

## Custodial Operations Policy and Procedures

### 14.3 Mobile phone offences

#### Policy summary

It is both a criminal offence and a correctional centre offence for an inmate to use or possess a mobile phone, SIM card, phone charger or any parts of those items in a place of detention without reasonable excuse.

A mobile phone, SIM card, phone charger or any parts of those items found in a place of detention must be processed as exhibits. Intelligence checks must be conducted to ascertain an inmate’s criminal activities and any history of mobile phone offences in custody.

Mobile phone offences may be reported to the police where criminal prosecution is considered or may be dealt with by a Governor or Visiting Magistrate as a correctional centre offence. A Governor or Visiting Magistrate may impose a penalty of withdrawal of privileges for up to 6 months for a mobile phone offence.

Inmates with repeat mobile phone offences will be subject to restrictive security strategies including increased searching, selected employment and close monitoring.

#### Management of Public Correctional Centres Service Specifications

Service specification	Professionalism and accountability 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.

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# 1 Dealing with mobile phone offences

## 1.1 Governor's functions

Only a governor may exercise the statutory function to deal with a correctional centre offence when the offence concerns an inmate's use or possession of a mobile phone, SIM card, phone charger, or any parts of those items. This function must not be exercised by a delegated officer. The exercise of the function pertaining to all other correctional centre offences remains the same.

## 1.2 Reporting mobile phone offences

The policy and procedures for reporting mobile phone offences are the same as for reporting all other correctional centre offences (**refer to COPP section 14.1 Inmate discipline**) except that an Offender Integrated Management System (OIMS) Incident Reporting Module (IRM) *Incident Details* report ('Contraband located') must be also be completed.

	Procedure	Responsibility
1.	Ensure an OIMS IRM incident report 'Contraband located' is submitted prior to cessation of the shift.	Governor or Officer in Charge (OIC)

## 1.3 Mandatory lock-in for mobile phone offences

Any minimum security inmate found in possession of a mobile phone, SIM card, phone charger or any related part must be immediately locked in a cell and managed as a medium/maximum security inmate pending the outcome of a classification/ placement review.

Any medium or maximum security inmate found in possession of a mobile phone, SIM card, phone charger or any related part must be locked in a cell pending segregation for the good order and security of the correctional centre.

Notification procedures for inmates locked in cells for mobile phone offences are the same as for other correctional centre offences (**refer to COPP section 14.1 Inmate discipline**).

**Note:** In accordance with clause 244 of the *Crimes (Administration of Sentences) Regulation 2014*, an inmate must not be locked in cell for more than 48 hours in respect of one or more reported offences. An inmate can only be confined to the cell for longer than 48 hours if a penalty of confinement to cell is subsequently imposed or a segregation order is issued.

	Procedure	Responsibility
1.	Immediately lock in a cell any inmate found in possession of a mobile phone, SIM card, phone charger or any related part pending further instruction.	Discovering officer

## 1.4 Exhibits

The mobile phone, SIM card, phone charger or any related part and a copy of the IRM *Incident Details* report must be sealed in an evidence bag.

Any other items found in the search, e.g. drugs, tobacco or combustibles such as lighters or matches, must not be placed in the same evidence bag and must not be sent to Correctives Intelligence Group (CIG).

The evidence bag must be registered in the correctional centre's exhibit register and secured in the exhibit safe.

Chain of evidence procedures as stipulated in **COPP section 13.8 Crime scene preservation** must be strictly adhered to as the exhibit might be required by police for evidence in criminal proceedings. Police must sign for the exhibit in the same way as a drug exhibit.

Where police do not require the exhibit, and following the conclusion of a hearing by the governor or Visiting Magistrate, the exhibit must be forwarded to CIG for analysis. Chain of custody procedures must be followed.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Seal the mobile phone, SIM card, phone charger or any related part in an evidence bag with a copy of the IRM <i>Incident Details</i> .	Correctional officer
2.	Register the evidence bag in the exhibit register and secure exhibit in the exhibit safe.	Governor or OIC
3.	Ensure the exhibit book is signed by police if they take the exhibit.	Governor or OIC
4.	Forward the exhibit to CIG for analysis where police do not require the exhibit or following the conclusion of a Visiting Magistrate or governor's hearing.	Governor

## 1.5 Intelligence interview

An inmate reported for a mobile phone offence must be interviewed by an intelligence officer at the correctional centre. The intelligence interview is in addition to the standard interview of an inmate by the officer who discovered the contraband.

Information obtained during the intelligence interview that is not recorded in the IRM must be recorded in an intelligence report on the Integrated Intelligence System (IIS).

	<b>Procedure</b>	<b>Responsibility</b>
1.	Direct the intelligence officer to interview the inmate.	Governor
2.	Conduct an intelligence interview with the inmate.	Intelligence officer
3.	Record any additional information obtained during the interview in an intelligence report on IIS.	Intelligence officer

## 1.6 Intelligence checks

OIMS must be checked to ascertain whether the inmate is the subject of any security alerts for mobile phone use or possession.

Intelligence holdings must be checked to ascertain whether the inmate has a history of mobile phone offences or is involved in:

- ongoing or recent criminal activity
- organised crime or gang related activity
- any activity that poses a security risk to the community or correctional centre.

	Procedure	Responsibility
1.	Task the intelligence officer to conduct intelligence and OIMS <i>alert</i> checks.	Governor
2.	Check inmate's OIMS alerts for mobile phone use or possession.	Intelligence officer
3.	Check intelligence holdings for any ongoing or recent criminal activity, organised crime or gang related activity, and any activity that poses a security risk to the correctional centre or community.	Intelligence officer

## 1.7 Intelligence briefing

The governor must arrange a briefing from the intelligence officer concerning any security alerts and intelligence holdings in relation to the inmate. This briefing should include any new intelligence gained from the intelligence interview and advice on whether the inmate has had repeat mobile phone offences.

	Procedure	Responsibility
1.	Arrange for intelligence briefing.	Governor
2.	Provide a briefing to the governor detailing the outcome of intelligence checks, security alerts, intelligence interview and inmate's mobile phone offence history.	Intelligence officer

## 1.8 Reporting a criminal offence to police

If intelligence indicates that the offender has been engaged in ongoing or recent criminal activity, organised crime or gang related activity, or activity that poses a security risk to the community or correctional centre, the matter should be reported to police for them to deal with under the Part 13A of the *Crimes (Administration of Sentences) Act 1999*.

Where police decline to take action, a report must be provided to the Director, Custodial Operations advising of the police decision and subsequent action taken by the governor to deal with the offence.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Report the offence to police where intelligence indicates the inmate is involved in: <ul style="list-style-type: none"> <li>• ongoing or recent organised criminal activity,</li> <li>• organised crime or gang related activity, or</li> <li>• activity that poses a risk to security of the community or correctional centre.</li> </ul>	Governor
2.	Provide a report to the Director, Custodial Operations advising of decision by the police not to take action and subsequent action taken by the governor to deal with the offence.	Governor

## 2 Hearing of charges by governor

### 2.1 Charging an inmate

Where the matter is not referred to police, or where police decline to take action, the matter may be dealt with as a correctional centre offence.

The governor may charge the inmate and proceed to inquiry or refer the charged inmate to a Visiting Magistrate.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Charge the inmate with a correctional centre offence.	Governor

### 2.2 Determining whether to refer a charge to Visiting Magistrate

In determining whether to refer a charged inmate to a Visiting Magistrate, the following factors should be considered:

- the inmate's classification and designation
- the inmate's disciplinary history while in custody
- the inmate's historical mobile phone offences or whether this is the first mobile phone offence
- the phone was found during a search
- the inmate did or did not cooperate in surrendering the phone or related parts
- the inmate was in possession of multiple phones/SIM cards indicative of trafficking
- the inmate's concealment of the phone or related parts was sophisticated and indicative of organisation and cooperation with other inmates.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Determine whether to refer charged inmate to a Visiting Magistrate.	Governor

## 2.3 Conducting inquiries

The policy and procedures for conducting inquiries into mobile phone offences are the same as for other correctional centre offences except that inquiries must not be conducted by delegated officers.

	Procedure	Responsibility
1.	Conduct inquiry into mobile phone offence.	Governor

## 2.4 Penalty for mobile phone offences

Section 56A of the *Crimes (Administration of Sentences) Act 1999* provides that a governor or Visiting Magistrate may impose a penalty of withdrawal of privileges for up to 6 months for a mobile phone offence.

For a mobile phone offence, a maximum period of up to 56 days may be imposed for the withdrawal of telephone privileges.

If the governor imposes penalty for a mobile phone offence under section 56A, the governor must not also impose a penalty under section 53 of the *Crimes (Administration of Sentences) Act 1999* for the same offence.

The policy and procedures for imposing penalties are the same as for other correctional centre offences.

	Procedure	Responsibility
1.	Determine whether to impose a penalty under section 53 or section 56A of the <i>Crimes (Administration of Sentences) Act 1999</i> .	Governor

# 3 OIMS security alerts

## 3.1 Creating an alert

An OIMS security alert must be created at the correctional centre for any inmate who has committed, or is reasonably suspected of having committed, a mobile phone offence. The following details must be recorded in the alert:

- name of correctional centre where the alert was created;
- supporting information including reference to any intelligence reports; and
- issue date of *Notification letter –additional security measures* for repeat offences.

CIG must create an alert where they establish that an inmate has used a mobile phone through analysis of seized mobile phones or SIM cards.



	Procedure	Responsibility
1.	Ensure an OIMS security alert is created and verified for an inmate who has committed, or is reasonably suspected of having committed, a mobile phone offence.	Governor
2.	Ensure an alert is created and verified for any inmate identified by CIG as having used a mobile phone through analysis of seized phones or SIM cards.	General Manager (GM) CIG

### 3.2 Review periods

OIMS security alerts for mobile phone offences must have the following review periods nominated:

- three months for suspected mobile phone offences; and
- six or 12 months (at the governor's discretion) for proven mobile phone offences.

### 3.3 Procedures for review periods

	Procedure	Responsibility
1.	Nominate the review period for the OIMS security alert.	Governor

## 4 Repeat mobile phone offences

### 4.1 Local order

A local order must be issued warning inmates of the consequences of being found using or in possession of a mobile phone.

	Procedure	Responsibility
1.	Issue a local order warning inmates of the consequences of being found using or in possession of a mobile phone.	Governor

### 4.2 Restrictive security strategies

Governors, with the assistance of Custodial Corrections Branch and S&I, must implement the following restrictive security strategies for inmates with repeat mobile phone offences:

- cell searched twice weekly including the removal of fixtures;
- cell rotation every 28 days;
- cell property to remain within prescribed policy limits;
- at least one scan by a 'Cellsense' detection device every 28 days (S&I);
- selected employment locations (inmate remains unemployed if there is no suitable employment area); and
- closer monitoring by the correctional centre intelligence officer.

These searches or scans may be conducted during routine correctional centre searches or SOG search operations.

	Procedure	Responsibility
1.	Implement restrictive security strategies for inmates with repeat mobile offences.	Governor

### 4.3 Notification to inmate

Inmates who are subject to restrictive security strategies must be issued with a *Notification letter – additional supervision requirements* which details the restrictions imposed on the inmate for repeat mobile phone offences.

A copy of the notification letter must be retained at the correctional centre and a copy must be placed in the inmate’s Case Management File (CMF).

	Procedure	Responsibility
1.	Issue the inmate a <i>Notification letter – additional supervision requirements</i> .	Governor
2.	Retain a copy of the letter and ensure a copy is placed on the inmate’s CMF.	Governor

## 5 Quick links

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

## 6 Definitions

AVL	Audio visual link
CIG	Corrections Intelligence Group
CMF	Case Management File
COPP	Custodial Operations Policy and Procedures
Correctional centre	Any premises declared to be a correctional centre by a proclamation in force under the <i>Crimes (Administration of Sentences) Act 1999</i> and any police station or court cell complex in which an offender is held in custody under that Act or any other Act.
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"> <li>• Manager of Security</li> <li>• Functional Manager</li> </ul>
GM	General Manager
IIS	Integrated Intelligence System
IRM	Incident Reporting Module
Mobile phone	Under section 3 of the <i>Crimes (Administration of Sentences) Act 1999</i> , a 'mobile phone': <ul style="list-style-type: none"> <li>• includes any device that may be used, in whole or in part, for the purpose of sending or receiving voice or other data over a mobile telephone network, whether or not it may be used for any other purpose.</li> </ul> Under clause 122 of the <i>Crimes (Administration of Sentences) Regulation 2014</i> , use or possession of a mobile phone includes: <ul style="list-style-type: none"> <li>• a mobile phone mobile phone or any part of it;</li> <li>• a mobile phone SIM card or any part of it; or</li> <li>• a mobile phone charger or any part of it.</li> </ul>
Mobile phone offence	A correctional centre offence under clause 122 of the <i>Crimes (Administration of Sentences) Regulation 2014</i> ; and A criminal offence under section 253F of the <i>Crimes (Administration of Sentences) Act 1999</i> .
OIMS	Offender Integrated Management System
Place of detention	A correctional centre, correctional complex or residential facility (see definition of "place of detention", section 253A of the <i>Crimes (Administration of Sentences) Act 1999</i> .)
S&I	Security and Intelligence Branch
SOG	Security Operations Group

## 7 Document information

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**Business centre:** Custodial Operations

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**Approver:** Kevin Corcoran

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**Date of effect:** 16 December 2017

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**EDRMS container:** 18/7369

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<b>Version</b>	<b>Date</b>	<b>Reason for amendment</b>
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1.0		Initial publication ( <i>Replaces section 16 of the superseded Operations Procedures Manual</i> ).
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1.1	12/03/20	General formatting update and improvements
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1.2	17/01/21	Insertion at subsection 2.4 <i>Penalty for mobile phone offences</i> which makes 56 days the maximum period for the withdrawal of telephone privileges.
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