13.9 Video evidence

Policy summary

CCTV camera surveillance and video/audio recording of incidents in correctional centres are necessary activities for the effective care, control and management of correctional centres and inmates.

Video recordings of incidents are often used as evidence in administrative, civil or criminal proceedings. This policy lists the types of incidents that must be recorded on hand-held video (HHV) camera and CCTV where possible. This policy does not apply to body-worn video (BWV) cameras and systems which are covered in COPP section 13.12 Body-worn video.

The use of HHV can be beneficial for de-escalating incidents, deterring offending behaviour, and reducing vexatious or frivolous complaints against staff.

Maintaining the integrity of video recordings is essential. They must be registered and stored securely. Recordings must be retained and disposed of in accordance with this policy.

Video recordings must not be accessed or used by anyone other than an officer or member of a law enforcement agency—and only for a relevant purpose. Relevant purposes include detection of offences, investigations, prosecutions, managerial and disciplinary actions, legal proceedings and training purposes.

Each correctional centre must have a Local Operating Procedure (LOP) Video evidence detailing the staff authorised by the governor to access or manage video evidence.

Management of Public Correctional Centres Service Specifications

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Safety and security</th>
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<tbody>
<tr>
<td></td>
<td>Professionalism and accountability</td>
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</table>
Scope

This section applies to all correctional centres and other facilities administered by or on behalf of Corrective Services NSW (CSNSW). This policy does not apply to body-worn-video (BWV) cameras and systems.
Table of Contents

1 Mandatory recording of incidents 4
   1.1 Incidents 4
   1.2 Commencement and duration of recording 4

2 Hand-held video cameras 5
   2.1 Minimum standards 5
   2.2 Settings and serviceability checks 5

3 Transferring and registering recordings 5
   3.1 Integrity and transfer of recordings 5
   3.2 Recordings of evidentiary value 6
   3.3 Recordings of no evidentiary value 6
   3.4 Labelling and filing DVDs 6
   3.5 Erasing original recordings from cameras 6
   3.6 Registers 6

4 Information and records management 7
   4.1 Access controls 7
   4.2 Review of recordings 7
   4.3 Disclosure of information and recordings 7
   4.4 Audit of stored recordings 8
   4.5 Retention and disposal 8
   4.6 Sending records to State Archives & Records NSW 9
   4.7 Use of recordings for training purposes 9

5 Forms and Annexures 11

6 Related COPP 11

7 Related Documents 11

8 Definitions 12

9 Document history 14
1 Mandatory recording of incidents

1.1 Incidents

Incidents involving harm, violence or damage to property must be recorded on HHV camera and CCTV wherever possible.

Such incidents include but are not limited to:

- violence and threats of violence against any person
- deaths in custody
- escapes and attempted escapes
- riots and disturbances
- use of force and situations with a high potential for use of force
- fires and substantial damage to property
- discovery of evidence connected with a serious incident
- trafficking activity and discovery of substantial contraband
- targeted searches

Refer to the relevant serious incident policy for any specific recording requirements. For restrictions on recording of strip searches see COPP sections 17.1 Searching inmates.

Protecting persons from serious or fatal injury has priority over the obligation to record an incident.

Note: A BWV camera may be detached and used instead of a HHV if necessary.

1.2 Commencement and duration of recording

An officer should commence recording when they are first alerted to an incident as this will capture the response and incident scene upon arrival. This usually occurs when an officer hears a call for assistance over the radio or is otherwise called to an incident, e.g. duress alarm. With CCTV systems, control room operators should redirect Pan-tilt-zoom (PTZ) cameras to an incident if in range.

During a serious incident or other event, all communications, interactions or contact between staff and the inmate or other person must be recorded. Recording must continue uninterrupted until the incident is resolved.

If an officer fails to record a relevant occurrence, ceases recording early, or causes a break in continuity of recording, then they may be asked to justify this to their manager or in any disciplinary or legal proceedings which might follow.
2 Hand-held video cameras

2.1 Minimum standards

HHV cameras purchased after the date this policy is issued must meet the following minimum standards:

- Full HD video recording (1920 x 1080/50p)
- MP4 recording format
- Low-light recording capability and image stabilisation
- 2.7 inch (6.7 cm) LCD monitor
- 64GB SD memory card capacity
- Rechargeable battery
- USB 2.0 cable connectivity with USB charge capability
- Tripod socket

Most video cameras purchasable through NSW Government contracted providers meet these minimum standards. Cameras with higher specifications may be purchased.

2.2 Settings and serviceability checks

HHV cameras must be set to record video and audio at optimal levels (full HD recording). The time and date settings must be accurate. They may be adjusted by the camera operator where necessary to reflect Eastern Standard Time or Daylight Savings Time. Video cameras must be kept serviceable. Serviceability checks must be carried out in accordance with COPP section 16.14 Daily security reporting.

3 Transferring and registering recordings

3.1 Integrity and transfer of recordings

A video recording must not be altered*, damaged or disposed of except in accordance with this policy. A HHV camera which contains a video recording must be delivered to an authorised officer for transfer to secure media. It must not to be reviewed by anyone beforehand.

* This does not apply to privacy or security related pixilation/redaction of recordings which are disclosed for legal purposes (e.g. subpoenas).

Video recordings must not be uploaded to EDRMS.
3.2 Recordings of evidentiary value

All recordings of evidentiary value must be transferred from the CCTV system and/or HHV camera to non-rewritable DVD by an authorised officer as soon as possible. Recordings that are too large for DVD may be transferred to a USB flash drive or portable hard drive. For the definition of evidentiary value refer to the table at [4.5] below.

3.3 Recordings of no evidentiary value

Recordings with no evidentiary value must be transferred to suitable storage media as soon as practicable. Network hard drives or portable hard drives with appropriate access and security controls are suitable. These recordings are not to be stored on DVD.

3.4 Labelling and filing DVDs

A DVD must be labelled with the Incident Reporting Module (IRM) incident number. Discs may be labelled with other identifiers if there is no IRM number relating to the event (e.g. misconduct matter which is not a reportable incident). It is not necessary to duplicate information recorded in the IRM.

Note: The IRM can be searched to establish the relevant IRM incident number based on the incident details. This will negate the need to search through DVD collections looking for a date, MIN, names, type of incident, etc.

3.5 Erasing original recordings from cameras

HHV camera memory or the SD card which initially stored a recording must be erased by the authorised officer after transfer to storage media to prevent unauthorised access to or use of a recording.

3.6 Registers

Each correctional centre must have a Register of Video Recordings. The register may be a written register or an EDRMS register. A written Register of Video Recordings must be kept securely in the same location as the DVD collections. See [4.1] below for access controls.

All recordings must be registered. Each register entry must include the following details:

- Date of incident
- MIN of involved inmate(s) / VIN or name of visitor(s)
- IRM incident number (for reportable incidents only)
- Details of law enforcement agency personnel provided with a copy of the recording
- Date of disposal (e.g. transfer to archives or destruction)
4 Information and records management

4.1 Access controls
At the correctional centre, only an authorised officer may access or copy video recordings or access a Register of Video Recordings in accordance with the LOP Video evidence. This includes recordings that are automatically retained in the CCTV system. Other persons must not access a recording, create a copy of a recording, or possess a copy of a recording unless authorised by this policy.

4.2 Review of recordings
A video recording of a reportable incident must be reviewed by an authorised reviewing officer to determine whether:

- there is any evidence of a person committing an offence against any Act or statutory instrument
- the conduct of staff members was appropriate
- any issues need to be addressed in an after action review (AAR) or training.

A recording must also be reviewed by an authorised reviewing officer when a complaint is made about the conduct of staff.

Video recordings must be reviewed impartially by an authorised reviewing officer who was not involved in the incident.

A video recording of a strip search must only be reviewed by an officer of the same sex as the inmate searched.

The outcome of a review must be recorded in the relevant IRM.

4.3 Disclosure of information and recordings
A video recording or a Register of Video Recordings extract must not be copied or disclosed except as provided for by this policy.

Inmate disciplinary hearings: A video recording may be used in evidence for the hearing of charges pursuant to the Crimes (Administration of Sentences) Act 1999, pt 2 div 6.

Law enforcement purposes: With the consent of the governor, an authorised officer may allow an officer of a law enforcement agency to review a video recording to determine if the recording is of evidentiary value for a coronial investigation or the detection, investigation or prosecution of an offence.

A copy of a video recording may be provided to a member or officer of a law enforcement agency for a relevant purpose. Law enforcement agencies include but are not limited to:
• Corrective Services NSW  
• NSW Police Force  
• Australian Federal Police  
• Independent Commission Against Corruption  
• NSW Crime Commission  
• Australian Criminal Intelligence Commission

**Relevant purposes** are:

- a coronial investigation or the detection, investigation or prosecution of an offence
- a purpose that is directly or indirectly related to the taking of proceedings for an offence or a coronial inquest
- disciplinary or managerial action or legal proceedings against an employee of a law enforcement agency as a consequence of any alleged misconduct or unsatisfactory performance by the employee
- a purpose that is directly or indirectly related to the taking of such disciplinary or managerial action or legal proceedings
- in connection with the training of law enforcement members or officers.

**NSW Ombudsman’s inquiries:** A copy of a HHV or CCTV recording may be given to the NSW Ombudsman for any preliminary inquiry that is directly or indirectly related to alleged misconduct or unsatisfactory performance by an employee. Only Corrections Executive Services may handle such requests.

A copy of a BWV recording given to an external law enforcement agency, from a correctional centre, must be registered in the centre’s *Exhibit Register* and signed for in the same manner as any other exhibits taken by police.

Copies of video recordings for Professional Standards Branch or Custodial Corrections must be sent via registered mail or courier.

### 4.4 Audit of stored recordings

Stored recordings must be audited quarterly in accordance with LOP *Video Evidence*. A record of the audit must be entered in the *Register of Video Recordings*.

### 4.5 Retention and disposal

Disposal of records in accordance with this table is considered normal administrative practice and complies with *Functional Retention and Disposal Authority: DA199*. 
<table>
<thead>
<tr>
<th>Description</th>
<th>Retention / disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Evidentiary value</strong>: Recordings of significant incidents involving harm, violence or damage to property including:</td>
<td>Retain for 25 years then send to State Archives</td>
</tr>
<tr>
<td>• death (including coronial investigations and reports)</td>
<td></td>
</tr>
<tr>
<td>• escape or near escape</td>
<td></td>
</tr>
<tr>
<td>• significant damage to property</td>
<td></td>
</tr>
<tr>
<td>• significant injury to staff or other person</td>
<td></td>
</tr>
<tr>
<td><strong>Evidentiary value</strong>: Recordings of minor matters or breaches of procedure not involving significant damage or injury including:</td>
<td>Retain for 10 years after last action, then destroy</td>
</tr>
<tr>
<td>• use of force</td>
<td></td>
</tr>
<tr>
<td>• correctional centre offences</td>
<td></td>
</tr>
<tr>
<td>• minor injury to staff or other person</td>
<td></td>
</tr>
<tr>
<td>• deliberate damage to property</td>
<td></td>
</tr>
<tr>
<td>• discovery of contraband</td>
<td></td>
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<tr>
<td>• trafficking in drugs or alcohol</td>
<td></td>
</tr>
<tr>
<td><strong>No evidentiary value</strong>: Records of security surveillance within a correctional centre or other departmental buildings including:</td>
<td>Destroy after 30 days</td>
</tr>
<tr>
<td>• video recordings of inmate transfers and movements where the use of force has not occurred,</td>
<td></td>
</tr>
<tr>
<td>• CCTV recordings where incidents have not occurred.</td>
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</tbody>
</table>

### 4.6 Sending records to State Archives & Records NSW

CSNSW may send video recordings of evidentiary value to State Archives & Records NSW prior to the 25 year period specified in the ‘Retention / disposal’ column above if the video recording is:

- not in use, and
- highly unlikely to be requested by a law enforcement agency.

### 4.7 Use of recordings for training purposes

A video recording must not be used for training purposes if it relates to a matter currently subject to:
• active inquiries or investigation for managerial or disciplinary action
• active inquiries or investigation by a law enforcement agency
• legal proceedings.

Video recordings that are to be used for training purposes must be:

• redacted for privacy purposes
• contain appropriate warnings for content that may cause distress or offence
• contain appropriate warnings for cultural sensitivities.
5 Forms and Annexures

Daily security reporting check and validation schedule

Local operating procedure – Video evidence

6 Related COPP

13.3 Deaths in custody
13.4 Assaults
13.5 Fires
13.6 Escapes
13.7 Use of force
13.8 Crime scene preservation
13.11 Discovery and disposal of drugs
13.12 Body-worn video
16.14 Daily security reporting
17.1 Searching inmates
17.3 Stop, detain and search of visitor and staff

7 Related Documents

Crimes (Administration of Sentences) Act 1999
Crimes (Administration of Sentences) Regulation 2014
Management of Public Correctional Centre Outcome Specifications
Workplace Surveillance Act 2005
Surveillance Devices Act 2007
Privacy and Personal Information Protection Act 1998
Government Information (Public Access) Act 2009
State Records Act 1998
State Records Regulation 2015

Functional Disposal and Retention Authority: DA199, State Archives & Records NSW

Video/visual surveillance records (GDA8), State Archives & Records NSW
## 8 Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Authorised officer</td>
<td>The officer authorised by the governor to perform the functions set out in this part of the COPP</td>
</tr>
<tr>
<td>Authorised reviewing officer</td>
<td>The manager of security or other officer authorised by the governor to review reportable incidents</td>
</tr>
<tr>
<td>BWV</td>
<td>Body-worn video</td>
</tr>
<tr>
<td>CCTV</td>
<td>Closed Circuit Television</td>
</tr>
<tr>
<td>COPP</td>
<td>Custodial Operations Policy and Procedures</td>
</tr>
<tr>
<td>Correctional centre</td>
<td>Any place of detention including a correctional centre, correctional complex, police or court cell complex or residential facility where inmates are in Corrective Service NSW custody.</td>
</tr>
<tr>
<td>CSNSW</td>
<td>Corrective Services NSW</td>
</tr>
<tr>
<td>DVD</td>
<td>Digital Versatile Disk</td>
</tr>
<tr>
<td>EDRMS</td>
<td>Electronic Data and Records Management System</td>
</tr>
<tr>
<td>Governor</td>
<td>For this policy a governor includes (unless otherwise stipulated) a general manager of a contract managed correctional centre or a general manager of an operational unit of the Security and Intelligence Branch.</td>
</tr>
<tr>
<td>HHV</td>
<td>Hand-held video</td>
</tr>
<tr>
<td>IRM</td>
<td>Incident Reporting Module</td>
</tr>
<tr>
<td>Law enforcement agency</td>
<td>See section 3 of the Workplace Surveillance Act 2005 and the list at [4.3] of this policy.</td>
</tr>
<tr>
<td>OIC</td>
<td>Officer in charge: the on-duty ranking correctional officer who is in charge of the correctional centre in the absence of the governor, e.g. manager of security or night senior.</td>
</tr>
<tr>
<td>PTZ camera</td>
<td>A CCTV camera with pan, tilt and zoom function.</td>
</tr>
<tr>
<td>Reportable incident</td>
<td>See Table of reportable incidents</td>
</tr>
<tr>
<td>Significant damage</td>
<td>Any damage to correctional centre property which resultantly renders a cell, unit or other area unserviceable, e.g. significant wilful damage to cell plumbing or other fittings which puts the cell out of use pending substantial repairs.</td>
</tr>
<tr>
<td>Significant injury</td>
<td>Any serious injury which requires immediate medical treatment or hospitalisation, e.g. serious head injury, serious eye injury, fractures, laceration requiring sutures, etc.</td>
</tr>
<tr>
<td>Storage media</td>
<td>DVD, USB flash drive, portable hard drive, network hard drive.</td>
</tr>
<tr>
<td>Video recording</td>
<td>Any visual recording obtained through an optical surveillance device such as a CCTV, HHV or BWV camera. This includes</td>
</tr>
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</table>
a sound recording if the camera also has that function.
9 Document history

<table>
<thead>
<tr>
<th>Business Centre:</th>
<th>Custodial Operations</th>
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<tbody>
<tr>
<td>Approver:</td>
<td>Kevin Corcoran</td>
</tr>
<tr>
<td>Date of Effect:</td>
<td>12 November 2018</td>
</tr>
<tr>
<td>File Reference:</td>
<td></td>
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<tr>
<td>Version</td>
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