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| **Preservation of Evidence and Management of Seized Contraband** | | | |
| **Section** | | 1. Security and Control | |
| **CR Number** | 1.2.6 | **Current Issue Date** | December 2022 |
| **Legislation & Policy** | | Corrections Act 1986  Crimes Act 1958  Evidence Act 2008  Charter of Human Rights and Responsibilities Act 2006 | |
| **Standard** | | Safety and Security Services - Security | |
| **Attachments** | | Nil | |
| **Forms** | | Nil | |

1. **PURPOSE**

To define standard procedures for crime scene and evidence preservation and the management of seized contraband in Victorian prisons.

1. **REQUIREMENT**

In the event that a crime scene has been declared, the prison shall, subject to the good order and security of the prison and the safe custody and welfare of prisoners, staff and visitors are not to disturb a prisoner’s cell or personal property until such a time that it has been released by Victoria Police, and when applicable the Department of Justice & Community Safety (DJCS).

1. **CONTEXT**

Standard guidelines are required for the preservation of the scene of an incident in order to ensure that investigations are not compromised by contamination of evidence or inadequate procedures.

1. **INSTRUCTION**
   1. **Guidelines for the Preservation of Evidence & Management of Seized Contraband**
      1. The preservation of evidence is critical to the effective investigation of a death, an alleged crime or offence. If the first responding officer on the scene of an incident, or the officer finding an item/s, is unable to differentiate between the processes for handling evidence for a prison offence and the processes for handling evidence for a criminal investigation, they must treat the evidence as a police investigation and follow all the procedures for preserving evidence.
      2. Initial actions must protect all available evidence, which includes:

* preserving the scene in its original state; and
* preventing contamination of the scene by human or natural agency.
  + 1. Alleged suspects must be:
* separated from the crime/incident scene and from each other as soon as possible;
* searched for evidence;
* searched for weapons (that may inflict harm to themselves or others); and
* secured in cells so that they cannot communicate with others.
  + 1. Alleged suspects must be strip-searched and all clothing, including underwear, sealed in evidence paper bags and labelled.
    2. Each article of clothing must be placed in a separate paper bag to avoid cross contamination.
    3. The strip-search must be conducted by staff wearing gloves in accordance with strip search procedures in Commissioner’s Requirement – Strip Searches in Prisons.
    4. The evidence label must detail:
* the given and surname name of the person and CRN if a prisoner, that the evidence was removed from;
* the given name and surname of the staff member conducting the search;
* location;
* date; and
* time of the search.
  + 1. Prisoner witnesses must be separated from the crime/incident scene and from each other as soon as possible, searched and secured in separate cells so that they cannot communicate with alleged suspects and other witnesses.
    2. General Managers should consider turning off the water supply as an interim response to prevent potential suspects washing away evidence from their person or clothing.

**PRESERVATION OF LIFE OUTWEIGHS ANY PRESERVATION OF EVIDENCE PROCEDURES.**

* 1. **Types of Evidence**

To assist the police with their inquiries, officers must be aware of the types of evidence that are relevant to specific offences. Not all evidence is visible and fingerprint and DNA evidence must be considered at all times.

* murders and assaults: details of suspects, weapons, causes of injury, position of the body in cases of apparent murder, blood traces and other forensic evidence;
* arson and explosive devices: detonators or traces of detonators, explosives or their traces, inflammable matter, and signs and obvious intense burning or damage;
* sexual offences: semen stains (on victim’s bedding or clothing), hair specimens. Whenever possible, officers should ensure that the victim does not wash, bathe, shower or have a bowel movement until medically examined (consultation with Victoria Police must take place prior to the medical examination, to determine whether this is to be organised by Victoria Police);
* escapes: weapons, tools and equipment used in the escape, mortar, dirt, chipped paint, sawn through bars;
* drug related offences: tablets, powders, capsules, syringes, hookah pipes, or other devices for the administration of drugs. In the case of samples to detect the presence of drugs, at least forty (40) mls of urine in two approved containers of twenty (20mls) each and any stomach contents if available, are relevant. Officers must also record the apparent condition of the prisoner or person affected throughout the drug induced state, and in the case of drug overdose, the condition of the prisoner or person on recovery.

**Note:** in the event that a prisoner is suspected of swallowing contraband, particularly drugs, immediate advice is to be sought from health staff. Consideration is also to be given to a transfer to hospital, so that the prisoner is monitored appropriately.

* 1. **Continuity of Evidence**
     1. Continuity of evidence is defined as the uninterrupted sequence of actions involving the evidence from discovery until handed to the investigating police officer or placed in the prison’s Evidence Safe.
     2. The prison’s Evidence Safe must be in a secure location and access control must be restricted to staff nominated by the General Manager.
     3. Each person who has been in possession of evidence must record the event by signature. Preferably only the officer finding the evidence will keep possession of it and will be the one who hands it to the police or places it in the prison’s Evidence Safe.
     4. If the evidence is required in Court it is a requirement that:
* it can be shown to be the original;
* it has not been tampered with; and
* it can be accounted for from the moment it was found until given as evidence in Court.
  1. **Primary and Secondary Crime Scenes**
     1. A primary crime scene is one where the crime/incident was actually committed, e.g. the cell where a prisoner was seriously assaulted is a primary crime scene (e.g. the exercise yard that contained a rubbish bin where a pair of blood stained runners were found is a secondary crime scene).
     2. Similarly using this example detailed above, the route taken from the cell to the exercise yard is a secondary crime scene. There may be multiple secondary crime scenes relating to one crime/incident.
     3. A log of events should be established at the primary crime scene, to record movements and other critical information.
     4. Important physical traces, connecting the offender with the crime/incident, may be found at any of these locations. The same care and procedures adopted at the primary crime scene must be maintained at secondary crime/incident scenes.
  2. **Crime Scene Kit**

General Managers must ensure that the prison has a crime scene kit. The pilot briefcase type kit is to be clearly labelled ‘Crime Scene Kit’ and contain the following:

* Crime scene log sheets;
* Note paper;
* Folder;
* Pens and pencils;
* Evidence bags (plastic sealable type);
* Exhibit labels (stick on type);
* Evidence tape;
* Crime scene barrier tape;
* Large brown evidence paper bags;
* Rubber gloves;
* Sharps Container;
* Plastic ties; and a
* Camera, with the ability to record the date.
  1. **Preservation of Evidence**

Officers must comply with the following procedures:

* remember that the preservation of life outweighs anything else at the scene of a crime/incident;
* do not interfere with, or take any action which may cause the destruction of evidence;
* prevent contamination of any exhibit coming into their possession. Even articles inside plastic or paper bags must be protected from contamination by holding only the top of the bag;
* evidence should be placed in paper bags. Plastic bags may cause evidence to deteriorate;
* place each item in an individual evidence bag to avoid cross contamination;
* avoid handling articles found at crime/incident scene;
* protect evidence from the weather by covering with plastic if necessary (wherever possible, photographs should be taken prior to covering the articles);
* where it is necessary to transfer possession of evidence to an authorised person and/or the General Manager, record the time, and the name of the recipient and obtain a signature from the person receiving the article, ensuring continuity of evidence;
* The order/sequence of police investigations is:
  1. examination of scene,
  2. photographing the scene,
  3. finger printing the scene,
  4. searching the scene,
  5. photographing exhibits,
  6. finger printing exhibits,
  7. collection and labelling of exhibits.
* Closed circuit television (CCTV), Body Worn Camera (BWC) and hand-held camera footage must be managed in accordance with Commissioner’s Requirements - Surveillance, Taping Protocols and Retention Periods and Incident Reporting.
* Footage will generally be uploaded and exchanged via secure electronic systems such as Axon or evidence.com, or secure restricted folders, such as the folder in the V drive for public prisons. If secure electronic systems are not available, footage must be hand delivered, and not sent via post or internal mail services.

**4.7 Preservation of Scene**

In order to preserve the scene of an alleged crime / incident / offence, the first officer to arrive on the scene and subsequently the supervising officer will observe the following procedures;

* preserve the scene from contamination;
* establish an outer perimeter to encompass all possible evidence;
* where possible close all entry/exit points except one;
* keep all unauthorised persons out;
* take photographs of evidence where found, if evidence must be removed from the crime scene;
* observe and report on the physical condition and any abnormalities observed;
* record any movement into the perimeter including route taken, what was touched, exit route, time, name of person;
* supervise the area to prevent contamination and/or destruction of evidence;
* search, secure and isolate suspects and when required delegate other officers to guard suspects separately to prevent collaboration;
* remove all clothing from alleged suspects and place each item in a separate paper bags;
* record names of suspects and officers delegated to guard the suspects;
* record, isolate and detain all witnesses, to prevent threats or intimidation being made, and delegate officers to guard if necessary.

**4.8 Release of Scene**

Following the declaration of an incident crime scene the prison shall, subject to the good order and security of the prison and the safe custody and welfare of the prisoners, not disturb a prisoner’s cell or personal property until such time that it has been released by Victoria Police, and where applicable, the DJCS.

**4.9 Management of Seized Contraband**

4.9.1 Photographs must be taken of evidence and when possible, where the evidence was originally found and in accordance with Commissioner’s Requirement – Management of Prisoner Photographs, particularly in relation to the taking of photographs of a deceased prisoner.

4.9.2 Photographs must be marked with:

* the date and time taken;
* location of the evidence in the scene; and
* the given name and surname and rank/role of the person taking the photographs.

4.9.3 Evidence must be placed in an evidence bag and clearly labelled. Each item seized must be placed in an individual evidence bag to avoid cross contamination.

4.9.4 A Seizure Register must be completed to record details of evidence.

4.9.5 General Managers must ensure that the prison’s Evidence Safe is in a secure location and access control is restricted to staff nominated by the General Manager. Seized property must be secured in the prison’s Evidence Safe until handed to the investigating Victoria Police Officer or disposed of appropriately.

4.9.6 The prison’s Evidence Safe must be audited at least weekly and reconciled with the prison’s Seizure Register. General Managers must arrange for the disposal of seized contraband and report any items that are not accounted for as per Commissioner’s Requirement – Incident Reporting.

**4.10 Preservation of CCTV following a death/passing**

4.10.1 As deaths in prison custody are referred to the Coroner and other review and investigative bodies, it is critical to ensure relevant CCTV is saved and provided upon request.

4.10.2 A case-by-case determination will be made in consultation with the Manager, Litigation & Coronial Matters and Manager, Monitoring, Standards & Reporting Unit, on the date range **pre-death**, for CCTV to be saved. This will take into consideration requests by the Coroner or review or investigative body and the provisional cause of death.

Melissa Westin ACM

**Acting Commissioner**

**Information below this point is administrative supporting detail**

**only and not subject to Commissioner’s review or approval.**

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| **Acronyms** | |
| BWC | Body Worn Camera |
| CCTV | Closed Circuit Television |
| DJCS | Department of Justice & Community Safety |

| **Definitions** | |
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| **Associated Commissioner’s Requirements** |
| 1.2.3 - Strip Searches in Prisons  1.3.1 - Incident Reporting  1.4.2 - Surveillance, Taping Protocols and Retention Periods  2.3.5 - Management of Prisoner Photographs |

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