&E Manager
4.1.25.	Seek approval from ABF Detention Superintendent (Facility) for tasking and UoF.	T&E Manager
4.1.26.	Provide approval to T&E Manager for UoF and any limitations to be applied.  <b>Note:</b> The use of restraints <b>must</b> always be necessary, proportionate and reported. If it is likely that leg restraints may be used with the Humane Restraint (waist-body belt) it <b>should</b> be noted in the approval.	ABF Detention Superintendent (Facility)
4.1.27.	Provide approval to T&E Team Leader for UoF and any limitations to be applied.	T&E Manager
4.1.28.	Make an audio-visual recording of all planned UoF in accordance with s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	T&E Team Leader
4.1.29.	Apply approved UoF in accordance with training and qualifications.  If the UoF includes the use of restraints refer to section 4.3. <i>Use of equipment</i> .	T&E Team Leader
4.1.30.	Conduct regular wellbeing checks of detainee while UoF is being applied.	T&E Officer
4.1.31.	Ensure detainee is safe during any transport activity, while in the presence of escorting officers and while subjected to UoF.  Ensure, as far as possible and practicable, that the detainee's comfort and dignity is maintained.  <b>Note:</b> This is particularly important when a person is restrained in a vehicle or their movement is restricted.	T&E Officer

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Step	Action	Person Responsible
4.1.32.	Use force for only as long as is necessary and reasonable in the circumstances.  Remove restraints at the first reasonable and practicable opportunity.	T&E Officer
4.1.33.	Follow considerations and actions as per section 4.2. <i>Aftercare</i> .	T&E Officer
4.1.34.	Report as per section 4.4. <i>Reporting requirements</i> .	T&E Officer

### Unplanned use of force

Step	Action	Person Responsible
4.1.35.	Consider and decide if the UoF to be applied is necessary in line with legislation, policy and procedures.  For minors, refer to <a href="#">DM-623</a> in PPCR ( <i>DSM – PI – Safety and security management – Use of force</i> ).	ABF Officer or FDSP Officer
4.1.36.	In the event there is a medical emergency and an ambulance transports a detainee: <ul style="list-style-type: none"> <li>• evaluate the need for restraints to be applied to the detainee</li> <li>• liaise with ambulance officers about the appropriateness of applying restraints and particularly, whether they will interfere with the medical care to be provided or the health of the detainee</li> <li>• do not use restraints unless an ABF or a FDSP officer accompanies the detainee in the ambulance.</li> </ul>	ABF Detention Superintendent (Facility) or FDSP FOM
4.1.37.	Respond in line with training and qualifications and reasonably to the threat or risk being faced.  Call police if appropriate.  <b>See:</b> s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	ABF Officer or FDSP Officer
4.1.38.	Follow considerations and actions as per section 4.2. <i>Aftercare</i> .	ABF Officer or FDSP Officer
4.1.39.	Report as per section 4.4. <i>Reporting requirements</i> .	ABF Officer or FDSP Officer

## 4.2. Aftercare

### Actions after use of force

Step	Action	Person Responsible
4.2.1.	Maintain control of detainee(s) who has been subjected to UoF.  Physical restraints may be appropriate to achieve this outcome. The use of restraints <b>must</b> always be necessary, proportionate and reported.	FDSP Officer
4.2.2.	Ensure effective communication with the detainee(s) to ensure that the detainee(s) understands what has occurred and why.	FDSP Officer
4.2.3.	Use an interpreter as necessary and appropriate.	FDSP Officer

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Step	Action	Person Responsible
	<b>See:</b> s22(1)(a) in PPCR s22(1)(a)(ii)	
4.2.4.	Remove any restraining devices at the first reasonable and appropriate opportunity.	FDSP Officer
4.2.5.	Visually inspect the detainee(s) subjected to UoF for any injuries, render first aid as appropriate, and needed.	FDSP Officer
4.2.6.	Seek medical assistance and review of the detainee(s) from DHSP as soon as reasonably practicable.  <b>Note:</b> This may not be practicable if the detainee and is being removed from the country. In these circumstances, visually inspect any points of restraint on the detainee for injury.  Record observations and actions in the UoF incident report and record whether any injuries were or were not present.	FDSP Officer
4.2.7.	Observe the detainee and ensure appropriate and timely responses to any deterioration to the detainee, by carefully monitoring, among other things: <ul style="list-style-type: none"> <li>• mental state</li> <li>• demeanour</li> <li>• breathing</li> <li>• welfare and</li> <li>• general health.</li> </ul>	FDSP Officer
4.2.8.	Medically examine the detainee immediately.	DHSP
4.2.9.	Consider implementation of support to the detainee as appropriate in consultation with DHSP.	FDSP FOM and DHSP
4.2.10.	Complete a UoF incident report form and lodge on the CCMD portal. See <i>Reporting requirements</i> for information about reporting UoF.	FDSP Officer

### Complaints during or after use of force

Step	Action	Person Responsible
4.2.11.	If a detainee(s) wishes to complain, advise the detainee(s) that they may complain to: <ul style="list-style-type: none"> <li>• the FDSP</li> <li>• the Department/ABF</li> <li>• the Australian Human Rights Commission</li> <li>• the Commonwealth Ombudsman</li> <li>• the police</li> <li>• or may seek legal advice from a legal practitioner.</li> </ul> <b>See:</b> s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	ABF Officer or FDSP Officer

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Step	Action	Person Responsible
	s22(1)(a)(ii) in PPCR s22(1)(a)(ii) s22(1)(a) in PPCR s22(1)(a)(ii)	
4.2.12.	Provide detainee(s) with access to mechanisms to lodge a complaint.	ABF Officer or FDSP Officer
4.2.13.	Advise the FDSP FOM or ABF Detention Superintendent (Facility).	ABF Officer or FDSP Officer

### Debriefing after use of force

Step	Action	Person Responsible
4.2.14.	Review UoF circumstances.	FDSP FOM and ABF Detention Superintendent (Facility)
4.2.15.	Conduct debrief of all ABF and FDSP officers, and/or other people involved in accordance with s22(1)(a)(ii) in PPCR s22(1)(a)(ii) and s22(1)(a)(ii) in PPCR s22(1)(a)(ii).  <b>Note:</b> Identify, report and manage any issues arising in the debriefing process.	FDSP FOM and ABF Detention Superintendent (Facility)

## 4.3. Use of equipment

### Issue, return and serviceability of equipment

Step	Action	Person Responsible
4.3.1.	Ensure personal issue equipment, such as first aid pouch and radio earpiece are working and in good condition.	FDSP Officer
4.3.2.	Ensure equipment issued at beginning of shift is working and in good condition.	FDSP Officer
4.3.3.	Ensure equipment is managed appropriately during shift and held personally. s47E(d)	FDSP Officer
4.3.4.	Return equipment as required at end of shift.	FDSP Officer
4.3.5.	If any equipment is used during shift to apply force report it in accordance with 4.4. <i>Reporting requirements</i> .  <b>See:</b> s22(1)(a)(ii) in PPCR s22(1)(a)(ii) for more information about managing various types of equipment.	FDSP Officer

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### Application

Step	Action	Person Responsible
4.3.6.	Consider the circumstances of the incident and specifically assess the conduct of the detainee against whom force may be applied.	FDSP Officer or T&E Officer
4.3.7.	Decide the need for use of any specific equipment, specifically addressing values of organisation, lawfulness of application and whether alternative and lesser measures would suffice. <b>Note:</b> The use of restraints <b>must</b> always be necessary, proportionate and reported.	FDSP Officer or T&E Officer
4.3.8.	Act in accordance with training and qualifications.	FDSP Officer or T&E Officer
4.3.9.	Record and report any usage and application of equipment in accordance with 4.4. <i>Reporting requirements</i> .	FDSP Officer or T&E Officer

### Storage

Step	Action	Person Responsible
4.3.10.	Ensure equipment is securely stored in an appropriate place in the facility in accordance with local work instructions.	FDSP FOM
4.3.11.	Ensure access to equipment is only by appropriately authorised, trained and or qualified FDSP officers.	FDSP FOM or T&E Manager
4.3.12.	Conduct regular monthly audits of personal issue Personal Protective Equipment (PPE). In the event of any concerns or issues report to T&E Manager.	T&E Team Leader
4.3.13.	Report any concerns or issues to the ABF Detention Superintendent (Facility).	T&E Manager
4.3.14.	Loss or damage to any equipment should be reported and managed in accordance with s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	FDSP FOM or T&E Manager

## 4.4. Reporting requirements

### Reporting use of force (including use of restraints)

Step	Action	Person Responsible
4.4.1.	The application of any force, including the use of restraints, <b>must</b> be reported in accordance with the s22(1)(a)(ii) and s22(1)(a)(ii) <b>Note:</b> There is no requirement to report use of the Enhanced Escort Position (EEP) when used as part of a routine transport and escort task.	ABF Officer or FDSP Officer
4.4.2.	s47E(d)	

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Step	Action	Person Responsible
4.4.3.	For planned or unplanned UoF involving a minor: <ul style="list-style-type: none"> <li>in the case of an Immigration Guardianship of Children (IGOC) minor, notify the IGOC delegate</li> <li>in the case of an unaccompanied minor, notify the ABF Detention Superintendent (Facility)</li> </ul>	FDSP FOM
4.4.4.	s47E(d)	
4.4.5.	s47E(d)	
4.4.6.	s47E(d)	
4.4.7.	s47E(d)	
4.4.8.	<p><b>Immediately report:</b></p> <ul style="list-style-type: none"> <li>an incident that causes death of any person</li> <li>an incident causing any injury to any person</li> <li>a dangerous incident in a workplace that exposes a worker or any other person to a serious risk to their health and safety emanating from an immediate or imminent exposure to a risk(s).</li> </ul> <p>To: Workforce Health and Safety (WHS)</p> <ul style="list-style-type: none"> <li>s47E(d) (24 hours, 7 days a week).</li> </ul> <p><b>Note:</b> If the number is unanswered, leave a voice message and staff from the section will return your call as soon as possible.</p>	ABF Detention Superintendent (Facility)

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Step	Action	Person Responsible
	Email to: <ul style="list-style-type: none"> <li>• s47E(d) (monitored 9am to 5pm, Monday to Friday)</li> <li>• s47E(d)</li> </ul> <b>Note:</b> If any doubt arises with respect to reporting obligations or categories of matters contact WHS as outlined above for assistance.	
4.4.9.	ABF officers who have used force <b>must</b> submit a UoF Incident Report and submit it in accordance with departmental/ABF procedures.  Completed reports must be emailed to s47E(d) <b>Note:</b> If the leg restraints were used with the Humane Restraint (waist-body belt) it should be noted in the report.	ABF Officers
4.4.10.	Distribute report to line areas, Integrity and Professional Standards and ABF College.	ABOC

### Recording and reporting planned use of force (including use of restraints)

Step	Action	Person Responsible
4.4.9.	Make an audio visual recording of all planned UoF  <b>See:</b> s22(1)(a)(ii) in PPCR s22(1)(a)(ii)	FDSP Officer
4.4.10.	Complete incident report on UoF and include detail of circumstances and reasons.  Lodge UoF Incident Report on the CCMD portal.  <b>Note:</b> If the leg restraints were used with the Humane Restraint (waist-body belt) it should be noted in the report.	FDSP Officer

## 5. Accountability and responsibilities

- 5.1.1. For accountability and responsibilities, refer to [DM-623](#) in PPCR (*DSM – PI – Safety and security management – Use of force*).

## 6. Records management

- 6.1.1. All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this procedure must be saved in TRIM RM8 or an approved business system.

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## 7. Further assistance

- 7.1.1. If you require further advice or assistance, or would like to provide feedback in relation to this SOP, please contact the Detention and Removal Operational Policy section at s47E(d)

## 8. Statement of Expectation

- 8.1.1. The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).
- 8.1.2. Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.
- 8.1.3. The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all IBP workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.
- 8.1.4. Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.
- 8.1.5. For all other provisions of PPCF documents, the Secretary and the Commissioner ABF expect all IBP workers to:
- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
  - consider the risks of departing from any provision set out in a PPCF document
  - be responsible and accountable for the consequences of departing from, or not adhering to, the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
  - be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.
- 8.1.6. IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

## 9. Related Framework documents

- 9.1.1. For related framework documents, refer to [DM-623](#) in PPCR (*DSM – PI – Safety and security management – Use of force*).

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## 10. References and legislation

- 10.1.1. For references and legislation, refer to [DM-623](#) in PPCR (*DSM – PI – Safety and security management – Use of force*).

## 11. Consultation

### 11.1. Internal consultation

- 11.1.1. For internal stakeholders consulted in the development of this SOP, refer to [DM-623](#) in PPCR (*DSM – PI – Safety and security management – Use of force*).

### 11.2. External consultation

- 11.2.1. For external stakeholders consulted in the development of this SOP, refer to [DM-623](#) in PPCR (*DSM – PI – Safety and security management – Use of force*).

## 12. Document details

<b>BCS Category/Function</b>	Detention Management
<b>BCS Sub-Category/Sub-Function</b>	DM-10 Detention Security
<b>Period of Effect</b>	10 October 2021

### 12.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
2.0	30/06/2017	National Detention and Removals Programmes	Update of detention instructions to reflect PPCF requirements.
3.0	22/12/2017	National Detention and Removals Programmes	Reviewed as per Deputy Commissioner's request for 'extraordinary review'.
3.1	06/02/2018	Detention and Removals Operational Policy	Update PPCF feedback.
4.0	08/10/2018	Detention and Removals Operational Policy	Update post-legal review.
5.0	10/10/2018	Detention and Removals Operational Policy	Update post Superintendent review.

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<b>Document owner</b>	Commander, ABF Governance
<b>Approval date</b>	10 October 2018

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# Detention Services Manual- Safety and security management - Use of force

## Procedural Instruction

This Procedural Instruction describes the concept of use of force and how force may be applied, and must be reported, when used in the immigration detention network.

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Last PPCF review date	06 February 2018
Contact details	Detention and Removals Operational Policy s47E(d)
Document ID (PPN)	DM-623
TRIM record number	ADD2018/5548985
Primary influencing Legislation(s)	<i>Migration Act 1958 (Cth)</i>

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# 1. Introduction

## 1.1. Purpose

- 1.1.1. This Procedural Instruction (PI) gives policy and procedural guidance to Australian Border Force (ABF) and Facilities and Detainee Services Provider (FDSP) officers on the use of force (UoF) and/or restraint to achieve lawful and operational outcomes in immigration detention facilities (IDFs), as specified in the *Migration Act 1958* (Migration Act).
- 1.1.2. This guidance is intended to minimise the risk of inappropriate UoF and risk of harm to detainees, officers and third parties, thereby reducing the risk of negative exposure of the ABF.
- 1.1.3. This PI is to be implemented in conjunction with s22(1)(a) in PPCR s22(1)(a)(ii) and the s22(1)(a)(ii).
- 1.1.4. This PI aligns to and is to be implemented in conjunction with the [DM-3291](#) in PPCR (*DSM-SOP – Safety and security management – Use of force*).

## 1.2. Legislative framework

- 1.2.1. Section 252A of the Migration Act provides powers for allowing authorised officers to strip search a detainee in order to locate items that can inflict bodily injury and/or help a person to escape immigration detention.
- 1.2.2. In many cases, UoF is allowed under a specific legislative power, however, in other cases, officers may rely on common law or the law of the State or Territory (as applicable) to use reasonable force against a detainee to prevent self-harm, defend themselves or another person and/or to prevent damage to property.
- 1.2.3. Further relevant references of UoF under the Act are included in:
- s189 detention of unlawful non-citizens
  - s192 detention of visa holders whose visas liable to cancellation
  - s198 removal from Australia of unlawful non-citizens
  - s252(8) searches of persons
  - s252AA(2) power to conduct a screening procedure
  - s252B(1)(k) use of force in conducting a strip search
  - s253 detention of deportee and
  - s261AE(1)–(4) use of force in carrying out identification tests
- 1.2.4. For more information on the legislative provisions for the UoF in the immigration detention environment under the Migration Act, refer to s22(1)(a) in PPCR s22(1)(a)(ii).

## 1.3. Guiding Principles

- 1.3.1. The guiding principles in relation to the application of UoF and/or restraint in the immigration detention environment is encapsulated in the immigration values in s22(1)(a) in s22(1)(a)(ii) which states that detainees

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will be treated fairly and reasonably within the law and that conditions of immigration detention will ensure the inherent dignity of the human person.

## 2. Scope

### 2.1. In Scope

- 2.1.1. This PI provides guidance to all officers who may be required to use force in the performance of their duties in the immigration detention network (including where a detainee is outside of an immigration detention facility, but remains in 'immigration detention' as defined in s5(1) of the Migration Act because, for example, they are in the company of, and restrained by, an officer).

### 2.2. Out of Scope

- 2.2.1. This PI does not apply to:
- officers that are not performing official duties
  - detainees subject to a Residence Determination (community placement) arrangement
  - compliance field operations.

## 3. Glossary

- 3.1.1. The terms and their accompanying definitions that have specific meanings in the context of the suite of detention instructions is at s22(1)(a)(ii) in PPCR s22(1)(a)(ii).

## 4. Procedural Instruction

### 4.1. Use of force

- 4.1.1. The following considerations and obligations apply to the application of force and/or restraint in the immigration detention network (IDN), where **restraint refers to physical rather than legislative**:
- **there is a presumption against the use of force**, including restraints, during movements within an IDF, transfers between IDFs, and during transport and escort activities outside of IDFs
  - conflict resolution through **negotiation and de-escalation, where practicable, must be considered** before the UoF and/or restraint is used
  - UoF and/or restraint should **only be used as a measure of last resort**
  - the amount of force used and the application of restraints **must be reasonable**
  - UoF and/or restraint may be used to **prevent the detainee inflicting self-injury, injury to others, escaping or destruction of property**
  - UoF and/or restraint **may only be used for the shortest amount of time possible to the extent that it is both lawfully and reasonably necessary**. If the management of a detainee can be achieved by other means, force must not be used

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- UoF and/or physical restraint **must not** include cruel, inhumane or degrading treatments
- UoF and/or restraint **must not be used for the purposes of punishment**
- the excessive UoF and/or restraint is unlawful and **must not** occur in any circumstances, excessive force on a detainee may constitute an assault and
- all instances where UoF and/or restraint are applied (including any follow-up action), **must be reported** in accordance with the relevant FDSP operational procedures.

### Planned use of force

4.1.2. Planned UoF, where planning to use force and approvals can be sought is considered normal business activities.

4.1.1.

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4.1.2. In consulting with the DHSP on a planned UoF, the FDSP must document the request for information from the DHSP in writing, as well as any advice provided by the DHSP. Written advice received from the DHSP must be included in the UoF approval request submitted to the ABF Detention Superintendent (Facility).

4.1.3. Approval for planned UoF can be provided verbally in exceptional circumstances, where time constraints apply, but **must** be documented after the event in accordance with Incident Reporting Guidelines.

4.1.4. Planned UoF, including the use of restraints, **must not** commence prior to approval of the ABF Detention Superintendent (Facility) for the UoF being received. In the event that approval for intended UoF is not received in time, it becomes and must be reported as an unplanned UoF event.

4.1.5. Where there is a planned UoF involving more than one detainee (such as a bulk transfer operation), the planning documents for the operation must consider whether UoF/restraints are necessary in relation to each detainee on an individual basis. In this circumstance, authorisation must be separately obtained for the UoF/restraints in relation to each detainee. That is, there is to be no blanket consideration or approval given to planned UoF/restraints where multiple detainees are involved. In addition, there should be no presumption that a detainee should be restrained only because it is necessary to restrain another detainee.

### Unplanned use of force

4.1.6. Unplanned UoF may be used in an immediate or emergency situation where a response is required and circumstances prevent an opportunity to seek approval, or prepare a risk analysis for using force and/or restraints.

## 4.2. Last resort principles

4.2.1. All UoF and/or restraint should be proportionate to the situation, objectively justifiable and only used as a measure of last resort. What this means is that the officer reasonably believes that there is no other option other than the UoF and/or restraint. The level of force must be proportionate to the threat being faced and always at the minimum level required to achieve legislative outcomes.

4.2.2. Force should not be used unless it is reasonably necessary to achieve a lawful outcome. In the first instance, officers should seek to achieve the desired objective, whenever possible, by de-escalation techniques such as discussion, negotiation, verbal persuasion and co-operation.

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- 4.2.3. All officers must assess every situation and use all options available that do not involve the UoF to manage any given situation. Planning (where possible) and effective communication are key elements in resolving matters before moving to UoF.

### Examples where force may be used

- 4.2.4. Appropriate UoF and/or physical restraint in an IDF may be necessary to:
- prevent a minor from harming persons or preserve them from situations that would otherwise harm them
  - prevent escape
  - prevent a detainee from injuring themselves or others
  - manage riotous behaviour by a group of detainees
  - prevent a detainee inflicting damage to property
  - conduct a search procedure conduct a screening procedure or conduct a strip search procedure and/or
  - collect personal identifiers.

## 4.3. Identity issues

- 4.3.1. Officers must be aware of any specific legislative provisions related to vulnerable detainees. For example, s261AE of the Migration Act not does authorise the UoF on minors or 'incapable persons' when carrying out an identification test.
- 4.3.2. Officers who require advice about any identity issue or a potentially complex case should contact s47E(d) section on s47E(d).
- 4.3.3. For more information, refer to:
- s22(1)(a) in PPCR s22(1)(a)(ii)
  - s47E(d)

## 4.4. Detainees of special consideration

- 4.4.1. Officers must exercise care and informed decision making before using reasonable force and/or restraints against any detainee. However, vulnerable people and the existence of certain qualities or factors, which are not always readily identifiable or demonstrated, may contribute to a detainee's behaviour. These may, in turn, affect the decision to use force and/or restraints and the manner in which it is used.
- 4.4.2. The UoF **must always be reasonable** and officers **must consider the individual circumstances** of any detainee against whom force and/or restraints need to be used.
- 4.4.3. Detainees of special consideration are vulnerable persons that may include those:
- who are minors
  - requiring special medical attention
  - at risk of self-harm
  - with suspected mental health issues

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- with physical or known psychological vulnerabilities such as being victims of torture and trauma
  - suspected of having been the victims of people trafficking
  - that are frail and/or the elderly.
- 4.4.4. Officers must use greater care than would otherwise be required should reasonable force be warranted against a detainee of special consideration.
- 4.4.5. Where medical evidence is provided that supports a detainee's mobility being severely limited, for example through the use of crutches or a wheelchair, there is a presumption against the use of restraints against that detainee.
- 4.4.6. Officers must be aware of the distress that can be inflicted on a minor should they see their parent, guardian or any detainee being restrained.
- 4.4.7. UoF and/or restraints must not be used on a minor unless an officer believes, on reasonable grounds, that it is essential to safely transport or protect the welfare and/or security of the minor or another person.

### **Torture and Trauma counselling**

- 4.4.8. Detainees being escorted to Torture and Trauma (T&T) counselling outside of an IDF are only to be subject to UoF and/or physical restraint only as a last resort.
- 4.4.9. Where the risk of an escort remains a concern, consideration may also be given to having the activity occur within the IDF. DHSP and T&T counselling providers can facilitate this as a preferred option.

## **4.5. Instruments of restraint**

### **Only approved items**

- 4.5.1. Whether mechanical or otherwise, only items approved by the Commissioner ABF are to be used in an IDF. Law enforcement agencies may use other restraints in the lawful execution of their duties and in accordance with any applicable legislation and/or policy. Instruments of restraint must:
- **never** be applied as a punishment or for discipline
  - **never** be applied as a substitute for medical treatment
  - **never** be used for convenience or as an alternative to reasonable staffing
  - be removed once the threat has diminished and the officer believes that the person is no longer a threat to themselves, others or property.
- 4.5.2. Unless the situation requiring instruments of restraint is an emergency, any planned application first requires a detailed risk-management assessment to be undertaken in accordance with established procedures.
- 4.5.3. For the current list of approved instruments of restraint, refer to Annex A.

### **Use of restraints**

- 4.5.4. The use of all chemical agents of restraint, including sedatives, tear gas, pepper spray and capsicum spray by all ABF and FDSP officers is strictly prohibited. Whenever an instrument of restraint is applied, where practicable, an appropriately trained/qualified officer not involved in the process should observe and record the occurrence.

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- 4.5.5. Commander Detention Operations (National) or delegated ABF Detention Superintendents may instruct the FDSP not to restrain a detainee and provide alternative direction regarding risk mitigation strategies.
- 4.5.6. In an emergency situation the decision to apply an instrument of restraint will be made by the most senior officer present. Once restraints are applied, the ABF Detention Superintendent (Facility) is to be advised of the use of the instrument of restraint as soon as is practicable.
- 4.5.7. The decision to remove an instrument of restraint will be made by the most senior officer present. Once restraints are removed, the ABF Detention Superintendent (Facility) is to be advised of the removal of the instrument of restraint as soon as is practicable.
- 4.5.8. The use and removal of an instrument of restraint is to be reported to the Department in accordance with normal reporting standards – see [DM-616](#) in PPCR (*DSM – PI – Safety and security management – Incident management and reporting*).

## 4.6. Transport and escort

- 4.6.1. s47E(d)
- 4.6.2. In practice this means that UoF and/or physical restraint will be determined following risk-management procedures.
- 4.6.3. An instrument of restraint may be used on a detainee who, at any stage of being escorted, exhibits behaviour that could reasonably be viewed as posing a risk to the safety of themselves, others, property or an attempt to escape.
- 4.6.4. If a detainee is restrained an officer **must**:
- conduct checks at regular intervals
  - be aware at all times of the safety of the detainee including while travelling in a restrained manner in a motor vehicle
  - take special account of the detainee's comfort and dignity, particularly when there is a need to apply restraints to the detainee for a lengthy period.
- 4.6.5. There is an accepted inherent risk stemming from a likely lack of knowledge of any person who has been in detention for less than 28 days. Unless the ABF or any service provider provides further information or direction, the FDSP **may** determine these detainees as a high risk of escape. Consequently, these detainees **may** be escorted in mechanical restraints. Noting the risks, the FDSP must consider each instance on a case-by-case basis weighing up the risks of escape against the broader reputational risk of the Department.
- 4.6.6. For policy and procedure, refer to s22(1)(a) in PPCR s22(1)(a)(ii).

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### 4.7. After using force and/or restraint

#### Reporting use of force and/or restraint

- 4.7.1. All officers are accountable and must be able to justify their UoF and/or restraint.
- 4.7.2. The UoF and/or restraint is accountable to the Department, external and internal review bodies and the courts. Accurate recording and reporting ensures accountability and trust in the UoF and/or restraint and that officers are applying it appropriately.
- 4.7.3. Recording and reporting also provides an opportunity to identify training and future equipment needs, repeated areas of concern or threats to officers and others generally.
- 4.7.4. The reporting and recording of UoF and/or restraint must be done in accordance with the relevant Detention SOPs.
- 4.7.5. All detainees who have been subject to UoF and/or restraints must be medically assessed. In most cases, this will be undertaken by the DHSP.
- 4.7.6. For more information, refer to [DM-616](#) in PPCR (*DSM – PI – Safety and security management – Incident management and reporting*).

#### Debriefing

- 4.7.7. All officers present during situations in which force and/or restraint has been used must be debriefed by a suitably qualified senior officer as soon as reasonably practicable. Debriefing sessions should be structured to provide officers with an opportunity to discuss issues and concerns arising from the particular incident and the circumstances that UoF and/or restraints were applied.
- 4.7.8. Departmental/ABF officers may also avail themselves of the Employee Assistance Program (EAP), which provides free confidential and professional assistance through short-term counselling and consulting.
- 4.7.9. Debriefing should also be provided to people who have been the subject of UoF and/or restraint. This process serves an important role in reducing stress, and can assist in re-establishing positive relationships between those involved in the incident.

#### After care

- 4.7.10. UoF may be required in any number of circumstances, however, the welfare of the person subjected to that UoF and personnel involved in the action are paramount. All departmental/ABF officers and contractors using force must ensure that first aid and wellbeing considerations are applied and managed for any detainee subjected to force.
- 4.7.11. For more information, refer to [s47E\(d\)](#)

#### Complaints

- 4.7.12. Where a person in immigration detention believes they have been subjected to force that is excessive, not appropriate or unreasonable, they must be advised of, and allowed to access, the full range of complaints handling mechanisms available to all detainees, including:
  - the FDSP
  - the Department/ABF
  - the Australian Human Rights Commission
  - the Commonwealth Ombudsman

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- the Australian Federal Police (AFP) and
- legal representation if requested.

## 5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
ABF Detention Superintendent (Facility)	<p>Exercise overall management of the IDF.</p> <p>Supervise ABF officer/s, particularly when utilising UoF.</p> <p>Receive and facilitate any applications for the planned UoF.</p> <p>Communicate decisions for the UoF to the FDSP Facility Operations Manager (FOM).</p> <p>Consider and make decisions on planned UoF for a T&amp;E task.</p>
ABF Officer	<p>Perform functions, duties as permitted, authorised under law, and specific relevant Acts pertaining to immigration and detention functions.</p> <p>Ensure knowledge of relevant legislation and policies, particularly legislative UoF provisions.</p> <p>Apply training and qualifications responsibly and in accordance with legislation and policy.</p> <p>Ensure decision-making and actions are properly documented and reported.</p>
Detention Health Services Provider (DHSP) staff	<p>Responsible for medical response and support of detainee. Support decision making in the UoF against detainees and providing advice to relevant departmental/ABF officers and contractors about any known health issues that may affect the UoF. Assess detainee's health following any UoF.</p>
Emergency Response Team (ERT)	<p>Respond to and manage critical and major incidents and perform emergency response duties in accordance with relevant national and site-specific work instructions. Use the following as appropriate:</p> <ul style="list-style-type: none"> <li>• cordon and containment</li> <li>• personal protective equipment</li> <li>• disorder tactics</li> <li>• room extraction</li> <li>• barricade and hostage response.</li> </ul>
FDSP Authorised Officer	<p>Conduct screening and search activities in accordance with the Migration Act and appropriate delegation, authorisation, training and qualifications.</p> <p>May use force to complete certain actions under relevant legislative provisions and as specifically authorised under an Instrument of Authorisation for those provisions.</p>
FDSP FOM	<p>Fulfil the role of line manager and supervise FDSP officers.</p> <p>Provide advice and oversight to officers in the UoF.</p>

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Position	Accountability and/or responsibility
	<p>Supervise screening procedures undertaken with force.</p> <p>Supervise pat down search procedures undertaken with force.</p> <p>Engage the DHSP to undertake medical treatment and/or assessment of a detainee subjected to force.</p> <p>Receive, consider and recommend the application for UoF to the ABF Detention Superintendent (Facility).</p> <p>Communicate decisions for the UoF to FDSP officers.</p> <p>Ensure that accurate records of the UoF are made and maintained.</p> <p>Ensure notification to appropriate ABF officer of the UoF.</p>
FDSP Officers	<p>Ensure appropriate personal knowledge of relevant legislation and policies, particularly legislative search provisions</p> <p>Personally understand and apply the powers of search in accordance with the law.</p> <p>Handle and manage any equipment according to their training, qualifications and national work instructions</p> <p>Be personally accountable for any UoF.</p> <p>Be personally aware of, and comply with, legal obligations</p> <p>Record and report any UoF.</p>
T&E Manager	<p>Manage all aspects of T&amp;E within an IDF.</p> <p>Evaluate and decide appropriate resourcing and mitigation tools, including UoF, to be utilised during the task.</p> <p>Liaise with ABF Detention Superintendent (Facility) on matters requiring UoF and seek approvals from the ABF Detention Superintendent (Facility) for UoF.</p> <p>Liaise with DHSP on health matters with respect to detainee/s requiring UoF.</p> <p>Provide direction to the T&amp;E escort team leader</p> <p>Ensure that accurate records of the use of force are made and maintained.</p>
T&E Team Leader	Command and manage T&E team during an approved T&E task.

## 6. Records management

- 6.1.1. All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this procedure must be saved in TRIM RM8 or an approved business system.

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## 7. Further assistance

- 7.1.1. If you require further advice or assistance, or would like to provide feedback in relation to this PI, please contact the Detention and Removal Operational Policy section at s47E(d)

## 8. Statement of Expectation

- 8.1.1. The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).
- 8.1.2. Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.
- 8.1.3. The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all IBP workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.
- 8.1.4. Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.
- 8.1.5. For all other provisions of PPCF documents, the Secretary and the Commissioner ABF expect all IBP workers to:
- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
  - consider the risks of departing from any provision set out in a PPCF document
  - be responsible and accountable for the consequences of departing from, or not adhering to, the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
  - be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.
- 8.1.6. IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

## 9. Related Framework documents

- 9.1.1. Related Framework documents include:

- s22(1)(a) in PPCR s22(1)(a)(ii)

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- s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- *DM-3291* in PPCR (*DSM – SOP – Safety and security management – Use of force*)
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a) in PPCR s22(1)(a)(ii) [REDACTED]
- s22(1)(a)(ii) in PPCR s22(1)(a)(ii) [REDACTED]

## 10. References and legislation

### 10.1.1. References and legislation include:

- *Australian Border Force Act 2015*
- *Australian Public Service Code of Conduct*
- *Freedom of Information Act 1982*
- *Immigration (Guardianship of Children) Act 1946*
- *Immigration Detention Facilities and Detainee Services Contract*
- *Migration Act 1958*
- *Privacy Act 1988*
- *Public Governance, Performance and Accountability Act 2013*
- *Public Interest Disclosure Act 2013*
- *Public Service Act 1999*

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- *Work Health and Safety Act 2011 (Cth)*

## 11. Consultation

### 11.1. Internal consultation

11.1.1. The following internal stakeholders were consulted in the development of this PI:

- Relevant policy and/or programme management areas
  - Detention Operations Section, including Regional Command
  - Child Wellbeing Branch
  - National Compliance Programme
  - Strategic Advice Section
  - Detention Assurance Branch
  - Detention Health Operations
  - Onshore Contracts Section
- Civil Litigation & Compensation
- Commercial and Employment Law Branch
- FOI, Privacy and Records Management Branch
- Integrity and Professional Standards Branch
- Legal Advice and Operational Support Branch
- Operational Risk Management Section
- Risk and Assurance Branch
- s37(2)(b)
- Workforce Health and Safety section

### 11.2. External consultation

11.2.1. The following external stakeholders were consulted in the development of this PI:

- International Health and Medical Services (IHMS)
- Serco Immigration Services

## 12. Document details

<b>BCS Category/Function</b>	Detention Management
<b>BCS Sub-Category/Sub-Function</b>	DM-10 Detention Security
<b>Period of Effect</b>	10 October 2021

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### 12.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
2.0	30/06/2017	National Detention and Removals Programmes	Update of detention instructions to reflect PPCF requirements.
3.0	22/12/2017	National Detention and Removals Programmes	Reviewed as per Duty Commissioner's request for 'extraordinary review'.
3.1	06/02/2018	Detention and Removals Operational Policy	Update PPCF feedback
4.0	05/10/2018	Detention and Removals Operational Policy	Update post-legal review.

### 12.2. Procedural Instruction approval

Document owner	Commander ABF Governance
Approval date	10 October 2018

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**Annex A**

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<sup>1</sup> Approved by Australian Border Force, s22(1)(a)(ii) on 16 January 2018. Serco was formally advised on 31 January 2018 by the Contract Administrator.

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