



Prisoner Entitlements Activities

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Custodial Operations Practice Directive

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Scope

1. Human Rights
2. Limitation of Human Rights
3. Meaningful Activities for Prisoners
4. Risk Assessment – Recreational and General Equipment
5. Development of Annual Structured Plan
6. Priority Groups
7. Prisoner Advisory Committees
8. Prisoner Participation
9. Art and Craft Program for Offenders
10. Prisoners Entering Art or Craftwork into Competitions, Exhibitions or Displays
11. Prisoners Handing Out Art and Craft Work
12. Gift of Art and Craft Work to an Individual
13. Donating Prisoner Art/Craft Work to the State
14. Disposal of Art and Craft Work

Official/Public





Custodial Operations Practice Directive

1. Human Rights

It is unlawful for corrective services officers to act or make decisions in a way that is not compatible with human rights, or in making a decision fail to give proper consideration to a human right relevant to the decision.

Giving proper consideration to human rights entails identifying human rights which may be relevant to a decision and considering whether the decision would be compatible with human rights.

A decision will be compatible with human rights when it does not limit a human right, or only limits a right to the extent that is reasonable and demonstrably justifiable.

Human rights which may be relevant include:

- a) freedom of expression;
- b) property rights;
- c) cultural rights – generally and for Aboriginal and Torres Strait Islander peoples; and
- d) the right to humane treatment when deprived of liberty.

2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justifiable, the following factors are relevant to consider:

- a) The nature of the human right – this involves looking at the purpose and underlying value of the human right. For example, property rights provides that a person must not be arbitrarily deprived of the person's property. Freedom of expression provides that a person has the freedom to seek, receive and impart information and ideas of all kinds, including by way of art and craft work.
- b) The nature of the purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, freedom of expression may be limited by the requirement to not create art and craft work that is deemed as inappropriate content within a corrective services facility environment.
- c) The relationship between the limitation and its purpose – this involves considering the rational connection between the limitation of the right, and whether this will actually help to achieve said purpose or legitimate aim. For example, the requirement to maintain community standards in the art and/craft work permitted is to maintain the safety and security of the corrective services facility.
- d) Whether there are any less restrictive and reasonably available ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way. For example, can the safety and security of the centre be maintained without limiting the content of the art/craft work?
- e) The importance between the purpose for the limitation and preserving the human right – this involves a balancing exercise of the benefits obtained by the limitation vs the harm caused to the human right. The greater the incursion of the right, the more important the purpose will need to be to justify the limitation. For example, does the importance of maintaining the safety and security of a corrective services facility by requiring the art/craft work to be within community standards outweigh the impact on the limitation to the freedom of expression?

A person's human rights should only be limited to the extent that is reasonably and demonstrably justified.





Custodial Operations Practice Directive

3. Meaningful Activities for Prisoners

The Chief Superintendent of a corrective services facility must provide prisoners access to meaningful activities which promote the positive use of a prisoner's leisure time.

A meaningful activity is an approved activity undertaken by a prisoner which may not be included in the prisoner's Progression Plan. The activity should engage the prisoner in a pro-social manner and promote a healthy lifestyle.

For example, a unit manager organises a table tennis tournament within the unit with the intention to constructively engage prisoners to interact with each other and supervising corrective services officers; or an activities officer schedules a regular supervised hobbies session in the gymnasium.

3.1 Approval of a meaningful activity

When determining whether to approve a meaningful activity, the following must be considered:

- the activity should be capable of being recorded/accountable;
- the activity can be individual or group participation;
- the activity should contribute to a prisoner's personal development;
- the activity should involve the acquisition of knowledge and skills;
- the activity should be socially appropriate and/or recreational; and
- the activity should encourage social responsibility.

4. Risk Assessment – Recreational and General Equipment

All recreational or general equipment available to prisoners must have a risk assessment completed and documented, prior to issue (including equipment provided in accommodation areas). The Chief Superintendent of a corrective services facility is responsible for the review and approval of the risk assessment.

For secure accommodation areas, refer to the Appendix PE10 Recreational Equipment for Prisoners in Secure Accommodation Areas.

Recreational and general equipment to satisfy legitimate needs is to be maintained and supplemented as required from the offender amenities account.

No free/loose weights are to be permitted in a corrective services facility.

Prisoners may access equipment and supplies for any approved hobbies. Hobby tools, implements and materials are to be accessed by prisoners in a controlled manner and in a controlled environment.

The risk assessment considerations for hobbies, art and craft works may include:

- safe use/return/disposal of sharps;
- exposure to dust, fumes, hazardous chemicals or substances; and
- known health condition of the prisoner that would prevent participation in an activity.

Potential risk controls which may be necessary to implement, depending on the nature of the activity, include:

- prisoners are instructed in the safe use of the equipment or chemical or substance supplied;
- prisoners are issued and trained in the use of Personal Protective Equipment (PPE) or Respiratory Protective Equipment (RPE) if required;





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

- access to Safety Data Sheets (SDS's) if hazardous chemicals or substances used; and
- first aid response available.

All prisoner worker safety incidents or workplace hazards are reported on the Safety, Health and Environment ([SHE](#)) system.

5. Development of Annual Structured Plan

A structured plan of meaningful activities must be developed at the commencement of each calendar year to provide for the delivery of recreational activities, approved hobbies and education aimed at encouraging prisoners to exercise and participate in a healthy lifestyle.

The plan should provide for all prisoners to have an opportunity to participate in at least one hour of meaningful activity per day, including group activities.

Supervision of prisoners by corrective services officers in secure facilities is to be provided for all sporting activities, inclusive of participation in gymnasium and oval.

The Manager, Offender Development is the responsible officer for ensuring the above occurs and the Chief Superintendent of a corrective services facility is the relevant officer for review and approval.

6. Priority Groups

Prisoners from identified priority groups should be given all reasonable opportunities to fully participate in prison activities suitable to their needs. Priority groups include:

- a) high risk prisoners;
- b) prisoners with a disability (including cognitive impairment and mental illness);
- c) youthful prisoners;
- d) Aboriginal and/or Torres Strait Islander prisoners; and
- e) female prisoners.

Meaningful activity is particularly important for prisoners with cognitive impairment whose level of functioning may prevent them from actively participating in intervention programs, education and/or employment.

7. Prisoner Advisory Committees

To engage prisoners and provide a process for them to have input into the corrective services facility's functioning and to promote positive communication between facility management and prisoners, a facility should have a Prisoner Advisory Committee. Refer to the Appendix PE12 Prisoner Advisory Committees.

8. Prisoner Participation

A record of prisoner participation in meaningful activities must be maintained in secure corrective services facilities. The record will include:

- a) types of activity participated in during the session;
- b) number of prisoners attending/participating in the activity; and
- c) hours of participation.





Prisoner Entitlements Activities

PE

Custodial Operations Practice Directive

Refer to the Administrative Form 43 Meaningful Activities Register.

Records must be updated on a daily basis by the relevant corrective services officer.

9. Art and Craft Program for Offenders

The Art and Craft Program for Offenders (ACPO) refers to the program by which Queensland Corrective Services (QCS) assists prisoners in the display of the art/craft work they have produced. Refer to the Administrative Form 44 Art/Craft Work Licence Agreement.

Each centre should maintain an Art and Craft Work Register. The register should record:

- canvases purchased (including a unique identification number given for each canvas, such as 01, 02, 03, etc. or 1A, 1B, 1C, etc.);
- canvases provided; and
- the prisoner's full name and Integrated Offender Management System (IOMS) number.

The prisoner's IOMS number and canvas identification number should also be recorded on the canvas.

Prisoners should be advised if they wish to cut up the canvas to create multiple smaller artworks they need to advise the issuing officer so the register can be updated and all pieces of material appropriately identified.

9.1 Roles and responsibilities

ACPO is managed by the Chief Superintendent of the corrective services facility.

The Cultural Liaison Officer, Cultural Development Officer and/or Activities Officer at the corrective services facility is responsible for developing, managing and delivering cultural and recreational art, craft and hobby activities to prisoners.

Art and craft work documentation must be completed at the relevant corrective services facility in consultation and negotiation with the artist, the Cultural Liaison Officer, Cultural Development Officer or Activities Officer, the Manager, Offender Development and the Chief Superintendent of the corrective services facility.

9.2 Dealing with prisoner art and craftwork

Section 27A of the *Corrective Services Act 2006* (CSA) defines *prisoner artwork* to mean any visual art, performing art or literature made or produced by a prisoner while the prisoner is in a corrective services facility. Craftworks made or produced by prisoners in a corrective services facility (e.g. damper or baked goods) which fall outside the definition of prisoner artwork contained in section 27A are to be dealt with in the same manner as prisoner artworks under this Custodial Operations Practice Directive (COPD).

Pursuant to section 28A of the CSA, while a prisoner is in a corrective services facility, the prisoner must not sell, give, give possession of, or otherwise dispose of the prisoner's artwork unless permitted to do so under sections 28B, 28C or 28D of the CSA.

These sections provide that a prisoner may:





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

Gift artwork to a person Under section 28B(1)(a)	Give a particular item of the prisoner's art or craftwork to a person as a gift with the approval of the Chief Executive or relevant delegate. Refer to section 12 Gift of Art and Craft Work of this COPD.
Donate artwork to the State Under section 28B(1)(b)	Donate one or more items of the prisoner's art or craftwork to the State. Refer to section 13 Donating Prisoner Art/Craft Work to the State of this COPD.
Give artwork to State or person to hold on their behalf Under section 28C(1)-(2)	Give a particular item of the prisoner's art or craftwork to another person, including the State, to hold on the prisoner's behalf with the written approval of the Chief Executive or relevant delegate. Persons who hold prisoner artworks under section 28C may be liable for any deliberate damage they make to that art or craftwork pursuant to section 28H(1)(b). Refer to section 11 Prisoners Handing Out Art and Craft Work of this COPD.
Dispose of artwork Under section 28D	Give the artwork to the State for the purpose of the State disposing of the artwork as agreed with the prisoner. If the prisoner gives the art or craftwork to the State under section 28D, the State is not liable for loss of, or damage to, the artwork while it is in the State's possession. See section 28H(2) of the CSA. Refer to section 14 Disposal of Art and Craft Work of this COPD and COPD Property: Management of Prisoner Property.

9.3 Cultural considerations

The specific cultural rights of Aboriginal and Torres Strait Islander peoples are protected under section 28 of the *Human Rights Act 2019*, including to enjoy, maintain, control, protect and develop their identity and cultural heritage, including their traditional knowledge, distinctive spiritual practices, observances, beliefs and teachings.

The creation of cultural artwork is an important method through which Aboriginal and Torres Strait Islander peoples enjoy, maintain, control, protect and develop their identity and cultural heritage. Consequently, particular care should be shown in ensuring that cultural artwork created by Aboriginal or Torres Strait Islander prisoners is dealt with in a culturally sensitive manner, and in compliance with the provisions of this COPD. Where possible, Cultural Liaison Officers should be involved to ensure prisoners know their rights with respect to their artwork, understand where it is stored and how it is being dealt with.



Official/Public



Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

When assisting prisoners with the management of their artwork in custody staff must:

- ensure the prisoner understands the nature of the management arrangement they are agreeing to with respect to any artwork they produce, e.g. that handing out artwork is a loan to another person while gifting it to someone results in the prisoner losing possession of the item; and
- ensure that the prisoner understands what intellectual and moral rights they possess as the creator of the artwork as detailed below.

9.4 Copyright

The copyright and intellectual property rights of art and craft work created by prisoners remain with the prisoner unless released by them through agreement.

Art/craft work is automatically protected by copyright when put in 'material form' (i.e. in a form where it could be reproduced by making a craft item, painting a picture, taking a picture or making an artwork in a digital form).

Copyright does not protect ideas, information, styles or techniques.

9.5 Moral rights

Moral rights relate to personal rights belonging to the creator of copyright works and cannot be transferred, assigned or sold.

The creator has the right to be attributed for their work, not to have their work falsely attributed and not to have their work treated in a derogatory way.

Any issues in relation to copyright, intellectual property and moral rights must be resolved prior to the art and craft work being subject to the ACPO.

9.6 Art and craft work retained by prisoners

When a prisoner completes art and craft work, details of the art and craft work must be recorded. A prisoner may choose to retain their art and craft work. Refer to the COPD Property: Management of Prisoner Property.

The Cultural Liaison Officer, Cultural Development Officer and/or Activities Officer or other nominated officer is responsible for tasks relating to the above. The delegate for any relevant review and approval is the Chief Superintendent.

If approved by the Chief Superintendent/Superintendent of the corrective services facility, prisoners may retain their completed art and craft work in their cell. Refer to the Administrative Form 4 Acknowledgement of Responsibility for Property.

10. Prisoners Entering Art or Craftwork into Competitions, Exhibitions or Displays

As a general rule, a prisoner must not enter an item of their art or craftwork into a competition, exhibition or display which requires that the prisoner sell their art/craftwork, or it is sold on their behalf as a condition of entry or participation, **unless** arrangements are made to ensure that their art or craftwork will not be sold on their behalf as part of the competition, exhibition or display.





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

An exception to the above may be the sale of donated prisoner art and craft work through an exhibition or display co-ordinated by the Chief Superintendent or Superintendent of the corrective services facility. However, such sales **are not** to be conducted on behalf of the prisoner artist. See subsection 13.1 of this Sale of Art and Craft Works to Employees and Engaged Services Providers of this COPD.

10.1 Prisoner's estate managed by the Public Trustee

If the Public Trustee manages a prisoner's estate, prior written consent must be obtained before the prisoner can provide their art and craft work for display or otherwise part with it.

10.2 Promotion of prisoner art and craft work

Art and craft work may only be displayed if the prisoner has completed the Agreement between the Administrative Form 45 Prisoner Artist and Queensland Corrective Services. This applies to all forms of exhibitions including those within a corrective services facility. When organising an exhibition refer to the Appendix PE11 Guidelines for the Organisation of an Exhibition.

It is the responsibility of the Chief Superintendent/Superintendent of the corrective services facility to ensure that art and craft work submitted for display does not contain material that:

- a) is offensive;
- b) is of a provocative nature, for example, racist;
- c) is sexually explicit; and/or
- d) depicts violent or threatening images.

At the conclusion of the exhibition/display the art/craft work will be returned to the prisoner unless the prisoner makes alternative arrangements as provided for in this COPD.

10.3 External exhibition/display of art and craft work through the Art and Craft Program for Offenders (ACPO)

A request for exhibition of art and craft work including participation in local community displays and exhibitions must be made to the Chief Superintendent/Superintendent of the corrective services facility using the Administrative Form 46 Request for Approval for Local Exhibition/Project/Initiative.

In order for a prisoner to participate, the relevant participant prisoners must also have completed an Administrative Form 45 Agreement Between the Prisoner Artist and Queensland Corrective Services, which states as part of the conditions that the artwork/craftwork is not to be listed for sale/sold.

In assessing the request, the Chief Superintendent of a corrective services facility must consider the prisoner's human rights including freedom of expression and cultural rights, the rehabilitative benefits of engaging in the ACPO and any potential re-victimisation of victims.

Exhibitions must be organised and co-ordinated through the Manager, Offender Development in consultation with the Chief Superintendent of the corrective services facility.

10.4 Centre-based arrangements for display at corrective services facility

The Chief Superintendent/Superintendent of the corrective services facility may authorise the display of prisoner art and craft work within public or general access areas of the facility using the Administrative Form 46 Request for Approval for Local Exhibition/Project/Initiative. This approval must occur prior to the event/exhibition.





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

The following applies to displayed art and craft work:

- All displayed art/craft work must be recorded in the prisoner's property.
- The corrective services facility must accept responsibility for safekeeping and liability for any damage or loss.
- Upon transfer to another corrective services facility or discharge of a prisoner, all attempts must be taken to ensure the art/craft work follows the prisoner.
- The prisoner may terminate the agreement at any time for any reason by completing the Administrative Form 45 Agreement between the Prisoner Artist and Queensland Corrective Services.

The Cultural Liaison Officer, Cultural Development Officer and/or Activities Officer or other nominated officer is responsible for oversight and documenting this process.

10.5 Government departments and other agencies

The display of art and craft work in the offices of other state Government departments and agencies is conditional upon the completion of an assessment as to the suitability of the proposed display area and terms for the safekeeping of art/craft work by the Manager, Offender Development in consultation with the Chief Superintendent/Superintendent of the corrective services facility.

The Chief Superintendent/Superintendent of the corrective services facility is responsible for ensuring the Administrative Form 47 Agreement Between Agencies for Displaying Prisoner Art and Craft Work is signed by the other agency.

In the event of loss or damage and/or at the conclusion of the display period an assessment must be conducted to determine the extent of any damage or loss.

The delegate for the review and approval of the assessment is the Chief Superintendent/Superintendent of the corrective services facility. Arrangements would need to be made for the prisoner to be compensated accordingly. These funds should be recovered by QCS from the displayer.

10.6 Prizes awarded to prisoners

Where a prisoner has been approved to enter their art or craftwork in a community-based competition and as a result is the recipient of a prize, the prisoner may receive the full benefit of that prize subject to the appropriate approvals as detailed below and provided the prize does not constitute a prohibited thing. This applies to both prize money and non-monetary prizes such as art materials. Refer to Appendix S1 Prohibited Things, section 123(1) of the CSA and section 19 of the Corrective Services Regulation 2017 (CSR).

If the prize is not monetary the Chief Superintendent or Superintendent of the corrective services facility must determine whether the prize is suitable for entry into the corrective services facility, should the prisoner wish to retain possession of the prize during their incarceration. Refer to section 43(1) of the CSR and COPD Property: Management of Prisoner Property.

In the circumstances where a prisoner is awarded a prize, and they do not/can not retain possession of the prize during their incarceration, they may also elect to:





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

Donate prize monies to the purchase of art materials	A prisoner may donate the proceeds of any prize to the purchase of art materials subject to the approval of the Chief Superintendent or Superintendent of the corrective services facility.
Give the prize to a nominated recipient	<p>A prisoner may give the prize to a nominated recipient subject to the approval of the Chief Superintendent or Superintendent of the corrective services facility.</p> <p>Refer to the COPD Property: Management of Prisoner Property and Administrative Form 5 Prisoner Property Handout.</p>
Request prize monies be deposited into their trust account	<p>Where a prisoner receives a monetary prize and wishes to have these funds deposited into their trust account, consideration should be given to the prohibition on prisoners having access to monies in excess of \$1000.</p> <p>Refer to the COPD Prisoner Entitlements: Prisoner Finances.</p>

10.6.1 Award of prizes where a prisoner's estate is being managed by Public Trustee

Where a prisoner's estate is being managed by the Public Trustee and if the prize is considered 'property' for the purposes of the *Public Trustee Act 1978*, then the Public Trustee should determine how the prize shall be managed.

The Public Trustee may provide consent for the prisoner to otherwise deal with the prize.

10.7 Limitation of liability

For art and craft work valued at greater than \$500 and handled for display and exhibition by QCS under the ACPO, the state of Queensland (through Queensland Corrective Services) provides a maximum liability of \$500 in circumstances where accidental damage and/or loss is sustained.

For art and craft work valued at less than \$500 the liability is limited to the value of the repair. The suitability of the proposed display areas is to be assessed by the Activities Officer (or other nominated officer at the corrective services facility through the Manager, Offender Development) prior to the display of the art and/or craft work. The extent of any damage or loss is to be assessed at the conclusion of the display period.

The delegate for the review and approval of the assessment is the Chief Superintendent/Superintendent of the corrective services facility.

11. Prisoners Handing Out Art and Craft Work

A prisoner may with the approval of the Chief Superintendent or Superintendent of a corrective services facility:

- hand out their art/craft work to another person for safekeeping; and/or
- make a gift of their art/craft work to another person.

Refer to sections 28B, 28C and 28D of the CSA.

Official/Public





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

The purpose of handing out the art and craft work is for the recipient to store the art and craft work until the prisoner is released.

The prisoner must apply in writing by submitting the Administrative Form 48 Art and Craft Work Handout Application and Receipt.

Before approving the handing out of the art and craft work the contact details of the nominated recipient must be confirmed and the nominated recipient must have completed part B of the Administrative Form 48 Art and Craft Work Handout Application and Receipt.

In deciding whether or not to approve the application, the Chief Superintendent/Superintendent must have regard to the prisoner's human rights, including (but not limited to) property rights and freedom of expression.

If the application is approved, art and craft work may be collected by the nominated recipient or sent to the nominated recipient at the prisoner artist's expense.

Where the nominated recipient has elected to collect the art or craft work from the corrective services facility directly, they must also complete part D of the Administrative Form 48 Art and Craft Work Handout Application and Receipt upon collection.

If the recipient no longer wishes to store the art and craft work they may advise the prisoner who is responsible for arranging the collection of the art and craft work.

The Chief Superintendent/Superintendent of the corrective services facility may make arrangements for the collection of the art and craft work at the prisoner's request. The cost of collecting the art and craft work will be deducted from the prisoner's trust account.

12. Gift of Art and Craft Work to an Individual

A prisoner may, with the approval of the Chief Superintendent/Superintendent, give an item of art and craft work to a person as a gift by completing the Administrative Form 50 Request to Gift Art/Craft Work. Refer to section 28B of the CSA. Staff must ensure the prisoner is aware gifting their art/craft work will result in them losing possession of the object and they will have no claim to it upon release from custody.

In deciding whether to approve for a gift the Chief Superintendent/Superintendent of the corrective services facility must consider the factors set out in section 28B(2) of the CSA.

In deciding whether or not to approve the art/craft work as a gift, the Chief Superintendent/Superintendent must have regard to the prisoner's and nominated recipient's human rights, including (but not limited to) property rights, freedom of expression and any cultural rights, where relevant.

The Chief Superintendent/Superintendent of a corrective services facility must not approve a gift from a prisoner to any of the following without first obtaining approval from the relevant Assistant Commissioner, Custodial Operations or such other appropriate delegate:

- a) an employee of QCS;
- b) an engaged service provider, or an employee of an engaged service provider;





Custodial Operations Practice Directive

- c) an organisation or agency providing a service to the corrective services facility, or an employee of any organisation or agency providing a service to the corrective services facility;
- d) an official visitor;
- e) a person who volunteers their services at the corrective services facility; or
- f) a prisoner at the same corrective services facility or different corrective services facility.

13. Donating Prisoner Art/Craft Work to the State

A prisoner may donate their art to the State, in accordance with section 28B(1)(b) of the CSA, by completing the Administrative Form 49 Request for Disposal or to Donate Art/Craft Work to the State.

13.1 Sale of art and craft works to employees and engaged service providers

An employee of QCS or an engaged service provider may only buy donated prisoner art and craft work through an exhibition or display co-ordinated by the Chief Superintendent/Superintendent of the corrective services facility. However, such sales can only occur with respect to donated art or craft works and **are not** to be conducted on behalf of the prisoner artist.

Any failure to comply with the procedure may constitute a breach of the Code of Conduct for the Queensland Public Service. Refer to the QCS Conflict of Interest Policy.

14. Disposal of Art and Craft Work

Pursuant to section 28D of the CSA a prisoner may give their artwork to QCS for the purpose of QCS disposing of the artwork and craftwork as agreed with the prisoner. Refer to the Administrative Form 49 Request for Disposal or to Donate Art/Craft Work to the State.

In circumstances where no agreement between QCS and the prisoner has been reached and that prisoner has been discharged from custody, prior to disposal of art and craft work all reasonable efforts must be made by the relevant centre to determine the whereabouts of a discharged prisoner (or a nominated beneficiary).

The Art and Craft Work Register should be updated to include a photograph of the art and craft work (front and back) with comments to record the attempts to make contact with the prisoner. Where these attempts are unsuccessful, attempts should then be made to contact the prisoner's primary contact person as recorded in IOMS and comment recorded in the Art and Craft Work Register.

Where the prisoner or primary contact are located, arrangements are to be made to collect the art and craft work from the centre, ensuring the prisoner or primary contact provide photographic identification upon collection. If an agreement is made to mail out the art and craft work, this must be done through registered mail with the mailing details recorded in the Art and Craft Work Register. If the art and craft work item is collected from the centre, the receipt portion of the Administrative Form 48 Art and Craft Work Handout Application and Receipt should be used.

Unclaimed art and craft work must be securely stored until they are disposed of through the Public Trustee.





Prisoner Entitlements Activities

PE

Custodial Operations Practice Directive

A reconciliation of the art/craft work held in the Art and Craft Work Register shall be undertaken at least annually by the officer responsible for maintaining the Art and Craft Work Register. The Chief Superintendent/Superintendent is responsible for the review and approval of the above processes.

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