



# Property Prisoner Property on Admission Custodial Operations Practice Directive

PRO

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## Scope

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### 1. Human Rights

It is unlawful for corrective services officers to act or make decisions in a way that is not compatible with human rights, or in making a decision, fail to give proper consideration to a human right relevant to the decision.

Giving proper consideration to human rights entails identifying human rights which may be relevant to a decision and considering whether the decision would be compatible with human rights.

A decision will be compatible with human rights when it does not limit a human right, or only limits a right to the extent that is reasonable and demonstrably justifiable.

Human rights which may be relevant include:

- a) recognition and equality before the law;
- b) the right to privacy;
- c) property rights;
- d) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples;
- e) humane treatment when deprived of liberty;
- f) protection of families and children; and
- g) freedom of expression.

### 2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justified, the following factors are relevant to consider:

- a) the nature of the human right - this involves looking at the purpose and underlying value of the human right. For example, property rights provides that a person must not be arbitrarily deprived of the person's property;
- b) the nature and purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, access to personal property may be limited and controlled for the safety and security of the corrective services facility;
- c) the relationship between the limitation and its purpose – this involves considering the rational connection between the limitation of the right, and whether this will help to achieve said purpose or legitimate aim. For example, does limiting access to certain property items enhance the safety and security of the corrective services facility?
- d) whether there are any less restrictive and reasonably available ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way. For example, can the safety and security of the corrective services facility be maintained without limiting access to certain items of property?
- e) the importance between the purpose for the limitation and preserving the human right – this involves a balancing exercise of the benefits obtained by the limitation vs the harm caused to the human right. For example, does the enhanced safety and security of the corrective services facility, caused by the limit to property items, outweigh the impact on the limitation to property rights?





### 3. Recording a Prisoner's Property

In a corrective services facility, each prisoner's personal property and valuables must be fully inventoried pursuant to section 317(6) of the *Corrective Services Act 2006* (CSA) and recorded electronically in IOMS. A physical property file must be raised for each prisoner at the time of admission to collect and store the active physical property records. Upon prisoner discharge, the property records contained on the property file, must be securely attached to the main property information to which is created, tracked and managed on the QCS recordkeeping system. Corrective services staff are to adhere to the Procedure Offender File Management and Appendix Offender content – IO Offender Files. The management of a prisoner's property upon admission is to be undertaken in accordance with this COPD.

All paper records pertaining to the prisoner's property management, including applications, acknowledgement of responsibility for property forms, hand in and hand out forms and sundry correspondence, are to be placed on the prisoner's property file in date order. The file must be managed and stored securely, with documentation maintained in good order to eventually be placed onto the Offender File. The file must accompany the prisoner when transferred. Refer to the COPD Sentence Management: Transfers.

To ensure QCS stores full and accurate records of all administrative decisions pertaining to prisoner property, property information must be securely attached within the Offender File, prior to the Offender File being sent to off-site storage i.e. the Central Archives facility, Wacol

Central Archives will not accept Offender Files, where property file information is placed loosely and/or not securely attached within the file.

### 4. Property Limit

A prisoner must be informed upon reception at a corrective services facility that the total volume of prisoner property the facility will hold, including property issued and held in a cell or room, must not be greater in volume than one large suitcase (0.25m<sup>3</sup>). Where the prisoner property is limited by the Centre's infrastructure, this is to be specified by the Chief Superintendent. The following items are to be included within the allowance, subject to approval by the Chief Superintendent or delegate and dependent on the facility's electrical capabilities:

- a) one radio/CD player (length, including speakers, not to exceed 500mm);
- b) one portable music playing device;
- c) one desk-top fan (blade size not to exceed 34cm); or
- d) any other electrical/electronic equipment.

Subject to the discretion of the Chief Executive or delegate, property in excess of the allowance is not to be accepted into the facility. If a prisoner's property exceeds the allowance the prisoner must choose items to dispose of by:

- a) handing the items out to a relative or nominated person;
- b) arranging for the items to be stored at the prisoner's expense;
- c) donating the items to a nominated charity; or
- d) disposing of by other suitable means.

If a prisoner declines to choose items to dispose of, the Chief Executive or delegate must arrange for the commercial storage of the excess and advise the prisoner that storage fees will be deducted from their trust account.





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Items such as a wheelchair, speech synthesizers, sleep apnea machines or hearing aids may be excluded from the value limit.

Refer to section 43 of the Corrective Services Regulation 2017 (CSR) for property limits and the Appendix PRO8 Prisoner's Authorised Cell Property (Male) and Appendix PRO9 Prisoner's Authorised Cell Property (Female).

Centres can provide prisoners with additional prison issue clothing as deemed necessary.

### 5. Reception of Property and Prisoner

For the purposes of this section, "*nominated person*" means the corrective services officer responsible for the prisoner's property store in a facility.

All property accompanying a prisoner transferred from police custody to the custody of QCS must be accepted irrespective of the amount and checked against the police property sheet. Any open food stuff must be noted and should be disposed of in front of the prisoner. Unopened food stuff should be issued or disposed of in front of the prisoner.

If the food stuff has been purchased in a QCS corrective services facility and similar items are available for purchase in the receiving facility, the items are to be issued unless there is an identified security risk. A different brand or size of the purchased item being available in the receiving facility is not sufficient reason to dispose of the item.

To avoid any health and safety issues or the attraction of pests, food stuff is not to be stored in the prisoner's property.

If an arrangement exists for police to transfer property in a sealed transfer bag, corrective services officers may sign the police property sheet as an acquittance to the police for the sealed bag of property, provided:

- a) all copies of the police property sheet contain a notation that the property is sealed in a transfer bag and is correct;
- b) the receiving corrective services officer, a police officer delivering the property and the prisoner sign a notation on the property sheet that the transfer bag was sealed when delivered to the facility;
- c) the corrective services officer retains one copy of the police property sheet and places it on the prisoner's property file; and
- d) the corrective services officer checks property transferred in a sealed bag as soon as practicable in the prisoner's presence.

In the event of a discrepancy, corrective services officers are to provide details in writing to the police officer responsible for despatching the property from the watch house. A copy of the advice must be placed on the prisoner's property file.

If property is not contained in a transfer bag or apparent tampering with the seal or the bag is evident, each item must be sighted by a corrective services officer and checked against the police property sheet in the presence of escorting police officers:

- a) a corrective services officer must sign copies of the police property sheet as a receipt for property only after the property has been checked against the listing on the property sheet;
- b) details of any discrepancies are to be noted on each police property sheet and initialled by the nominated person; and
- c) escorting police officers are to be asked to countersign against any notation of discrepancies on this copy.



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If the police property sheet contains health and medical information about a prisoner, including details of medication prescribed, the nominated person must give a photocopy of the form containing the information to the facility's medical staff if applicable, **within 30 minutes** of the prisoner being received.

Details of each item of personal property in the possession of a prisoner transferred from police custody must be entered onto IOMS. The police property sheet must be used, as a basis for entering the inventory, however individual items of personal property must be sighted by the prisoner before an entry is made.

The prisoner must countersign the copy of the police property sheet and countersign any notation of a discrepancy on the sheet. The sheet must be retained on the prisoner's property file as a confirmation of receipt of the property. When all items are entered, the prisoner must indicate any item considered to have a value exceeding \$500.00.

If a value exceeding \$500.00 is placed on an item (with the exception of a mobile phone) the prisoner will be informed that they are to organise for the item to be handed out to a person outside the facility or apply to the Chief Superintendent to store the item in the facility.

A prisoner wishing to lodge a claim in respect of a discrepancy noted must be given every assistance to do so.

The Chief Executive or delegate must ensure that officers are directed to receive all property accompanying a prisoner on transfer from police custody. Officers must, in company with the prisoner, arrange for the disposal of excess property in accordance with this COPD.

### 5.1 Property item conditions

The apparent condition of the item must be selected from Appendix PRO4 Condition Code Prisoner Private Property and electronically selected from the condition menu column in IOMS. No monetary value is to be indicated. In the event of a subsequent claim, the original value must be ascertained, and the residual value calculated under the listing against the Condition column.

Items listed with a condition description of 'Poor' are to retain that description when issued to a prisoner.

## 6. Complete Admission Process

In accordance with the Administrative Form 3 Admission Checklist the receiving officer is to:

- a) acknowledge receipt of the prisoner's property;
- b) individually search all items of the prisoner's personal property (including clothing, documents, valuables etc) seize prohibited items/things in accordance with section 138 of the CSA;
- c) record details of personal property in IOMS. The updated IOMS property document is printed, signed, and dated by the prisoner and responsible officer. A copy is provided to the prisoner and original is filed in the property folder.
- d) case note of events written;
- e) conduct removal of clothing search in accordance with the COPD Search: Prisoner Search;
- f) issue prisoner with clothing, authorised items out of personal property (complete Administration Form 4 Acknowledgement of Responsibility of Property) and a reception pack; and
- g) issue the prisoner an Amenities Pack – Refer to the Appendix PRO3 Amenities Pack Contents.







## 7. Personal Mobile Telephones Upon Reception

### 7.1 Mobile telephone management

Mobile telephones entering a corrective services facility must be strictly controlled and managed. All prisoners transferring from police custody must be advised that if they have a personal mobile telephone in their property, it will be processed under one of the following three options:

- a) the prisoner may arrange for the mobile telephone to be handed out or mailed out to a person outside of the facility; or
- b) the prisoner may elect to dispose of the mobile telephone by suitable means and have the SIM card stored in valuables; or
- c) the mobile telephone may be stored in the prisoner's valuables and clearly marked "Not for Issue".

In the event that a prisoner chooses to store their phone in valuables, they should be advised that due to the composition of mobile phone batteries, there is a possibility that the phone may not be operational upon their custodial discharge.

All phones must be checked for any obvious damage and if significant damage is identified, e.g. cracked casing, the phone is to be managed as per options a or b listed above.

If a prisoner is in possession of more than one mobile telephone upon reception, only one phone may be placed in storage. The remaining phone/s must be handed out/mailed out or disposed of and the details recorded onto IOMS.

### 7.2 Mobile telephone storage

Mobile telephones must be completely switched off prior to storage and secured in an area which is not subject to extreme heat.

## 8. Prisoner Jewellery

Items of jewellery possess an intrinsic value and may be traded as a commodity in a corrective service facility. As jewellery has the potential to be a cause of stand over/intimidation behaviour that may lead to violence, provision of items of jewellery must be strictly controlled and managed.





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Only approved items of jewellery may be authorised for issue to a prisoner, and prisoners are to be provided the opportunity to purchase a watch, sleeper earrings and religious object from their own funds.

All items of jewellery worn by a prisoner, or in the prisoner's possession when received into a corrective services facility (e.g. watches, earrings, and necklaces) must be placed into the prisoner's property and not issued to the prisoner while in custody. The only items exempt from this requirement are a wedding band and religious items. A wedding band may be issued as personal property to the prisoner. The wedding band must be of a plain type with no settings, e.g. no stones.

Individual consideration must also be given to any religious items in the prisoner's possession to determine whether the prisoner may retain those items. The value of the item and any potential risk to the safety of the prisoner must be considered, together with the rights of the prisoner under section 20 of the *Human Rights Act 2019*, when making this decision.

Where a prisoner is to retain a wedding band, and or religious items, the prisoner must complete the Administrative Form 4 Acknowledgement of Responsibility for Property.

Personal jewellery surrendered by a prisoner may be stored in the prisoner's property; disposed of; or, handed out of the facility at the prisoner's election. The prisoner must complete Administrative Form 5 Prisoner Property Hand Out.

If a prisoner chooses for their jewellery to be stored within their property, a detailed description of these items must be made on the prisoner's property list. Prisoners may also send any valuable items of jewellery out of the facility in order to minimise the risk of loss and liability should the items go missing or be damaged while in storage.

Items such as watches, earrings, and religious objects (including a chain) are to be made available to all prisoners for purchase through the Sales to Prisoners (STP) process. All items must be inexpensive and of a standard type.

A religious or cultural object approved by the Chief Superintendent or Superintendent of the corrective services facility may be supplied (e.g. by a Chaplain) for issue to prisoners. A process must be established that advises prisoners of the supplied religious or cultural objects and that prisoners may be provided the object upon request, free of charge.

Prisoners are permitted to wear:

- a) one single plain wedding band with no settings (e.g. no stones);
- b) one pair of plain sleeper earrings (worn in the earlobes only) that has been purchased through the STP process;
- c) one religious or cultural object that has been supplied or purchased through the STP process (or otherwise approved by Chief Superintendent or Superintendent of a corrective services facility); and
- d) one watch that has been purchased through the STP process.

### 8.1 Prisoner requests to wear non-approved jewellery

A prisoner may make a request to the Chief Superintendent or Superintendent of a corrective services facility to wear jewellery that is not listed above.

The prisoner's request must be considered and reasons for any decision must be provided to the prisoner. Discretion may be exercised in assessing and determining the prisoner's request but the individual merits of a prisoner's case must be considered. This includes consideration of religious or cultural reasons why the prisoner believes they should maintain the item of jewellery.





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Decisions must be fair, transparent and consistent with the dignity and rights of prisoners, including those with different beliefs, cultures and religions to be respected. A decision to approve an item of jewellery must be documented and recorded on the Prisoner File with a case note to be recorded in IOMS.

A decision to approve an item of jewellery remains in effect upon transfer to another corrective services facility.

### 8.2 Removal of unauthorised jewellery

Any unauthorised jewellery is NOT to be forcibly removed from the prisoner's person. In the first instance, the prisoner is to be given the opportunity to remove any unauthorised jewellery. A kit containing equipment required for the removal of jewellery must be located in reception areas for use by prisoners.

If a prisoner is compliant and wishes to have unauthorised jewellery removed but cannot do so themselves, they are to attend the health centre where medical staff may investigate and determine an outcome on a case-by-case basis. Prisoners may be referred to a local hospital for the removal of unauthorised jewellery if medical staff determine that they cannot remove the item safely.

If a prisoner refuses to remove unauthorised jewellery, the relevant manager must determine the appropriate action to be taken.

In the first instance a written or verbal direction to remove the unauthorised jewellery must be made, refer to section 320 of the CSA. If a prisoner continues to refuse to remove the jewellery the following actions may be undertaken after consideration of the prisoner's individual circumstances:

- a) the development of an Intensive Management Plan (IMP) that will reduce any risk to the prisoner and the safety and security of the centre; and/or
- b) breach of discipline action may be initiated. Refer to sections 113-121 of the CSA and sections 5(a) and 18 of the CSR and the COPD: Breaches of Discipline.







### 10. Dangerous Items

The following applies to the management of potentially dangerous items:

- a) all weapons, including firearms, ammunition, knives (other than cutlery or tools), accompanying a prisoner must be disposed of (e.g. handed out or stored commercially at the prisoner's expense;
- b) medication must be handed to a registered nurse; and
- c) alcohol is to be stored for a limited period only and the prisoner must arrange for it to be handed to a person outside the facility or to discard the contents of containers under supervision. If the prisoner elects to hand out alcohol, it must be stored in a secure place with limited access until handed out.

### 11. Smoking Related Property

If a smoking or smokeless tobacco product is detected upon admission (including lighters and Vapes), the following processes will apply:

- a) prisoner is given the option to dispose of the item under the supervision of a custodial correctional officer, in an area that no prisoners are able to access unsupervised; or
- b) the prisoner is to be advised that they must nominate an address for the item to be posted to at the prisoner's expense. Where a prisoner refuses to nominate an address or does not have the funds available, the process outlined below will be followed; or
- c) the prisoner is to be provided an Approved Form 25 – Receipt for Seized Property (refer to section 139 of the CSA and an Approved Form 26 – Notice of Forfeit of Seized Thing (refer to sections 139 and 140(1)(c) of the CSA). A written notice will be placed on the Approved Form 26 advising the prisoner that the item will be destroyed in accordance with section 140(5)(b)(iii) of the CSA.
- d) If the item is not considered perishable 28 days must elapse before the item can be disposed of, in accordance with section 140(6) of the CSA. The item is to be stored in a secure non-prisoner access area until disposed of via a process approved by the Chief Superintendent of the facility in consultation with the Occupational Health and Safety Officer; and
- e) an item disposed of in accordance with c) or d) must be recorded in a Prohibited and Restricted Articles Register.

An incident report and referral to the Corrective Services Investigation Unit (CSIU) will not be required for these occurrences.

### 12. Prisoner Monies Upon Reception

The following applies to money received with a prisoner in a reception store, in accordance with the COPD Prisoner Entitlements: Prisoner Finances:

- a) the money is to be received, placed in an envelope identifying the prisoner and the amount and placed in a safe or secured drop box in the reception store;
- b) a trust account officer will collect the money and receipt into the Prisoner Trust Accounts System (PTAS);
- c) the trust account officer will reconcile all monies collected and issue the reception store a receipt that will be attached to the reception store receipt book; and
- d) money must not be recorded in IOMS. The official record of prisoner monies is held in the PTAS.





### 13. Hire of a Television

- a) The Chief Executive or delegate may require that a prisoner have access to a television in the prisoner's cell or room only by a hire arrangement. A prisoner must be advised of this in writing when received into a corrective services facility.
- b) The prisoner must acknowledge receiving this advice by signing a copy of the written notification that must include the prisoner's authority for payment of the hire fee from their trust account and it must be placed on their property file, Refer to section 314 of the CSA; and
- c) The hire fee provides access to a television and therefore remains the same for all prisoners in single and shared cells (costs cannot be shared).

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