

	<b>DEPARTMENT OF CORRECTIONS AND REHABILITATION</b> <b>CORRECTIONS ADMINISTRATION</b> <b>POLICY AND PROCEDURES</b>	<b>EFFECTIVE DATE:</b> January 01, 2024	<b>POLICY NO.:</b> COR.08.03
		<b>SUPERSEDES (Policy No. &amp; Date):</b> COR.08.03 of October 12, 2018	
<b>SUBJECT:</b> <b>SEIZURE OF EVIDENCE</b>		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 that may be used as evidence during criminal proceedings.

## 2.0 SCOPE

This policy shall apply to all correctional facilities within the Department.

## 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 Corrections and Rehabilitation (DCR), Policy and Procedure (P&P), COR.02.12, Inmate Trust Accounts.
- d. DCR P&P, COR.08.02, Searches of Visitors and Staff.
- e. DCR P&P, COR.08.04, Notice of Laws Relating to Contraband.
- f. DCR P&P, COR.08.31, Searches of Inmates.
- g. DCR P&P, COR.08.32, Area Searches, Shakedowns.
- h. DCR P&P, COR.15.04, Visitation.
- i. DCR P&P, COR.17.01, Confiscation and Disposition of Personal Property of Inmates and Wards.
- j. Hawaii Administrative Rules (HAR), Title 23, Department of Public Safety (PSD), Subtitle 2, Corrections, Chapter 100, Visits.
- k. HAR, Title 23, PSD, Subtitle 21, Corrections, Chapter 101, Contraband.
- l. Hawaii Revised Statutes (HRS) 353A, Director of Corrections and Rehabilitation, powers and duties.

**NOT CONFIDENTIAL**

DCR  P & P M	<b>SUBJECT:</b>  <b>SEIZURE OF EVIDENCE</b>	<b>POLICY NO.:</b> <b>COR.08.03</b>
		<b>EFFECTIVE DATE:</b> <b>January 01, 2024</b>
		<b>Page 2 of 6</b>

- m. HRS §710-1022, Promoting Prison Contraband in the First Degree.
- n. 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 sentence 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.

**NOT CONFIDENTIAL**

DCR P & P M	<b>SUBJECT:</b>  <b>SEIZURE OF EVIDENCE</b>	<b>POLICY NO.:</b> <b>COR.08.03</b>
		<b>EFFECTIVE DATE:</b> <b>January 01, 2024</b>
		<b>Page 3 of 6</b>

- 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.

.3 Forms

- a. DCR 8212, Inmate Property Receipt Form.
- b. DCR 8214, Incident Report Form.
- c. DCR 8231, Found Property Report Form.
- d. DCR 8231A, DCR Evidence/Contraband Tag Form.

**4.0 POLICY**

The policy of DCR 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. DCR mandates that minimum personnel handle any sized material, and the dangerous contraband shall be placed in safekeeping while in the custody of the facility.

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

**5.0 PROCEDURES**

- .1 Each Facility Warden is responsible for ensuring that his/her facility policy and 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 it 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.

**NOT CONFIDENTIAL**

DCR  P & P M	<b>SUBJECT:</b>  <b>SEIZURE OF EVIDENCE</b>	<b>POLICY NO.:</b> <b>COR.08.03</b>
		<b>EFFECTIVE DATE:</b> <b>January 01, 2024</b>
		<b>Page 4 of 6</b>

- .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 DCR 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 DCR 8231. The staff finding the criminal contraband shall fill out DCR 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 DCR 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 Form DCR 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 DCR 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 DCR 8214. If more than one DCR 8214 has been completed for the same criminal contraband, the photographs shall be attached to the DCR 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 DCR 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 be breathed.

**NOT CONFIDENTIAL**

DCR  P & P M	<b>SUBJECT:</b>  <b>SEIZURE OF EVIDENCE</b>	<b>POLICY NO.:</b> <b>COR.08.03</b>
		<b>EFFECTIVE DATE:</b> <b>January 01, 2024</b>
		<b>Page 5 of 6</b>

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 a 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.

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.
- .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 section DCR 8231.
  - .12 If the criminal contraband is not transferred to law enforcement agency and is held for internal investigative or disciplinary purposes, the following procedures shall apply:
    - 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.

**NOT CONFIDENTIAL**

DCR P & P M	SUBJECT:  SEIZURE OF EVIDENCE	POLICY NO.: COR.08.03
		EFFECTIVE DATE: January 01, 2024
		Page 6 of 6

- c. On the appropriate "storage location" line on DCR 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:

  
 \_\_\_\_\_ JAN 01 2024  
 Deputy Director for Corrections Date

APPROVED:

  
 \_\_\_\_\_ JAN 01 2024  
 DIRECTOR Date

**NOT CONFIDENTIAL**

**STATE OF HAWAII  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE PROPERTY RECEIPT**

Facility \_\_\_\_\_ Date \_\_\_\_\_

Received From \_\_\_\_\_ S.S. No. \_\_\_\_\_  
INMATE NAME

Qty/Am	Item	Description	Released To	Date

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 CORRECTIONS AND REHABILITATION**

**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





DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)

DEPT. OF CORRECTIONS AND REHABILITATION  
EVIDENCE/CONTRABAND Tag No. \_\_\_\_\_  
Owners: (Name) \_\_\_\_\_  
Articles: \_\_\_\_\_  
SSN/SID: \_\_\_\_\_  
Recovery by: (Name, Title) \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

DCR 8231A (01/2024)