

Custodial Operations Policy and Procedures

13.6 Escapes

Policy summary

An escape or attempted escape from custody must be reported to the NSW Police Force immediately.

Correctional officers may arrest an escapee without a warrant. If an escapee is arrested by a correctional officer, then the escapee must be handed over to the police or taken before an authorised officer. An escapee must not be returned to a correctional centre until a warrant of commitment is issued.

State Sentence Administration (SSA) must be notified of an escape and return to custody of a recaptured escapee. Governors may also be required to notify certain government authorities of an inmate's escape and recapture.

Any evidence of an escape must be preserved in accordance with **COPP section 13.8 Crime scene preservation**. Staff must cooperate with police and investigators.

An *Escape checklist* is provided for Governors and Officer in Charge (OIC) which contains consolidated response, reporting and notification procedures for an escape from lawful custody.

Management of Public Correctional Centres Service Specifications

| | |
|------------------------|------------------------------------|
| Service specifications | Professionalism and accountability |
| | Safety and security |

Scope

This section applies to all correctional centres and other facilities administered by or on behalf of Corrective Services NSW (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.

Requirements to upload data to evidence.com or share evidence from evidence.com may not apply to privately managed correctional centres who may have their own evidence management system and processes in place.

While it is not mandated that privately managed correctional centres use evidence.com, other aspects of this policy document must be complied with. If there is any conflict with process related matters described in this document, and where there is reference to specific CSNSW business units, privately managed correctional centres should seek further advice from the relevant contract management team.

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1 Legislation

1.1 Crimes Act 1900

Part 6A of *the Crimes Act 1900* concerns offences relating to escape from lawful custody. The main sections relevant to correctional centres and correctional officers are:

310D Escaping

Any inmate:

- (a) who escapes or attempts to escape from lawful custody, or
- (b) who, having been temporarily released from lawful custody, fails to return to lawful custody at the end of the time for which the inmate has been released,

is guilty of an offence.

Maximum penalty: imprisonment for 10 years.

310E Tunnels to facilitate escape

- (1) A person who constructs, or takes part in the construction of, a tunnel that could reasonably be thought likely to be intended for use in facilitating an inmate's escape from lawful custody is guilty of an offence.

Maximum penalty: imprisonment for 10 years.

- (2) It is not necessary for the prosecution to prove that the tunnel was actually intended for use in facilitating an escape, but it is a defence for the accused person to establish that he or she did not intend it to be so used.

- (3) In this section:

tunnel includes any partially completed tunnel and any excavation.

310F Permitting escape

- (1) Any person who, being an officer of a correctional centre or a police officer, has actual custody of an inmate for the time being is guilty of an offence if he or she wilfully permits the inmate to escape from custody.

Maximum penalty: imprisonment for 7 years.

- (2) Any person who, being an officer of a correctional centre or a police officer, has actual custody of an inmate for the time being is guilty of an indictable offence if he or she negligently permits the inmate to escape from custody.

Maximum penalty: imprisonment for 2 years.

1.2 Crimes (Administration of Sentences) Act 1999

Section 39 provides that a correctional officer may, without warrant, arrest an inmate who has escaped or is otherwise unlawfully absent from custody. The arrested inmate must be handed over to police or taken before an authorised officer (usually a judicial officer) to be dealt with according to law. The inmate is not to be returned to the correctional centre until a warrant of commitment is issued.

Section 253MA(1)(c) provides that a correctional officer may use force to deal with a visitor to prevent an unlawful attempt to enter a place of detention by force or to free an inmate.

1.3 Crimes (Administration of Sentences) Regulation 2014

Clause 135 provides that it is a correctional centre offence for an inmate to conceal themselves for the purpose of effecting their escape or the escape of another inmate.

Clause 136 provides that it is a correctional centre offence for an inmate to make, conceal or possess anything for the purpose of effecting an escape or committing an offence, or enabling any other inmate to effect an escape or commit an offence.

Clause 131 provides that a correctional officer may use force to prevent the escape of an inmate.

Clause 303(1)(b) provides that a correctional officer may discharge a firearm if the officer believes on reasonable grounds that it is necessary to do so in order to:

- prevent the escape of an inmate
- to prevent an unlawful attempt to enter a correctional centre or to free an inmate
- to attract the immediate attention of correctional officers or other persons to a serious breach of correctional centre security that has arisen or is likely to arise
- to give a warning in accordance

Clause 315 requires the Governor of a correctional centre to keep a record at the correctional centre of any escape or attempted escape by an inmate in the Governor's custody (whether at the centre or elsewhere). **Note:** For this purpose, the recording of an incident in the OIMS IRM is sufficient.

2 Discovery and incident response

2.1 Initiating an urgent response

Where a correctional officer discovers or suspects that an inmate has escaped, the officer must immediately call for an urgent response in line with the correctional centre's escape search plan.

2.2 Accounting for inmates

All inmates must be mustered. Officers must report any unaccounted inmates to the Governor or OIC immediately and a search conducted in accordance with the centre's escape search plan.

2.3 First aid and medical assistance

First aid and medical assistance must be provided to any injured persons. For serious injuries and hospitalisation, medical emergency procedures must be followed (**refer to COPP section 13.2 Medical emergencies**).

2.4 Crime scene preservation

The location of an escape or attempted escape must be secured and evidence preserved in accordance with **COPP section 13.8 Crime scene preservation**.

2.5 Liaison duties

For all escapes and attempted escapes, a senior officer must be appointed as 'Liaison Officer' to liaise directly with police, emergency services, CSNSW investigators, JH&FMHN and any other relevant services.

Where possible the Liaison Officer must not have been directly involved in the incident.

The Liaison Officer will report directly to the Governor or OIC.

2.6 Video and CCTV recording

Significant events should be recorded on video camera where practicable, including:

- searches for escape implements and evidence
- all movements and searches of inmate suspects
- the incident response.

Relevant CCTV recordings must be reviewed and downloaded for police and investigators as soon as practicable, such as footage of:

- the escape
- the incident response
- anything that may be of evidentiary value, e.g. suspicious inmate activities prior to the escape.

For policy and procedures on transferring, registering and securing video evidence refer to **COPP sections 13.9 Video evidence**.

2.7 Cooperation with police and investigators

Correctional officers (responding officers and witnesses) must remain on duty and be available to assist investigating police and CSNSW investigators unless permitted to cease duty by the Governor.

Staff must cooperate with CSNSW investigators and attend an interview if requested. Staff may have a support person present at an interview. Notwithstanding the need for staff to assist police and investigators, an officer must be excused from duty if the officer requires immediate medical treatment or immediate counselling.

2.8 Arrest by a correctional officer

A correctional officer who has arrested an inmate outside the confines of a correctional centre must hand the inmate over to police or take the inmate before an authorised officer (usually a Magistrate or Judge).

The inmate must not be returned to the correctional centre until a warrant of commitment is issued. If the inmate is returned prior to this, then the police might decline to arrest or charge the inmate with escaping lawful custody.

2.9 Escape checklist – Governor/OIC procedures

The *Escape checklist* provides Governors and OICs with a consolidated list of procedures that must be completed for an escape from custody. The checklist may be completed electronically. It contains telephone numbers and email hyperlinks to relevant authorities.

Procedures from the following COPP policies are contained in the *Escape checklist*:

- 13.1 *Serious incident reporting*
- 13.8 *Crime scene preservation*
- 13.9 *Video evidence*

3 Notifications

3.1 NSW Police Force

Police must be contacted immediately by telephone if an officer witnesses an inmate escape or attempting to escape, or when the Governor or OIC determines that an inmate has:

- escaped or is reasonably suspected of having escaped
- attempted to escape or is reasonably suspected of having attempted to escape
- failed to return to lawful custody after a period of temporary leave

The following information should be provided to police when reporting an escape:

| Immediately | As soon as practicable |
|---|--|
| <ul style="list-style-type: none">• escapee's name and date of birth• time and place of escape• location last seen and route of escape (if known)• physical description including any distinguishing features, marks or tattoos• description of clothing last known to be wearing• whether a firearm was discharged by a correctional officer. | <ul style="list-style-type: none">• escapee's conviction and sentence details• outstanding charges or detention orders• whether the escapee is a federal offender or immigration detainee• names, addresses and telephone numbers of persons recently contacted by the escapee on the OTS• names, addresses and telephone numbers of the escapee's visitors. |

3.2 Serious incident reporting

Refer to **COPP section 13.1 Serious incident reporting** for procedures.

Key stakeholders will be notified by the Duty Officer (e.g. Security Operations Group, CSNSW Investigations, Victims Register).

3.3 Australian Border Force

This part only applies to inmates who are detained in CSNSW custody pursuant to an order issued under the *Migration Act 1958* (Cth).

If an inmate who is an immigration detainee has escaped, attempted to escape or prepared to escape, the Australian Border Force must be notified as soon as possible by telephone and email at:

Command Centre
Regional Command NSW
Australian Border Force

24 hours: **(02) 8339 6693**

Email: nationaldetentionplacements@border.gov.au
RCNSWCC@border.gov.au

A copy of the relevant IRM *Incident Details* report must be attached to the email.

3.4 Federal Offenders Unit

If an inmate who is a federal offender has escaped, attempted to escape or prepared to escape, the Australian Attorney-General's Department must be notified by telephone and email at:

Principal Legal Officer
Federal Offenders Unit
Attorney-General's Department
4 National Circuit
Barton ACT 2600

Call: **(02) 6141 2867**

Email: Federal.Offenders@ag.gov.au

A copy of the relevant IRM *Incident Details* report must be attached to the email.

3.5 State Sentence Administration

State Sentence Administration (SSA) are responsible for notifying the relevant courts which have active warrants, detainers or orders for the inmate. The respective Cluster Manager, SSA must be notified of the inmate's escape as soon as possible.

4 Reports and records

4.1 Incident/Witness reports

An *Incident/Witness report* must be submitted to the Governor or OIC by all staff who:

- responded to the incident;
- last saw the inmate;
- witnessed an incident or event possibly related to the escape (e.g. inmate was talking about marital relationship issues); or
- were significantly involved in the management of the incident.

An *Incident/witness report* must contain a detailed account of the officer's involvement including any actions taken, decisions made or directions given. The report must be submitted as soon as possible and before ceasing duty.

Officers must write their reports from their own recollection of events and independently from each other. Reporting officers should have adequate facilities to meet this requirement (e.g. access to computers in separate areas).

An officer must not view video footage (CCTV, handheld video or body worn video) if a person has sustained life-threatening or fatal injuries. For more information about viewing footage to assist to write a report refer to **COPP section 13.9 Video evidence**.

If force was used by correctional officers during an escape or the arrest of an escapee, then use of force reporting procedures must be complied with (**refer to COPP section 13.7 Use of force**).

4.2 Staff reports

The Governor or OIC must obtain reports from the following staff as soon as possible after the escape:

- Manager of Security (MOS)
- Manager Offender Services & Programs
- Intelligence Officer
- Senior Psychologist or Psychologist
- Services and Programs Officer
- Senior Case Management Officer
- Case Officer
- Wing/Pod Officer
- Community Corrections Officer (where applicable).

A report should include the following details in summary (where relevant):

- **historical synopsis** of the inmate from the staff member's perspective;
- **overall involvement** with the inmate;
- **significant and most recent contacts** between the staff member and inmate;
- **unusual behaviours or comments** by the inmate;
- **professional summary** or comment; and
- any other relevant information.

4.3 Evidence.com

All reports and documents including video footage relating to an escape that may be required to be shared with internal or external stakeholders must be uploaded and shared via evidence.com

5 Post incident support

5.1 Medication attention and support

For medical attention, EAP critical incident support and support service provision for inmates (**refer to COPP section 13.7 Use of force at subsection *Post incident medical attention and support***).

5.2 After action review

An after action review (formerly known as an operational debriefing) must be convened and chaired by the Governor or OIC for all staff involved in the incident. A review must not occur until after officers have submitted their reports and are no longer required by police or CSNSW investigators to assist with enquiries.

A review must follow the order in which events occurred and remain specific to operational matters. A review should be conducted with as little formality as possible so all ranks feel free to participate.

An after action review provides all employees who were directly or indirectly involved in the incident with the opportunity to:

- discuss and evaluate the incident response (e.g. timeliness, effectiveness)
- identify good practices and responses
- identify deficiencies and lessons learned
- make recommendations to improve the response and management of any future incidents.

A review provides the Governor or OIC with an opportunity to identify the root causes of any failures so that Local Operating Procedures (LOPs) and correctional centre practices can be improved. The Governor may refer any systemic issues identified to the relevant Director, Custodial Operations.

6 Recapture

6.1 IRM report

An IRM recapture report must be completed as soon as practicable by the centre that receives the escapee back into CSNSW custody. The report must include:

- details of the recapture
- details of any charges relating to the escape.

Following the IRM report, the Duty Officer will prepare and disseminate a briefing note concerning the recapture.

6.2 Australian Border Force

This part only applies to inmates who are detained in CSNSW custody pursuant to an order issued under the *Migration Act 1958* (Cth).

If the recaptured escapee is an immigration detainee, the Australian Border Force must be notified as soon as possible by telephone and email (refer to subsection **3.3 Australian Border Force** for contact details). A copy of the relevant IRM *Incident Details* report must be attached to the email.

6.3 Federal Offenders Unit

If the recaptured escapee is a federal offender, the Australian Attorney-General's Department must be notified by telephone and email (refer to subsection **3.4 Federal Offenders Unit** for contact details). A copy of the relevant IRM *Incident Details* report must be attached to the email.

6.4 State Sentence Administration

The respective Cluster Manager, SSA must be notified of the escapee's recapture as soon as possible.

6.5 Recaptured escapee interview schedule

Following reclassification, the recaptured escapee must be interviewed using the *Recaptured Escapee Interview Schedule* form available on request by calling Corporate Evaluation Research and Statistics (CRES) on (02) 8346 1557.

7 Miscellaneous matters

7.1 Security review

The Governor should consider whether a security review would be beneficial. The General Manager, Security Operations Group can assist with conducting a review.

7.2 Media enquiries

All media enquiries about an escape from custody must be referred to the police OIC or CSNSW Media and Communication Unit. Staff must not disclose any information about an escape without the approval of the CSNSW Media and Communication Unit (refer to the *CSNSW Communications Policy and Procedures* for further information).

8 Quick links

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

9 Definitions

| | |
|--------------------------|--|
| CIG | Corrections Intelligence Group |
| COPP | Custodial Operations Policy and Procedures |
| Correctional centre | Any place of detention including a correctional centre, correctional complex, police or court cell complex or residential facility where inmates are in Corrective Service NSW custody |
| CSNSW | Corrective Services NSW |
| Escapee | An inmate who has escaped from lawful custody and is unlawfully at large |
| First responding officer | A correctional officer who discovers a serious incident. There may be more than one first responding officer at any given incident and a first responding officer's duties may be shared |
| LOP | Local Operating Procedures |
| MOS | Manager of Security |
| IRM | Incident Reporting Module |
| OIC | Officer in charge: the on-duty ranking correctional officer who is in charge of the correctional centre in the absence of the Governor, e.g. manager of security or night senior |
| OIMS | Offender Integrated Management System |

10 Document information

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|-------------------------|----------------------|--|
| Business Centre: | Custodial Operations | |
| Approver: | Kevin Corcoran | |
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| 1.0 | | Initial publication (<i>Replaces section 13.6 of the superseded Operations Procedures Manual</i>). |
| 1.1 | 01/07/19 | Updated to include reference to 13.9 Video evidence for restrictions on access to video footage when writing reports (see [4.1]). |
| 1.2 | 12/03/20 | General formatting update and improvements |
| 1.3 | 23/03/23 | Addition of subsection 4.3 – inclusion of all reports and documents including video footage on evidence.com |