

Custodial Operations Policy and Procedures

4.6 Confiscated and unclaimed property, and property for disposal

Policy summary

A register must be kept of all abandoned, unclaimed, and confiscated property held within an inmate property store/reception room.

Unclaimed property remaining in CSNSW storage 3 months after the discharge of the owner is regarded as abandoned and is to be disposed of.

Management of Public Correctional Centres Service Specifications

| | |
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| Service specification | Safety and Security Professionalism and Accountability |
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Scope

This section applies to all correctional centres and other facilities administered by or on behalf of CSNSW. It also applies to all CSNSW employees, and where relevant to other personnel such as, Justice Health & Forensic Mental Health Network (JH&FMHN), contractors, subcontractors, and visitors.

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1 Confiscated, unclaimed and property for disposal (release, DIC and escape)

1.1 Policy

The OIC Property Store/Reception Room may order that inmate property that is confiscated or unclaimed be disposed of in a method specified by the Governor/OIC of the correctional centre.

The OIC may also order that any property that is worn out or unserviceable be disposed of at any time that property is being processed.

Any such action must be recorded on the OIMS.

Recordable property considered to be worn out or unserviceable by other staff must be returned to the inmate property store/reception room for inspection.

In all circumstances, the owner must consent to the disposal of the property. If the owner does not consent, the OIC/Authorised Officer may confiscate the property and seek a direction from the Governor/OIC of the centre about its disposal.

All decisions of the OIC/Authorised Officer can be appealed to the Governor/OIC of the correctional centre.

1.2 Unauthorised property

Any unauthorised property found in the possession of an inmate must be confiscated. This includes anything

- not issued or not approved for issue,
- any recordable property found in the possession of an inmate that is not recorded as belonging to that inmate
- approved for use and possession but not issued to the inmate
- dangerous, illegal or prohibited or
- indecent, obscene or offensive.

1.3 Confiscated authorised property

Where possible, the OIC/Authorised Officer of the inmate property store/reception room must determine the ownership of confiscated authorised property, and report to the Governor about the items.

The Governor/OIC of the centre determines whether confiscated property is returned to the owner or, if unclaimed, disposed of.

The Governor/OIC may order the destruction of any confiscated property that is not valuable or recordable under this policy.

1.4 Registering and disposing of confiscated property

All confiscated property must be registered in a *Register for Abandoned, Unclaimed and Confiscated Property* and kept in the inmate property store/reception room or other secure location as determined by the Governor and under the supervision of the OIC/Authorised officer of the inmate property store/reception room (or person designated by the Governor/OIC).

| | Procedure | Responsibility |
|----|---|--|
| 1. | When any property is confiscated Enter the following details in the <i>Confiscated Property Register</i> : <ul style="list-style-type: none"> • a description of the item/s • the date the item/s was confiscated • details of the inmate (if known) from whom the item/s was confiscated • name of the officer that confiscated the item/s. | OIC/Authorised officer |
| 2. | When disposing any confiscated property, provide a report to the Governor of a list of property items to be disposed and request the method of disposal. | OIC/Authorised officer |
| 3. | Consider the report and stipulate the method of disposal of property item/s. | Governor, MOS/delegate |
| 4. | Complete the <i>Confiscated Property Register</i> with the following details: <ul style="list-style-type: none"> • list item/s for disposal • method of disposal • name of person that disposed of the item/s • date of disposal • signature of two (2) staff (one of whom must be a Functional Manager). | OIC/Authorised officer And FM/Authorised Officer |
| 5. | Go to the OIMS <i>Dispose property items</i> screen and complete all sections if known | OIC/Authorised officer |

1.5 Evidence for disciplinary or legal action

The OIC/Authorised officer is responsible for preserving confiscated items that provide evidence for disciplinary or legal action. If property is transferred to an external agency for legal proceedings, the person taking possession of the item/s must endorse the *Confiscated Property Register*.

Procedures for the recording and disposal of prohibited drugs and substances are contained in **COPP Section 13.11 Discovery and disposal of suspected prohibited substances**.

At the completion of any disciplinary action taken against an inmate for possession of unauthorised property the OIC/Authorised Officer will report to the Governor/OIC

that the matter has been resolved. Where the property cannot be returned to the original owner the Governor/OIC authorises the disposal of unauthorised confiscated property.

1.6 Property misuse

Inmates must not:

- alter, modify or convert any personal property from the purpose for which it was intended
- dye or bleach personal or correctional centre clothing issued to them
- transfer the ownership of recordable items without the permission of the OIC/Authorised Officer of the Property Store/Reception Room.

Where an inmate uses any item of approved property for a purpose other than intended, it must be confiscated, and if serviceable, may be reissued to another inmate.

1.7 Destruction of unhygienic property

The Governor/OIC of a correctional centre may authorise the destruction of unhygienic property and unhealthy food belonging to an inmate. Before any such property is destroyed, the OIC/Authorised officer must inform the inmate of the proposed destruction and the reason.

2 Property processes in the absence of the inmate

In the absence of an inmate, the Governor of a correctional centre may authorise the processing of their property to facilitate the efficient and effective operation of the centre. In all other circumstances, the inmate must be present.

Exceptions to this policy must be reported to the Governor/OIC.

| | Procedure | Responsibility |
|----|---|---|
| 1. | Itemise all property found in the cell and deliver it to the inmate property store/reception room. | OIC/Authorised officer + second officer |
| 2. | Confiscate any property item whose ownership cannot be determined and manage in line with the procedure in subsection 1.5 of this policy - <i>Registering and disposing of confiscated property</i> . | OIC/Authorised officer |
| 3. | Dispose of any confiscated property to the Governor Generate a <i>Disposed Property Transaction Report</i> from the property module on OIMS and sign. | OIC/Authorised officer |

| | Procedure | Responsibility |
|----|--|---|
| 4. | Where the inmate has been transferred to another centre transfer the property on the next available escort. | OIC/Authorised officer CESU Transport coordinator |
| 5. | If the inmate is no longer in custody dispose of any property if it is unclaimed by the inmate in line with subsection 6 <i>Abandoned, unclaimed and confiscated items</i> . | OIC/Authorised officer |
| 6. | If an escapee is returned to custody, transfer any of their property held in storage to where the inmate is located. Investigate any representations made by the inmate of any dispute about the property Note: CSNSW is not responsible for the transfer of property to other states or jurisdictions. | OIC/Authorised officer |

2.1 Deceased inmates

Investigating police at times may seize a deceased inmate's property items as exhibits pursuant to a coronial investigation scene order (refer COPP Section 13.3 Death in custody).

In circumstance where an inmate has died as a result of a suspected serious offence, police may seize personal property items recorded on the inmate's OIMS property record. A property receipt is required if police request to take a valuable item without a warrant. A copy of the inmate's OIMS property record endorsed by police is sufficient. In cases where investigating police have a warrant a copy of the occupier's notice for the respective warrant and a *NSWPF Property Seizure/Exhibit Form* listing all items seized is provided to the Governor/OIC.

The OIC/Authorised Officer of the inmate property store/reception room will record the disposal of listed property items to police.

Any money and remaining property of the deceased inmate may be released to the NOK/ECP providing they sign an ***Indemnity for property of deceased inmate*** form.

Unclaimed property may be disposed of six months after the date of the inmate's death.

| | Procedure | Responsibility |
|----|---|--|
| 1. | After police have cleared the cell as a crime scene in the presence of a second officer , itemise all property found in the cell and deliver it to the inmate property store/reception room. | OIC/Authorised officer + second officer |
| 2. | Determine the ownership of all property delivered to the inmate property store/reception room. | OIC/Authorised officer |

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| 3. | Confiscate any property item whose ownership cannot be determined. | OIC/Authorised officer |
| 4. | Complete an <i>Indemnity for property of deceased inmate</i> form and list all property items being disposed to the NOK/ECP | OIC/Authorised officer |
| 5. | Store the deceased inmate's property in the property store/reception room for collection by the NOK/ECP Record all property on OIMS as 'stored' | OIC/Authorised officer |
| 6. | When the NOK/ECP collects the deceased inmate's property: <ul style="list-style-type: none"> • check property items with the list on the <i>Indemnity for property of deceased inmate</i> form and have the person sign • insert your name and sign as Witness | OIC/Authorised officer |
| 7 | Update the OIMS property record and dispose all property including the name of the NOK/ECP the property was disposed to. | OIC/Authorised officer |

2.2 Inmates discharged from custody

When an inmate is to be discharged from custody i.e. sentence expired, parole, to custody of police or another agency, the OIC/Authorised officer will arrange with the inmate to return all property in their possession at least 24 hours prior to leaving custody.

Private property for inmates to be discharged will be processed in the same way as for transfer (**refer *COPP section 4.5 Property on transfer***).

All property will be kept in storage tubs at the inmate property store/reception room until the inmate is discharged.

If the inmate does not return recordable property to the inmate property store/reception room

- record the reason on the OIMS property record
- have the inmate sign the *Disposed Property Transaction Report*.

Property that is abandoned by the inmate will be disposed of immediately.

Stored property that is missing must be reported to the Governor/OIC before the inmate is discharged.

In all circumstances when an inmate is discharged into the custody of another agency the OIC/Authorised Officer must transfer all property in the same way as for an inter-centre transfer, recording the agency and identity of the person taking the property. This report must be filed in the Inmate property store/reception room.

All excess property will be confiscated.

3 Indecent, obscene or offensive items

3.1 Policy

Inmates are not permitted to have in their possession or store:

- any photograph, picture, cartoon, text, electronically stored or produced image, video or audio recording of the victim of an inmate, or suspected of being of the victim, or other images or material related to the inmate's crime (other than information and/or images contained in a legal brief); or
- any item which is indecent, obscene or offensive.

The OIC/Authorised officer must confiscate any indecent, obscene or offensive items from any inmate's stored property, inform the owner and report to the Governor/OIC.

The Governor/OIC may order the destruction of any such material.

4 Risks to security

4.1 Policy

The OIC/Authorised officer of the inmate property store/reception room must confiscate any item in the stored property of an inmate if it is considered to be a security risk and report to the Governor/OIC.

The Governor/OIC must order the destruction of any such article or make alternative arrangements for their storage.

4.2 Knives, blades, or prohibited articles

The OIC/Authorised Officer of the inmate property store/reception room or the officer in charge of any place of detention must not accept a knife or blade, or any prohibited article found in the property of any person transferred into the custody of the CSNSW, unless the owner holds and produces a permit to possess the article.

If a knife, blade or prohibited article is accepted as part of an inmate's property it must be confiscated.

At locations other than a correctional centre, confiscated knives, blades or prohibited articles are to be sealed in a valuables pouch and recorded on the OIMS. Confiscated property must not be carried with any other property when transferred.

When confiscated knives, blades or prohibited articles are received at an inmate property store/reception room the OIC/Authorised Officer must register the property and store it securely.

The OIC/Authorised Officer of the inmate property store/reception room must inform the inmate that the article must be removed from the centre within 14 days and report to the Governor/OIC about the property.

The Governor/OIC shall direct the destruction of any knife, blade or prohibited article that is not removed from a correctional centre 14 days after the owner is informed that it must be removed. The disposal is to be recorded on the OIMS property record (Refer to the procedure table in part 1.5 in this policy – *Registering and disposal of confiscated property*).

5 Property no longer approved

5.1 Policy

The OIC/Authorised Officer of the inmate property store/reception room must ensure that any stored property no longer approved for issue is removed from the centre and not transferred to another centre.

In circumstances where removal is not possible, the item may be stored until release when the property owner must take the items from the correctional centre. Property that is no longer approved cannot be transferred to another inmate.

6 Abandoned, unclaimed and confiscated items

6.1 Property register

The OIC/Authorised Officer of the inmate property store/reception room must keep a *Register of Abandoned, Unclaimed, and Confiscated Property*.

The register must include all details surrounding the article including any reference to OIMS and the name of any person authorising destruction or disposal (*refer part 1.5 procedure for disposal of confiscated property*).

6.2 Abandoned property

Unclaimed property remaining in CSNSW storage 3 months after the discharge of the owner is regarded as abandoned.

6.3 Disposal of abandoned or confiscated items

The OIC/Authorised Officer of the inmate property store/reception room must report abandoned property to the Governor/OIC.

The Governor/OIC establishes procedures that comply with all legislative requirements to manage the disposal of property.

The Governor/OIC authorises the disposal of abandoned property.

The OIC/Authorised Officer of the inmate property store/reception room prepares a schedule of abandoned property for disposal by auction. The property will be delivered to an approved auctioneer for public auction. Only items that are not Indecent, obscene or offensive or a security risk may be approved for auction.

6.4 Procedure to arrange property for auction

| | Procedure | Responsibility |
|----|--|---|
| 1. | Collect all abandoned and confiscated property that has been unclaimed for 90 days | OIC/Authorised officer |
| 2. | Check OIMS to ensure no inmate owning any unclaimed property has not returned to custody. If an inmate has returned: <ul style="list-style-type: none"> • update OIMS property record for the current booking or • enter a new disposal date if the inmate was again released • forward the property to the correctional centre at which the inmate is located. | OIC/Authorised officer |
| 3. | Sort all abandoned property into categories (e.g. wallets, mobile phones, watches, necklaces etc.) | OIC/Authorised officer |
| 4. | Provide a written memorandum to the centre Business Manager listing the quantity of each category of property to be auctioned by the Centre's registered Auctioneer | OIC/Authorised officer |
| 5. | Liaise with the registered auctioneer to arrange the sale of all listed property items | Business manager/Delegate OIC/Authorised officer |
| 6. | Access the <i>Dispose property</i> module on OIMS and update property as disposed to auction (Auctioneer's name) after property is collected | OIC/Authorised officer |

7 Transfer of property from one inmate to another

If an inmate wishes to transfer a recordable item of property to another inmate, they must submit an *Inmate request* form to the Governor. If the Governor (or delegate) approves the request, the item of property must be recorded in OIMS as the property of the inmate receiving it.

Recordable property found to be given by one inmate to another without approval is to be confiscated.

8 Sending property out of the centre

8.1 Policy

Inmates must apply in writing to send property out of the correctional centre unless the property is being sent out because of a direction to do so by the Governor/OIC.

If the application is approved the property is to be taken to the inmate property store/reception room at a time convenient to the OIC/Authorised Officer of the inmate property store/reception room or the activities officer.

The OIC/Authorised Officer of the inmate property store/reception room must change the OIMS property record for all items. The OIMS record should not be changed until it is confirmed the property has left the centre.

The OIC/Authorised Officer must ensure when disposing of property previously issued for personal property that the person sending out the property is the owner.

9 Property held for collection

9.1 Policy

Note: The Governor/OIC must approve the storage of property after the release of an inmate.

- The OIC/Authorised officer of the inmate property store/reception room may only keep property on behalf of an inmate after discharge if there is storage space available.
- The OIMS record for the property is to be changed to '*To Collect - Property for Collection*'.
- Property will only be kept for 3 months, after this time it will be regarded as abandoned.
- Any costs incurred in the disposal of the property are the responsibility of the owner and no property will be forwarded by post or a common carrier for payment on delivery.
- Property must not be stored unless contact details are recorded.

11 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

12 Definitions

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| Authorised officer | The officer authorised by the governor to perform the functions prescribed as part of the Custodial Operations Policy and Procedures |
| COPP | Custodial Operations Policy and Procedures |

13 Document information

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| Business centre: | Custodial Operations | |
| Approver: | Anne Marie Martin | |
| Date of effect: | 22 June 2023 | |
| EDRMS container: | 18/7121 | |
| Version | Date | Reason for amendment |
| 1.0 | | Initial publication (<i>Replaces section 9 of the superseded Operations Procedures Manual</i>) |