

Custodial Operations Policy and Procedures

20.2 Court matters

Policy summary

All convicted inmates must be advised of their right to appeal to a higher court. An inmate who intends to appeal must be provided with the relevant Notice of appeal forms immediately.

If an inmate is unable or unfit to attend Court, State Sentence Administration (SSA) is responsible for notifying the appropriate Court.

SSA is also responsible for completing the relevant paperwork when a Bedside Court is to be convened for an inmate in Corrective Services NSW (CSNSW) custody.

Management of Public Correctional Centres Service Specifications

Service specifications	Decency and respect Professionalism and accountability
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Scope

This section applies to all correctional centres and other facilities administered by or on behalf of CSNSW.

It also applies to all CSNSW employees, and where relevant to other personnel such as contractors, subcontractors, and visitors.

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1 Court matters

1.1 Appeals

Inmates are entitled to appeal against their sentences and/or convictions. A higher court hears the appeal and makes a determination. The *Notice of appeal* must be completed, in time to reach the court of conviction within 28 days of the date of sentence.

All convicted inmates must be advised of their right to appeal to a higher court, and that they may make an application for bail. This must occur either:

- during the reception process, or
- by the Functional Manager (FM) Accommodation when the inmate has been sentenced via audio visual link (AVL).

If the inmate says they want to lodge an appeal, they should be given the applicable appeal form. For example:

- if a self-represented inmate is applying for **bail** to the Supreme Court, they must complete the *Supreme Court NSW – Bail Application/Variation Application* form. The inmate should also be provided with a copy of the *Supreme Court NSW – Bail Facts Sheet*.

Note: if the inmate is represented, the inmate is to be advised that their legal practitioner must complete the form on their behalf.

- If an inmate is appealing a local court decision, they will need to complete a *Notice of Appeal to the District Court* form and a *Cover Sheet for Notices of Appeal to the District Court (request to waive fees)*
- If an inmate is appealing a local court decision outside after 28 days, they must complete an *Application for Leave to Appeal to the District Court* form

All appeal forms completed by an inmate must be sent to the local State Sentence Administration (SSA) unit for processing.

If an inmate's charges are dismissed on appeal, or the inmate is granted bail that can be met and they have no further detainers, their release must be processed without delay.

Further information, including the appeal forms for an inmate, is provided by the Office of Statewide Administration of Sentences and Orders (OSASO). This information is also contained in the *Inmate handbook*.

1.2 Procedures for processing inmate appeal requests

	Procedure	Responsibility
1.	Advise all convicted inmates of their right to appeal to a higher court during reception process (refer to COPP section 1.2 Reception – warrants and detainers). This procedure should also be followed when an inmate has been sentenced via AVL.	Authorised officer

	Procedure	Responsibility
2.	Provide applicable <i>appeal</i> form if an inmate asks to lodge an appeal.	Authorised officer
3.	Submit the completed form to SSA for processing. The inmate can be referred to a Services and Programs Officer (SAPO) for assistance to complete the form.	Authorised officer
4.	Process the appeal form. If the form has not been completed in full, it will be returned to the authorised officer to ask the inmate to complete it. Once completed, the form must be re-submitted to SSA for processing.	SSA FM/Authorised officer

1.3 Inmates unfit or unable to attend court

SSA is responsible for making sure the appropriate court is provided with information about inmates who are unfit or unable to attend court as soon as possible prior to the appearance date, where this is practicable.

Inmates may be unable to attend court for one of three reasons:

- unfit on medical grounds
- CSNSW unable to provide transportation
- inmate is required at a higher jurisdiction court.

In those cases where the inmate is unfit on medical grounds a *Non-attendance at court* form must be completed, scanned and emailed, with a medical certificate issued by JH&FMHN, to the Court by SSA (**refer to COPP section 6.1 JH&FMHN notifications**).

CSNSW may sometimes be unable to provide transport, and this may be due to distance between the correctional centre and court location and/or short notice is given by the court. When an inmate is unable to attend court for this reason for this reason, a *Non-attendance at court* form is to be completed, scanned and emailed to the Court by SSA.

When an inmate is required at a higher jurisdiction court on the same date, the *Non-attendance at court* form is to be completed, scanned and emailed to the lower Court by SSA.

Further information, including the relevant form, can be provided by the OSASO.

1.4 Bedside Courts

A bedside court may need to be convened if an inmate is hospitalised. If the inmate is in CSNSW custody (**refer to COPP section 1.2 Reception – warrants and detainers**).

The Registrar of the court will liaise with the presiding Magistrate who will determine whether to hold a bedside court or deal with the matter in chambers and issue CSNSW with a new Order.

Note: In those cases where an inmate is a new reception, Police Bail Refused (PBR) and has not been received into CSNSW custody (**refer to COPP section 23.1 Releases from police or court cells**).

2 Quick links

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

3 Definitions

Authorised officer	The officer authorised by the Governor to perform the functions set out in this part of the Custodial Operations Policy and Procedures.
AVL	Audio Visual Link
Correctional centre	Includes any police or court cell complex in which an offender is held in custody in accordance with the <i>Crimes (Administration of Sentences) Act 1999</i> .
CSNSW	Corrective Services NSW
FM	Functional Manager
JH&FMHN	Justice Health & Forensic Mental Health Network
OSASO	Office of Statewide Administration of Sentences and Orders
PBR	Police Bail Refused
SSA	State Sentence Administration

4 Document information

Business centre:	Custodial Operations	
Approver:	Kevin Corcoran	
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Version	Date	Reason for amendment
1.0		Initial publication (<i>Replaces section 8.2, 8.4 of the superseded Operations Procedures Manual</i>)
1.1	21/06/19	Amendment to 1.1 and forms regarding appeal and bail application forms.
1.2	12/03/20	General formatting update and improvements