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|  | DEPARTMENT OF PUBLIC SAFETY CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES | EFFECTIVE DATE: October 12, 2018 | POLICY NO.: COR.08.03 |
| | | SUPERSEDES (Policy No. & Date): COR.08.03 & July 01, 2010 | |
| SUBJECT: SEIZURE OF EVIDENCE | | Page 1 of 6 | |

1.0 PURPOSE

To delineate policy governing the seizure of evidence within Correctional Facilities. This policy is to address items of contraband which may be used as evidence during criminal proceedings.

2.0 SCOPE

This policy applies to all correctional facilities.

3.0 REFERENCES, DEFINITIONS & FORMS

.1 References:

- a. *Balkcom v. Heptinstall*, 263 S.E.2d 275, 152 Ga.App. 539 (1979).
- b. *Blackmon v. Norris*, 775 S.W.2d 367 (1989).
- c. Department of Public Safety (PSD), Policy and Procedures (P & P), COR.02.12, Inmate Trust Accounts.
- d. PSD, P & P, COR.08.02, Searches of Visitors and Staff.
- e. PSD, P & P, COR.08.04, Notice of Laws Relating to Contraband.
- f. PSD, P & P, COR.08.31, Searches of Inmates.
- g. PSD, P & P, COR.08.32, Area Searches, Shakedowns.
- h. PSD, P & P, COR.15.04, Visitation.
- i. PSD, P & P, COR.17.01, Personal Property, Confiscation and Disposition of.
- j. Hawaii Administrative Rules (HAR), Title 23, Department of Public Safety, Subtitle 2, Corrections, Chapter 100, Visits.
- k. HAR, Title 23, Department of Public Safety, Subtitle 2, Corrections, Chapter 101, Contraband.
- l. Hawaii Revised Statutes (HRS) § 26-14.6, Department of Public Safety (PSD).

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- m. HRS § 353C-2, Director of Public Safety; Powers and Duties.
- n. HRS § 710-1022, Promoting Prison Contraband in the First Degree.
- o. HRS § 710-1023, Promoting Prison Contraband in the Second Degree.

.2 Definitions:

- a. Contraband – any item that is not authorized by the Facility Warden, or is in excess of the maximum quantity permitted, or which is received or obtained from an unauthorized source, and is of a nature not appropriate for criminal prosecution.
- b. Dangerous Contraband – Anything prohibited by law from being introduced under criminal sanctions, which an individual incarcerated is prohibited from possessing by statute, i.e., dangerous instruments, drugs, explosives.
 - 1. Criminal Contraband according to HRS §§ 710-1022 AND 710-1023, includes but is not limited to dangerous instruments which may be any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury; and drugs, which includes dangerous drugs, detrimental drugs, harmful drugs, intoxicating compounds, marijuana and marijuana concentrates.
- c. Defendant – Any person charged as an adult of committing a crime under State or Federal criminal law, that has been released by the court to ISC supervision.
- d. Furlough – An authorized leave of absence from the institution without an escort, which is creditable toward service of sentence and is intended to provide the selected inmates opportunities for in-community experiences with family and social reintegration, education, employment, vocational training, and/or specialized treatment prior to parole.
- e. Jail Inmate - Any inmate sentenced to serve up to one (1) year (probation felons, sentenced misdemeanants, sentenced petty misdemeanants), pre-trial defendants, federal/other state holds. Also includes probation violators pending violation hearing adjudication.

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- f. Offender – A person incarcerated or detained in a prison or jail (community correctional center).
- g. Prison Inmate - Any inmate convicted to serve a sentence of more than one (1) year, including sentenced misdemeanants with consecutive terms totaling greater than one year, and parole violators.
- h. State General Fund – The primary fund of a government, where all assets and liabilities are recorded and funds that are not assigned to a special purpose fund are kept and used to pay the day-to-day activities, and administrative and operating expenses of the government. This fund is managed by the Director of Finance for the State of Hawaii.
- i. Work Furlough – An authorized leave of absence from the institution without an escort, which is creditable toward service of sentence and is intended to provide the selected inmates an opportunity for gainful employment in the community.

.3 Forms:

- a. PSD 8212, Inmate Property Receipt form (attached).
- b. PSD 8214, Incident Report form (attached).
- c. PSD 8231, Found Property Report form (attached).
- d. PSD 8231A, PSD Evidence/Contraband Tag form (attached).

4.0 POLICY

The policy of PSD is to set guidelines pertaining to seizures of evidence for use at a criminal trial and aimed at preserving the evidentiary integrity and admissibility for prosecution. PSD mandates that minimal personnel handle any seized material, and the dangerous contraband shall be placed in safekeeping while in the custody of the Facility.

Strict observation of such procedures insures that the evidence is not tainted in the eyes of the court by a questionable chain-of-custody practice.

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5.0 PROCEDURES

- .1 Each Facility Warden is responsible for ensuring that his/her facility has procedures in place to enforce this P & P. Responsibility for preserving the chain of custody starts with the staff discovering the criminal contraband. They must retain custody of the item or items until the contraband is transferred to a supervisor, or Law Enforcement agency.
- .2 Each facility shall develop procedures for the safeguarding of confiscated items that are criminal contraband. Any weapon found shall be removed and stored immediately as its continued presence in the area may jeopardize the safety and security of the facility.
- .3 Each facility shall be responsible for maintaining a secured locker for the storing of confiscated criminal contraband, and documenting each evidence transfer of custody, utilizing PSD 8231.
- .4 Each facility shall ensure that documentation of each criminal contraband item found, by taking photos of the item(s), including any identifying marks, i.e., serial numbers, distinguishing marks, etc., that will assist in clearly identifying the item(s).
- .5 Personnel confiscating criminal contraband which may be used as evidence at a criminal trial, shall complete PSD 8231. The staff finding the criminal contraband shall fill out PSD 8231, which includes, but is not limited to a brief description of the item confiscated, inmate's name, the date, time and place of discovery, and the staff member's signature.
- .6 The staff member shall also fill out PSD 8214, giving a detailed description of the criminal contraband, which shall include, where applicable, the color, size, value, appropriate weight, volume, manufacturer (if any), and the possible use of the item along with any identification marks made by the person in possession of the item.
- .7 PSD 8214 shall also include a narrative of the events leading up to the discovery of the criminal contraband, the events during the discovery of the criminal contraband, and the events after the discovery of the criminal contraband.
- .8 The supervisor of the staff member who found the criminal contraband shall inventory and acknowledge verification of all items listed in the PSD 8231, with his/her signature, along with the date and time. Photographs, if not already obtained, shall be taken of each item and shall be attached to PSD 8214. If

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more than one PSD 8214 has been completed for the same criminal contraband, the photographs shall be attached to the PSD 8214 of the staff who discovered the criminal contraband.

- .9 Each criminal contraband item found shall be placed in a clear plastic bag or paper bag, sealed and labeled with a tag from PSD 8231A.
 - a. Clean, new plastic and paper bags shall be used to collect evidence.
 - b. Paper bags shall be used to collect evidence that needs to breathe.
 - 1) Damp, wet and/or bloody clothing, bedding, and other similar items shall be collected in a paper bag and transported to a secure area, if not immediately collected by Law Enforcement.
 - 2) Once in the secured area, the evidence should be removed from the paper bag, following correct evidence and chain of custody procedure to be allowed to dry. While the evidence is drying, place a clean, white sheet of paper under it to catch any evidence which may fall off of the item while drying.
 - 3) Dry clothing and other fabric evidence (pillows, sheets, blankets, etc.) shall be stored in paper bags to prevent the evidence from developing mold.
 - 4) Any item that could potentially promote the growth of bacteria or mold in a damp or enclosed environment shall be stored in a paper bag.
 - c. Plastic bags shall be used to store evidence such as tools, weapons, drugs, etc.
 - d. Liquids shall be stored in clean, new vials or bottles.
- .10 After verification and labeling, all criminal contraband shall be immediately placed in a secure location until all criminal contraband are turned over to Law Enforcement, or destroyed.
- .11 If the criminal contraband is turned over to Law Enforcement or other official agency, both the individual receiving the criminal contraband and the individual relinquishing custody shall acknowledge receipt and transfer in the appropriate sections on PSD 8231.

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- .12 If the criminal contraband is not transferred to a law enforcement agency and is held for internal investigative or disciplinary purposes, the following procedures shall apply in:
- a. The criminal contraband shall be demolished or incinerated, so that it cannot be used by anyone and the demolished or incinerated remains discarded at a city refuse facility.
 - b. The destruction and discarding of the criminal contraband shall be witnessed by at least two security staff members – one of whom shall be an ACO IV or above.
 - c. On the appropriate "storage location" line on PSD 8231, the location of the city refuse facility where destroyed criminal contraband was delivered, shall be noted. Staff in attendance shall sign and note on the report that the items were destroyed.

APPROVAL RECOMMENDED:

Jodie Masaka-Huata October 12, 2018
Deputy Director for Corrections Date

APPROVED:

John P. Egan October 12, 2018
Director Date

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STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
INMATE PROPERTY RECEIPT

Facility _____ Date _____

Received From _____ S.S. No. _____

INMATE NAME

| Qty/Amt | Item | Description | Released To | Date |
|---------|------|-------------|-------------|------|
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Received By _____ Date _____

Attending Officer

Inmate's Signature _____ Date _____

| INMATE PROPERTY TRANSFER | |
|-------------------------------|------------|
| Property Transferred to _____ | |
| Facility | |
| Received From _____ | Date _____ |
| Sending Officer | |
| Received From _____ | Date _____ |
| Receiving Officer | |

Received From _____ Date _____

Attending Officer

I have all my personal property listed above:

Inmate's Signature _____ Date _____

Original: Facility
Copy: Inmate

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

INCIDENT REPORT

Facility: _____

Prepared on: _____

TO: _____ THRU: _____
(Administrator/Section Supervisor) (Watch Supervisor)

| DATE | TIME | NARRATIVE (Specify inmate name & ID and location if related to misconduct) |
|------|------|---|
| | | |

By: _____
Reporting Officer/Employee Title

ORIG - FACILITY ADMINISTRATOR
CANARY - CONTROL OFFICER
PINK - ATTACH TO MISCONDUCT REPORT

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

Facility: _____
Section: _____

FOUND PROPERTY REPORT

As a result of a search which I conducted or discovery which I made at:

Time: _____
Mo/Day/Yr: _____
Inmate's Name: _____
Location: _____

The following articles, or goods were seized or confiscated as:

- _____ Criminal Contraband
- _____ Unauthorized Property (Unauthorized personal property confiscated
Requires inmate signature and copy to inmate)

REPORT OF INCIDENT: (Circumstances relating to discovery of property; reference
Misconduct Report where applicable)

Inventoried by and Acknowledgement: _____
(Signature of Supervisor of person finding property) Date

DISPOSITION OF PROPERTY

| ID TAG NO. | DESCRIPTION OF ITEM | RECEIVED FROM (Signature) | BY (Signature) | DATE/TIME | STORAGE LOCATION |
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DEPARTMENT OF PUBLIC SAFETY
EVIDENCE /CONTRABAND Tag No. _____
Owners: (Name) _____
Articles: _____
SSN/SID: _____
Recovery by: (Name, Title) _____
Location: _____
Date: _____ Time: _____

PSD 8231A (5/2009)

| | | | | |
|------------------|-------|--|---|--------------------|
| Incident Type | Code | Reclassify <input type="checkbox"/> Yes | Status <input type="checkbox"/> Open <input type="checkbox"/> Closed | HRS Section Number |
| Complainant Last | First | Middle | Location of Offense | |

Vehicle & Property Status Codes: ST=Stolen OV=Overdue LS=Lost DM=Damaged WV=Wanted SV=Suspect RC=Recovered IM=Impounded TV=TOWED FN=Found

| Item # | Status | Type | Serial / Other ID | Description or manufacturer / Model / Gun Maker / Type Cal. Ga. | Property Code | Qty | Value |
|--------|--------|------|-------------------|---|---------------|-----|-------|
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| OWNER'S NAME LAST | FIRST | ADDRESS | PHONE |
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| DATE NOTIFIED | TIME | BY | PERSON NOTIFIED |
| | | | |
| | | | COMMENTS |
| | | | |

| | | |
|-------------|-------------|---|
| DISPOSED BY | DATE / TIME | FINAL DISPOSITION |
| | | <input type="checkbox"/> Ret. Owner <input type="checkbox"/> Ret. Finder <input type="checkbox"/> Ret. Agent <input type="checkbox"/> Court <input type="checkbox"/> Other <input type="checkbox"/> Finance <input type="checkbox"/> Auction <input type="checkbox"/> Destroyed |

| | | | | |
|--------|------------|-------------|-------------|------------|
| Writer | I D Number | Date / Time | Approved By | I D Number |
| | | | | |

State of Hawaii
Department of Public Safety
Law Enforcement

Key Report
S : Yes
A : No
B : Follow-up

Division :
Island :
Section :
Dist / Unit :

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REPORT NUMBER
LE : NED -

| Writer | ID Number | Date / Time | Approved By | ID Number |
|--------|-----------|-------------|-------------|-----------|
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