

SECTION 6 – RELEASE OF INMATES FROM A CORRECTIONAL CENTRE

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6.1 RELEASE OF INMATES

6.1.1 Role of the Sentence Administration Officer

The role of the Sentence Administration officer is to make determinations as to the release of inmates from Corrective Services' custody.

By expert analysis of the information available to him/her from both Corrective Services and other official sources, he/she is responsible for identifying and processing all relevant documents to ensure the correct, lawful release of an inmate. The verification (as delegated) of the Sentence Administration officer of the inmate's eligibility for release provides the Manager of Security (or senior officer on duty) the necessary information to authorise the release of a person from a Corrective Services facility.

6.2 IDENTIFYING INMATES DUE FOR RELEASE

A sentenced inmate is eligible for release at the expiration of a sentence if there are no other sentences yet to expire and/or an order has been issued, authorising his/her release at the expiration of a non-parole period including those inmates in custody following a revocation order by the State Parole Authority. Note that they are not eligible for release if further outstanding matters are in existence and a remand warrant has been issued with bail refused or granted but not entered.

An unsentenced inmate is eligible for release at any time providing bail has been entered before an Authorised Officer as defined by the [Bail Act 1978](#) or bail is continued by the relevant court, a No-bill has been granted by DPP in relation to all charges pending or he/she is found not guilty.

Many releases will be identified in advance but on many occasions, an inmate's release will arise at short notice. In each case, Sentence Administration staff will be required to perform a range of checks to ensure the correct release of the inmate.

6.2.1 Identifying (In Advance) Inmates Due For Release

On Thursday of each week, Sentence Administration staff at each correctional centre are required to identify and compile a list of inmates who are due for release in the forthcoming 28 days.

A copy is to be forwarded to the relevant Centrelink office to assist in determining eligibility for, and payment of, Centrelink benefits upon release.

Further, a copy is to be provided to Justice Health by email to –

- Robyn.Gilmour@justicehealth.nsw.gov.au
- Meri.Ninic@justicehealth.nsw.gov.au
- Michael.MacPherson@justicehealth.nsw.gov.au

and by fax to Project Officer - Clinical and Nursing Services Justice Health on (02) 9700 3734. They will then be forwarded to the respective centres' Clinics to assist them determine post release medical treatment and medications.

This information may also be utilised by other units within Corrective Services to assist in post-release arrangements such as Inmate Transfers, Offender Services & Programs, Community Offender Services and Classification.

In compiling the weekly list, Sentence Administration staff are to visually check each inmate's warrant file documentation to ensure all potential issues are clarified, necessary arrangements are made and documents obtained to ensure the inmate is correctly released when eligible.

An OIMS report (Sentence Expiry Report) is available to identify all inmates which have a sentence expiring in the specified date range, irrespective of other detainers which may exist ([click here](#) for details on how to generate report). Sentence Administration staff are to perform a series of checks upon each name appearing on the report to confirm the inmate's eligibility for release.

[Click here](#) for details on how to check the Sentence Expiry Report to identify those inmates for release.

6.2.2 Identifying (On A Daily Basis) Inmates Due For Release

On a daily basis, Sentence Administration Unit staff are to include a list of those inmates identified as due for release on the daily Releases & Courts Movements List (weekly for centres that prepare weekly lists).

Using the same checks as outlined in Identifying In Advance Inmates Due for Release, Sentence Administration staff are to ensure eligibility of inmates for release and that all necessary orders and documents are on file. For the daily list, Sentence Administration staff both preparing and checking must also refer to the warrant file for each inmate appearing on the Sentence Expiry Report.

The checking officer must generate a separate Sentence Expiry Report to perform to identify the warrant files required to check.

Sentence Administration must forward all files and documents to the Reception Room/Intake Area by the close of business for those inmates due for release the following day.

6.2.3 Recording Parole Orders in OIMS

To assist identifying the release date for offenders who have been granted parole by the State Parole Authority or Commonwealth Attorney-General, the details of the order are to be recorded in the Schedule Temporary Absence screen.

The screen should accurately reflect the date for which parole has been granted as the details will appear on the Court Bookings Report of the identified date. If parole has been granted "no later than" a particular date, the latest date is to be used as the release date.

Instructions for completing the screen are included [here](#).

6.3 TIME OF RELEASE

An inmate's sentence expires at midnight of the day it expires. However, [Section 8\(1\) of the Crimes \(Administration of Sentences\) Act 1999](#) allows for inmates to be released at any time on that date.

The time of release is generally coordinated in accordance with the centre's routine. However, in determining an appropriate time of release, the centre must take into account any transport arrangements the inmate may have to allow them to be met.

It also means that inmates are not automatically entitled to be released at a time of their choosing. Approval for release at an earlier time than usually made at the centre is at the General Manager's discretion (as delegated). The General Manager may make a determination for any reason he/she deems relevant.

This provision does not apply to inmates who are being released to bail. In such cases, the inmate is to be released as soon as he/she has entered bail. An inmate may elect not to enter his bail until a more convenient date or time but a request must be made in writing to this effect.

6.4 DELAY OF DAY OF RELEASE

[Section 8\(2\) of the Crimes \(Administration of Sentences\) Act 1999](#) further specifies that if an inmate's sentence or non-parole period expires on a Saturday, Sunday or public holiday and he/she so requests, he/she may be held until the next day which is not a Saturday, Sunday or public holiday.

The inmate should make his/her request in writing (click [here](#) for template application) and a copy placed on the warrant file and a case note entered to this effect.

There is no provision for release on an earlier date.

If the inmate decides to withdraw the request he/she should be released immediately.

This provision does not apply to inmates who are being released to bail. In such cases, the inmate is to be released as soon as he/she has entered bail. An inmate may elect not to enter his bail until a more convenient date or time but a request must be made in writing to this effect.

6.5 DELAYING RELEASE FOR DUTY OF CARE REASONS

Unless an inmate requests to remain in custody as outlined in 6.4 Delay of Day of Release, he/she is to be released on the day of release as determined by the sentence or as soon as bail is entered.

Delaying an inmate's release for duty of care reasons is not permitted. If there are duty of care concerns about the release of the inmate, the Security Manager and the Manager of Offender Services & Programs should be advised in case any external support is to be arranged.

6.5.2 Offenders subject to Bonds or other non-custodial sentences following court appearance

If a good behaviour bond or other non-custodial sentence is imposed by a court and the offender is not subject to any other detainers, he/she is to be released as soon as possible. Despite any conditions made by the court in relation to the order, the Crimes (Sentencing Procedure) Act does not allow for a person to be detained once the order is imposed even if for "duty of care" reasons or the inmate requests in writing. To do so may make CSNSW liable to unlawful imprisonment proceedings.

This applies to court cells after an appearance in person or to correctional centres after an AVL appearance.

6.5.2.1 Offender Declining to Enter Bond

If an offender declines to enter their bond they are not to be further detained. The court is to be informed that the offender has declined to enter the bond and he/she is to be released from custody. The court may consider the refusal to enter the bond and deal with it as a possible breach.

6.6 INMATE FARES

6.6.1 Fares to place of residence

Inmates are entitled to financial assistance to meet the cost of travelling to their residence within New South Wales **where there is a demonstrated need** (e.g. the inmate does not have the finances or any other means of transport to his/her residence).

Inmates travelling interstate are entitled to fares to the nearest terminal (e.g. Central Railway Station or Mascot Airport).

Payments in excess of this entitlement may be authorised by the general manager (delegate) **where extenuating circumstances exist** and have been verified by an OS&P officer.

As a rule, cash money should only be provided to inmates for minor transport costs (e.g. local bus fares). In most cases, general manager (delegate) should arrange for an officer to either obtain a travel warrant or purchase the rail/bus ticket prior to an inmate being released.

(Refer to 11.1.13 – Operation Procedures Manual - Fares to place of residence)

6.7 AUTHORITY FOR RELEASE

Refer to this [table](#) for a summary of the different authorities which may authorise an inmate's release in relation to each sentence/remand type.

6.8 RELEASE EARLIER THAN RELEASE DATE

Inmates are generally to be released on the day their sentences or NPP's expire (subject to issue of respective orders). There is no provision for them to be released earlier unless in the circumstances outlined below but they may be released later as per [6.4](#) above.

Note that the Commonwealth Attorney General may issue a parole order authorising a Commonwealth inmate's release up to 30 days prior to expiry of the non-parole period. Refer to [Section 19AL](#) of the Commonwealth Crimes Act 1914.

6.8.1 Sentenced NSW Inmates

Pursuant to [Section 160 of the Crimes \(Administration of Sentences\) Act 1999](#), the State Parole Authority may order the release of any sentenced inmate who is serving a NSW fixed term (that is yet to expire) or a NSW sentence/NPP (where the NPP is yet to expire).

The State Parole Authority may make an order directing the release of an offender on parole who would not otherwise be eligible for release if the offender is dying or if the Parole Authority is satisfied it is necessary to release the offender on parole because of exceptional extenuating circumstances.

Applications for early release can be made by either the inmate or any other person on his/her behalf. They may be made directly to the State Parole Authority or through CSNSW. Prior to consideration, applications made directly to the State Parole Authority will be referred to the Senior Manager of Sentence Administration to process and obtain a recommendation from the Commissioner.

All applications should include any supporting documentation including medical reports or letters from family etc. The application is to be forwarded to the Senior Manager of Sentence Administration to prepare a submission to the Commissioner. If the application is on medical grounds, supporting documents must be obtained from Justice Health.

Justice Health has established a protocol to inform CSNSW of instances it has identified that should be considered for release under S160 on health grounds.

Upon receipt of any application, the Senior Manager is to notify the General Manager (GM) of the inmate's correctional centre location of the lodgement of the application. Comments by the GM may be sought or provided to assist in assessing the application.

In preparing the recommendation, the Senior Manager will prepare a submission to the Commissioner outlining the following information:-

- The inmate's condition and likely prognosis
- The offence and the circumstances surrounding its commission
- Time remaining to be served,
- Conduct whilst in custody
- General Manager comments if provided
- Relevant Judge's Remarks on Sentencing.
- Parole officer's report in relation to post release arrangements
- Other relevant information (eg supporting documents from relatives etc)

Following the Commissioner's recommendation, the application is to be forwarded to the State Parole Authority. The Commissioner's recommendation does not have to be followed by the SPA.

The Authority cannot consider those inmates subject to life sentences without a non-parole period, convicted under Commonwealth law or on remand.

If the inmate is also subject to current commonwealth sentences, a separate order from the Commonwealth Attorney-General is required.

If granted, a parole order will be issued. If the inmate's health is such that he/she is unable to sign the order, it should be noted but it does not affect the operation of the order.

A Release Checklist is to be prepared in the usual manner and the inmate released from OIMS using release code/reason "PAROL" with an accompanying comment that an order was issued under Section 160 of the Crimes (Administration of Sentences) Act 1999.

6.8.2 Commonwealth Inmates - Sentenced

If an inmate is serving a Commonwealth sentence, the Commonwealth Attorney-General may issue a licence under [S19AP](#) of the Commonwealth Crimes Act 1914 at any time prior to the expiry of the non-parole period if he/she is of the opinion that there are circumstances to warrant it. Inmates are subject to up to 5 years supervision or remainder of their sentence (whichever is the lesser) if released under such an order (an amendment to the Crimes Act 1914, to commence 4 October 2012, will vary this provision to the balance of the sentence in all cases). Click [here](#) for an example.

Licences under [S19AP](#) are generally issued in cases where extenuating circumstances exists, such as the extreme ill-health of an inmate. Another example may be when the person has cooperated with authorities in relation to other court proceedings.

Any such application must be referred to the Commonwealth Attorney-General's office, via the Senior Manager of Sentence Administration Branch with as much supporting detail as possible. A Commissioner's recommendation is not required for these submissions. The Attorney-General's office will prepare the formal submission to the Attorney-General for consideration.

Alternatively in some circumstances, a parole order under [S19AL](#) of the Commonwealth Crimes Act may be issued authorising release of the inmate up to 30 days prior to the expiry of the non-parole period. An example of when such an order is issued is when an inmate's NPP would expire on Christmas day, authorising his earlier release.

If the inmate is also subject to current state sentences, a separate order from the State Parole Authority is required.

6.8.3 Unsentenced Inmates – NSW and Commonwealth

If an inmate is in custody on a bail refused remand warrant or is unable to meet existing bail conditions and has exceptional extenuating circumstances, an application may be made to a court entitled to grant bail via the State or Commonwealth Department of Public Prosecutions or the Police Prosecutor.

The court may set bail conditions that would enable the release of the inmate or the DPP may decide not to proceed with the charges.

6.9 SECTION 77 ORDERS FOR INMATES BEING RELEASED

6.9.1 Inmates who have a [Section 77](#) order requiring their appearance at court on the day they are due for release

On occasions, an order under [Section 77 of the Crimes \(Administration of Sentences\) Act 1999](#) will be issued requiring the person's appearance at court on the day s/he is due for release from custody. If this occurs, the following steps must be taken:

The relevant court must be contacted at the earliest possible opportunity and no later than the day before the inmate is to be released and advised of the person's pending release. If the court does not require the inmate to be escorted to court (e.g. if the inmate is on continuing bail on the matter) a written advice to that effect must be obtained from the court.

In the absence of written advice from the court, the inmate is to be escorted to court in accordance with the terms of the [Section 77](#) order. The person should be returned to the correctional centre following his/her appearance and providing no further detainers emanate from the appearance, the inmate can then be released.

Corrective Services is legally authorised to detain an inmate until midnight on the day of release so it is appropriate that inmates be returned to the correctional centre for release rather than their property and valuables having to be transported to court.

If the inmate is appearing at a remote court and is not likely to be able to be returned to the correctional centre on the day of appearance, steps should be taken to release the inmate from the court if s/he is no longer required or has entered bail.

When contact is made with a court in such matters, the name of the court officer and the person's response must be clearly documented on the warrant file.

6.9.2 Inmates who have a [Section 77](#) order requiring their appearance on a day subsequent to their date of release

It is often the case that a person about to be released will have a [Section 77](#) order on file for a date subsequent to the date of release. The following steps must be taken in these cases.

The relevant court must be contacted at the earliest possible opportunity and no later than the day before the person is to be released. The court must be advised of the inmate's impending release and asked if it is intended to issue an order or warrant, which authorises the inmate's continued detention beyond his/her date of release.

Where possible, a written response from the court should be obtained and filed on the warrant file. In any event, the name of the court officer and the response must be noted and filed on the warrant file. In the absence of written advice from the court, an extract from JusticeLink would suffice.

If the court does not issue a further order, the inmate's release may proceed. However, it is important that proper communication be maintained with the court. If it is the intention of the court to issue a further order, it should be remembered that the inmate can be legally detained until midnight on the day of release pending the issue of further documentation if necessary.

The Sentence Administration Cluster Manager should be contacted for assistance if difficulties are being experienced with courts on this issue.

6.9.3 After hours release of Inmates who have outstanding [Section 77](#) orders on file

There are occasions when an inmate will be in a position to comply with his or her bail conditions after hours and it is not possible to contact the relevant court to make enquiries about an outstanding [Section 77](#) order. In these circumstances, the following steps must be taken:

In cases where an inmate is being released after hours (e.g. to bail) and it is not possible to contact the court, the inmate's release cannot be delayed.

On the next working day following the inmate's release from custody, written advice is to be forwarded to the relevant court of the date, time, and type of release along with a copy of the [Section 77](#) order.

The above procedures must also be followed in respect of any other outstanding orders which do not authorise an inmate's detention in custody but simply authorise his/her attendance at a court or tribunal.

6.10 RELEASE CHECKLISTS

The Release Checklist is the tool used by CSNSW staff to ensure all necessary checks have been performed prior to the release of an inmate.

There are two separate Release Checklists used by CSNSW when an inmate is being considered for release.

6.10.1 Release Checklist for Unsentenced Inmates Attending Court

As addressed in Section 4 of this Manual (Movements and Schedules), the [Release Checklist for Unsentenced Inmates Attending Court](#) is used to provide advice that no further charges exist and inmate is clear for release if no further detainers are issued.

6.10.2 Release Checklist from Correctional Centres

A [Release Checklist](#) is to be completed for all inmates being released to freedom from a correctional centre, whether sentenced or unsentenced. It outlines each of the steps to obtain information to make an accurate assessment as to the eligibility of an inmate for release.

The steps enable a cross check of source documents from the warrant file with information on OIMS. The information is prepared by a Sentence Administration staff member as close as possible to the inmate's release but should be confirmed and signed as correct no earlier than the working day before the actual release.

A separate, senior Sentence Administration officer is to verify the information provided. The completed checklist and all associated paperwork are to be provided to the Reception Room/Intake by the close of business of the working day prior to the release of the inmate.

The completed checklist is to be signed by the Manager of Security of the centre to authorise custodial staff to release the inmate.

Instructions for completing the Release Checklist – [click here](#).

6.10.3 Release Checklist for Inmates Transferred to Another Centre to Facilitate Release

Occasionally Inmates are required to be transferred from one Correctional Centre to another to facilitate their release from custody in accordance with conditions of Bail or Parole.

If there is a possibility the inmate will arrive at the receiving centre outside of normal business hours or there are no Sentence Administration staff on duty, a "Release Checklist" is to be prepared and verified prior to the Inmate being transferred.

The checklist should be attached to the front cover of the warrant file. It should be clearly endorsed within the "Notes" section identifying that Bail or Parole should be entered prior to release and the Correctional Centre that the Inmate should be released from.

Any other pertinent information should also be recorded in this section.

The sending Centre's SSA staff are also required to advise the receiving Centre's SSA staff of the pending transfer.

The receiving Centre is required to advise their Reception/Intake area of the pending transfer.

6.11 REGISTRABLE OFFENDER OBLIGATIONS

Under [Section 6 of the Child Protection \(Offenders Registration\) Act 2000](#), inmates who have been in custody for 14 days or more and have been identified as a Registrable Offender in terms of that act must be given written notice of his/her reporting obligations upon release.

Inmates for which this would be their initial reporting are generally required to report to a police station with 7 days of release.

Inmates already subject to a Registrable Offender Order are required to report to a police station with 28 days of release.

Confirmation of an offender's Registrable Offender status is to be obtained from the Registrable Offender screen in OIMS prior to releasing the inmate.

If an inmate is identified as a Registrable Offender, he/she is to be served with a [Notice under Section 6](#). The notice advises the inmate when to report to the police and what documentation they are required to bring, what information they are required to advise police, what happens if they want to leave New South Wales, special reporting arrangements if they have a disability and if changes occur in their circumstances.

Sentence Administration staff are to generate the Notice at the time of preparing the Release Checklist and provide to the releasing officers

A copy of the notice is to be retained on the warrant file and OIMS updated with details of the issuing officer and date and place of issue. A copy is to be faxed to the Child Protection Register on (02) 8835 8677.

Refusal or failure of the inmate to sign the notice does not negate his/her obligations under the act.

Failure to comply with obligations of this act may result in a fine of up to \$55,000 and/or imprisonment for up to 5 years.

6.11.1 OIMS Data Entry Instructions

Data entry instructions for OIMS Registrable Offender screen – click [here](#).

6.12 INMATES WITH IMMIGRATION ALERTS

[Commissioner's Instruction 02/2009](#) requires that inmates of interest to DIAC are to have their Immigration status checked with DIAC prior to release.

This should be performed by Sentence Administration Branch up to 3 months prior to the inmate's release date by running weekly reports.

If the inmate is liable to be removed, SAB will coordinate the removal process with DIAC's State Removal Team, update the OIMS alert and notify the Sentence Administration Team Leader and Classification and Case Management Review Coordinator where the inmate is held.

If the inmate is not liable for removal, the alert is to be updated accordingly. No further action will be required.

The Sentence Administration Team Leader is to further ensure that action is taken to liaise with the State Removal Team to coordinate release arrangements, particularly with a view to collection of the inmate upon release. This action should be undertaken in pre-preparing releases in advance.

An inmate with such an alert is not to be released unless approved to do so by the Executive Director Statewide Administration of Sentences and Orders or the relevant Sentence Administration Regional or Cluster Manager.

At the time of completing the Release Checklist, the Sentence Administration Unit at the inmate's centre is responsible for liaising with DIAC to clarify the inmate's liability to be held in Immigration custody upon release. In the absence of any response, details of all efforts made to clarify the liability are to be recorded in the notes section of the Release Checklist.

6.13 FOLLOW-UP ALL CHARGES WITH NO RESULTS AND UPDATING LEGAL STATUS

As part of the checking process for all releases, Sentence Administration staff are responsible for confirming the result of any offences/charges for which an appearance order has been entered on OIMS or the inmate has appealed and for which no result has been subsequently received or noted. The OIMS outcome or legal status is to be updated accordingly.

This is an important step to ensure there are no warrants yet to be received and/or entered onto the inmate's record and to ensure the OIMS record correctly reflects the inmate's detainers.

Information can generally be obtained from JusticeLink but further advice may be received from the court.

6.13.1 Outstanding Charges

The OIMS outcome for each offence is to be updated on a routine basis for every offence for which an inmate has appeared at court or if bail has been entered. There should be no "pending" outcomes in OIMS for any inmate being released.

6.13.2 **Appealed Sentences**

If an inmate is released to appeal bail from either a court or a correctional centre, the sentence/s to which the bail applies is to be discharged in the OIMS Legal Status screen (using DISA code) as it is no longer "Active".

If the appeal is upheld and the inmate is released, the OIMS record is to be updated within a working day of the outcome.

If no custodial warrant has been issued, an extract from Justice Link should be placed on the warrant file for confirmation.

Further OIMS instructions are available from the [OIMS Elite User Guide](#)

6.14 **RELEASE TYPES AND AUTHORITIES**

6.14.1 **Release of Sentenced Inmates**

6.14.1.1 Fixed terms (both NSW and Commonwealth inmates)

When an inmate is sentenced to term of imprisonment without a non-parole period the inmate must serve the term in its entirety and is released on the last day of the fixed term.

The type of release will be **Sentence expired (SENEX)**.

6.14.1.2 Sentences of up to (and including) 3 years with a non-parole period (NSW Sentences).

Inmates serving sentences up to (and including) 3 years with a specified non-parole period in relation to NSW legislation require the sentencing court to issue a parole order at the same time under [Section 50 of the Crimes \(Sentencing Procedure\) Act 1999](#). The parole order is to indicate if supervision of the offender whilst on parole is ordered and any other conditions have been imposed.

However, if an inmate is subject to a current Compulsory Drug Treatment Order, the Drug Court of NSW is responsible for issuing a parole order at the expiration of the non-parole period, irrespective of the length of the sentence.

Unless expressly stated otherwise, a parole order is taken to be supervised.

Sentence Administration staff are to ensure a parole order is received at the correctional centre at the time of sentencing. However, in the absence of an order at the time of preliminary checking, a request should be made to the responsible court for an order to be issued.

Should an order not be received, the relevant Sentence Administration Cluster or Regional Manager should be advised and further representations made.

As part of the checking process for releases to parole, Sentence Administration staff are to check the details of the Parole Decisions screen in OIMS to confirm that the

order has not been revoked prior to release or for any other information which may affect the inmate's release.

Unless the court has stated the parole order is unsupervised, reporting arrangements must be arranged by the probation and parole officer and 3 copies of them placed on the warrant file. The inmate is to sign all copies and retain 1 copy, a copy placed on the warrant file after release while the other copy is provided to the community offender service officer.

It is quite common for the arrangements to be signed prior to the release date, in which a case a copy of the arrangements will generally have been kept by community offender service officer.

6.14.1.3 Absence of Reporting Conditions

If no reporting arrangements have been prepared and supervision is required (quite common if sentence has been backdated), Sentence Administration staff are to prepare [generic reporting conditions](#), advising the inmate to report to the nearest Community Offender Services offices within 1 working day of his/her release.

The inmate must be informed that this is a legal order and failure to report may result in revocation of the parole order and his/her return to custody to serve the unexpired portion of the sentence.

The release of these inmates is recorded in OIMS as **PAROL** unless the order is unsupervised in which case it should be entered at **PARNs**.

6.14.1.4 Revocation of orders prior to release

Note that the State Parole Authority has the power to revoke an order issued by a court under [Section 50 of the Crimes \(Sentencing Procedure\) Act 1999](#) as above at the inmate's request, if the parole officer has concerns about his/her post release arrangement plans or if the inmate's behaviour in custody has been very poor.

Upon revocation the SPA will contact the Sentence Administration Unit at both the Correctional Centre and in Head Office to advise that the parole order has been revoked and that the order for revocation has been sent.

Head Office staff will confirm on OIMS that the Centre has been contacted and who was advised with reference to the Parole Decisions screen.

Upon receiving advice of a revocation in such circumstances, State Sentence Admin MUST undertake the following procedures:-

1. Contact both Classification Unit and Manager of Security and advise them of the revocation (insert case notes as to who and when advised).
2. Contact the Parole Unit and advise same.
3. Ensure that OIMS is updated. Place comment in Sentence.
4. Ensure order is placed on warrant file and parole order noted that it has been revoked prior to release and inmate is not to be released.

5. If release is imminent advise other areas of the revocation such as Inmate Accounts, Justice Health and CentreLink.
6. Remove inmate's name from release lists.

In such cases the parole order issued by the court becomes void and a new order must be issued by the State Parole Authority to authorise the inmate's release at any time prior to the expiration of the head sentence.

6.14.1.5 Sentences of up to (and including) 3 years with a recognizance (Commonwealth sentences)

Under Commonwealth law, if a court imposes a sentence of any length, it may make an order suspending execution of the sentence after certain period, at which stage the person is to be released on a bond, known as a recognizance order. *While a court may instead (and usually does) specify a non-parole period on a sentence over 3 years, it may only set a recognizance release on a sentence up and including 3 years.*

The order may include such conditions as the court sees fit. It may also require the offender to be on a bond for period (up to 5 years) which may exceed the balance of the sentence.

The order may further specify that the offender is to enter into a recognizance in the sum of a specified amount of money. The inmate is not required to deposit that amount but will be liable to do so if they breach their conditions.

Reporting conditions must also be prepared as above.

In OIMS, the type of release will be **Commonwealth recognizance (REFED)**.

6.14.1.6 Sentence greater than 3 years (including Life) with a non-parole period (NSW sentences)

If sentenced under NSW law to a term of imprisonment over 3 years with a non-parole period specified, the State Parole Authority may order under the [Crimes \(Administration of Sentences\) Act 1999](#) to authorise the offender's release at or after the expiration of the non-parole period and prior to the expiration of the head sentence. If it declines to issue an order, the inmate is not eligible for release.

The correctional centre must be in receipt of such an order to authorise the inmate's release to parole. All such orders will require supervision while on parole.

As part of the checking process for releases to parole, Sentence Administration staff are to check the details of the Parole Decisions screen in OIMS to confirm the issue of the parole order and that there not been subsequent variations to the order which may affect the inmate's release.

Reporting arrangements must be arranged by the parole officer and 3 copies of them placed on the warrant file. The inmate is to sign all copies and retain 1 copy, a copy placed on the warrant file after release while the other copy is provided to the parole officer.

It is quite common for the arrangements to be signed prior to the release date, in which a case a copy of the arrangements will generally have been kept by the parole officer.

If no reporting arrangements have been prepared, Sentence Administration staff should liaise with the local parole or community service officers to obtain. The inmate is not to be released without arrangements from a parole or community service officer. Where it has not been possible to obtain reporting arrangements, the Sentence Administration Cluster or Regional Manager is to be advised but the inmate not to be released until further notice.

The release of these inmates is recorded in OIMS as PAROL.

6.14.1.7 Parole not granted

If it does not grant parole, the State Parole Authority will express its intention to refuse parole and enter the details in the Parole Decision screen of OIMS. A review of the decision will be scheduled but if parole is not granted at that hearing, the next review hearing will not be for approximately another 12 months. The inmate will not be eligible for release until a further parole order is issued or the head sentence expires.

6.14.1.8 Sentence greater than 3 years with a non-parole period (Commonwealth sentences)

Refer to 6.14.1.3 for information if a recognizance release order is set on sentence over 3 years.

If sentenced under Commonwealth law to a sentence exceeding 3 years with a non-parole period the authorising release authority is the Commonwealth Attorney-General or Federal Minister for Home Affairs.

Under [S19AL](#) of the (Commonwealth) Crimes Act 1914, if the Commonwealth sentence is less than 10 years the Commonwealth Attorney-General or Federal Minister for Home Affairs **must** issue a parole order authorising the release to parole at the expiration of the NPP. (This provision will vary from 4-10-12 to allow for discretion as to whether to issue an order. From that date, the issue of all parole orders by the Attorney-General will be discretionary.)

The Commonwealth Attorney General may issue an order for release up to 30 days prior to the expiration of the NPP if he/she considers it appropriate to do so.

Even if the sentence is backdated to the extent that the non-parole period has expired, an order is to be issued.

In such circumstances, the Commonwealth Attorney-General's office in Canberra is to be contacted immediately for an order to be issued.

If the Commonwealth sentence is 10 years or more (including Life sentences), the Commonwealth Attorney-General **may** issue a parole order authorising the release to parole at the expiration of the NPP. The Commonwealth Attorney General may

issue an order for release up to 30 days prior to the expiration of the NPP if he/she considers it appropriate to do so.

If parole is refused for sentences of 10 years and over, an order to this effect will be issued.

Results of Commonwealth Attorney-General decisions are not recorded on OIMS.

Reporting arrangements must be arranged by a parole officer and 3 copies of them placed on the warrant file. The inmate is to sign all copies and retain 1 copy, a copy placed on the warrant file after release while the other copy is provided to the parole officer.

It is quite common for the arrangements to be signed prior to the release date, in which a case a copy of the arrangements will generally have been kept by the parole officer.

If no reporting arrangements have been prepared, Sentence Administration staff should liaise with the local parole or community service officer to obtain. The inmate is not to be released without arrangements from a probation and parole officer. Where it has not been possible to obtain reporting arrangements, the Sentence Administration Cluster or Regional Manager is to be advised but the inmate not to be released until further notice.

The type of release for OIMS will be **Commonwealth parole (PAROE)**.

6.14.1.9 Life with no non-parole period (NSW sentences)

An inmate sentenced to life imprisonment with no non-parole period must serve his/her full sentence in custody and cannot be released under any circumstances.

The type of release for OIMS will be **DECEA**.

6.14.2 Rescission of Revocation Orders

Upon review by the State Parole Authority of a revocation order made by it, a rescission of that order may be made. This applies to revocations of parole, home detention and periodic detention.

In effect, this means the offender is released to freedom under the terms of the order as it stood prior to the revocation, unless specified otherwise. Credit is given to the offender for time served in custody.

The State Parole Authority will issue an order in this format – [click here](#). On many occasions, the order will specify the inmate is to be released “as soon as possible” and further specify a date and time. The purpose of this is to allow time to prepare relevant post release arrangements and transport. However, if all requirements are satisfied and other release checks confirm the inmate’s eligibility, the release of inmate is not to be delayed, unless with his/her consent but is to be no later than that specified in the order.

The type of release for OIMS will be:

Parole Revocation –	PAROL
Periodic Detention Revocation -	DITPD
Home Detention Revocation -	HDRET

6.15 INMATES SUBJECT TO EXTENDED SUPERVISION OR DETENTION ORDERS

If an inmate is subject to an Extended Supervision or Detention Order (including interim orders), prior to release Sentence Administration staff must contact the Extended Supervision Order Team at Blacktown Sydney West Office, Level 2D, 13 Kildare Road Blacktown. The telephone number is: **9854 5200** and fax is: **9854 5207** or an email can be sent to ESO_Team_List@dcs.nsw.gov.au.

Advice as to any further release arrangements should be sought prior to the release of the inmate.

6.16 RELEASE FOLLOWING “NO BILL” DIRECTION

Occasionally, inmates may have outstanding matters that are yet to be dealt with by the Court (usually in the District or Supreme Courts) and for which the **Director of Public Prosecutions (DPP)** will give a direction that the matter is “NO BILLED” and no further action in regard to this matter is to proceed.

In normal circumstances it would occur when:

1. an inmate is serving a long sentence and has outstanding charges that he/she has plead not guilty to and if found guilty would not extend the sentence and is a waste of both the time and money of the judicial system; or
2. the matter has proceeded to trial and the jury has failed to agree on a verdict and the judge has remanded the accused in custody pending another trial. The DPP may be of the view that another jury is again unlikely to agree on a verdict; or
3. the inmate was found guilty in either the District or Supreme Court and at a later date the CCA overturned the result and directed that the matter be retried. However, due to the time already served in custody there is little to be gained by retrying the inmate.

Following consideration by the DPP, a direction will be given to the NSW Sheriff to advise Corrective Services that the matter has been “NO BILLED” and if there are no other detainers the inmate is to be released from custody.

The Sheriff will send a letter by fax to the Correctional Centre where the inmate is detained and a copy to Sentence Administration Branch for record purposes directing that if there are no other detainers the inmate is to be released forthwith.

Subject to the wording of the letter and if the inmate has no other detainers he/she is to be released without delay.

Sentence Administration staff are still required to go through the normal release process.

When checking both the Warrant file and OIMS it is extremely important to check that the charges that have been no billed are the same as the outstanding charges that Correctives Services is holding the inmate on.

In this regard it is necessary to check the following:

1. JusticeLink data base to ensure that they are all the same matters and none have been overlooked or are still to be heard.
2. The Criminal Registry where the matters are to be heard.
3. If there is still any doubt, the DPP.

Before the release (discharge checklist) is signed off it is to be checked by either the Cluster Manager or Regional Manager.

If the inmate cannot be released from custody due to other detainers both the Manager of Security and Classification are to be advised of the orders from the DPP so they may review his placement and or classification.

OIMS Release Code is – **SHERO** – Sheriffs Order

6.17 APPELLANTS

6.17.1 Remand Warrants for Appeal Matters

A remand warrant may sometimes be issued in relation to an appeal pending against a sentence matter. These are issued in the same format to other remand warrants and will also include a bail determination.

On some occasions, the warrant may still be current but the inmate's sentence to which it relates has previously expired. This should not affect the inmate's release eligibility.

If such circumstances exist, the court is to be advised of the situation and a request for the warrant to be cancelled should be made.

In the absence of any cancellation, the Cluster Manager and/or Regional Manager should ensure the warrant is in relation to an appeal against the relevant sentence (contact the court, check JusticeLink etc) and may authorise the inmate's release.

Sentence Administration staff must ensure the court is advised, for its information only, that the inmate has been released.

6.17.2 Release Checklists for Appellants Attending Court

If an inmate is attending court in relation to matters against which he/she has appealed, a [Release Checklist for Unsentenced Inmates Attending Court](#) is to be prepared.

The inmate is not to be sent as a Do Not Release inmate unless he/she has other current detainers not appealed against.

6.18 UNSENTENCED INMATES

Unsentenced inmates may be released either from a Correctional Centre or from Court (CESU).

If they are released from a Correctional Centre a Release Checklist must be compiled and if from a Court or CESU a [Release Checklist for Unsentenced Inmates Attending Court](#) is to be used. Note that this should have been prepared prior to the inmate attending court as per section 4 of this manual.

6.18.1 Procedure for unsentenced inmates being released from a Correctional Centre

Unsentenced inmates are in most cases released from a correctional centre to bail.

Bail conditions may already exist or are subsequently granted on application to the Supreme Court or other court.

Alternatively an inmate may have appeared by AVL at a court and has been found not guilty, guilty and a non-custodial sentence imposed (imprisonment, fines, bonds etc) or the DPP has no-billed his/her current charges.

Unsentenced inmates being released from a correctional centre are to be processed for release in the same as if they were a sentenced inmate except the release reason will vary.

6.19 BAIL PROCEDURES

Bail is authority to be at liberty for an offence. A person must undertake to appear at court as required and in many cases is a conditional liberty subject to conditions as imposed by the bail authority. The conditional liberty may be further secured by a deposit by the accused or an acceptable person of something of value or a promise to forfeit an amount of money should the accused fail to appear at court. Bail is granted pursuant to the provisions of the [Bail Act 2013](#) and [Bail Regulation 2014](#). If bail is granted the accused person is eligible for release and makes a [Bail Acknowledgment](#) to the conditions of their release. If bail is not granted or cannot be met, the person remains in custody until the matter is finalised.

6.19.1 Bail Decisions

Upon arrest, an authorised police officer may make a bail decision before the accused's first court appearance. Beyond that, the appropriate court must grant or

refuse bail. Officers with power to make a bail determination are known as 'bail authorities'.

In making a bail decision, the bail authority considers whether there are any unacceptable risks which include if the person may –

- Fail to appear at any proceedings for the offence
- Commit a further serious offence
- Endanger the safety of victims, individuals or the community, or
- Interfere with witnesses or evidence.

The bail authority considers the following matters in deciding whether there is an unacceptable risk.

- The accused's background, including criminal history, circumstances and community ties
- The nature and seriousness of the offence
- Whether the accused has a history of violence
- Whether the accused has previously committed a serious offence while on bail
- Whether the accused has a pattern of non-compliance with bail acknowledgements, AVOs, parole orders or good behaviour bonds
- The length of time the person is likely to spend in custody if bail is refused
- The likelihood of a custodial sentence for the offence
- If on appeal, the likelihood of success of the appeal
- Any special vulnerability or needs of the accused including being a youth or being an aboriginal or Torres Strait Islander or mental health impairment.
- The need for the person to be free to prepare for their court appearance or to obtain legal advice
- The need for the person to be free for any other lawful reason.

The bail authority may refuse bail or set bail conditionally or unconditionally taking into account the risks and accused's circumstances.

[Division 3 of Part 3 of the Bail Act 2013](#) allows the bail authority to impose –

- Conduct requirements which require the accused to do or refrain from doing anything. Examples include reporting to Police, residential conditions, curfew etc. If not complied with, the accused may be re-arrested and the bail revoked.
- Security conditions, which require the accused and/or acceptable persons to deposit or agree to forfeit security which may be surrendered if the accused fails to appear at court.
- Character Acknowledgment requirements where an acceptable person acknowledges they are acquainted with the accused and regards them as a responsible person likely to comply with their bail acknowledgment.

Failure to attend court on the date specified may result in the forfeiture of the security to the court. It is also an offence under [Section 79 of the Bail Act 2013](#) and a fine of up to \$3000 and/or 3 years imprisonment may be imposed.

6.19.2 Review of Bail

After a bail decision has been made, the defendant is eligible to apply for a review should they be unable to meet the conditions imposed, or, if bail has been refused. Details regarding applications for bail are included in Section 5 of this Manual (Inmate Applications).

6.19.3 Stay of Bail (Section 40 of the Bail Act 2013)

Section 5.9.2 of this manual outlines the provisions of Section 40 of the Bail Act 2013 where the prosecuting police or DPP may seek a review by the Supreme Court of a bail decision made by a magistrate or justice. Such an application stays the bail being entered until the matter has been reviewed or until 4pm, 3 business days after the original decision has been made. An application may only be made for offences of murder or others punishable by life imprisonment or offences involving sexual intercourse (including attempted) with a person under the age of 16 years.

The Crown or police will inform the court of their intention to seek a review by the Supreme Court and the court will make a notation on the warrant it issues. Sentence Administration staff must still enter the adjournment and bail details in OIMS but make a clear notation on the file that a stay of bail applies.

A stay of bail means that bail cannot be entered until the matter has been dealt with by the Supreme Court or withdrawn. Any person applying to act as surety in the matter should be advised that a stay applies. No action is to be made to enter anyone into bail in anticipation the matter is not varied.

Any decision made by the Supreme Court after its review will override the decision of the original court and advice will be forward to the centre for recording.

Click [here](#) for an example of a stay of bail notation on a warrant.

6.20 BAIL CONDITIONS

The bail conditions imposed will be included on the adjournment warrant issued by the court. The accused is required to undertake to appear at court as required and acknowledge the conditions of their release. Conditions identified as pre-release conditions must be satisfied before the accused can be released. . These are (only)

- A requirement to surrender a passport
- Security requirements
- Character acknowledgment requirements
- Accommodation requirements (persons under 18 only)

It should be noted that any breach of the conditions can result in the re-arrest of the accused and forfeiture of any security lodged if the accused fails to appear.

6.20.1 Entitlement to Release on Bail

Upon being granted bail, an accused person is entitled to be released providing the pre-release bail conditions have been met (subject to existence of any other detainers). If not already done by another appropriate officer, Corrective Services

delegated officers may make a determination as to the satisfaction of the conditions. Upon the conditions being satisfied the officer is to explain the conditions to the accused and acceptable person/s and ensure a copy of the conditions are signed and provided to all parties involved.

6.20.1.1 Inmates Seeking to Remain in Custody

For any reason, an inmate may decline to enter into his/her bail acknowledgment. An example may be the lack of transport or accommodation upon release, particularly if it is a late hour. In such circumstances, the adjournment order of the court remains the authority of CSNSW to detain the offender until he/she enters the bail acknowledgment. If a warrant has not been issued, the court should be contacted immediately to issue a warrant (*in some cases it will only have issued the bail acknowledgment, assuming the inmate would be released*).

If an inmate does not want to enter into the bail acknowledgment, he/she should complete [Undertaking by inmate remain in custody \(Bail\) form](#) to provide acknowledgement of their intentions.

6.20.2 Role of Corrective Services Officers

6.20.2.1 Appropriate Corrective Services Officers

[Section 95](#) of the Bail Act 2013 provides for officers of Corrective Services to enter accused persons and sureties into bail acknowledgments. Officers are known as *Appropriate Corrective Services Officers* and are as delegated by the Commissioner.

The delegation extends to

- ✓ Any Commissioned Officer.
- ✓ Any correctional officer of the rank of Senior Correctional Officer or above.
- ✓ Any correctional officer who is in charge of a correctional centre.
- ✓ Any correctional officer who is in charge of a Court Escort Security Unit.
- ✓ An Administration Manager of a Correctional Centre.
- ✓ A Sentence Administration Regional or Cluster Manager.
- ✓ Sentence Administration Team Leader.

* *Or any person acting in one of these positions at the time.*

6.20.2.2 Role of Appropriate Corrective Services Officers

The role of the officer is:

- 1) To assess the acceptability of any security lodged.
- 2) To assess the acceptability of an agreement by an acceptable person to forfeit an amount of money.
- 3) To assess the acceptability of any person seeking to be a surety.
- 4) To ensure all pre-release conditions are satisfied prior to releasing the accused person.
- 5) To explain the conditions to the offender.
- 6) To explain the conditions to the sureties.
- 7) To record all decisions as to acceptability of a surety.

Once an inmate has entered into his/her bail acknowledgment, he/she is entitled to be released immediately (subject to existence of other detainees). As a result, a decision to find a surety “unacceptable” or any other reason which may result in the continued detention of an inmate, the reasons for such a decision should be recorded.

6.20.3 Other Officers Who May Enter Persons into Bail

6.20.3.1 At a Court

An officer who enters sureties and/or accused persons into bail acknowledgments must be a Judge, Court Registrar or Assistant Registrar, Magistrate or Authorised Justice

6.20.3.2 At a Police Station

Any police officer with the power to grant bail may enter a person into bail at a police station.

6.21 ENTERING ACCUSED PERSONS INTO BAIL

6.21.1 Forms required

The Accused

When entering an accused person into bail, a [Bail Acknowledgment](#) is to be completed in full, including all charges to which it applies, the court location & date and the bail conditions.

Copies of the Bail Acknowledgment are to be provided to:

- the accused
- the court at which he/she is next to attend
- the court which granted bail (if different)
- retain a copy on the warrant file
- the relevant police station if accused is to report it
- the surety (if relevant).

Security Agreements

- 1) If an acceptable person is required to make a security agreement they first must complete an [Acceptable Person Form – Bail Security Agreement](#) to disclose information for consideration by the appropriate officer. The accused is not required to complete a similar form.

If the CSNSW appropriate declines to find the person acceptable, the reasons for doing so should be recorded on the form and placed on the warrant file. Guidelines for determining acceptability of persons and security is included below.

If found suitable, they may proceed to the next step.

- 2) If the accused or an acceptable person is required to make a security agreement they further must complete the relevant form –

Without Security –

Accused person - [Security Agreement – Accused Person – Forfeiture](#) form.

Acceptable person – [Security Agreement – Acceptable Person – Forfeiture](#) form

With Security (ie to deposit)

Accused person - [Security Agreement – Accused Person – Deposit](#) form.

Acceptable person – [Security Agreement – Acceptable Person – Deposit](#) form

Character Agreements

If a character acknowledgement is required, the acceptable person must complete and sign a [Character Acknowledgment](#) Form

The Appropriate Officer is to check the Bail Acknowledgment and other forms to ensure they reflect the bail conditions on the source document (usually the adjournment warrant).

See below table for summary of forms required

Forms required under Bail Act 2013 when entering bail

Bail Type	Bail Acknowledgment Form	Accused Security Agreement – Forfeit	Accused Security Agreement – Deposit	Acceptable Person – Character Acknowledgment	Acceptable Person Security Agreement - Forfeit	Acceptable Person Security Agreement - Deposit	Acceptable Person Application Form – Security*	Acceptable Person Application Form – Character*
Unconditional	Y	N	N	N	N	N	N	N
Self Bail – accused deposit	Y	N	Y	N	N	N	N	N
Self Bail – Accused Forfeit	Y	Y	N	N	N	N	N	N
Accused person – no conditions – Acceptable person - character acknowledgement only	Y	N	N	Y	N	N	N	Y
Accused person – conduct requirements and Acceptable Person – Character Acknowledgment	Y	N	N	Y	N	N	N	Y
Accused Forfeit & Acceptable Person Forfeit	Y	Y	N	N	Y	N	Y	N
Accused Forfeit & Acceptable Person Deposit	Y	Y	N	N	N	Y	Y	N
Accused Person – no security & Acceptable Person Forfeit	Y	N	N	N	Y	N	Y	N
Accused Person – no security & Acceptable Person Deposit	Y	N	N	N	N	Y	Y	N

*Not required to be sent to CSNSW for split bails

Explaining Conditions to Accused

The accused should be advised of the conditions of his/her bail and the penalties that apply for failing to appear. These are included on the Bail Acknowledgment Form.

Only after he/she indicates that he/she understands the conditions should he/she sign the Bail Acknowledgment form.

The officer entering the person into bail should then sign the relevant forms and ensure their name and title is legible.

6.21.2 Criteria

Some key guidelines do apply to allow someone to be found an acceptable person:

- Must be over 18 years of age.
- Must provide thorough proof of identity – with photo ID if at all possible.
- Must be an Australian permanent resident.
- Must not be affected by alcohol or other drugs.
- Must not be currently bankrupt.
- Must not be currently on parole, periodic or home detention or bail.
- Must not be the victim.
- Must know the accused person and believe that if released will obey conditions of the bail acknowledgment.

If a court has deemed a person as acceptable, there is no requirement for the surety to complete the form, except to confirm his/her identity details.

6.21.3 Security Agreements

6.21.3.1 Acceptable Persons

To secure an accused person's release on bail, the accused or an acceptable person (surety) may be required to deposit or agree to forfeit an amount of money or security. If the accused fails to comply with his/her bail conditions, the surety or the accused if required may then be liable for that amount.

6.21.3.2 Deposit Security

Where a person is required to agree to forfeit an amount of money **with security**, that person must actually deposit that amount of money (or acceptable non-cash goods to that amount) when entering the bail acknowledgment. A receipt must be issued and recorded on the Security Agreement Form.

The person must prove ownership of the money to the Appropriate Officers' satisfaction for it to be deemed acceptable. Depending on the amount of money, the following are examples of what could be provided in support.

- A bank statement or ATM slip from the bank indicating the account from where the money was drawn. The money should have been in the person's account for at least 5 days.
- A pay slip to the amount required.

When depositing security at a correctional centre, only cash (or bank cheque) can be accepted due to problems in determining value of non-cash items.

Non-cash security (eg title deeds) may be deposited at a court house or police station at the respective locations' discretion.

If the accused is required to deposit an amount, no proof is required.

6.21.3.3 Without Security (Agree to forfeit)

Conditions may require the accused and/or an acceptable person to agree to forfeit, without security, an amount of money if the accused fails to comply with his/her bail acknowledgment.

No deposit is required, only an acknowledgment on the respective Security Agreement forms that the person agrees to forfeit that amount if the bail conditions are not complied with.

However, the sureties must still prove to the Appropriate Officer entering them into the agreement that they have assets to that amount should they be required to forfeit that amount of money. Such proof should be sought for every agreement irrespective of the amount involved and recorded on the [Acceptable Person Form – Bail Security Agreement](#).

Where the accused is required to agree to forfeit an amount without security, no proof should be sought. The amount has been determined by the court, taking into account the accused's personal situation.

As in all related bail decisions, the Appropriate Officer has the final say in the acceptability of any aspect related to satisfying the conditions. However, the reasons for such a decision must be recorded if found not to be acceptable.

6.21.4 Satisfying Conduct Conditions

A court may specify a range of conduct conditions which the accused must comply with while on bail.

However, only if a court has deemed such a condition to be a pre-release condition may the accused's release be delayed. An example may be when a person is required to reside at a residential rehabilitation centre and

confirmation of accommodation is required prior to the accused being eligible for release.

If all pre-release conditions are complied with, the person is entitled to be released.

In releasing a person into the care of a person from a rehabilitation centre, staff must be satisfied with the person's authority to represent the organisation. This may be in the form of a letter of introduction or identification card.

If the appropriate officer identifies a particular anomaly with a conduct requirement, the accused should be advised to contact the court immediately upon release to rectify the anomaly. An example may be that an accused is required to reside at a particular address where it has been confirmed another resident has an Apprehended Violence Order (AVO) against the accused or even that the address does not exist.

In cases regarding AVO's, the accused should be advised to report to the police station upon release to clarify the matter and to make further application to the court for a change to the conditions.

6.21.5 Passports

The imposition of a condition requiring the surrendering of a passport is classed as a pre-release condition and must be satisfied before the accused may be released.

If an accused is required to surrender a passport, unless the conditions explicitly state that it may be surrendered after release from custody, he/she may not be released until all passports are surrendered.

In some cases the passport may be in the inmate's property so it may be surrendered directly at the centre. Where the passport cannot be located, the inmate should be advised of the circumstances. A phone call may be made on his/her behalf to a friend/relative/legal representative and the passport may be surrendered at a court house or police station.

If it still cannot be located or the accused claims they have no passport, the accused is given the opportunity to seek a variation to their bail conditions (via their legal rep if necessary).

When a passport is surrendered it should be forwarded by registered mail to the court where the accused is next to appear.

6.21.5.2 Passport and Other Documents Register

The details of each passport and other documents deposited at the centre in relation to a requirement of a bail condition or other reason are to be recorded in a Passport and Other Documents Surrendered to Court Houses Register.

All State Sentence Administration Units are to record these details in the dedicated TRIM document. A centralised document has been created for this purpose. It records:-

- Inmate Name
- MIN
- Date of receipt of passport etc
- Correctional Centre at which received
- Details of document – eg type of document, number, country of issue etc
- Details of disposal of document – ie court/police etc to which sent, date,
- Comments – eg courier used etc

6.22 SPLIT BAILS

[Clause 25 of the Bail Regulation 2014](#) allows for an acceptable person to enter into their agreement (to forfeit money etc) before any other authorised officer or court. This means that an acceptable is not required to attend the Correctional Centre to secure an inmate's release. This is called a "Split Bail".

The surety may enter into their agreement at any court house; police station or correctional centre which has an appropriate officer. They must sign and complete the respective information forms and security agreements as required.

If the court or police station contacts a centre to advise that a person is entering bail, it is good practice to ask the other location to request the acceptable person to wait until the document has been checked at the correctional centre.

Once the acceptable person has entered their agreement the Correctional Centre/Court Escort Security Complex will be advised and the offender may enter into his/her acknowledgment. He/she is then eligible for release, provided no other detainers exist.

The details must be verified with the place where the agreement was made to ensure that the bail was entered lawfully and the inmate is eligible for release.

The court or police station entering the bail may be contacted by email, fax or by phone. Either way, the details still need to be independently verified.

6.22.1 Preparing Bail Acknowledgments

When preparing the respective forms, the other location will provide a copy of the bail agreement for the accused person's signature. It is acceptable to utilise this copy for the such purposes.

When on duty, Sentence Administration staff are required to ensure the document is legible and accurate. If the document is of poor quality or information is incorrect, the other location is to be notified and a new form prepared.

The document is to be signed by the accused and the CSNSW Appropriate Officer in the required places on the form.

Special note must be taken if more than 1 adjournment warrant exists. In many cases, separate acknowledgments and deposits must be made.

6.22.2 Interstate Bails

A split bail **must** be entered in NSW unless the court setting the bail conditions has made arrangements with a court in another state for bail to be entered there ([Clause 42 of the Bail Regulation 2014](#)). If an inquiry is received from an interstate location regarding the entering of bail in the other state, they should be referred to the NSW court which set the bail conditions. The NSW court will then contact the centre where the inmate is located to advise the conditions have been satisfied.

6.22.3 Multiple Remand Warrants

When an accused has more than one matter pending before various courts and separate remand warrants have been issued, the accused is generally required to make separate bail agreements. An acceptable person is also required to make separate agreements so that the conditions of each matter are satisfied.

In some cases, particularly where 2 or more remand warrants have been issued from the same court on the same day, the court may be satisfied that one agreement satisfies all matters. This should be clarified with the court prior to entering any person into an acknowledgment.

When the Supreme Court grants bail, the conditions apply to all current matters, unless explicitly specified otherwise. Therefore, an acceptable person is only required to make one application and one lodgement of security (if applicable). However, they will still be required to sign separate bail acknowledgments as will the accused.

6.23 ENTERING BAIL

6.23.1 SUMMARY

Note - If bail has been granted and entered or self bail has been granted, the bail papers are to be processed immediately for the inmate to be entered into the conditions. This procedure is to apply even if the inmate is subject to any other detainer not subject to the bail conditions.

1. When a person attends a Correctional Centre/Court Cell Complex to bail an inmate, the intended surety should be made aware of the conditions and the requirements to satisfy the bail.
2. If they decide to continue, a preliminary check of their acceptability or acceptability of the security should be made before preparing the bail papers. This may save having to prepare bail papers if it is obvious the surety will not be an acceptable person. The ultimate decision is up to the Appropriate Officer entering the accused to bail.
3. If a "split bail" is being entered, an officer must contact the place where the bail was entered to verify the details. Only after the details have been verified may the bail go ahead. *If possible, the remote location should be requested to ask the surety to wait until clearance is provided.*
4. The necessary bail forms should be prepared for signature, with all particulars completed.

If a split bail, the details are to be confirmed at the other location.

If an acceptable person is required to acknowledge in writing that they are acquainted with the accused and they consider the accused a responsible person, likely to comply with his/her bail conditions, a Character Acknowledgment form should be completed by that acceptable person.

5. Checks should be made to ensure the additional conditions, such as the surrendering of passports or residing conditions have been or can be complied with. If an accused is required to be collected or assessed for placement at a drug rehabilitation place, for example, it should be confirmed that a place is available for the accused upon release.
6. If there is more than one current warrant applying to the offender, checks should also ensure that the bail conditions on all warrants are satisfied. In some cases this will require separate acknowledgments and deposits to be made.
7. The final decision as to whether the surety is actually acceptable is up to the Appropriate CSNSW Officer based on his/her own assessment. He/she must be totally satisfied as to the identity of the surety and the ownership of the security. The questions set out in the Acceptable Person Form – Bail Security Agreement provide guidelines for this decision. Reasons for not finding someone as "acceptable" should be recorded.

8. With the acceptability of all persons confirmed, the bail papers may be signed. Copies are to be given to each signatory, a copy retained on file and a copy forwarded to the court/s at which the inmate is next to appear.
9. The inmate may be released as per normal procedures, provided any other detainers have been satisfied.
10. A copy of the bail acknowledgment should be forwarded to the court at which the offender is to next appear as well as any deposited money and passports if applicable. *(It is not necessary to forward a copy of the bail papers to the Supreme Court if bail was granted by the SC for matters in other courts.)*

6.23.2 Disposal of Money or Documents Lodged

If cash or security has been deposited at a Correctional Centre to secure the release of an inmate on bail, the money is to be forwarded to the Court where the inmate is next to appear. It allows a prompt return of money to the acceptable person if he/she is subsequently entitled to it.

A copy of the bail acknowledgment should accompany a cheque for the deposited amount/s.

Where the inmate has surrendered documents such as passports etc, they should also be forwarded to the court at which he/she is next to appear in relation to the matter, unless specified that they be surrendered to a particular person.

When forwarding documents such as these they should be sent by registered or certified mail to guarantee their arrival.

A copy of the signed acknowledgment should accompany the document to court.

6.23.3 Bail on Appeal does not affect Child Protection Obligations

Lodgement of an appeal (and subsequent release to appeal bail while it is pending) against a conviction and/or sentence resulting in an offender becoming subject to Child Protection obligations does not affect an inmate's obligation to comply with an existing Child Protection Order.

In entering an inmate to bail who is subject to Child Protection obligations, the inmate should be provided with a copy of the Child Protection Notice with his bail acknowledgment and advised of his/her obligations under the [Child Protection \(Offenders Registration\) Act 2000](#).

Refer to [Section 3A\(4\) of the Child Protection \(Offenders Registration\) Act 2000](#).

6.23.4 Bail Acknowledgment Checklist

Split Bail (ie Where Acceptable Person enters Security Agreement or Character Acknowledgment at a Court House or Police Station and accused is held in a court cell complex or correctional centre)

1. Confirming Details with Distant Location

- 1.1. Verify independently from whom the advice has been sent
- 1.2. Confirm receipt of legible paperwork and strongly recommend that acceptable person waits for confirmation that all is in order
- 1.3. Check that bail agreement meets necessary conditions as appearing on warrant (all conditions will be entered in OIMS)
- 1.4. If an acceptable person is required to make a security deposit, ensure the ***Security Agreement – Acceptable Person – Deposit*** form has been completed and signed by both acceptable person and a Court Officer or Police Officer **AND** a receipt number for the security has been provided.
- 1.5. If an acceptable person is required to make a security agreement to agree to forfeit an amount of security ensure the ***Security Agreement – Acceptable Person – Forfeiture*** form has been completed and signed by both acceptable person and a Court Officer or Police Officer.
- 1.6. If an acceptable person is required to make a character acknowledgment ensure the ***Character Acknowledgment*** form has been completed and signed by both acceptable person and a Court Officer or Police Officer.
- 1.7. If security has been deposited at a distant location on behalf of the accused if the accused is required to deposit an amount, ensure a receipt is provided and the details recorded.
- 1.8. If all conditions have been satisfied, advise the distant location and the acceptable person may leave.

2. Preparing Necessary Documents for Accused Person to enter Bail Acknowledgment

- 2.1. From the warrant file, obtain the bail conditions and confirm they have been entered to OIMS Bail Screen
- 2.2. Generate a ***Bail Acknowledgment*** form from the OIMS Bail screen
- 2.3. If the conditions require the accused person to agree to forfeit an amount of security, generate a ***Security Agreement – Accused Person – Forfeiture*** form
- 2.4. If the conditions require the accused person to deposit an amount of security, ensure a receipt number is obtained – NB, in some cases, security may be lodged on behalf of the accused at a distant

location. Prepare a **Security Agreement – Accused Person – Deposit** form, recording details of the receipt on it, including if it has been lodged at a distant location.

- 2.5.** Prepare **Release Checklist** if accused is eligible for release with reference to warrant file and OIMS.

3. Entering Accused Person to Bail

- 3.1.** Explain **Bail Acknowledgment** to accused person –
- Court of Appearance and date
 - Conditions
 - Consequences of failing to appear and/or complying with conditions
- 3.2.** Accused Person to sign **Bail Acknowledgment**
- 3.3.** CSNSW Appropriate Officer to sign **Bail Acknowledgment** to certify accused person understood the bail acknowledgment
- 3.4.** Provide a copy of the **Bail Acknowledgment** to the accused person
- 3.5.** Accused is eligible for release if no other detainers exist – refer to **Release Checklist** prepared in 2.5 above.

4. Finalising the Paperwork

- 4.1.** Copy of bail acknowledgment and all other paperwork to be retained on warrant file
- 4.2.** Copy of signed Acknowledgment to be sent to court of next appearance by the end of the next business day.
- 4.3.** Any money deposited at a correctional centre to be forwarded to the court of next appearance.
- 4.4.** Copy to be sent to police station if accused required to report to police as part of his/her conditions.

6.24 RELEASE CERTIFICATES

The Manager of Security or OIC of the centre is responsible for the provision of a *Release Certificate* for inmates at the time of release from correctional centres, and also for Bail Granted Not Met inmates from court cells, and for endorsing the warrant file with the date/time of release.

All inmates, who have been in Corrective Services custody (including court cells) for more than 48 hours, are to be issued with a *Release Certificate*, as it is a vital form of identification for some inmates to obtain housing or financial assistance.

Certificates are generated from OIMS. Refer to Assistant Commissioner's Custodial Corrections Memorandum 2014/32 for instructions.

Released inmates who claim to have lost their *release certificate* should be directed to contact Sentence Administration Unit on (02) 8346-1310 to arrange for verification of incarceration.

6.25 OIMS DATA ENTRY

The OIMS data entry of the release event is to be performed by the Reception Room/Intake staff at the time of the event or as close to it as possible. Where it has not been possible to perform the data entry at the time of event, officers should ensure the correct date and time is entered.

Click [here](#) for instructions.

Sentence Administration staff are responsible for ensuring the accuracy of the data entry and corrections if necessary.

Should an entry require modification, the relevant Team Leader should be contacted to perform the amendment.

6.26 WARRANT FILE

6.26.1 TRIM

Sentence Administration staff should close the TRIM file with the correct date of release, reflecting the OIMS entry. Click [here](#) for instructions.

Any signed documents should be returned to the Sentence Administration Office then scanned and placed on the file using the naming conventions. Electronic copies of signed documents may then be emailed to the respective agencies.

6.26.2 Hard Copy Warrant File

The warrant file should be returned to the Sentence Administration office after the inmate has been released. Sentence Administration staff are to ensure all necessary documents are forwarded to the respective locations. Details of the release date, time and type are to be recorded on the front of the file and should correspond with that on OIMS

Once completed the file is to be archived and retained at the correctional centre until disposed by Corporate Records in accordance with the official Disposal Schedule of such documents.

6.27 PROCEDURE IF INMATE RELEASED IN ERROR

If it appears that an inmate may have been released in error, the matter is to be immediately referred to the relevant Sentence Administration Cluster Manager and/or Regional Manager for assessment and direction for further action.

Once confirmed there has been an erroneous release, in some cases it may be necessary to arrange the re-arrest of the inmate while others may be rectified administratively.

Under Sections 102 to 104 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#), an offender released in error may be arrested by a police officer, without a warrant, and taken before a court. The court will then order that the inmate be returned to a Correctional Centre to complete the period of imprisonment he/she was undergoing at the time of the release. The court must commit the offender to a Correctional Centre by issue of a warrant.

The following officers need to be advised so this action may be taken:

1. Sentence Administration Regional Manager.
2. General Manager of the Correctional Centre.
3. Regional Commander.
4. Executive Director, Office Statewide Administration of Sentences & Orders in Head Office.
5. Police
 - The police station closest to where it is suspected the offender may reside.
 - A brief outline of the circumstances and their power to arrest an offender under S102 to 104 of the Act should be provided to them.

Upon return to custody, Sentence Administration staff must ensure the OIMS booking is reactivated to ensure all relevant information is carried over. If this has not occurred, contact the relevant Sentence Administration Cluster Manager or Regional Manager to get the entry rectified.

Inmates released in error generally do not have their sentences extended for time at large.

Note. *Inmates of correctional centres who are unlawfully at large by escaping or breaching a leave permit or order may be arrested under [Section 39 of the Crimes \(Administration of Sentences\) Act 1999](#).*

6.28 PROCEDURE WHEN IT IS SUSPECTED AN INMATE'S SENTENCE HAS EARLIER EXPIRED

If it is suspected an inmate's sentence may have already expired and the inmate remains in custody the following action should be taken immediately:

1. Initially contact the Sentence Administration Regional Manager for clarification as to whether the inmate should be released.
2. If the inmate is to be released, it should be done immediately as per normal release procedures, including the completion of a Release Checklist.
3. The General Manager of the Correctional Centre should be advised of the circumstances of this incident.
4. The Regional Commander should also be advised as soon as possible.
5. A report outlining the situation is to be prepared and forwarded to the Sentence Administration Regional Manager.

6.29 ORDERS/WARRANTS RECEIVED AFTER AN INMATE HAS BEEN RELEASED

If a warrant/order that would detain an inmate is received after the inmate has been released from custody, the following steps are to be taken:

Immediately contact the relevant court by phone and advise the issuing officer or Clerk of the Court that the inmate has been released.

Immediately prepare written advice to the court of the time, date, and type of release and fax or email the advice along with the warrant/order back to the court. Follow-up action with court should be taken to verify receipt of advice.

Fax or email a copy of the warrant/order to the Sentence Administration Regional Manager and State Manager, State Sentence Administration to enable follow-up action with courts administration staff.

The inmate may be liable for re-arrest under the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#).

DOCUMENT HISTORY

Version	Date	Reference
1.0	26-11-09	First issue
1.1	20-11-10	1) Amendment to 6.8 and 6.8.2 to clarify that Commonwealth inmates may be granted parole up to 30 days prior to expiry of NPP or that a Licence under S19AP of Commonwealth Crimes Act 1914 may be issued. 2) Amendment to 6.2.1 varying Centrelink Release Reports parameters from those inmates with sentences expiring in next 3 weeks to 28 days
1.2	6-4-11	Adjustment made to 6.1.1, changing original power to authorise release of inmates from Regional Manager back to Managers of Security in line with OPM.
1.3	16-6-11	Sect 6.4 updated to include a form for inmates to complete seeking to remain in custody beyond release date if a weekend or PH (8.2 CAS Act) 6.20.1.1 added to provide a template form for inmates to complete if not wanting to enter a bail undertaking. 6.12 modified to identify SAU staff to followup with Immigration if inmate required for Immigration detention upon release if it has not been clarified prior to release.
1.4	26-7-11	6.10 New version of Discharge Checklist loaded with updated instructions for completion.
1.4	14-10-11	6.2.3 – included to require staff to record parole order details in Schedule Temp Absence screen so they appear on Court Bookings Report. 6.21.9 – Varied requirement to contact Consulates to determine existence of passports. Now contact police officer in charge of case or DPP. 6.19.3 – added to include information on stay of bail – S25A of Bail Act
1.5	17-5-12	6.2.1 – Updated to require all SAUs to provide Centrelink Report on a weekly basis for forthcoming 21 days on Thursdays.
1.6	27-7-12	6.8 updated with more information on processing applications for early parole under S160 6.14.1.8 updated with new parole provisions of Commonwealth Crimes Act 1914. 6.2.1 Updated to require Sentence Expiry Reports to be emailed and faxed to Robyn Gilmour at Justice Health. 6.10.3 Added Inmates Transferred to another centre to facilitate release 6.22.1 Preparing Bail Undertakings – updated to allow Sentence Admin staff to use faxed copies of bail undertakings to enter inmates to bail
1.7	24-9-12	6.23 Removed requirement to send copy of undertaking to Supreme Ct if SC granted bail
1.8	21-2-13	6.13 updated to require all OIMS outcomes to be updated for any offence with a “pending” outcome when being released to bail. Also, if released to appeal bail, the legal status of any ‘Active’ sentence is to be changed to DISA
1.9	22-5-13	6.21.9.1 added to require each Sent Admin Unit to record details of surrendered passports etc in central TRIM register
1.10	24-3-14	6.5.2 & 6.5.2.1 added to clarify that offenders who have

		had non-custodial sentences/orders imposed (including bonds) are not held for duty of care reasons or unwillingness to enter the order.
1.11	5-6-14	6.15 Updated contact details for ESO team following that unit's move to Blacktown on 2-6-14.
1.12	11-7-14	6.2.1 Justice Health email addresses updated to include new JH contacts to send CentreLink report to
1.13	17-7-14	References to Child Protection updated to "Registrable Offender" to differentiate the Registrable Offender information from Child Protection info in OIMS.
1.14	1-9-14	Centrelink report changed from being generated every 21 to every 28 days.
1.15	17-10-14	6.19 to 6.23 Procedures relating to bail updated to reflect the changes following implementation of Bail Act 2013. 6.24 updated to reflect new Release Certificate procedures.

NEXT REVIEW DATE

Ongoing