

Custodial Operations Policy and Procedures

17.3 Stop, detain and search visitors and staff

Policy summary

All persons entering a correctional centre are subject to routine and random searches, and may be subject to a targeted search, on entering and/or exiting a correctional centre or complex. Staff and visitors who refuse to submit to a search may be refused entry to the centre, and a staff member may be subject to disciplinary action.

Staff and visitors must not be pat or strip searched, but may be asked to surrender any bag or container and remove outer clothing such as coat, hat or shoes, or make available for inspection any room, locker or vehicle under their control when in or in the vicinity of a correctional centre or complex.

Management of Public Correctional Centres Service Specifications

Service specification	Safety and security
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Scope

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

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.

For Security & Intelligence (S&I) staff, this policy must be read in conjunction with S&I Local Operating Procedures (LOPs).

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1 Stop, detain and search of visitors and staff

1.1 Policy

Maintaining correctional centre security and safety involves preventing any contraband, unauthorised person or information going into or out of a centre. CSNSW aims to achieve this by routinely searching correctional centres and their surroundings, and searching of inmates, visitors and staff.

Contraband in this policy is limited to anything listed under sections 253C-253G of the *Crimes (Administration of Sentences) Act 1999* which it is prohibited to take into or out of a place of detention without lawful authority. This includes anything it is prohibited to possess in a place of detention without reasonable excuse. For the purpose of this policy, this does not include contraband (i.e. 'prohibited goods' such as money) which inmates are prohibited from possessing under the *Crimes (Administration of Sentences) Regulation 2014*.

All visitors and staff will be subject to routine and random searches, and may be subject to a targeted search. Staff and visitors who refuse to comply with a direction to surrender their bag or container for a search may be refused entry to the centre, and a staff member may be subject to disciplinary action.

A correctional officer has no authority to pat or strip search staff or visitors. A staff member or visitor may be asked by a correctional officer in the performance of their duties, to surrender any bag or container and remove outer clothing such as coat, hat or shoes. If searching officers still suspect the staff member or visitor of being in possession of contraband, the police may be called to conduct an additional search.

A correctional officer has no authority to participate in a police pat or strip search, but may assist police by acting as an observer (witness) to the search subject to the approval of their Governor or GM (or delegate).

1.2 Display of warning signs

At all places of detention, at every gate house, pedestrian and vehicle entry and exit point, there must be prominent signs listing prohibited items and warning that property in the possession of staff and visitors is liable to be searched.

Where vehicle and pedestrian access points adjoin each other, one warning sign and one list of prohibited items sign, appropriately placed, will suffice. Where a complex or correctional centre has separate pedestrian gates, then additional signage must be placed at those points.

Additional warning signs must be placed no more than 5 meters from the point where vehicles and pedestrians enter the complex or correctional centre from public access roads.

Corrective Services Industries (CSI) is able to supply correctional centres with appropriate signage. Inquiries should be directed to CSI corporate office tel: (02) 4582 2420.

1.3 Taking things into and out of a place of detention

Section 253G of the *Crimes (Administration of Sentences) Act 1999* includes a general prohibition on persons taking or attempting to take anything- into or out of a place of detention without lawful authority. This applies to staff, visitors, inmates or any other persons.

1.4 Specific offences relating to trafficking of alcohol and drugs and possession of offensive weapons

Sections 253C-253E of the *Crimes (Administration of Sentences) Act 1999*, make it an offence for any person who does not have lawful authority to:

- bring or attempt to introduce into a place of detention alcohol, poisons, prohibited drugs or prohibited plants
- possess an offensive weapon or instrument in a place of detention
- bring or attempt to introduce or supply syringes
- secrete or leave anything at any place (whether inside or in the vicinity of a place of detention) for the purpose of it being found or received by an inmate.

1.5 Correctional officers' power to seize things

Section 253I(5) of the *Crimes (Administration of Sentences) Act 1999* states that a correctional officer may seize all or part of a thing that the correctional officer suspects, on reasonable grounds, may provide evidence of the commission of an offence. This is dependent upon the search being conducted lawfully in the first place, e.g. a routine search at a correctional centre; or a search conducted in the vicinity of a place of detention or residential facility where the officer must first have suspected on reasonable grounds that an offence is being, had been or is intended to be committed.

Any such evidence should be left in place for the police where practicable or otherwise placed in an evidence bag and managed in accordance with **COPP section 13.8 Crime Scene Preservation** (Part 3 *Forensic Evidence and Exhibits*).

1.6 Directions to produce items, things, and substances

A correctional officer may direct a person subject to a search to produce:

- anything that the correctional officer has detected or seen during the search, on or with the person, or in a vehicle in which the person is or was present
- anything detected during the search by an electronic detection device
- anything indicated by a dog reacting positively to its presence.

If contraband is located during the search, the person of interest should be immediately cautioned.

1.7 Failure to comply with a search or direction to produce something

Section 253N of the *Crimes (Administration of Sentences) Act 1999* states that a person must not, without reasonable excuse:

- fail or refuse to comply with a request made, or a direction given, by a correctional officer
- fail or refuse to produce anything detected or seen on or with the person, or in a vehicle in which the person was present at the time of the search
- resist or impede a search of a person or vehicle.

Correctional officers must exercise caution when a drug detector dog reacts positively to a person: the dog may be reacting to drugs on the person, or to the scent of drugs on the person resulting from recent use.

A statement by a person to the effect that “*I don’t have drugs on me although I consumed drugs (or was in the presence of others who consumed drugs) before coming here*” is **not a refusal** to produce something indicated by a dog.

2 Detaining persons and vehicles for searching by police

2.1 Policy

A correctional officer may routinely stop, detain and search any vehicle, person or thing under control of the person at a place of detention (except a residential facility or immediately vicinity of a place of detention).

In respect of a residential facility, or in the immediate vicinity of a place of detention, a correctional officer may only stop, detain and search a person if the officer suspects on reasonable grounds that an offence is being, had been or is intended to be committed.

Section 253I(3) of the *Crimes (Administration of Sentences) Act 1999* provides that a correctional officer may detain a person or vehicle for the purpose of being searched by police where the officer suspects on reasonable grounds that:

- **the person has** in his or her possession or under his or her control anything that has been used, is being used or is intended to be used in or in connection with the commission of an offence under Part 13A of the Act;
- **the vehicle has** been used, is being used or is intended to be used in or in connection with the commission of an offence under Part 13A; or
- **the vehicle contains anything that has** been used, is being used or is intended to be used in or in connection with the commission of an offence under Part 13A.

The person or vehicle must be detained at the place where they or it was stopped. Such detention is not an arrest.

Section 253(1)(4) of the *Crimes (Administration of Sentences) Act 1999* stipulates that a request to the police to attend must be made as soon as practicable after the correctional officer stops and detains the person or vehicle, and or searches the person or vehicle.

2.2 Procedures

	Procedure	Responsibility
1.	Detain a person or vehicle at the place where they were first stopped, unless for safety or security reasons the person or vehicle must be moved.	Correctional officer
2.	Detain a person for the least amount of time necessary, and for no longer than four hours.	Correctional officer
3.	Monitor the person or vehicle as closely as possible to the place where it/they were stopped, to preserve any possible crime scene and the chain of evidence.	Correctional officer
4.	Provide the person with reasonable access to seating and refreshments.	Correctional officer
5.	Ensure that the person does not dispose of any evidence	Correctional officer
6.	Before providing toilet facilities, assess the risk that the detained person may dispose of or attempt to destroy evidence.	Correctional officer
7.	If reasonable grounds exist for suspecting the commission of an offence, consider arresting the person.	Correctional officer

2.3 No authority for correctional officers to strip search or pat search persons other than inmates

It is unlawful for correctional officers to pat-search or strip-search a person, or to direct a person to remove any item of clothing other than a hat, gloves, coat, jacket or shoes.

Only police officers have the authority to pat or strip-search a person. Police are to be advised that a correctional officer may only assist police by acting as an observer (e.g. as a witness to the strip search) and may not participate in the strip searching of the person in any way.

Any police request for a correctional officer to act as an observer to a strip search of a visitor must be made to the manager of security, functional manager or OIC who must consider the following before approving the request:

- effect of the strip search on the security and good order of the correctional centre
- the safety of staff
- the conduct of the visitor
- the evidence that originally warranted the person being detained by correctional officers for a search by police.

If the police request is approved:

- the correctional officer appointed to observe the strip search must be of the same sex as the person being searched
- the correctional officer must not participate in any way in the search including verbally issuing instructions.

3 In a residential facility or in the immediate vicinity of a place of detention

3.1 Policy

Section 253I(2) of the *Crimes (Administration of Sentences) Act 1999* authorises a correctional officer to stop, detain and search:

- a person in a residential facility or in the immediate vicinity of a place of detention, and anything in the possession of or under the control of the person, if the correctional officer suspects on reasonable grounds that the person has in his or her possession or under his or her control anything that has been used, is being used or is intended to be used in or in connection with the commission of an offence under Part 13A of the Act, or
- a vehicle in a residential facility or in the immediate vicinity of a place of detention, if the correctional officer suspects on reasonable grounds that:
 - the vehicle contains anything that has been used, is being used or is intended to be used in or in connection with the commission of an offence under this Part, or
 - the vehicle has been used, is being used or is intended to be used in or in connection with the commission of an offence under this Part.

Where practicable, the search of a person in the immediate vicinity of a place of detention is to be conducted by a correctional officer of the same sex as the person being searched.

Any action taken to stop, detain and search a person in a residential facility or in the immediate vicinity of a place of detention must be based on the concept of 'reasonable grounds'.

'Reasonable grounds' means that, on the basis of known facts, evidence, observations and circumstances, there is sufficient reason to suspect that an offence has been, or is being committed, and that a reasonable person in possession of the same information would reach the same conclusion.

3.2 Procedures for information given to a person who is stopped in a residential facility or in the immediate vicinity of a place of detention

Before (or as soon as reasonably practicable after) exercising the power to stop, detain and search a person in a residential facility or in the immediate vicinity of a place of detention, a correctional officer must adhere to the following procedures:

	Procedure	Responsibility
1.	Provide evidence that they are a correctional officer (unless in uniform).	Correctional officer
2.	Give their name to the person.	Correctional officer
3.	State the reason for the exercise of the power to stop, detain and search.	Correctional officer
4.	Give a warning that failure or refusal to comply with a request or direction of a correctional officer in the exercise of the power is an offence.	Correctional officer

3.3 Loitering near a place of detention

Under section 253(G)(1) of the *Crimes (Administration of Sentences) Act 1999*, it is an offence for a person without lawful authority to:

- loiter about or near any place of detention
- enter or attempt by any means whatever to enter a place of detention
- communicate or attempt by any means whatever to communicate with an inmate.

In any of these circumstances, a correctional officer may stop, detain, and if necessary search a person and anything in the possession of or under the control of a person including a vehicle, provided that:

- the person is in or in the immediate vicinity of a place of detention; and
- the correctional officer suspects on reasonable grounds that the person has in their possession or under their control anything that has been used, is being used, or is intended to be used in, or in connection with, the commission of an offence under Part 13A of the *Crimes (Administration of Sentences) Act 1999*.

3.4 Procedures where persons are loitering near a place of detention

If a correctional officer believes it is necessary to stop and search a person or vehicle the following procedure should be observed:

	Procedure	Responsibility
1.	State to the person; <i>“I have observed you within (or in the immediate vicinity of) this place of detention and I have formed the opinion that you may have committed an offence under the Crimes (Administration of Sentences) Act 1999. I am requesting you to submit to a search of your person / property / vehicle.”</i>	Correctional Officer
2.	Conduct a search if the person agrees to the search.	Correctional Officer
3.	Advise the person of the intention to call the police if the person refuses to be searched.	Correctional Officer

4 In a correctional centre or on a correctional complex

4.1 Policy

Section 253J of the *Crimes (Administration of Sentences) Act 1999* authorises a correctional officer to direct any person in a correctional centre or correctional complex (including a visitor, correctional officer or other member of staff) to:

- submit to being scanned by an electronic scanning device
- empty the pockets of their clothing
- in the case of a visitor, make available for inspection and search any vehicle under the visitor's control that is on the premises of a correctional centre or complex
- in the case of a member of staff, make available for inspection and search any room, locker or vehicle that is under the person's control at the centre or complex.

The requirement to submit to a search, as detailed above, extends to private security officers who have been authorised by the Commissioner under section 235(3) of the *Crimes (Administration of Sentences) Act 1999* to carry out the duties of a correctional officer at a correctional centre or correctional complex managed by CSNSW.

This means private security officers who are on the premises of a CSNSW correctional centre or correctional complex carrying out functions such as security and monitoring duties are obliged to submit to a search when requested, in the same way that a CSNSW employee is obliged.

In exercising this power in a correctional centre or complex, an officer does not need to have a reasonable suspicion. Where practicable, the search is to be conducted by a correctional officer of the same sex as the person being searched.

4.2 Commissioner's approval for specified personnel to take a mobile telephone into a correctional centre

The Commissioner of Corrective Services (the Commissioner) and Assistant Commissioner, Custodial Corrections (AC, CC) may approve certain position holders and visitors to take their mobile phones into a correctional centre.

A current list appears on the Custodial Corrections Internet page: [Authority to carry a mobile phone into a correctional](#) (Refer to COPP section 16.16 *Mobile phones and other devices*).

4.3 Personal pagers

Visitors and staff who are volunteers of emergency services are permitted to be in possession of a personal pager in correctional centres and other places of detention provided it is necessary for conducting their business.

Any person permitted to be in possession of a personal pager must safeguard it against unauthorised use by inmates. If a pager is lost within the correctional centre the MOS, FM or next most senior officer on duty must be informed immediately.

4.4 On entering and exiting a correctional centre

The Gatekeeper/Screening officer must routinely examine the contents of any bag, container or property being taken into or out of a place of detention by an employee or visitor (**Refer to COPP section 16.1 Correctional centre gates**).

In addition, staff and visitors entering correctional centres are required to submit to an inspection and search of their personal possessions and to scanning by means of an electronic scanning device. On entering the security screening point, all staff are to place the contents of their pockets in a container for examination by the screening officer.

In medium and maximum security correctional centres without walk-through metal detectors/portals installed, a hand held metal detector is used to scan staff and visitors before entering the centre. Officers conducting the scanning and screening are to remain attentive and vigilant at all times to ensure that no unauthorised items enter the correctional centre.

Staff lockers are to be located in an area of a correctional facility that can be accessed by staff prior to entering the designated staff search area. Staff must secure personal belongings in their locker.

Staff and authorised visitors are permitted to take one clear plastic bag only into the correctional centre and that bag must be a CSI issued bag of a type and size approved by the Commissioner.

Visitors to the correctional centre (other than visitors to inmates) will be provided with a clear bag for use during their visit. No other types of clear plastic bag are permitted.

Should a staff member need to pass the designated search area to leave the correctional facility or to retrieve an item from their locker, they will be subject to the search procedures as for initial entry into a correctional facility.

Work-related items such as reference material, books and stationary may only be taken into a correctional centre with the approval of the MOS.

4.5 Procedures for caution prior to searching

Prior to commencing a search, the screening or authorised officer conducting the search will state to the person being searched:

	Procedure for caution	Responsibility
1.	<i>"You have been selected for a search of your property and I require you to surrender all property carried by you including that carried in your pockets. The authority for this search is provided by the Crimes (Administration of Sentences) Act 1999."</i> The Authorised Officer will then ask the following questions:	Authorised officer
2.	<i>"Is this all the property in your possession?"</i>	Authorised officer
3.	<i>"Are you fully aware of all the contents of the property in your possession?"</i>	Authorised officer

	Procedure for caution	Responsibility
4.	<i>“Is there any item you wish to declare to me that may not be allowed in a correctional facility/place of detention or not allowed to be removed from a correctional facility/place of detention?”</i>	Authorised officer

4.6 Procedure for conducting a search under section 253(l) of the Crimes (Administration of Sentences) Act 1999

	Procedure	Responsibility
1.	Request the person submit to scanning by means of an electronic scanning device.	Authorised officer
2.	Direct the person to empty their pockets.	Authorised officer
3.	Direct the person to remove any hat, gloves, coat, jacket or shoes worn by the person.	Authorised officer
4.	Direct the person to empty the contents of any bag or other thing, or to open anything, that the person has with them or has left in a vehicle.	Authorised officer
5.	Direct a visitor to make available for inspection and search any item stored in a storage facility allocated to the visitor.	Authorised officer
6.	Direct an employee to make available for inspection and search any room or locker that is under their control.	Authorised officer
7.	Direct an adult accompanying a child or a mentally incapacitated person to assist the child or mentally incapacitated person to comply with a search.	Authorised officer

4.7 Procedure where x-ray machines and walk-through metal detectors are installed

	Procedure	Responsibility
1.	Secure any mobile telephone in a locker supplied.	Person
2.	Scan all personal property and any metallic objects (watches, belts etc.) with the x-ray machine.	Authorised officer
3.	Examine the x-ray scan of the property to ensure that it contains no unauthorised articles.	Supervising officer
4.	Allow the person to proceed through the metal detector after their property has been scanned and cleared.	Supervising officer
5.	Investigate the source of any alarm from the walk-through metal detector.	Authorised officer

	Procedure	Responsibility
6.	Scan with a hand-held metal detector (wand) if further alarms sound once the person passes through the walk-through metal detector.	Authorised officer
7.	Refer to the MOS or FM a decision for entry if screening staff are still unable to identify the cause of any alarm.	Supervising officer

4.8 Random searches

The objective of random searching is to reduce the risk of unauthorised items being taken into or out of a correctional centre.

Each day at random, at least six CSNSW staff or visitors, other than visitors to inmates, will be selected for an inspection and search of their personal possessions.

The Governor must put in place a system that ensures:

- the random selection includes a mix of uniformed officers, non-uniformed staff and visitors
- the mix and number vary from day-to-day
- the searches include staff and visitors entering or leaving the correctional centre
- search times vary and are spread over a 24 hour period.

4.9 Target searches against staff

A MOS or above (includes the OIC of a correctional centre at any given time) can authorise a target search of a particular employee when in possession of adverse information justifying this action. A target search may be conducted without notice.

4.10 Procedures for random and target searches

	Procedure	Responsibility
1.	Issue caution to person being searched.	Authorised officer
2.	Ensure searching occurs away from public/staff view and in a way that prevents other staff or visitors from entering the search area.	Supervising officer
3.	Conduct the search with decency and respect.	Authorised officer
4.	Ensure two officers are present. One will conduct the search and the other will act as an observer/witness.	Supervising officer
5.	Examine the contents of all containers, clothing or possessions which the employee or visitor surrenders.	Authorised officer
6.	Examine any documents carried by the person but do not read them unless they are suspected unauthorised items.	Authorised officer

4.11 Request for removal of a face covering

Clause 93(3) of the *Crimes (Administration of Sentences) Regulation 2014* provides that an authorised officer may require a visitor to remove a face covering to enable the visitor's face to be seen by the officer (for identification purposes) or to be seen by another authorised officer or person assisting the officer.

Under clause 93(4) of the Regulation, the authorised officer who requires a visitor to remove a face covering must, as far as is reasonably practicable, ensure the following procedures are followed:

- ask for the visitor's cooperation
- view the visitor's face in a way that provides reasonable privacy for the visitor if they request privacy
- conduct the viewing as quickly as is reasonably practicable

In respect of children under 12, the viewing may only be conducted in the presence of the person responsible for the child. If the responsible person requests that the search be conducted by a female authorised officer, then a female authorised officer must conduct the viewing. If a female authorised officer is unavailable, then the viewing must be conducted by another female person at the direction of the authorised officer.

If the child is 12 years old or older and requests it, then the viewing of the child's face must be conducted by an authorised officer of the same sex as the child. If an authorised officer of the same sex is not available, then the viewing must be conducted by another person of that sex at the direction of the authorised officer.

An authorised officer may not require a visitor to remove a face covering if the visitor establishes, to the officer's satisfaction, that the visitor has a special justification for not removing the face covering.

Under clause 93(7) of the Regulation, an authorised officer may refuse to allow a person to visit the correctional centre for refusing to comply with a request to remove a face covering.

4.12 Request for removal of hat, gloves, coat, jacket and shoes

Section 253J of the *Crimes (Administration of Sentences) Act 1999* allows a correctional officer conducting a search under section 253I to direct a person to remove any hat, gloves, coat, jacket and shoes worn by the person. In conducting the search, the correctional officer:

- must conduct the search with due regard to dignity and self-respect and in as seemly a manner as is consistent with the conduct of an effective search;
- must not direct the person to remove any item of clothing being worn by the person, other than a hat, gloves, coat, jacket or shoes; and
- must not (pat) search a person by running the officer's hands over the person's clothing.

If no contraband or unauthorised items are found, the visitor or employee is entitled to continue to wear the hat, gloves, coat, jacket and shoes.

If a visitor refuses to remove the hat, gloves, coat, jacket or shoes, the visit may be refused.

A search of a person conducted by a correctional officer under section 253I must, if practicable, be conducted by a correctional officer of the same sex as the person being searched, or by a person of the same sex (being a non-correctional member of staff) under the direction of the correctional officer concerned.

4.13 Searching and detention of children or persons with impaired intellectual functioning

The following officers are authorised to allow a search by a correctional officer of a child or a person with impaired intellectual functioning, or detain (or release from detention) a child or person with impaired intellectual functioning:

- AC S&I
- the OIC of a target search operation
- Governor, MOS or FM

The above officers may also appoint a non-custodial member of staff as a search observation staff member.

A search observation staff member is appointed to observe the search of a child or person with impaired intellectual functioning who is not accompanied by an adult, or is accompanied by an adult who refuses to assist the child or person with impaired intellectual functioning, or where an accompanying adult has been arrested in connection with an offence under Part 13A of the *Crimes (Administration of Sentences) Act 1999*.

The primary role of the search observation staff member is to ensure that the searching officer conducts the search lawfully and appropriately.

On completion of the search process the search observation staff member is required to record their comments in the *Search register*, including if the search was conducted lawfully and appropriately.

4.14 Employee complaints about the conduct of searches

If an employee complains about having been subjected to a search of their bag or personal property, or the manner in which a search was conducted, the screening officer or authorised officer should record the nature of the complaint in the *Search Register* in accordance with procedures below in subsection **4.20 Gatekeeper's search register**. The employee must be advised of that they may lodge a complaint with the Governor.

Recording the nature of an employee's complaint in the *Search Register* serves as an account of events that occurred during the searching process should the matter become the subject of investigation at a later date. The complainant must be shown the record of the complaint in the *Search Register* and should be asked to initial or sign the notation.

4.15 Procedures for refusal by employee or visitor to be searched on entry

If an employee or visitor refuses to surrender their container, bag or property for a visual inspection after being directed to do so by the authorised officer, the employee or visitor will not be permitted to enter the correctional centre or correctional complex.

In this instance, the authorised officer must contact the MOS or FM:

	Procedure	Responsibility
1.	Explain the policy, procedures and legislation to the person.	MOS/FM
2.	Direct the employee or visitor to leave the place of detention if the employee or visitor continues to refuse to surrender their container, bag or property for a visual inspection.	MOS/FM
3.	Submit a report of the incident in the IRM and to the Governor.	Authorised officer /MOS/FM
4.	Note the incident in journal or log book.	Authorised officer /MOS/FM
5.	Provide a written report to the Governor and respective Director, Custodial Operations.	MOS/FM
6.	For visitors, commence procedures to restrict or prohibit the visitor, pursuant to clause 108 of the <i>Crimes (Administration of Sentences) Regulation 2014 (refer to COPP section 10.2 Visitor restrictions and prohibitions)</i> .	MOS/FM
7.	For staff, make a submission to the Professional Standards Committee to determine whether the incident involving the employee should be formally investigated.	Governor/Director

4.16 Procedures for refusal of employee to surrender container, bag, or property for search on exit

If an employee refuses to surrender their container, bag, or property in their possession for a visual inspection after being directed to do so by the Gatekeeper or authorised officer, they will be asked to wait in the gate area while the MOS or FM is called.

	Procedure	Responsibility
1.	Explain to the employee that their continued refusal to comply with directions to surrender their container, bag, or property for a routine search is an offence under section 253N of the <i>Crimes (Administration of Sentences) Act 1999</i> and may lead to disciplinary action.	MOS/FM
2.	Explain to the employee that this action will be the subject of a report to the Governor and that future access to the place of detention may be denied, and that they may be directed to work at another location until the matter is finalised.	MOS/FM

	Procedure	Responsibility
3.	<p>Detain the employee if required for a search by police under section 253I(3) of the <i>Crimes (Administration of Sentences) Act 1999</i>, but only where it is suspected on reasonable grounds that the employee has anything in their possession or control that has been used, is being used or is intended to be used in or in connection with the commission of an offence under Part 13A</p> <p>OR</p> <p>Escort the employee from the facility if the employee continues to refuse to surrender their container, bag or property that is in their possession.</p>	MOS/FM
4.	Provide a written report to the Governor and respective Director, Custodial Operations.	MOS/FM
5.	Make a submission to the Professional Standards Committee using a <i>Professional standards committee reporting form</i> , to determine whether the incident should be formally investigated.	Governor/ Director

4.17 Procedures for refusal of visitor to surrender container, bag or property for search on exit

If a visitor refuses to surrender a container, bag or property in their possession for a visual inspection after being directed to do so by the Gatekeeper or authorised officer, they will be asked to wait in the gate area while the MOS or FM attends.

	Procedure	Responsibility
1.	Explain to the visitor that their continued refusal to comply with directions to surrender their container, bag or other property for a routine search is an offence under section 253N of the <i>Crimes (Administration of Sentences) Act 1999</i> .	MOS/FM
2.	Explain that the visitor's actions will be reported to the Governor and the AC, CC. In turn, this may result in the visitor being denied access to all places of detention.	MOS/FM
3.	<p>The visitor may be detained for a search by police under section 253I(3) of the <i>Crimes (Administration of Sentences) Act 1999</i> if there is a reasonable suspicion that the container, bag or property may contain contraband or CSNSW property</p> <p>OR</p> <p>If there is no reasonable suspicion that there is any contraband or unauthorised property in the person's possession, then the person will be escorted from the place of detention.</p>	MOS/FM
4.	Note incident in the journal or log, write a report and submit the report to the Governor.	MOS/FM

4.18 Possession of contraband or unauthorised possession of property

If during a routine search of an employee's or visitor's container, bag, or property a screening officer discovers contraband or property they suspect on reasonable grounds may have been removed from the place of detention without lawful authority, the officer must advise the person that they will be detained under section 253(l) of the *Crimes (Administration of Sentences) Act 1999*, until the MOS or FM attends the scene. This may include detaining the person and notifying the police.

	Procedure	Responsibility
1.	Consider all the relevant facts and decide on the most appropriate course of action in the circumstances.	MOS/FM
2.	<p>Issue a caution to the employee or visitor prior to questioning them.</p> <p>In the case of trafficking the caution is:</p> <p><i>"I have formed the view that you may have committed the offence of trafficking contrary to section 253C of the Crimes (Administration of Sentences) Act 1999. You are not obliged to say or do anything unless you wish to do so but anything you do say or do may be used in evidence. Do you understand?"</i></p> <p>In the case of suspected unlawful removal of property the caution is:</p> <p><i>"I have formed the view that you may have committed the offence of removing property without lawful authority under section 253G of the Crimes (Administration of Sentences) Act 1999. You are not obliged to say or do anything unless you wish to do so but anything you do say or do may be used in evidence. Do you understand?"</i></p> <p>Admissions by the person after this stage will only be admissible as evidence in a court, if the caution has been given to the person.</p>	MOS/FM
3.	Issue a caution if the person being searched volunteers information which could be said to incriminate them.	MOS/FM
4.	Record the time and place of the initial caution in the respective notebook, reports and journals.	MOS/FM
5.	Brief the police if/when they attend.	MOS/FM
6.	If an employee, advise them that access to the place of detention will be denied until they are otherwise formally advised in writing.	MOS/FM
7.	If an employee, advise them that disciplinary action may be commenced.	MOS/FM

	Procedure	Responsibility
8.	Advise a visitor that a report may be sent to the Commissioner recommending that access to any correctional centre will be denied (refer COPP section 10.2 Visitor restrictions and prohibitions).	MOS/FM
9.	Permit the person to leave the place of detention if the police intend to charge by way of summons.	MOS/FM
10.	Make a report in the IRM in OIMS.	Authorised Officer
11.	Make a report to the Governor.	MOS/FM
12.	Report the incident to the relevant director and/or the Professional Standards Committee if the incident involves an employee.	Governor

Any contraband found by SOG must be reported in the first instance to the GM, SOG.

The OIC of the SOG will ensure a report is made in the IRM in OIMS.

If contraband was found on a visitor who was intending to visit an inmate then the OIC, SOG will ensure that a report is forwarded to the Governor of the correctional centre where the inmate is accommodated.

The GM, SOG will forward a report to the Visits Review Unit (**Refer to COPP section 10.2 Visitor restrictions and prohibitions**).

4.19 Monitoring

The MOS or FM will conduct regular checks to ensure that the following searches are being undertaken:

- routine searches of staff and visitors
- inmates in the company of staff or who otherwise enter the gate area to undertake domestic duties.

The Governor will conduct weekly checks of these searches.

4.20 Gatekeeper's search register

A *Search register* is to be maintained by the Gatekeeper or authorised officer at each place of detention. This register is not to be used for any purpose other than to record the searching of staff and visitors.

The screening officer or authorised officer will record the details of every search undertaken on entry or exit at the place of detention, including:

- name of the person being searched
- whether the person is an employee or visitor
- the rank of every custodial employee searched
- the time and date the search was undertaken
- the name(s) of the officers conducting the search
- whether the person complied with the request to be searched
- whether the person was carrying their possessions in a clear plastic bag

- whether the search was undertaken on entry or exit from the place of detention or at some other location within the place of detention;
- whether the police were requested to attend to conduct a further search of the person
- the name(s) and rank(s) of Police that attended, if applicable
- the results of the police search, if applicable.

The result of any target search should be entered into the MOS's journal, along with other relevant details of the search and the name of the authorising officer.

Search details are to be entered into the *Search register* at the completion of each search operation. Search details must also be entered in the *Search register* immediately if:

- contraband is discovered (including property being conveyed out of the correctional centre without lawful authority); or
- the person being searched complains about the search.

The *Search register* may be subject to audit by the AC, S&I or their delegate, and any other officer authorised by the Commissioner. The Governor must ensure that effective arrangements are made with respect to:

- the security and storage of the *Search register*
- the records associated with the *Search register* (e.g. complaints from officers about the manner in which a search may have been conducted)
- the archiving of the *Search register* and / or associated records

The *Search register* must not be removed from the gate.

The details of all searches of visitors carried out by Gate staff and recorded in the *Search register* must be routinely transferred into the OIMS *Search Module*.

4.21 Reporting and evaluation

The MOS or FM at each correctional centre is responsible for ensuring the information contained in the *Search register* is recorded accurately and is collected/collated and forwarded to the Governor for inclusion in the Key Performance Indicator (KPI) returns each month. A report is to be forwarded by each Governor to the respective Director each month stating:

- the number of searches undertaken
- the nature of searches
- any items of contraband found
- the names of each person found in possession of each item of contraband and whether the person was an employee or visitor
- action taken following each discovery of contraband.

The GM, Operations Performance Review Branch (OPRB) will evaluate compliance and assess effectiveness of the policy by conducting random checks without notice. Reports are to be forwarded at quarterly intervals to the ACCC.

5 Powers of arrest

5.1 Arrest in relation to discovery of contraband

Section 253I(6) of the *Crimes (Administration of Sentences) Act 1999* confers the powers of arrest of a police officer on correctional officers in respect of any offence under Part 13A of the Act. However, a correctional officer should only exercise the power of arrest in relation to the discovery of contraband if the person who has or had possession of the contraband refuses a direction to await the arrival of police. It is preferable to exercise the power to detain the person at first instance.

In circumstances where individual possession or ownership of contraband is unclear, such as contraband found in a vehicle with multiple occupants, then the occupants should be detained for a further search by police.

5.2 Arrest on suspicion on reasonable grounds

It is not necessary for an officer to have proof of an offence before they make the arrest. The law requires only that the officer has reasonable grounds to suspect that the person arrested is committing or has committed an offence under Part 13A of the Act.

'Reasonable grounds' means that, on the basis of known facts, evidence, observations and circumstances, there is sufficient reason to suspect that an offence has been, or is being committed, and that a reasonable person in possession of the same information would reach the same conclusion.

5.3 Procedures for arresting a person

	Procedure	Responsibility
1.	Conduct the arrest as unobtrusively as possible.	Correctional officer
2.	Tell the person being arrested person at the first available opportunity the reason for their arrest.	Correctional officer
3.	<i>Give the following caution to the person: You are not obliged to say or do anything unless you wish to do so but anything you do say or do may be used in evidence. Do you understand?"</i>	Correctional officer
4.	Contact the police and hand the arrested person to the police when they arrive.	Correctional officer
5.	Give police a full account of the arrest, the grounds for the arrest and any contraband seized.	Correctional officer

5.4 Procedures for necessary exercise of powers of arrest

The following protocol is to be followed if it becomes necessary to arrest a person who, after being detained, refuses a direction to await the arrival of police:

	Procedure	Responsibility
1.	<i>"My name is Correctional Officer (state name). I have observed you within / in the immediate vicinity of this place of detention and I have seen you acting suspiciously. I have formed the opinion that you have attempted to introduce contraband into a place of detention and I intend to call the police. I am requesting you to accompany me and await the arrival of police."</i>	Correctional officer
2.	If the person refuses: <i>"Be aware that if you do not comply with my request for you to accompany me, you may be subject to arrest. "</i>	Correctional officer
3.	If the person continues to refuse: <i>"I am directing you to accompany me and await the arrival of the police. It is an offence for you to refuse my direction."</i>	Correctional officer
4.	If the person refuses to wait for the police to arrive: <i>"I arrest you because I believe you may have committed an offence under section 253N of the Crimes (Administration of Sentences) Act 1999."</i>	Correctional officer
5.	Immediately following an arrest the following warning is to be given to the arrested person: <i>You are not obliged to say or do anything but anything you do say or do may be used in evidence. Do you understand?"</i>	Correctional officer

6 Quick links

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

7 Definitions

ACCC	Assistant Commissioner, Custodial Corrections
AC, S&I	Assistant Commissioner, Security and Intelligence
Authorised officer	The officer authorised by the Governor to perform the functions prescribed as part of the Custodial Operations Policy and Procedures.
CIG	Corrections Intelligence Group
Contraband	Any material thing described in sections 253C-253G of the <i>Crimes (Administration of Sentences) Act 1999</i> which a person: <ul style="list-style-type: none"> • is prohibited to take into or out of a place of detention without lawful authority; or • must not have in his or her possession in a place of detention without a reasonable excuse.
COPP	Custodial Operations Policy and Procedures
CSI	Corrective Services Industries
CSNSW	Corrective Services NSW
Delegated officer	Any officer who occupies or acts in the following positions which the Governor has delegated certain Governor's functions to deal with correctional centre offences: <ul style="list-style-type: none"> • Manager of Security • Functional Manager.
FM	Functional Manager
GM	General Manager
IRM	Incident Reporting Module
KPI	Key Performance Indicator
LOP	Local Operating Procedure
MOS	Manager of Security
OIC	Officer in Charge
OIMS	Offender Integrated Management System
OPRB	Operations Performance Review Branch
Place of detention	A correctional centre, correctional complex or residential facility within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> .
S&I	Security and Intelligence, a branch of CSNSW

SOG	Security Operations Group
Visitor	<p>A visitor to a correctional centre or to a particular person within a correctional centre, and includes any person who comes onto the premises of a correctional centre, whether by request or otherwise, other than in the performance of his or her functions under the <i>Crimes (Administration of Sentences) Act 1999</i> or the <i>Crimes (Administration of Sentences) Regulation 2014</i>.</p> <p>Note. Tradespersons and media personnel are examples of visitors. (Refer to clause 3 of the <i>Crimes (Administration of Sentences) Regulation 2014</i>).</p>

8 Document information

Business centre:	Custodial Operations	
Approver:	Kevin Corcoran	
Date of effect:	16 December 2017	
EDRMS container:	18/7392	
Version	Date	Reason for amendment
1.0		Initial publication (<i>Replaces section 12.5 of the superseded Operations Procedures Manual</i>)
1.1	29/11/19	Update to subsection [4.20] requiring that the name(s) and rank(s) of attending Police to be recorded, if applicable.
1.2	4/02/20	Policy for target searches of staff changed to reflect current practices. The policy now states that target search of staff can be ordered by the MOS or Governor (or the OIC of the correctional at any given time) when in possession of adverse information justifying this action. For clarity and logical flow, Part 4.9 Procedures for random searches and 4.10 Target searches were swapped and renamed.
1.3	12/03/20	General formatting update and improvements