10861NAT Diploma of Aboriginal & Torres Strait Islander Legal Advocacy

LEARNER MANUAL

Block 5
Conflict & Mediation

CSCSAS024 Manage conflict through negotiation

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Introduction *CSCSAS024 Manage conflict through negotiation*

This unit of competency describes the outcomes required to use communication techniques to manage a conflict situation. It requires the ability to assess conflict situations, accurately receive and relay information, adapt interpersonal styles and techniques to varying social and cultural environments and evaluate responses.

This unit applies to all people working in detention centres, correctional centres or prisons, community corrections offices, justice administration offices and on work sites where detainees, prisoners or offenders are under statutory supervision. Variables will determine different applications of the standards depending on the nature and complexity of security requirements, security ratings and defined work role and responsibilities.

The language used in this unit implies an institutional setting. Adaptation of the language will be necessary to reflect the practices of non-institutional settings and work sites. Customisation should occur through the introduction of specific organisation security equipment, functions and procedures.

Institutional Settings

There are a number of different institutional settings where conflict situations may arise. It is important to be aware of these different contexts and what laws or rules may apply depending on the work environment a person is in. For the purposes of this unit we are looking at the following institutional settings:-

1. Detention Centres
2. Correctional Centres or Prisons
3. Judicial Administration Offices
4. Work sites where detainees, prisoners or offenders are under Statutory Supervision

In each of these situations different laws and policies will dictate how employees need to conduct themselves, what their responsibilities are and how conflict situations should be managed through negotiation.

In each context people work in different jobs as part of the broader institutional setting. For example,

1. **Detention Centres:** There are custodial officials, office administrators, cleaners and cooks. There are also social workers, health professionals, doctors, psychologists, torture and trauma counsellors who all visit the detention centres. Lawyers and legal representatives can also visit.

2. **Correctional Centres or Prisons:** There are custodial officials, office administrators, cleaners and cooks. There are also social workers, health professionals, doctors, psychologists, torture and trauma counsellors who all visit the detention centres. Lawyers and legal representatives can also visit.

3. **Judicial Administration Offices**: This term refers to the different court offices. There are the officers of the court such as a Magistrate or a Judge. There are also administrative staff and Bailiffs. Clients, support staff and lawyers attend these offices.

4. **Work sites**: This refers to situations where detainees, prisoners or offenders are under Statutory Supervision. For example they may be on 'work release' from prison or completing Community Service Hours as part of a court order. Here we have the supervising persons responsible for supervising the person whilst they are working.

In each of these settings conflict situations can and do arise. It is really important that anyone working in these settings has a good understanding of what a conflict situation is and how to deal with it if one arises. It is particularly important to be aware of using negotiation as an effective tool for managing a conflict situation.

Why is this important?

When we are at work it is really important that we understand that conflict situations can arise and ensure we are well equipped to deal with them. Managing conflict is an important part of life.

A. If you are working in a position on one of these institutional settings then you need to be aware of your responsibilities and the different processes for dealing with a conflict situation. For example, a detainee may become aggressive toward you and you will need to take steps to de-escalate the situation.

B. If you work in a legal organisation as a legal clerk or a support worker you may have a client who tells you about a conflict situation that has arisen for them. You will need to know about the policies and processes that exist so you can help your client and assist them in advocating their rights. For example, your client may have a grievance in relation to a policy or procedure. You may need to advocate on their behalf for a review of a decision.

1. Assess Conflict

1.1 Consider likely and possible conflict situations to prevent escalation

Assess potential conflict

'Conflict' is a disagreement, clash or fight between individuals or groups.

Conflict happens between people every day to some degree. There can be many different causes. You will need to develop skills to recognise potential conflict situations and prevent things from getting out of hand.

In a custodial setting where there are inherent power imbalances there is strong possibility that conflict situations will arise regularly. People who have been deprived of their liberty may have a range of issues that can arise.

Conflict can arise due to a number of different types of situations. For example:-

- ➢ Communication may break down between parties
- ➢ A person may have a cognitive or mental health issue that makes processing information difficult
- ➢ Cultural considerations may be ignored
- ➢ Jumping to conclusion or prejudging a situation / person
- ➢ A special event or date may be a trigger for distress and anger
- ➢ A person may feel hurt or threatened
- ➢ A person may not follow a lawful direction
- ➢ A person may commit or attempt to commit an offence or a breach of discipline
- ➢ A person may self-harm or attempt to self-harm

It is important to be aware of the different situations where conflict can arise. Awareness and sensitivity can assist you to prevent conflict from arising in the first place or with being properly prepared to manage a situation when it arises. By being aware of the different situations where conflict can arise you can turn your mind to exactly which legal requirement applies and what organisational policy you will need to turn to so you can manage the situation.

Organisational strategies to prevent conflict

Depending on the situation, a range of strategies can be used to help prevent conflict. These include:

- Listing preventative measures.
- Face-to-face meetings.
- Listening and respect.
- Develop Code of Conduct and relevant policies and procedures.
- Grievance policy and procedure.
- Memorandums of understanding.
- Culturally appropriate strategies
- Training Board members and staff members in conflict management.
- Get together with concerned parties to address concerns informally as they arise.
- Do not sweep potential conflict under the carpet.
- Note disagreements between parties that may have the potential to become conflicts.
- Take individuals aside for a private discussion about their attitude or behaviour if necessary.
- Establish clear policies on expected behaviours.
- In meetings, deal with problem issues later in the meeting so it does not interfere with other business.

Face-to-face meetings:
- Set up a face-to-face meeting between individuals or parties involved in the conflict to discuss the problem.
- Encourage calm discussion.

- Carry out discussions in a non-confrontational way.
- Avoid always having to be 'right'. You may have to give a little in the best interests of the organisation and community.
- Listening and respect

Listen to all people's points of view:

- Keep an open mind.
- Show respect, even if you disagree.
- Note areas where two parties can agree.
- Find positives to build upon in an individual's position.
- Avoid blaming others.
- Develop a Code of Conduct/Ethics on expected behaviours within the organisation.
- Develop Policies and Procedures to deal with potential conflict situations including a grievance policy
- Make sure all Board Members and staff follow the Code of Conduct/Ethics and Policy and Procedures.
- Nepotism - develop a policy that deals with conflicts of interest - eg employing immediate family.
- Make sure the organisation uses a merit based system for employing staff and ensure that there are no family members on the interview panel.

Memorandums of understanding

- If necessary, develop a Memorandum of Understanding between the Board and Management or staff.
- This is a legal agreement that clearly sets out the roles and responsibilities of the concerned party (or parties).
- It can be necessary if there are misunderstandings about, or abuse of, roles and responsibilities.

Cultural resolution strategies

Provide training in how to resolve conflict in culturally relevant ways.
Make sure all staff know and use culturally appropriate strategies for preventing conflict.

Training Staff

- Train staff so they can carry out their roles in the correct manner, following due process.
- Train management in recognising, preventing and dealing with conflict.
- Ensure staff members understand each other's roles and responsibilities - can prevent misunderstandings.

By being aware of your own organisational policies and procedures you will be able to identify what process or steps you need to take in a particular situation. It may be that you need to seek assistance from somebody such as your supervisor or manager. In some situations it is

important for you to seek advice and get help in order to manage a conflict situation. A sound knowledge of your own organisational policies will help you to do this.

1.2 Identify and evaluate responses to conflict against legal requirements and organisational procedures

In any job you need to be really clear if any legal framework applies to your position and has an impact upon how you need to do your job. Generally, if you work in a legal setting you will need to comply with some legal obligations. For example, issues relating to duty of care and confidentiality are an essential part of any legal practice for both the lawyers and all the support and administrative staff too. Similarly, the laws relating to Workplace Health and Safety are also relevant.

In some jobs there will be an additional legal framework that will shape your duties and responsibilities whilst you are at work. This will impact a range of things including:

- peoples rights and responsibilities
- general processes and procedures
- recording keeping
- conflict resolution
- evaluation
- grievance procedures
- wages

For example:-

In NSW there are a number of legislative instruments that impact upon work done in relation to Corrective Services.

Acts

- *Crimes (Administration of Sentences) Act 1999*
- *Crimes (Sentencing Procedure) Act 1999*
- *Crimes (Interstate Transfer of Community Based Sentences) Act 2004*
- *Protected Disclosures Act 1994 No 92*
- *Summary Offences Act 1988 No 25*
- *Crimes Act 1900 No 40*
- *Prisoners (Interstate Transfer) Act 1982 No 104*
- *Parole Orders (Transfer) Act 1983 No 190*
- *International Transfer of Prisoners Act (New South Wales) 1997 No 144*
- *Prisoners (Interstate Transfer) Act 1982 No 104*

➢ *More legislation can be found at the NSW Parliamentary Counsel's Office website*

Regulations

- *Crimes (Administration of Sentences) Regulation 2008*
- *Prisoners (Interstate Transfers) Regulation 2004*
- *Crimes (Interstate Transfer of Community Based Sentences) Regulation 2004*

NSW Example: Conduct and Ethics

You will usually find that your organisational policies and procedures will reflect all the relevant laws and rules for your institutional setting. For example see "Annexure A", extracts from the *NSW Corrective Services Guide to Conduct and Ethics, 2010.* These extracts illustrate some examples of an organisational policy dealing with topics such as Ethical Principles, Public Duty, Professional Conduct Towards Offenders and Professional Conduct Towards Employees.

NSW Example: Use of force

In NSW the *Crimes (Administration of Sentences) Regulation 2008 (*regulations 121. 122 1n2 123) deals with the 'use of force in dealing with inmates' in a custodial setting. Corrective Services NSW have developed an organisational policy to deal with these provisions. Specifically, in the Operations Procedures Manual, *Part D: Serious Incident Response: Using Force on Inmates*, 11 June 2008. Please refer to "Annexure B" to see extracts of this policy from the *NSW Ombudsman Report,* 14 April 2010. Here we see an example of an organisational policy that sets out the requirements for staff to take in a conflict situation where the 'use of force' becomes an issue. You will see reference to the use of force being a 'tactic of last resort' and it identifies other options such as persuasion and negotiation as methods of diffusing a conflict situation.

Examples of other jurisdiction's legislative instruments that impact upon work done in relation to Corrective Services.

Western Australia

- *Prisons Act 1981*
- *Prisons Regulations 1982*

Queensland

- *Corrective Services Act 2006*
- *Corrective Services Regulations 2006*

Each State and Territory has its own legislative framework dealing with corrective services and prisons.

Immigration Detention Centres are governed by Commonwealth legislation including:

- *Migration Act 1958*
- *Migration Regulations 1994*

1.3 Identify situations requiring assistance and support and request assistance promptly.

What negotiation and conflict have in common

The obvious common denominator between negotiation and conflict is that they both involve a relationship with at least one other person. Albeit the relationship may only be a short term one.

- When you enter into a negotiation or find yourself in conflict with another person, the outcomes you and the other person desire appear to be diametrically opposed. Otherwise there would not be a conflict or need for serious negotiation.

- The extent to which you have invested (time, money, emotion, ego, etc.) in the outcome of either situation may make it easier or harder to achieve what you want. It is unlikely to enter into a negotiation, or find yourself in conflict if you do not care about the outcome. In general, you already have an emotional, financial or other investment.

- The difference between a conflict situation and entering a negotiation is that the tension levels are already high when in conflict and relationships may have already been damaged.

- In either situation, it is common that both parties see themselves as 'right', and want to prove their 'rightness' to each other. In this sense every negotiation has potential for conflict.

- If both parties maintain their position of 'rightness', there is little opportunity for resolution or for either party to achieve their desired outcomes. Relationships may be irretrievably damaged and neither party wins.[1]

Prompt resolution

Conflict should be dealt with as promptly as possible. Where possible, situations should be dealt with straight away. In a custodial setting, employees will usually need to act quickly to prevent a situation from escalating.

Dealing with conflict promptly is important for the following reasons:

- If people are at risk of being harmed;
- If the conflict is interfering with work;
- To help get things back to normal quickly;
- It prevents the conflict from continuing; and
- It can save the organisation time and money.

The safety of staff and detainees is of paramount importance in custodial institutional settings. For this reason effective and efficient conflict negotiation is essential.

2.   Negotiate Resolution

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[1] Community Builders, NSW http://www.communitybuilders.nsw.gov.au/332_2.html (accessed 4 August 2010)

2.1 Use strategies to resolve conflict that comply with organisational policies and procedures.

In a custodial setting, different situations will give rise to the need for negotiation. It may be that there is:

- Conflict between two detainees;
- Conflict between a custodial officer and a detainee;
- An issue around access to services;
- An issue around contact or visits with family members;
- There may be a mental health situation that needs to be managed;
- A person may commit an offence; or
- There may be a concern about self-harm.

In each of these situations the use of negotiation can assist in resolving the issue efficiently and effectively, without escalation to something more serious. By communicating with relevant parties you can try to identify a solution that is agreeable and workable for all those involved. Different communication techniques will be more effective at different times. For example, listening, active listening, writing a letter, being assertive, being passive and sitting back. Each situation will call for a different approach. For example:

- If an employee is negotiating visits then they will need to speak with welfare officers, family members and corrective services administration.
- If an employee is de-escalating a conflict between inmates then they may call on assistance from a colleague and use distraction or diversion as a way to negotiate an initial resolution.
- If there is a concern about self-harm the employee will need to seek assistance from health professionals.
- There are some situations where an employee may need to use to force if negotiating is unsuccessful

Complaints Resolution Policy

Often you can expect that a complaint may arise about the way that a conflict situation has been handled, in which case it is important to be clear about the organisational 'Complaints resolution policy'.

Each organisation should have a Complaints Resolution Policy to deal with complaints about the organisation or individual staff. This sets out the procedure for dealing with complaints, whether they are from within or outside the organisation.

The complaint should be registered in a book or database set aside specifically for that purpose. Each complaint should include the following details:

- name of person making the complaint
- nature of the complaint - as many facts and details as possible, including names, places, dates
- date complaint was made
- name of person recording the complaint
- what action the person was told would be taken

- The person recording the complaint should pass the information on to the appropriate person in the organisation.
- The person making the complaint should be told what action will be taken to follow up on their complaint, who will be dealing with it (if known) and when they can expect to hear back from the organisation.
- Potential conflict can be averted if staff and Board members follow the correct procedure in registering complaints.

The organisation's Complaints Resolution Policy should have a timeframe for dealing with conflict. For example, less serious conflict may need to be resolved within 3 days and more serious conflict may need to be resolved within 7 days.

Having a set timeframe that is written down for everyone to see has two benefits: it provides a guide for management to follow, and it allows people involved in the conflict to know the situation will be dealt with promptly.

If a complaint about conflict comes to the attention of management, either verbally or through its correspondence, management should deal with it within the set timeframes. Delays can create more conflict and unnecessary stress and tension for everyone.

The Complaints Resolution Policy of the organisation should be followed so that the conflict is dealt with in an open and transparent manner. All parties should be kept informed about who is dealing with the conflict and when they can expect a resolution. All actions must be recorded.

In some cases, it may be inappropriate or difficult for managers to deal with conflict situations themselves. They may need to seek outside help from an independent arbitrator or mediator. This should only be done as a last resort though, when all else has failed to resolve the conflict.

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arbitrator ~ person brought in to settle a dispute, usually through a formal process (e.g. Arbitration Commission)

mediator ~ similar to an arbitrator, but less formal

Resolution strategies

Different conflict resolution strategies may need to be used for different situations. Be realistic about the nature and severity of the conflict and its chances of being resolved.

Strategies should be developed in consultation with the conflicting parties. This can happen in small meetings, community meetings, or Board meetings.

Involved parties should:

- Aim for a friendly 'win-win' resolution - where there are no losers and no-one goes away feeling angry.
- Try to work out a compromise that satisfies all.

- Speak 'one-to-one' in a casual setting if possible. Get all sides of the story and respect each person's right to their own point of view.
- Remind concerned parties of the organisations Code of Conduct and what is appropriate and respectful behaviour during a disagreement.
- Record what each party said happened. Give each party a copy to verify, comment on or change if necessary and sign and date.
- Stick to grievance policies and procedures. Make sure everyone on the Board is aware of this.
- Observe cultural resolution strategies. Different cultures have different strategies. Make sure people from different cultural backgrounds are aware of the culturally appropriate strategies for your organisation or community.
- Draw up a memorandum of understanding between conflicting parties if necessary. This outlines what each party agreed on to resolve the conflict. Make sure it is dated and signed and a copy given to each party.
- Defer the subject causing the conflict for later discussion if necessary. This can delay or minimise conflict and allow important tasks to be completed.
- Consider what resources the organisation has for dealing with the conflict. Don't stretch human or financial resources too far. Seek help if needed.
- Keep all parties advised of what is being done to deal with the conflict.
- Explain the process to people.

Professional advice is sought

If the conflict cannot be dealt with internally, the organisation may need to seek professional outside help. This can include:

- legal advice
- conflict resolution professional
- unions
- arbitrator – e.g. Industrial Relations Court

Legal advice

Some conflict situations may require the organisation to seek legal advice to find out their legal position, or the legal position of a staff member.

Legal advice may be required in situations involving:

- crime – e.g. stealing, misappropriation of funds
- violence

Organisations have a responsibility to protect their staff from being harmed, or from causing harm to others.

Conflict resolution professionals

Sometimes a person with professional skills in resolving conflict may need to be called upon for advice or mediation.

This can be necessary if the conflict situation is beyond the skills of any staff employed within the organisation in which the conflict has arisen. Also, if there is a personal conflict that a staff member cannot discuss with anyone within the organisation, they may need to discuss it in confidence with a professional.

Mediation may be necessary if the conflict has gotten out of hand. It may need someone who is not close to the conflict to get all sides of the story and find a resolution. A mediator can also suggest strategies to prevent any future conflict from arising.

There may be suitable mediators in your community, or they may have to be brought in from outside the community. A mediator should be impartial and not have a professional or personal relationship with any of the parties involved in the conflict.

Unions

Unions represent workers in issues involving pay disputes, workplace conditions and conflicts between employers and employees. Employees need to know that if they belong to a union, they have the right to contact their union representative to help them deal with a conflict situation. The union can advise them of their rights and responsibilities.

Arbitrator

An arbitrator is like a mediator, but usually in a more formal setting, such as the Industrial Relations Court. In extreme conflict situations that cannot be resolved within the organisation itself, it may need to go to an arbitrator. An example of this could be if a manager of an organisation was contracted for a certain period of time, but the Board terminated his or her contract without due cause. The Manager could take the case to the Industrial Relations Court if he or she was not happy with the situation.

Health professionals

Some conflict may require the advice and assistance of a health professional, such as a health worker, doctor, counsellor, psychologist or psychiatrist. These people are trained in dealing with specific aspects of physical or mental health and can help deal with specific problems. For example, if a person in the organisation was displaying abnormal behaviour or aggression, they may need the help of a health professional to find out what is causing it.

Confidentiality Policy

The organisation or department needs to have a confidentiality policy that clearly sets out how to deal with conflict in a way that maintains discretion and confidentiality

A Code of Conduct/Ethics signed by staff lets people know that they are expected to behave in ways that maintain confidentiality and discretion at all times.

Confidentiality and discretion needs to be an across-the-organisation policy. If these policies and procedures are maintained, it will strengthen the effectiveness of the organisation's operations by letting staff know they can trust their organisation to do the right thing.

2.2 Use *negotiation* techniques that maintain positive interaction and divert and minimise aggressive behaviour.

Maintain integrity

An organisation must find ways to resolve conflict that maintains integrity. This means acting in the best interests of individuals within the organisation and the organisation itself.

If conflict situations are not dealt with appropriately, they have the potential to ruin people's lives and can destroy organisations. This needs to be avoided at all times by:

- dealing with conflict in-house if possible
- acting respectfully at all times be fair, honest, open and trustworthy
- protecting the rights of individuals
- protecting the staff's, organisation's and community's values
- maintaining confidentiality
- not shaming people - not making conflict public

Deal with conflict in-house

It is far better to deal with conflict within the organisation, where possible.

Conflict affecting the organisation or individuals within the organisation should not be taken into the community, if possible. This can be difficult in small communities especially, but the organisation needs to try to keep personal conflict separate from its professional or business-like activities.

It is important that people are given an opportunity to explain themselves and tell their side of the story before decisions are made. People should not be yelled at or shamed in front of others. Conflict should be discussed in a private way so that people can keep their dignity. An organisation needs to respect the rights of its employees to have information about conflict concerning them kept confidential. People need to know that their concerns will be listened to and addressed, but not talked about outside the organisation.

If conflict within the organisation is discussed in a public way, it can lead to serious consequences for individuals and the organisation. People's health and safety can be placed at risk and the community (local and wider community) can lose its trust in the organisation.

Protecting individuals from shame

People should be taken aside to calmly discuss conflict issues in private. They should not be shamed by having someone yell at them in front of their fellow staff members or others.

Conflict should never be dealt with in a heated or shaming way.

Disciplining within the organisation

Where possible, any discipline over conflict situations should be done within the organisation. For example, if a normally even-tempered employee blew up one day and had a big fight with another employee, would you (a) call the police, or (b) tell them to go home, cool down and

think about their actions before returning to work? Option (b) would be more culturally appropriate and more supportive to the employee.

Non-confrontational approach

An example of a **confrontational** approach is when a boss screams at an employee

'What the hell did you do that for?!!'

This puts the other person's back up immediately and can shame them in front of others.

In a **non-confrontational** approach, the boss might say,

'I can see you had a bit of trouble with that job you did.'

This way, the person is not put in a position of feeling shamed, or having to defend themselves. It also gives them a chance to explain what went wrong.

A non-confrontational approach is a more gentle way of dealing with conflict and can prevent conflict from getting out of hand.

2.3 Use *communication techniques* that are effective in ensuring mutual understanding.

Consultative process

A consultative process for dealing with conflict is one where everyone involved in the conflict is brought together to discuss it. Everyone has a part to play in resolving the conflict in a consultative process.

If necessary, Elders or other respected members of the community may also be consulted on the best way of dealing with the conflict situation. This is essential in communities that still practice traditional ways.

In a consultative process, everyone is given a chance to tell their side of the story. This can be done in an informal way, by sitting down with the person and talking with them about what happened.

In a custodial setting there may be organisational training and policies in place that inform employees about how they should set about negotiating with somebody in a particular situation.

Of course employees must always comply with their organisational and legal requirements. It is important to be aware of these requirements. Usually an employee will sign an agreement as part of their employment contract that they will comply with these requirements.

There are some general principles that apply to most negotiating situations and can provide useful insights about how to approach a particular situation. The 'conflict layer model' provides some general information about how to understand and approach negotiating.

Clarifying Needs during Conflict Negotiations

The Conflict Layer Model (also known as the Onion Model) helps you peel back layers to reveal people's true needs.

When you were last involved in a negotiation (however big or small), did you feel that you truly understood the other person's needs? Chances are, you didn't.

During negotiations, it's common for people not to reveal their deepest needs – sometimes, even to themselves. They may feel selfish, foolish, or vulnerable talking about them, so they focus on less important issues instead.

Unfortunately, when this happens, the negotiation may not deliver a long-term solution, because it won't be based on what people really want.

The Conflict Layer Model is a tool that you can use to explore your own true needs in a negotiation situation. Using this technique can assist you to maintain a positive interaction and divert and minimise aggressive behaviour that may be present in a conflict situation.

About the Model

Figure 1 – The Conflict Layer Model

*From "**Working With Conflict**" by S. Fisher et al. Published by Zed Books, 2000. Reproduced with permission.*

During negotiations where you don't know or trust the other person, you may hide your needs because you feel embarrassed or vulnerable. Instead, you might take up a stance that's based on how you want to be perceived. This is known as your **position**.

Behind your position lie your **interests**. These are the stated reasons that support your position, but they may not represent your true needs.

The model aims to peel away these layers, and to focus on the **needs** that really matter to you. When you state your needs openly, it will encourage the other party to do the same. Then, once you've both identified and communicated your real needs, you can work to find a solution that meets them.

Note: This model is not suitable for all negotiations. It's more suited to situations in which people feel able to talk freely and openly, and it's less appropriate when people's needs must be hidden, or when people must be seen to "toe a party line."

In this situation, **distributive bargaining** may be more suitable.

Distributive bargaining is a process of incremental compromises resulting eventually in an agreement with which neither party is entirely happy. Such agreements are normally reached through a process of attrition, after parties become fatigued by the constant conflict and series of meetings and normally one of the parties will capitulate at the end for the sake of reaching an agreement.

The Conflict Layer Model most closely matches a collaboration strategy.

How to Apply the Model

You can use the model to prepare before negotiations begin, as well as to understand other people's needs during the negotiation. Follow the steps below to do your preparation. You can use a similar approach during the negotiation itself.

Step 1: Separate Your Position from Your Interest

Your position is the "want" that you have expressed publicly to the other party. You need to explore this to find your interests – what you want to achieve from this situation.

So, start by writing down what you have said you need, or what you think you want to achieve from this situation.

Next, list the reasons you've given to support your position. These are your interests. (If necessary, use the **5 Whys** technique to explore why these issues or solutions are important to you.)

> The **5 Whys** is a repetitive question-asking technique used to explore the cause and effect relationships underlying a particular problem. The primary goal of the technique is to determine the root cause of a problem. (The "5" in the name derives from an empirical observation on the number of repetitions typically required to resolve the problem.)

Step 2: Identify Your Needs

Once you have identified your interests, your next step is to distil them further to discover your deeper needs. These are the needs you must meet to feel satisfied. Often, they are non-negotiable – you need to meet them for the negotiation to have been a success.

Think carefully about the interests that you have defined. Keep in mind that your interests are often a means to an end – they help you meet your needs. So, what basic or intrinsic needs do these interests help you address?

Then, be completely honest with yourself. Ask yourself if there are other, more self-interested or less easily discussed needs that you need to address as well.

Step 3: Negotiate

Your next step using the model is to state your needs clearly. When you do this, you create an atmosphere of **trust** that will encourage the other party to be open about their true needs.

Then, negotiate to meet your needs. Where appropriate, use **win-win negotiation** and **integrative negotiation** to explore solutions based on shared needs.

> *Integrative negotiation* - to explore solutions, and "trade favours," so that both parties feel satisfied with the outcome.
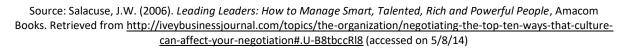
The model helps you "peel away" the superficial positions that people often adopt at the start of a negotiation, so that you can get to the real substance of what they want. This helps you find a solution that meets the needs of everyone involved.

2.4 Ensure negotiation styles take into account *social and cultural differences*.

Culture profoundly influences how people think, communicate, and behave. It also affects the kinds of transactions they make and the way they negotiate them. Misunderstandings may arise during the process of negotiation due to a lack of cultural awareness and misunderstandings that may occur unintentionally.

Negotiating styles, like personalities, have a wide range of variation. The ten negotiating traits discussed above can be placed on a spectrum or continuum, as illustrated in the chart below. Its purpose is to identify specific negotiating traits affected by culture and to show the possible variation that each traitor factor may take. With this knowledge, you may be better able to understand the negotiating styles and approaches of counterparts from other cultures. Equally important, it may help you to determine how your own negotiating style appears to those same counterparts.

The Impact of Culture on Negotiation

Negotiation Factors

Factor	Left		Right
Goal	Contract	↔	Relationship
Attitudes	Win/Lose	↔	Win/Win
Personal Styles	Informal	↔	Formal
Communications	Direct	↔	Indirect
Time Sensitivity	High	↔	Low
Emotionalism	High	↔	Low
Agreement Form	Specific	↔	General
Agreement Building	Bottom Up	↔	Top Down
Team Organization	One Leader	↔	Consensus
Risk Taking	High	↔	Low

Source: Salacuse, J.W. (2006). *Leading Leaders: How to Manage Smart, Talented, Rich and Powerful People*, Amacom Books. Retrieved from http://iveybusinessjournal.com/topics/the-organization/negotiating-the-top-ten-ways-that-culture-can-affect-your-negotiation#.U-B8tbccRl8 (accessed on 5/8/14)

Strategies which respect culture

Strategies for resolving conflict should be found that respect culture. These may include:

- consultative process
- protecting individuals from shame
- disciplining within the organisation
- non-confrontational approach
- using traditional methods if appropriate

Aboriginal and Torres Strait Islander mediation within Community Justice Centres[2]

Mediation for Aboriginal and Torres Strait Islander people has been a priority of the Community Justice Centres since the inception of the CJCs in 1983.

CJC has services to help Aboriginal and Torres Strait Islander people solve their disagreements. Aboriginal mediators are available to help you solve a wide range of conflicts. They can also come out to your community or group and talk to you about what mediation is and the types of services they offer.

2.5 Confirm mutual agreement to strategies and required outcomes with all relevant stakeholders

After a negotiation, it is very helpful to clarify things in writing and confirm a new timetable as soon as possible. Assess what took place during the negotiation so you can learn from your experience and strengthen your negotiation skills for the next time.

Sourced on 8/2/23: https://saylordotorg.github.io/text_six-steps-to-job-search-success/s14-01-effective-negotiation-requires.html#:~:text=After%20a%20negotiation%2C%20it%20is,skills%20for%20the%20next%20time.

3.   Evaluate Responses

3.1 Evaluate and review effectiveness of response according to legal and organisational requirements.

As already mentioned, a clear understanding of your organisational policies and procedures is essential so that you can properly evaluate responses in accordance with the rules. In addition, this will assist you in complying with accurate recording of incidents and report writing. It may be that there are also debriefing processes and stress management support services or processes in place to assist staff in dealing with conflict incidents.

All these areas are important for employee and detainee health and safety, as well as ensuring compliance with governing laws.

Evaluating organisational processes

The process an organisation uses to resolve conflict must be continually evaluated so that the organisation can determine whether it is meeting its obligations to its members (if applicable), staff and to the wider community.

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[2] NSW Government. (2012). Justice Lawlink, *Mediation for Aboriginal and Torres Strait Islander People*. Retrieved from http://www.cjc.nsw.gov.au/cjc/com_justice_mediation/com_justice_mediation_atsi.html, accessed on 6 August 2014

Questions managers might ask during this review process include:

- has the integrity of the organisation and its individuals been maintained?
- are the parties involved satisfied with the outcome?
- have the parties involved been kept advised of progress of conflict resolution?
- have the parties involved clearly stated their positions so everyone knows where they stand?
- has the process strengthened or weakened the organisation?

If answers to these questions indicate a need for processes to be improved, make sure this is done. Learn from mistakes and keep communications open.

Evaluation can include:

- feedback from parties involved in conflict;
- looking at the number of grievances; and
- listing mistakes made.

3.2 Provide accurate and constructive observations of incidents and their contributing factors when reviewing and debriefing the situation.

If there is a conflict incident it is really important that organisational polices are complied with so that there is an accurate recording of what occurred. It may be that a detainee makes a complaint about how an incident was handled. It may be that somebody was injured and some sort of an inquiry (organisational or legal) needs to be conducted to see exactly what occurred and if there were any breaches of the law or procedures. For employees, having an accurate recording of the observations from the incident can assist in the debrief process. It can also assist in developing organisational policies – it may be that something needs to be changed for the next time a similar situation arises.

Western Australia: example of a Policy Directive

Please refer "Annexure C" for an example of an organisational Policy Directive on 'procedures for reporting incidents'.

There is also provision for 'Post incident actions and considerations' where there is reference to the organisation's *Organisational Debriefing Guidelines.* The focus of the debriefing process is to share information and provide reassurance to the employee.

3.3 Provide and maintain records and reports in accordance with organisational requirements

As mentioned, keeping accurate records and reports following a conflict situation is very important. These records may need to be used as part of an organisational debrief or self-evaluation process. It may be that there is an allegation of a breach of the law in which case these documents may need to be used as evidence in court. Each organisation will have its

own polices about recording and reporting conflict situations or incidents. These policies will reflect the current laws relating to the institutional setting.

Western Australia: example of a Policy Directive

Please refer "Annexure D" for an example of an organisational Policy Directive on 'procedures for reporting incidents'. This directive has been issued by the Western Australian Department of Corrective Services. Incidents and Critical Incidents are defined and the procedures are set out in section 6. Incident reports are described as being an 'integral part' of operations (page 4). There is detail about how to prepare the report, what information needs to be included and the processes involved for complying with the reporting procedures.

3.4 Recognise effects of stress in self and manage using recognised *stress management techniques*.

Stress Management – generally

Positive and negative stress

When we are feeling a little pushed or excited, but are in control of the situation, this is known as 'positive' stress. This is manageable stress that keeps life interesting. 'Negative' stress is when there is more happening in our lives than we can cope with. If we are feeling things are getting out of our control, our stress levels are too high.

Recognising stress

It is important to recognise when you and others around you are experiencing stress. Become familiar with emotional warning signs of stress.

Once stress has been recognised, something can be done about it. Stress should not be swept under the carpet or left to grow. Stress that has built up over time can have bad effects on individuals and the organisation as a whole.

Signs of stress

You should always be on the lookout for signs of stress in yourself and others. Stress can show itself in physical ways as well as in the way we behave

Physical signs of stress	Behavioural signs of stress
difficulty breathing	being irritable
sweaty palms	feeling anxious
headaches	being angry & aggressive
tight neck muscles	feeling impatient
not wanting to eat **or** eating too much	feeling sad or "down"
	worrying about everything
sleeping difficulties	alcohol and other substance abuse
feeling exhausted	slacking off
back pain	losing interest in work
shaky hands	missing Board meetings
rapid pulse	making mistakes
health problems e.g. diarrhoea, heartburn, ulcers, constant colds, flu, infections, rashes, heart problems.	taking lots of sick days
	finding it hard to concentrate
	conflict - eg fighting with others
	not wanting to be around people

Individual differences

While there are some common signs of stress, it is important to realise that everyone is different. Your signs of stress might be different from someone else's. For example, some people lose their appetite for food when they are stressed, others eat more. Some withdraw and say nothing, others get very angry. Usually a person's behaviour changes when they are stressed, so if you notice someone around you behaving differently or complaining of health problems, be alert to the possibility that they may be feeling stress. You should also be aware of your own signs of stress so that you can find ways to reduce the stress when you feel it happening.

Confidentiality & trust

People who are experiencing stress need to be supported and encouraged. They need to know that whatever they tell you will be kept confidential.

People need to know they can trust you not to tell others if they open up their hearts and tell you private things. If you do not feel comfortable in dealing with an issue, let the person know straight away. Suggest who they could go to for help. Reassure them anything they have told you will be kept confidential.

Culturally appropriate strategies

It is important to identify culturally appropriate ways to relieve or prevent stress. It is always better to try to **prevent** stress rather than try to **deal with stress** once it gets out of hand. Culturally appropriate strategies to relieve stress can include:

- working together
- sharing the load
- supporting others
- choosing appropriate person to deal with stress
- talking about problems
- listening to others
- allowing time off for cultural and family obligations
- providing training & mentoring
- dealing with issues in a non-threatening way

- allowing time to make decisions
- understanding historical context of stress
- avoiding singling people out and causing shame by discussing their stress in front of others
- considering the feelings of others and support people who are experiencing stress.

Strategies for reducing stress

There are many ways stress can be reduced. The following are some strategies your organisation should be using to reduce stress: building teamwork planning and setting clear goals prioritising sharing workloads putting on extra resources renegotiating timelines managing conflict using family support time out organising social activities providing training & mentoring networking awareness raising recognising negative behaviours expressing feelings reward and praise good work be a good role model.

Organisations

Once an organisation has agreed on appropriate strategies to reduce stress, they should be put in place. **Everyone** has a role to play in the reduction of stress in an organisation. Stress can affect everyone, so all Board Members, management and staff should be seeking ways to prevent and reduce stress. You need to pay particular attention to finding ways to reduce **your own** stress. Otherwise you will not be able to function well as a member of your organisation.

The nature of the work in a custodial setting can increase a person's risk of being stressed. It is really important that organisation policies in detention centres, correctional centres or prisons, community corrections offices, justice administration offices and on work sites where detainees, prisoners or offenders are under statutory supervision recognise the importance of managing stress. This is especially important in the context of conflict management and for people who are regularly dealing with conflict situations and / or traumatic events. Special stress management processes are often incorporated into organisational polices to assist employees.

Queensland Example: 'Managing Traumatic Events at Work'

Please refer "Annexure E" for an example of an organisational Policy Directive on 'Managing Traumatic Events at Work'. The purpose of this policy is described as being aimed at minimising the effects of a traumatic event's (including conflict situations) on staff. The policy is aimed at ensuring the equity, safety and health of their agency staff. You will see that section 2.1 describes examples of traumatic events. Then sections 9, 10 and 11 deal with debriefing processes for staff, including engaging with family (see section 8).

This policy deals with serious examples of conflict situations, but you can see that the overall approach and aim of the policy is to reduce the stress and manage the stress that has been caused by the situation.

Annexure A

STATEMENT OF PURPOSE AND ETHICAL PRINCIPLES

1.1 STATEMENT OF PURPOSE AND VALUES OF CORRECTIVE SERVICES NSW

Statement of purpose

Corrective Services NSW delivers professional correctional services to reduce re-offending and enhance community safety

CSNSW provides custodial and community-based services as an important element of the criminal justice system. These services include correctional centre custody of remand and sentenced offenders, home detention, parole, pre-sentence reports and advice to courts and releasing authorities, community service orders and other forms of community-based offender supervision. Offenders in custody and supervised in the community are assessed for relevant interventions to reduce their risks of re-offending.

CSNSW works in partnership with other government and non-government justice and human service agencies in regard to inmates in custody and offenders in the community.

Values

Justice and Equity
- Regard for community expectations and public interest
- Safety, welfare and positive development of offenders
- Secure and humane management of offenders
- Commitment to cultural and linguistic diversity
- Understanding of, and regard for, Aboriginal history and aspirations

Accountability and Transparency
- Continuous organisational improvement
- Ethical use of public assets and resources
- Quality in service delivery

Collaboration and Communication
- Engagement with relevant government and non-government agencies to achieve corporate goals
- Effective and appropriate external and internal information exchange

Responsibility and Respect
- Professionalism
- Safety and well-being of staff
- Continuous learning and professional development of staff

Conduct and Ethics - NSW Corrective Services Guide to Conduct and Ethics[3]

1.2 A MODEL OF PUBLIC DUTY

a) Serving public above private interests

Making decisions because they benefit the public, not the employee making the decision.

b) Acting with integrity by being:

Honest
- Obeying the law
- Following the letter and spirit of CSNSW policies and procedures
- Fully disclosing actual or potential conflicts of interest
- Observing relevant professional and ethical codes of conduct

Accountable
- Recording reasons for decisions
- Submitting to scrutiny
- Keeping proper, accessible records
- Establishing audit trails

Objective
- Being fair to all
- Considering only relevant matters
- Being fully informed
- Merit selection in recruitment
- Equity in the purchase and sale of government resources

Open
- Giving reasons for decisions, where appropriate
- Communicating with clarity and sensitivity
- Providing all options available to the client or business
- When authorised, giving all relevant information

Courageous
- Giving advice fearlessly and frankly where required
- Doing the right thing even in the face of adversity
- Reporting and dealing with suspected wrongdoing
- Acting ethically above loyalty to colleagues or supervisors

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[3] NSW Corrective Services Guide to Conduct and Ethics http://csa.intersearch.com.au/csajspui/bitstream/10627/ 123/2/2010- guide-conduct-ethics.pdf pp.3-5; 14-15 (accessed 24 August 2010)

c)   Demonstrating ethical leadership

Promoting a sense of public duty to others in CSNSW, to other agencies and the community.

1.3   STATEMENT OF ETHICAL AND PROFESSIONAL PRINCIPLES

The following is a set of principles by which CSNSW operates:

- Place public interest and integrity above private interest;
- Respect and protect the dignity and human rights of all persons;
- Perform official duties in a professional and responsible manner;
- Follow the principles of good working relationships;
- Work with economy and efficiency;
- Implement the policies and decisions of the Government;
- Provide a quality service.

2.8   PROFESSIONAL CONDUCT TOWARDS OFFENDERS

CSNSW expects employees to be accountable, impartial, consistent and fair in their contact with offenders whether in a correctional facility or in a community setting and to act with integrity and compassion towards offenders. Individuals have the right to be treated fairly and with proper regard for their human rights. CSNSW recognises that different workplaces may have their own aims and objectives which affect the way in which they manage offenders and former offenders. The treatment of offenders should encourage their self-respect and a sense of personal responsibility.

a)   Professional boundaries

Employees who work with offenders must be professional and transparent at all times and must not overstep boundaries established for the performance of their role.

Employees should be aware of the dangers inappropriate contact with offenders could lead to, including manipulation, exploitation or compromise. This includes contact through social networking sites on the internet, such as Facebook, MySpace or Twitter.

Offender Management and Community Offender Services employees often have contact with offenders in both the custodial and community environments which may also include contact with the offender's friends and family. Employees should be aware of the importance of being professional in all contact with offenders, their families and friends in the community.

It may sometimes be appropriate for employees who work in the community to maintain ongoing community contact with offenders. This may only be conducted within a regulated framework that is consistent with "Throughcare", is recorded and is known to the employee's manager.

CSNSW recognises that employees may face additional pressures or challenges when managing offenders, or in their contact with community members, as a result of a shared linguistic, cultural, indigenous, ethnic, religious or other background. Where this is or may be perceived to be an issue, employees are encouraged to discuss it with their supervisor or manager so that appropriate action can be taken to manage any risk.

Annexure B

Use of Force – NSW Ombudsman Report[4]

3. Relevant legislation

Crimes (Administration of Sentences) Regulation 2008

121 Use of force in dealing with inmates

(1) In dealing with an inmate, a correctional officer may use no more force than is reasonably necessary in the circumstances, and the infliction of injury on the inmate is to be avoided if at all possible.

(2) The nature and extent of the force that may be used in relation to an inmate are to be dictated by circumstances, but must not exceed such force as is necessary for control and protection, having due regard to the personal safety of correctional officers and others.

(3) If an inmate is satisfactorily restrained, the only force that may be used against the inmate is such as is necessary to maintain that restraint.

(4) Subject to subclauses (1)–(3), a correctional officer may have recourse to force for the following purposes:

(a) to search, where necessary, an inmate or to seize a dangerous or harmful article,

(b) to prevent the escape of an inmate,

(c) to prevent an unlawful attempt to enter a correctional centre by force or to free an inmate,

(d) to defend himself or herself if attacked or threatened with attack, but only if the officer cannot otherwise protect himself or herself from harm,

(e) to protect other persons (including correctional officers, departmental officers, inmates and members of the public) from attack or harm, but only if there are no other immediate or apparent means available for their protection,

(f) to avoid an imminent attack on the correctional officer or some other person, but only if there is a reasonable apprehension of such an attack,

(g) to prevent an inmate from injuring himself or herself,

(h) to ensure compliance with a proper order, or maintenance of discipline, but only if an inmate is failing to co-operate with a lawful correctional centre requirement in a manner that cannot otherwise be adequately controlled,

(i) to move inmates who decline or refuse to move from one location to another in accordance with a lawful order,

(j) to achieve the control of inmates acting in a defiant manner,

(k) to avoid imminent violent or destructive behaviour by inmates,

(l) to restrain violence directed towards the correctional officer or other persons by an uncontrollable or disturbed inmate,

(m) to prevent or quell a riot or other disturbance,

(n) to deal with any other situation that has a degree of seriousness comparable to that of the situations referred to in paragraphs (a)–(m).

(5) Subclause (4) does not limit the operation of any law with respect to the force that may be used to effect an arrest.

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[4] NSW Ombudsman, Final Report – Report under s26 of the *Ombudsman Act 1974*: Investigation of the management of uses of force by Corrective Services NSW, 14 April 2010, pp.6-11.

122 Use of equipment for restraining inmates

(1) With the concurrence of the general manager, a correctional officer may use handcuffs, security belts, batons, chemical aids and firearms for the purpose of restraining inmates.

(2). With the concurrence of the Commissioner, a correctional officer may also use the following equipment for the purpose of restraining inmates:

(a) anklecuffs,

(b) such other articles (other than chains or irons) as may be approved by the Commissioner for use for that purpose.

123 Report on use of force

(1) Any correctional officer who uses force on an inmate must immediately furnish a report about the use of force to the general manager.

(2) The report:

> *(a) must be in writing, and*
> *(b) must specify the name or names of the inmate or inmates and the name or names of the correctional officer or correctional officers involved in the use of force, and*
> *(c) must specify the location where the use of force occurred, and*
> *(d) must describe the nature of the force used and the circumstances requiring its use, and*
> *(e) must be signed by the correctional officer involved in the use of force.*

(3) This clause does not require a correctional officer to furnish information in a report if it is impossible or impracticable for the officer to obtain the information.

4. Policy and procedure on use of force on inmates

4.1 The current CSNSW policy and procedure on using force on inmates, *Part D Serious Incident Response: Using Force on Inmates*, was issued on 11 June 2008. The opening paragraphs of the policy state that force must only be used when '*all other options have been exhausted, or those options are not appropriate for example in a life threatening situation*' and that '*in developing situations*' the following may avoid the need to use force:

> *1. Presence of and frequent patrols by correctional officers;*
> *2. Persuasion and negotiation with inmates; and*
> *3. The presence of, and instruction by more senior officers.*[2]

The policy goes on to consider the type and extent of force that can be used:

> *Correctional officers must only use the minimum amount of force necessary in any situation. That force must be reasonable and appropriate in the circumstances.*

> *Once an inmate has been satisfactorily restrained, no additional force is to be applied apart from that which is necessary to maintain the restraint. If it is no longer necessary to restrain the inmate, the application of force must stop. The continuing application of force past these points is unlawful.*[3]

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[2] Part D Serious Incident Response: Using Force on Inmates page 1
[3] Part D Serious Incident Response: Using Force on Inmates page 2

33 | Page

4.2 The policy and associated procedure distinguishes between a planned use of force, where there is time to make an assessment of the situation, whether alternatives to using force exist and the type and level of force to be used if it is unavoidable, and an unplanned use of force. The policy summarises these considerations as follows:

> *1. Force is a tactic of last resort; it must not be used if there are alternatives to its use;*
> *2. The force applied must be reasonable, appropriate, and the minimum necessary in the circumstances; and*
> *3. It must stop when it is no longer required to control the inmate(s) or the circumstances.*[4]

4.3 The policy also deals with the use of security equipment (firearms, instruments of restraint, chemical aides and riot control equipment) and the requirement to video record uses of force. The policy requires:

> *When the use of force is expected or planned or when there is a high potential for conflict, a video camera __must__ be brought to the scene. An example is an inmate who is refusing to comply with a lawful instruction and there is no immediate risk to security, personnel, or other inmates. In that and similar situations, force __must not__ be applied until a video camera is on the scene and recording the actions and conversations of all those involved. This is a requirement even if the area is subject to CCTV surveillance and recording.*[5]
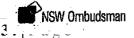
4.4 Personnel who use force, as well as those who witness a use of force, are required to write an independent incident report. The procedure sets out the information that must be contained in an incident report:

- *The time of the use of force*
- *The date*
- *The location*
- *The identity of all persons involved*
- *A detailed description of the incident including what people said or did. Conversations or statements must be reported as: Inmate X said "......", I said, "..."*
- *Describe in detail the nature of the force that was applied. For example, "Using his left hand, X took a hold of Y's upper right arm", and*
- *Any other relevant information/intelligence.*[6]

Uses of force must be reported on the Incident Reporting Module (IRM) and video evidence must be securely stored. Counselling should be offered to both officers and inmates involved in a use of force.

All reports and video recordings must be reviewed by the Manager Security or other delegated senior officer. A report must be sent immediately to the Professional

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[4] Part D Serious Incident Response: Using Force on Inmates page 2
[5] Part D Serious Incident Response: Using Force on Inmates page 4
[6] Part D Serious Incident Response: Using Force on Inmates page 11

Conduct Management Committee (PCMC) if the reviewing officer considers the force was:

- *Unwarranted*
- *Excessive*
- *Unethical or there was other inappropriate behaviour on the part of any officer.*[7]

A Misconduct Report must be completed for each alleged disciplinary offence committed by an inmate/s but must not be acted on if a police investigation or criminal charges are likely.[8]

4.5 *Part C Correctional Centre Security: Managing Video Evidence* issued in November 2008 contains the policy and procedure on the way all video evidence is to be captured, stored, secured and reviewed. It applies to the video evidence required in relation to uses of force, as well as video evidence of other types of incidents. Only one type of video camera is approved for use in correctional centres under the policy – a model that uses a DVD as the recording medium. Video cameras that record to an internal hard drive, tape or memory card are prohibited, as are rewritable DVDs.[9]

Video recordings of a use of force must be reviewed by the Manager Security or another delegated senior manager '*as soon as practicable*'. If the Manager Security was involved in the use of force, then a conflict of interest exists and the General Manager must conduct the review. CCTV footage which captured a use of force must be copied and registered on TRIM.[10]

Each correctional centre must have a register of DVD recordings and arrangements to securely store the recordings.[11]

5. Training in use of force

5.1 All new custodial recruits must successfully complete the Custodial Primary Training Course which is delivered at the Brush Farm Corrective Services Academy. This includes Weapons and Officer Survival Training. This covers:

- Categories of emergencies
- Duties of the first responding officer
- Risk priorities
- Use of force
- Instruments of restraint
- Defensive tactics
- Batons
- Disturbance/riot control
- Chemical agents
- Gas mask

[7] Part D Serious Incident Response: Using Force on Inmates page 6
[8] Part D Serious Incident Response: Using Force on Inmates page 6
[9] Part C Correctional Centre Security: Managing Video Evidence page 1
[10] Part C Correctional Centre Security: Managing Video Evidence page 2
[11] Part C Correctional Centre Security: Managing Video Evidence page 3

- Cell/yard extraction
- Armed posts
- Firearms regulations
- Weapons handling general
- .38 Calibre Smith and Wesson Revolver
- .40 S&W Calibre Ruger Rifle.[12]

5.2 The training refers to a Tactical Use of Force Option Model where various options for addressing non-compliant behaviour are displayed in a circular pattern with communication at the centre, intended to emphasise that at every step communication should be considered regardless of what stage matters have reached. It contains the following options:

- Persuasion and negotiation
- Open hand techniques
- Chemical
- Instruments of restraint
- Physical presence
- Contain and isolate
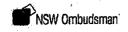- Lethal
- Firearms
- Tactical disengagement

CSNSW told us that all training concerning the use of force, regardless of whether it is primary or advanced, requires recruits to consider what an appropriate response in any given situation is, and emphasises the need to make a judgement about what would be appropriate in the particular circumstances.

5.3 Recruits are trained in defensive tactics (stances, stepping, palm strikes and kicks), the course material advising they are only to be used in circumstances where the tactics used are justified as *'necessary and reasonable'*.[13] Students are also trained in the use of batons, chemical agents and weapons handling.
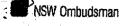
Students are assessed on *'physical restraint skills'*[14] at the end of the course. CSNSW told us that while some holds such as wrist holds and leg locks may be taught, they are suggestions and are not required or prescribed holds. CSNSW takes the view all training that is associated with using force is taught in the context of making a judgement about what would be appropriate in the particular circumstances. They did not believe it is possible to be prescriptive. Rather it is important to teach recruits to exercise judgement about the particular circumstance they were in.

5.4 We asked if any holds are not permitted. CSNSW told us choke holds are prohibited and are not delivered in training but recruits are not told that these holds are banned as this might suggest the possibility of their use to recruits who would not otherwise of thought of it. We were told that if a student raised the issue in a session (and apparently martial arts trained recruits sometimes do), they would be told such

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[12] Weapons & Officer Survival Training Participant Guide Table of Contents Version 1.0-2009
[13] Weapons & Officer Survival Training Participant Guide Version 1.0-2009 page 28
[14] Tactical Training Unit Interactive Training Performance Checklist Version 1.0

Annexure C

Incidents – WA Department of Corrective Services – Policy Directive 41: Reporting of Incidents and additional notification[5]

9. Post incident actions and considerations

Following an incident, superintendents shall ensure that:

- where required, all relative paperwork is completed and reviewed in accordance with the prescribed timeframes. This includes such reports as required under Policy Directive 5 - Use of Force or Policy Directive 27 - Procedures Following an Escape.

- the Employee Welfare Branch (or equivalent at private prisons) is notified of the incident where relevant to the nature of the incident; this is mandatory in the event of an assault on a staff member, irrespective of the severity of the injury.

- where necessary, practical and reasonable, staff members involved in a Critical Incident be provided the option to complete the remainder of their shift in a different location or unit as to where the incident occurred.

- post incident debriefs are undertaken in line with this Policy Directive.

10. Post incident debriefs

The Organisational Debriefing Guidelines provide detailed guidance to superintendents and staff regarding the management of debriefs following an incident.

In any debrief the following points should be considered:
- Review of the incident
- Concerns
- Lessons learned
- Good practice identified
- Employee welfare
- Any other relevant matter identified.

At a minimum, superintendents shall conduct an Immediate Debrief after all Critical Incidents in accordance with the following Section.

10.1 Immediate debrief

10.1.1 The purpose of an immediate debrief is not to analyse or re-live the incident, nor is it an opportunity to apportion blame or pre-judge investigation findings.

10.1.2 The immediate debrief should focus on reassurance, information sharing, normalisation and how staff can support each other.

10.1.3 Immediate debriefs should take place immediately after an incident.

10.1.4 An immediate debrief shall be undertaken following all Critical Incidents. The superintendent shall determine the need for an immediate debrief in line with the nature of all other incidents.

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[5] Government of Western Australia, Department of Corrective Services, Policy Directive 41: Reporting of Incidents and additional notification http://www.correctiveservices.wa.gov.au/_files/prisons/adult-custodial-rules/policy-directives/pd-41.pdf (accessed 24/08/15) pp.7-9.

10.1.5 A senior member of staff must chair the immediate debrief.

10.1.6 Prison-based staff support must attend and assess the need for additional services.

10.1.7 All staff involved in the incident are to be included in the immediate debrief where practicable. Staff wanting to, but who are unable to attend the debriefing, should be followed up either as a group or individually.

10.1.8 Care should be to be taken so as not to compromise investigations by reviewing detail that could impact on staff member's memories or recollection of events.

10.1.9 The Department's Immediate Debrief Report must be completed for all immediate debriefs conducted. A copy of the completed Formal Debrief Report for Critical Incidents only is to be submitted to the Superintendent Administration within 7 days of the immediate debrief being conducted.

10.2 Formal debrief

10.2.1 The purpose of a formal debrief is to:
- examine an incident in its entirety
- look at how the incident occurred
- determine how the incident was managed
- improve responses to incident management
- identify and address any concerns from the incident.

10.2.2 The superintendent must assess all Critical Incidents to determine the need for a formal debrief.

10.2.3 The Department's Formal Debrief Report must be completed for all formal debriefs conducted.

10.2.4 Where the superintendent determines that a formal debrief is required, the debrief is to be held and a copy of the Formal Debrief Report is to be submitted to the Superintendent Administration no later than 7 days after the incident.

10.2.5 Formal debriefs are to be chaired by the superintendent and should include managers, team leaders, specialist staff and external representatives as determined by the superintendent.

10.2.6 In accordance with the Organisational Debriefing Guidelines and depending on the severity of the incident, more than one Formal Debrief may be required. If so, this should occur within 4 weeks of the incident. Copies of any subsequent Formal Debrief Reports are to be submitted to the Superintendent Administration within 7 days of the Formal Debrief.

Annexure D

Incident Reporting – WA Department of Corrective Services – Policy Directive 41: Reporting of Incidents and additional notification[6]

Prison	Any reference to a prison within this Policy Directive and/or supporting appendices also includes reference to a work camp.
Security Report (SR)	Security Reports contain information, no matter how trivial, that is provided by any member of staff and is not reliant on an incident occurring in order to be submitted (SRs may be known by other terms in private facilities).
superintendent	The Designated Superintendent or Officer in Charge (OIC) of a public prison, the Director or OIC of a private prison or the Director of a privately operated custodial service provider.
The Act	The *Prisons Act 1981*

5. Incidents and Critical Incidents

5.1 An incident is any event that may:
- jeopardise the good order and security of the prison
- jeopardise the safety or health of staff, prisoners, contractors or visitors
- adversely affects the normal or routine operation of the prison
- result in the loss of a privilege
- result in a charge of a prison offence.

5.2 Some incidents may be further defined as Critical Incidents due to their seriousness. Part A of Appendix 1A – Assaults and Appendix 1B - Other Critical Incidents detail the incidents that are considered critical. These incidents have been categorised as critical because they:
- involve a serious security breach
- may place staff or prisoners under significant risk
- may place the security of the prison under significant risk
- involve the serious injury or death of any person on prison property
- may generate significant public or media scrutiny.

5.3 All incidents will require the submission of an incident report (refer to Section 6 for detailed procedures). However, Critical Incidents will also require additional reporting requirements; these are outlined at Section 8.

5.4 Any incident which is not defined in Part A of Appendix 1A – Assaults or Appendix 1B – Other Critical Incidents, but meets the requirements of Section 5 is to be categorised as a Non-Critical Incident when reported on TOMS.

5.5 Any incident which initially does not meet the requirements of a Critical Incident as defined in Part A of Appendix 1A – Assaults or Appendix 1B – Other Critical

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[6] Government of Western Australia, Department of Corrective Services, Policy Directive 41: Reporting of Incidents and additional notification http://www.correctiveservices.wa.gov.au/_files/prisons/adult-custodial-rules/policy-directives/pd-41.pdf (accessed 24/08/15) pp.3-5.

Incidents but subsequently escalates to meeting the requirements of a Critical Incident is to be reported as such immediately in accordance with this Policy Directive.

5.6 If, due to the severity or specific circumstances of the incident, doubts exist as to whether the incident should be considered Critical or Non-Critical, the Superintendent Administration (or after hours, the Duty Operations Contact) should be contacted immediately for advice).

6. Minimum Incident Report requirements

6.1 Incident Reports are an integral part of DCS operations and the Department places considerable emphasis on the need for accuracy and clarity in their preparation.

6.2 An Incident Report must be submitted following every incident.

6.3 Incident Reports have a set format on TOMS and staff are to follow the instructions (ie Incident Help) and populate the applicable fields as accurately as possible.

6.4 One Incident Report is to be created per incident and an 'Incident Description' is to be completed by each staff member independently prior to the cessation of duty, unless otherwise approved by the superintendent.

6.5 When completing the 'Brief Summary of Incident' section on TOMS, the following is to be stated:
- Location of the Incident
- Type of Incident
- Main prisoner(s) involved including Offender ID (if known)
- Brief indication of the incident

> **Example:**
> Unit 1 – Assault – Prisoner BLOGGS, James (I1234567) assaulted prisoner BROWN, John (E1234568)

6.6 An Incident Description is to be completed by **all staff** who were involved in, or who witnessed the incident. This includes prison officers, public service staff, or any other staff member involved in or witness to the incident.

6.7 In the event Health Services staff (medical practitioner, nurse etc) are involved in the medical treatment of a person following an assault (refer Appendix 1A – Assaults) or other Critical Incident (refer Appendix 1B – Other Critical Incidents), the staff member concerned shall submit a report on TOMS in accordance with this Section. This report is to include all pertinent information other than personal medical information.

6.8 In the event of a Non-Critical Incident other than an assault (refer Section 5.4), prison officers or public service staff shall note the attendance of medical staff at the incident (name of medical officer, description of actions, time arrived/departed incident etc).

Note: Further medical information shall be recorded by Health Services staff on EcHO. This subsection shall only apply when Health Services staff are involved in

the medical treatment of a person only, not where Health Services staff witness or are involved in the incident. In these cases, Health Services staff must report the incident on TOMS in accordance with this Section.

6.9 Notwithstanding Sections 6.7 and 6.8 above, the superintendent may direct that health Services staff complete a report in accordance with this Section following any incident.

6.10 All reports should be clear, concise, factual, and should be completed as soon as practicable once the incident has concluded.

6.11 Incident Descriptions capture vital information relating to the incident and should include the following:
- The date and time of the incident
- The officer's name and rostered position
- The names of witnesses to the incident (if any)
- The place of the incident (be precise)
- The facts in sequence including full details of all persons involved
- If known, the trigger for the incident (ie what started the incident?)
- How the incident was resolved or controlled
- Recommendation from author (eg LOP, charge, further investigation required)

6.12 Officers' reports/descriptions are to be submitted after completion. The Designated Superintendent shall ensure that officers' reports are finalised by Unit Managers and other relevant Prison Administration staff by ensuring that Incident Minutes are submitted.

6.13 Designated Superintendents shall nominate the prison's Principal Officer to undertake quality assurance on all incident statistics to ensure compliance with the definitions of incidents according to Appendix 1A – Assaults and Appendix 1B – Other Critical Incidents. The Department's definition must be applied to ensure consistency across all prisons and conformity with National definitions.

7.   Deaths in custody

7.1 In accordance with Appendix 1B - Other Critical Incidents, all deaths in custody are to be reported as a Critical Incident.

7.2 Before writing the description, the Death in Custody Incident Report template must be selected in TOMS.

7.3 There are also specific requirements to be met following a death in custody, full details are contained in Policy Directive 30 - Death of a Prisoner.

Annexure E

Stress Management – Queensland Corrective Services Procedure[7]

Procedure - Managing Traumatic Events at Work

Purpose
1. Principles
2. Definitions
2.1 Traumatic events include but are not limited to-
3. Responsibilities of General Managers/ Regional Managers/ District Managers/ Executive Directors
4. Responsibilities of Employees
5. Medical Attention
6. Workplace Health and Safety
7. Investigation of Event/Incident
8. Needs of the Employees' Families
9. Incident Debrief
10. Pre-Critical Incident Stress Debrief (CISD)
10.1 Critical Incident Stress Debrief (CISD)
10.2 Post-CISD Briefing
11. Transport Home
12. Suitability for Continuation of Work or Return to Work
13. Work Duties in Subsequent Days
14. Release of Information

Procedure Properties

Title: Managing Traumatic Events at Work
Category: Support Services
Version: 04
Implement Date: 9 February 2010
Application: Agency
Availability: Public

Authority

- *Corrective Services Act 2006, s. 265, 272*
- *Workplace Health and Safety Act 1995*

Procedures

- Incident Reporting - Custodial (in-confidence)
- Incident Reporting - Probation and Parole
- Management of Work Related Injuries/Illness
- Workplace Health and Safety (in-confidence)

Policies

- Human Resource Delegations Manual (in-confidence)

Purpose

Queensland Corrective Services will make every effort to minimise the effects that traumatic events have on employees within the workplace and to return them to normal functioning at work as soon as possible.

1. Principles

The Agency recognises the integral role its employees play as contributors to the Agency's overall performance and sustainability and to that end is committed to providing an environment in which equity and health and safety are promoted.

The Agency is committed to providing a productive and safe work environment and the promotion of training opportunities to create a highly skilled and adaptable workforce that meets current and future Agency needs.

2. Definitions

a. CISD (Critical Incident Stress Debrief): The CISD is conducted as a group activity involving all employees who were directly involved in or witnessed the traumatic event / critical incident;
b. Defusing: On some occasions following a traumatic incident, some employees may be experiencing severe emotional stress as a result of that incident such that they require urgent assistance.
c. Employee Assistance Program (EAP): An EAP is defined by contractual agreement with the service provider. The service provider for the Agency is Interlock;
d. Immediate Family Member: spouse, children, parents and siblings of employees;
e. Incident Debrief: means to provide-

    i. organisational support; and

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[7] Queensland Corrective Services, Procedure – Managing Traumatic Events at Work
http://www.correctiveservices.qld.gov.au/Resources/Procedures/Support_Services/documents/spspromantrauma
tic.shtml (accessed 24/05/15).

ii. organisational information collection information sharing between all employees involved about their own and about others observations / perceptions context and information for the facilitator of the CISD;

f. Traumatic Event: A traumatic event/critical incident is an event outside the range of usual human experience which has the potential to easily overcome an employee's normal ability to cope with stress. It may produce a negative psychological response in an employee who was involved in or witnessed such an incident.

2.1 Traumatic events include but are not limited to-

a. aggravated assaults;
b. suicide or attempted suicide;
c. murder;
d. acts of self mutilation or self harm by inmates;
e. inmate riots, escapes or attempted escapes;
f. hostage situations;
g. sudden or unexpected death of a work colleague;
h. discharge of a firearm;
i. vehicle accidents involving injury and/or substantial property damage;
j. industrial accidents involving serious injury or fatality; or
k. any other serious accidents or incidents.

If there is uncertainty whether an incident fits into one of these categories advice should be sought from Interlock.

3. Responsibilities of General Managers/ Regional Managers/ District Managers/ Executive Directors

It is the responsibility of General Managers/ Regional Managers/ District Managers/ Senior Executive Officers of the Agency to ensure responsibilities are appropriately delegated for the efficient and effective response to critical incidents and traumatic events. Failure to provide employees with information and opportunities to access appropriate support following a critical incident or traumatic event may result in a legal decision against the employer as a result of worker's compensation or common law claims made against the Agency.

Employees are required to-

a. seek support following a traumatic event and early resolution of problems which disrupt their own productivity;
b. provide information to managers and supervisors about the affects of particular traumatic events on work group functioning; and
c. in collaboration with management, the Employee Assistance Provider (Interlock) and the Workplace Health and Safety Officer adopt a risk management approach for controlling the incidence and effects of traumatic events in the workplace.

4. Responsibilities of Employees

a. create a work atmosphere of professional responsibility towards the well being of colleagues and to maintain high workplace morale and functioning following the impact of a critical incident or traumatic event;
b. provide emotional and practical support to colleagues and actively seek to remove any stigma associated with the use of post trauma psychological support systems; and
c. participate in creating a best practice response to traumatic events which meets the needs of individuals and work groups.

5. Medical Attention

Appropriately trained staff are to provide first aid treatment and organise such medical treatment as appropriate. The Business Unit Manager, through an appointed Senior Officer, will organise the appropriate medical assistance.

Assistance can be provided by nursing staff in those work locations where they are employed or available, if the

injury is serious or critical and requires attention until an ambulance arrives.

6. Workplace Health and Safety

Refer procedure - Workplace Health and Safety (in-confidence)

Concurrent with medical care is the need for areas to be made safe and/or the removal of any hazards to prevent any further injuries occurring.

The integrity of the scene needs to be maintained so as not to prejudice subsequent investigations.

Incident Reports are to be completed within established policy.

7. Investigation of Event/Incident

Refer procedures - Incident Reporting - Custodial (in-confidence) and Incident Reporting - Probation and Parole

In most instances members of the CSIU will be called to the scene of the incident. The CSIU will require all participants in the critical incident to be interviewed and initial statements taken. Business Unit Managers are to make an appropriate area available for such activities to be implemented.

When CSIU officers are investigating an incident, all participants in the critical incident are to undertake interviews with the officers prior to being involved in CISD or Incident Debriefing. The only exception to this is where interviews can not be undertaken within a reasonable timeframe (for example CSIU cannot attend until the following day or well after normal shift completion times) and it is determined that staff welfare requires that a CISD and / or Incident Debrief be conducted prior to the CSIU interviews.

8. Needs of the Employees' Families

Business Unit Managers or a designated Senior Officer is to attend to the immediate needs of the affected employees' families, including notification, information, support, assistance with transport to the next of kin, etc. Immediate family members of staff are entitled to access the services of Interlock on a free, confidential and voluntary basis.

9. Incident Debrief

The Business Unit Manager is to commence an Incident Debrief as soon as practical after the incident. Employees involved in the incident should not be permitted to go off duty until their involvement in the Incident Debrief has been completed.

Wherever possible CISD sessions should be conducted after the Incident Debrief has been completed. Where CSIU have been called to the scene of the incident the Incident Debrief is not to occur until CSIU officers have interviewed all participants in the critical incident and initial statements have been taken.

An Incident Debrief is to be held within three hours of the incident occurring.

10. Pre-Critical Incident Stress Debrief (CISD)

When the CISD Facilitator arrives on site, the Senior Officer co-ordinating the incident should provide the Facilitator with a pre-CISD briefing. Wherever possible, the Facilitator should be shown the scene of the incident.

If possible the CISD Facilitator should be allowed to speak individually to each of the employees who will take part in the CISD before the CISD session begins. A quiet room should be provided for uninterrupted running of the CISD.

10.1 Critical Incident Stress Debrief (CISD)

Following the Incident Debrief, a CISD needs to be provided within 24 hours of the incident wherever possible. Where CSIU have been called to the scene of the incident the CISD is not to occur until after CSIU officers have interviewed all participants in the critical incident and initial statements have been taken. The CISD is necessary for the treatment of stress symptoms associated with the critical incident. Depending upon the number of employees involved in the CISD, the session normally runs from about 1.5 to 3 hours. The CISD sessions are to be conducted in private and uninterrupted surroundings.

The CISD is conducted as a group activity involving all employees who were directly involved in the incident or who witnessed the incident. Management and other personnel not directly involved with the incident should not participate in the CISD activities. While the CISD is effective up to 72 hours after the incident, Interlock

recommends that a CISD be organised for a time frame between three hours and 24 hours after the incident. This enables all of the other activities including the Incident Debrief to be completed so that the CISD is the last programmed activity relating to the incident. Attendance by employees who were directly involved in the incident or witnessed it is compulsory. This includes members of the management team when they are directly involved in such incidents.

Employees who were directly involved or who witnessed the incident, and who are unable for any reason to attend the CISD, must have organised for them an individual Interlock counselling session as soon as practical after the CISD by the Senior Officer assigned the responsibility of organising the CISD.

10.2 Post-CISD Briefing

At the end of the CISD session the Facilitator will confer with the Senior Officer. The Facilitator will provide the Senior Officer with appropriate feedback on any matters which arose from the CISD session which are relevant to the management of the incident.

In particular the Facilitator will bring to the attention of the Senior Officer the names of employees who may benefit from some on-worksite observation and support within the next few days following the incident. The Facilitator would have already spoken individually to these employees and provided them with individual information and ensured that they were aware that they could contact Interlock for future assistance if the stress symptoms did not abate within a short period of time.

11. Transport Home

The Senior Officer should discuss transport home arrangements with any employees who are displaying signs of severe distress. If appropriate the Senior Officer should organise assistance in these transport arrangements.

The Senior Officer should try to ensure that distressed employees will not be at home alone on the evening following an incident or, at the very least, ensure that they have the telephone numbers of Senior Officers, colleagues, friends and Interlock whom they can contact if they wish to talk to someone.

12. Suitability for Continuation of Work or Return to Work

Before an employee leaves the worksite, the General Manager/Regional Manager, Centre Manager, or the Senior Officer who has delegation for this function, is to discuss with any persons showing stress symptoms their suitability for continuation and/or return to work the next day. In most circumstances a return to work should be encouraged as research has indicated that social support offered by colleagues after traumatic incidents is one of the major aids to recovery. However employees should be made aware that if they feel that they cannot continue work on that day or shift or cannot return the next day, they should not feel guilty. Reassurance should be given that assistance will be available at the worksite and that by even attending for a brief time the next day this will assist them through the recovery phase following the incident.

Generally it is found that discussing these issues with employees, but allowing them to make their own decisions, results in many employees returning to work quickly after an incident.

13. Work Duties in Subsequent Days

Employees should be encouraged to resume their normal duties as soon as practical following an incident unless they display a reluctance to take up these normal duties or display severe distress symptoms. Employees who cannot take up their normal duties in full or in part should not be forced to do so. Relief staff should be organised to carry out the required work functions.

In those instances where employees are not able to resume normal work duties, the Business Unit Manager should ensure the centre/region's Rehabilitation Coordinator is advised.

14. Release of Information

The Business Unit Manager should ensure that accurate and adequate information is provided to all appropriate employees in the Business Unit and other stakeholders. This release of information should be updated as appropriate over subsequent days.

The Business Unit Manager should act quickly to dispel rumours following an incident. This is very important when such rumours may be critical of an individual's actions during or subsequent to the incident. Apart from being very unfair to that individual, such criticism or perceived criticism is one of the major factors contributing to employees experiencing ongoing difficulties after an incident.