

Control of Contraband and Physical Evidence	1
I. Definitions and Responsibilities	1
A. Contraband.....	1
B. Physical Evidence	2
C. Storage/Disposal	2
D. Screening/Identification	2
II. Contraband	2
A. Classification of Contraband.....	2
B. Control of Contraband	3
C. Disposal of Contraband	6
III. Physical Evidence	9
A. Obtaining Physical Evidence	9
B. Storage of Physical Evidence	9
C. Chain of Custody, Subpoena.....	10
D. Submission of Physical Evidence for Laboratory Analysis	10
E. Submission of Physical Evidence for Purpose of Court Exhibit	10
F. Disposition of Physical Evidence	10
IV. Documentation Requirements	11
A. Contraband/Evidence Tags	11
B. Contraband/Evidence Logs	12
V. References	13
VI. Action.....	14
Referenced Forms.....	15
Attachments	15

Section-04 Security	OP-040109	Page: 1	Effective Date: 07/16/2024
Contraband and Evidence	ACA Standards: 2-CO-3A-01, 5-ACI-3A-19, 5-ACI-3A-42, 5-ACI-3D-17, 5-ACI-7D-08, 4-ACRS-2C-01, 4-ACRS-2C-03, 4-APPFS-3B-11		
Steven Harpe, Director Oklahoma Department of Corrections		Signature on File	

Control of Contraband and Physical Evidence

The following standards for the prevention of the introduction, use and movement of contraband have been established. (2-CO-3A-01, 5-ACI-3A-19, 4-APPFS-3B-11)

I. Definitions and Responsibilities

A. Contraband

Contraband is any item or substance not authorized by the agency or law for possession by an inmate or any person. Contraband includes, but is not limited to, items in an inmate's possession, items intercepted by staff during an attempt to smuggle the items to an inmate at any location or into a facility, or items discovered in an inmate's living quarters or work area. All contraband will be confiscated.

Section-04 Security	OP-040109	Page: 2	Effective Date: 07/16/2024
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B. Physical Evidence

Items, including contraband, that tend to prove or disprove that a crime, rule, or condition violation has been committed. (5-ACI-3A-42)

C. Storage/Disposal

Each facility/unit head, the administrators of Probation and Parole Services and the Inspector General will ensure the safekeeping, storage, and disposal of contraband and physical evidence. Probation and Parole Services administrators may arrange for storage by a facility or with other law enforcement authorities. (5-ACI-3A-42 b#3, 4-ACRS-2C-03 b#3)

D. Screening/Identification

Each facility/unit will maintain a portable drug screening and identification system or have a written agreement with another facility or agency to provide such service. This does not apply to probation and parole regions or the office of the Inspector General (OIG). The screening and identification system will be capable of providing on-site identification of prescription and nonprescription drugs. Protective equipment such as gloves and a facemask will be used during the screening and identification process.

II. Contraband

A. Classification of Contraband

The facility/unit head, administrator and the Inspector General will ensure proper handling and disposal of contraband.

1. The categories of contraband for inmates/offenders are as follows:

- a. Drugs or pharmaceuticals;
- b. Drug paraphernalia;
- c. Alcohol;
- d. Weapons, ammunition or any item that may be used as a weapon;
- e. Altered, tampered, or stolen appliances (e.g., television sets, radios, stereos, recorders, fans, etc.);
- f. Wearing apparel, not permitted in accordance with [OP-030120](#) entitled "Inmate Property";

Section-04 Security	OP-040109	Page: 3	Effective Date: 07/16/2024
---------------------	-----------	---------	----------------------------

- g. Money or other commodities used for bartering or other unauthorized exchange (e.g., postage stamps, jewelry, etc.);
 - h. Tobacco, tobacco-like products and/or products used to consume tobacco products, as defined in [OP-150601](#) entitled "Tobacco Regulations," lighters, matches, pipes electronic cigarettes, vapor producing devices, cigarette papers and imitation tobacco;
 - i. Electronic communication devices, cellular or cordless telephones, computers, cell phone paraphernalia, camera or video equipment, SIM cards;
 - j. Another inmate's legal material; and
 - k. Other miscellaneous unauthorized items.
2. The categories of contraband for visitors are as follows:
- a. Drugs or pharmaceuticals;
 - b. Drug paraphernalia;
 - c. Alcohol;
 - d. Weapons, ammunition or any item that may be used as a weapon;
 - e. Unauthorized electronic communication devices, cellular or cordless telephones, computers, cell phone paraphernalia, camera or video equipment, SIM cards;
 - f. Wearing apparel not authorized in [OP-030118](#) entitled "Visitation";
 - g. Money in excess of amount allowed in [OP-030118](#) entitled "Visitation";
 - h. Tobacco, tobacco-like products and/or products used to consume tobacco products, as defined in [OP-150601](#) entitled "Tobacco Regulations," lighters, matches, pipes electronic cigarettes, vapor producing devices, cigarette papers and imitation tobacco; and
 - i. Other miscellaneous unauthorized items.
3. The categories of contraband for staff/volunteers are as follows:

Section-04 Security	OP-040109	Page: 3	Effective Date: 07/16/2024
---------------------	-----------	---------	----------------------------

- a. Drugs or pharmaceuticals, except as provided in [OP-110215](#) entitled “Rules Concerning the Individual Conduct of Employees”;
 - b. Drug paraphernalia;
 - c. Alcohol;
 - d. Unauthorized weapons;
 - e. Unauthorized electronic communication devices, cellular or cordless telephones, computers, cell phone paraphernalia, camera or video equipment, SIM cards;
 - f. Money over the amount authorized for employees by the facility/unit head;
 - g. Tobacco, tobacco-like products and/or products used to consume tobacco products, as defined in [OP-150601](#) entitled “Tobacco Regulations,” lighters, matches, pipes electronic cigarettes, vapor producing devices, cigarette papers and imitation tobacco; and
 - h. Other miscellaneous unauthorized items.
4. Confiscated contraband will be stored in a designated secure area prior to the end of shift unless the facility/unit head/administrator/ Inspector General approves the immediate transfer of contraband to other law enforcement officials. Contraband will be entered into the evidence-based software. Once entered, the software will print a label describing the contraband to include date seized and description. This tag will be affixed to the contraband. If transferred to local law enforcement, a photocopy of the contraband will be retained.
- a. Contraband will have a properly completed “Contraband/Evidence Tag Front” ([Attachment A](#), attached).
 - b. Drugs or pharmaceuticals will be identified by an agency approved drug screening and identification system and may also be sent to the Oklahoma State Bureau of Investigation (OSBI) lab or other lab for identification. Facility medical staff may also be used to identify suspected drugs or pharmaceuticals.

B. Control of Contraband

Section-04 Security	OP-040109	Page: 4	Effective Date: 07/16/2024
---------------------	-----------	---------	----------------------------

1. Preventive Measures

Preventive procedures for all security levels will be established, to include:

- a. Parcels, purses, briefcases, and similar items brought into a minimum, medium, or maximum security facility will be searched and/or prohibited.
- b. All containers brought in by employees will comply with [OP-110215](#) entitled "Rules Concerning the Individual Conduct of Employees."
- c. Visitors and employees are prohibited from bringing cellular phones/electronic communication devices into a facility with the exception of the following:
 - (1) Those employees authorized to be in possession of an electronic communication device in accordance with [OP-110215](#) entitled "Rules Concerning the Individual Conduct of Employees."
 - (2) Oklahoma State Bureau of Investigation (OSBI) agents when assisting the OIG in an active investigation.
 - (3) Oklahoma State Medical Examiners when conducting official business.
- d. All areas accessible to inmates will be thoroughly searched at least once per quarter. Additional searches of these areas will be conducted whenever necessary. (5-ACI-3A-19)
- e. Narcotics detection dogs will be used on a periodic basis. If the facility does not maintain a state-owned detection dog, a request will be sent to the canine program manager for assistance from a facility that does maintain a state-owned dog.
- f. Inmates on outside work crews at secure facilities will be searched upon return to the facility. Community corrections centers will conduct random searches of outside work crews. (5-ACI-3A-19)
- g. Facility telephones used by inmates will be monitored.

2. Confiscation Procedures

Section-04 Security	OP-040109	Page: 5	Effective Date: 07/16/2024
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Care will be taken to minimize employee and inmate injury during confiscation of contraband.

- a. Adequate employee backup will be in place prior to a planned search.
- b. If a facility employee observes an incident of contraband possession by an inmate, the employee will order the inmate to relinquish the item, and then order the inmate to step away.
 - (1) If the inmate attempts to swallow or flush the item, tries to leave the area with the item, or interferes in any other way with the confiscation, the employee will, when possible, immediately call for employee backup before attempting confiscation involving the use of force.
 - (2) Employees will not normally engage in a physical struggle with the inmate to retrieve contraband, unless the incident involves a planned use of force in accordance with [OP-050108](#) entitled "Use of Force Standards and Reportable Incidents."
 - (3) If the employee is unable to retrieve the contraband, measures including segregation or dry-cell placement, urinalysis, and/or issuance of an "Oklahoma Department of Corrections Offense Report" ([DOC 060125A](#)) will be used. The use of dry-cell placement or segregation to retrieve contraband will be authorized by the facility head or designee.
 - (4) Physical possession of the contraband is not required in order to proceed with the disciplinary process. The item may be described in detail in the body of the offense or the incident report attached to the offense report in lieu of the actual contraband item.
- c. If a probation and parole officer observes contraband possession by an offender and perceives the danger of violence, the officer may elect to call for backup before attempting to seize the contraband or arrest the offender. (4-APPFS-3B-11)
- d. Confiscation of any cellular telephones will be in accordance with "Seizure of Contraband Cellular Telephones" ([Attachment B](#), attached).

Section-04 Security	OP-040109	Page: 6	Effective Date: 07/16/2024
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C. Disposal of Contraband (5-ACI-7D-08)

Only the facility/unit head/administrator/Inspector General may approve the disposal of contraband after all administrative or judicial proceedings have been exhausted. Disposal may take place 30 days after final resolution. The disposal of the evidence will be documented in the evidence-based software. The manner of disposal along with date and time will also be documented. The disposal log signed by appointing authority will be attached to the record.

Disposal of any property of value, which is seized from a person other than an inmate will require approval by forfeiture petition from the district court. District court forfeiture prior to disposal will be obtained by a petition filed by the General Counsel. The facility/unit head/administrator/Inspector General will notify the General Counsel upon the seizure of contraband from a non-inmate, at which time the General Counsel may file a forfeiture petition.

Disposal of property seized and not subject to court proceedings will be as follows:

1. Drugs or Pharmaceuticals and Drug Paraphernalia

Marijuana, capsules, powders, liquids, drug paraphernalia, and all items classified under the Uniform Controlled Dangerous Substance Act of 1971, including raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, compounding, processing, or delivering any controlled dangerous substance, will be inventoried on forms provided by the OSBI (["Oklahoma State Bureau of Investigation Inventory of Drugs Submitted for Destruction and/or Other Items in OSBI Custody for Destruction"](#) form) and forwarded to the OSBI. Private prisons/contract facilities will obtain a memorandum of understanding with a local law enforcement agency to take custody and destroy these items.

2. Weapons and Ammunition

Confiscated firearms, unless transferred to another law enforcement agency to be used as evidence, will be given to the Inspector General for legal disposal. Other contraband usable as a weapon will be made inoperable and properly disposed. Unique or unusual weapons may be salvaged and used for educational purposes. Keeping of these items requires the written approval of the unit administrator/administrator of Institutions/Community Corrections as to location of storage and purpose. An inventory of these items will be maintained.

Section-04 Security	OP-040109	Page: 7	Effective Date: 07/16/2024
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3. Appliances

- a. Appliances with altered markings are not to remain at the facility. If able to identify the owner, the owner will be required to dispose of the item outlined in Section II. C. item 8. of this procedure.
- b. No item (except fans, televisions, and confiscated clothing or items donated by discharging inmates) will be given to an inmate other than the original owner, except as specified in [OP-030120](#) entitled "Inmate Property."
- c. Confiscated fans or televisions proven to be contraband and for which the true owner is unidentifiable will be marked by a unique facility identification number. The facility identification number will be used to track and account of the fan or television for inventory purposes.
 - (1) Fans or televisions given a facility identification number may be loaned to inmates who are unable to purchase them due to a lack of financial resources. Inmates with disabilities, and those with physical or mental health problems or who are elderly will be given first consideration.
 - (2) Prior to transferring or when no longer needed, the inmate will return the fan or television to facility/unit staff who will return the item to the property officer.
- d. Confiscated cellular telephones will be submitted to the OIG in accordance with [OP-040117](#) entitled "Investigations." Confiscated cellular telephones may be subject to forensic examination. The facility head will be advised of any intelligence recovered from the telephone prior to disposal.
 - (1) Pursuant to Oklahoma Statutes 57 O.S. § 21. and 57 O.S. § 510., the Inspector General will ensure disposal of confiscated cellular telephones.

4. Wearing Apparel

Disposition of excess or unauthorized personal property, which is seized from an inmate, will be disposed of in accordance with [OP-030120](#) entitled "Inmate Property." With approval of the facility/unit head, inmates not having personally owned clothing may receive a set of confiscated/donated clothing upon discharge.

Section-04 Security	OP-040109	Page: 8	Effective Date: 07/16/2024
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5. Money

- a. Money seized at a facility from an inmate will be deposited into the agency's clearing account (1131) with deposit information then forwarded by the facility to Budget and Planning within Business Services.
 - (1) Budget and Planning will transfer these funds from the clearing account to the Oklahoma Department of Corrections Revolving Fund (200).
 - (2) As an alternative to the above process, facilities may directly transfer these funds to Budget and Planning who will then deposit these funds into either the agency's clearing account for transfer to the agency's revolving fund or directly into the agency's revolving fund as appropriate.
- b. Money seized from a fraudulent transfer will be deposited into the agency's clearing account (1131) with deposit information then forwarded by the facility to Budget and Planning within Business Services. Budget and Planning will transfer these funds from the clearing account to the Oklahoma Department of Corrections Revolving Fund (200).

As an alternative to the above process, facilities may directly transfer these funds to Budget and Planning who will then deposit these funds into either the agency's clearing account for transfer to the agency's revolving fund or directly into the agency's revolving fund as appropriate.

- 6. Contraband stamps will be used on indigent mail to offset cost to the state of the indigent mail process.
- 7. Small electronic games, radios, MP3 players, clothing and other usable items not otherwise specifically addressed in this procedure will be disposed of through state surplus.
- 8. Other Miscellaneous Property
 - a. Contraband items obtained from an inmate, which are determined by the facility/unit head to be a threat to the safety or security of the facility may be destroyed by authorized staff.
 - b. An inmate may elect to have other contraband items appropriately disposed of by either sending it home or having

Section-04 Security	OP-040109	Page: 9	Effective Date: 07/16/2024
---------------------	-----------	---------	----------------------------

a visitor pick it up. An item may also be disposed of if the rightful owner cannot be determined.

- c. Contraband may be submitted for public auction through the agency by the facility/unit head. Monies earned will be deposited according to Section II. C. 5. item a. of this procedure.
- d. Unusual items may be retained for training purposes with approval of the administrator of institutions/community corrections.

III. Physical Evidence (5-ACI-3D-17)

A. Obtaining Physical Evidence (5-ACI-3A-42 b#2, 4-ACRS-2C-03 b#2)

Any evidence connected with an alleged criminal act will be handled as follows.

- 1. The evidence will be identified by a "Contraband/Evidence Tag Front" ([Attachment A](#), attached).
- 2. Evidence with a hard surface (such as knives, shanks, guns, etc.) will be tagged on the handle or pommel area. The person originally obtaining the evidence will initial or write an identifying number in an unobtrusive area for future identification.
- 3. Drugs or pharmaceuticals that may be used as a court exhibit will be analyzed as stated in Section I. item D. of this procedure.
- 4. Evidence prone to contamination will be appropriately bagged for preservation.
- 5. All staff handling evidence will do so with protective equipment. This equipment will consist of, at a minimum, gloves and a facemask. Staff involved in handling evidence will be limited to the minimal amount necessary to avoid mishandling and contamination.

B. Storage of Physical Evidence (5-ACI-3A-42 b#3, 4-ACRS-2C-03 b#3)

- 1. The facility/unit head/administrator/Inspector General will ensure proper security for the storage of evidence.
- 2. Physical evidence used in a parole revocation hearing or in a court of law, will not be stored with contraband but will be secured in a designated secured area prior to the end of shift. It will be stored in a metal, fireproof storage locker and may be transferred to the district attorney's office, local sheriff's department, or state/federal agency

investigating the incident. This will be documented in the evidence-based software.

C. Chain of Custody, Subpoena (5-ACI-3A-42 b#1, 4-ACRS-2C-03 b#1, 4-APPFS-3B-11)

Each person removing evidence from storage or possessing evidence at any time will complete the "Contraband/Evidence Chain of Custody Back" ([Attachment A](#), attached) and will be subject to a subpoena to testify in court regarding the possession of that evidence. Every time evidence is removed for any reason, documentation will be entered into the evidence-based software.

D. Submission of Physical Evidence for Laboratory Analysis

The procedures for submitting physical evidence to the OSBI laboratory for analysis will be as follows:

1. Each transfer of the evidence will be indicated on the "Contraband/Evidence Chain of Custody Back" ([Attachment A](#), attached), listing to whom the evidence was released and purpose of the transfer.
2. Only the amount of the item or substance needed for analysis will be submitted. The balance of the item or substance will be maintained in storage. A new chain of custody will be maintained on the analysis sample.
3. Any item or substance returned from an authorized laboratory will be placed back in the evidence storage according to the procedures for maintaining the chain of custody.

E. Submission of Physical Evidence for Purpose of Court Exhibit

At any time after the filing of a criminal charge, the facility/unit head/administrator/Inspector General or designee may be required to present the physical evidence to the appropriate district attorney. The surrender of evidence will be noted in the logbook, and the possession chain will cease unless the evidence is returned by the court having jurisdiction.

F. Disposition of Physical Evidence

Physical evidence will be disposed of after conclusion of any legal proceedings. Videotapes/digital recordings used as evidence of an incident will be kept for three years after the incident has been resolved before being disposed of, or erased for reuse. In the event an exhibit item is returned to

Section-04 Security	OP-040109	Page: 11	Effective Date: 07/16/2024
---------------------	-----------	----------	----------------------------

the facility after final adjudication, it will be maintained in storage a minimum of six months from the date of return. This disposition will be documented in the evidence-based software.

1. Biological evidence will be maintained according to Oklahoma State Statute, 22 O.S. § 1372.A., which states in part; "a criminal justice agency having possession or custody of biological evidence from a violent felony offense, as defined by 22 O.S. § 982.F., shall retain and preserve that biological evidence for such period of time as any individual convicted of that crime remains incarcerated."
2. After the required time has elapsed, the item will be submitted to the county sheriff having jurisdiction for proper disposal.
3. If the sheriff's department chooses not to accept the items, the facility/unit head or designee will dispose of the evidence.

IV. Documentation Requirements

A. Contraband/Evidence Tags (5-ACI-3A-42 b#1, 4-ACRS-2C-03 b#1)

Identification of either contraband or evidence will be identified on the printed document from the evidence-based software. This tag will be affixed to the evidence/contraband. The evidence-based software will maintain the following information:

1. Control log reference number;
2. Number of items seized;
3. Description of item(s) with any identifying marks;
4. Location where item(s) was seized;
5. Nature of crime/reason for seizure;
6. Date and time item(s) was seized;
7. Name of person who seized item(s);
8. Name of person from whom item(s) was seized (defendant/accused):
 - a. If an inmate/offender, also list ODOC number.
 - b. If other than inmate/offender, list name, date of birth, address, city, state, zip code, and social security number).

Section-04 Security	OP-040109	Page: 12	Effective Date: 07/16/2024
---------------------	-----------	----------	----------------------------

9. Witness/witnesses;
10. Printed name and signature of officer completing the tag; and
11. A record of the chain of custody to document each person handling the item(s). (5-ACI-3A-42 b#2, 4-ACRS-2C-03 b#2)

B. Contraband/Evidence Logs

Contraband and evidence logs will be maintained on the evidence-based software will contain the following information:

1. Original Logging Requirements
 - a. Control log reference number is automatically generated;
 - b. Number of items seized;
 - c. Description of item(s), including brand and model number(s) and any other identifying marks;
 - d. Location where item(s) was seized;
 - e. Nature of crime/reason for seizure;
 - f. Date and time item(s) was seized;
 - g. Name of person who seized item;
 - h. Name of person from whom item(s) was seized (defendant/accused):
 - (1) If an inmate, also list ODOC number.
 - (2) If civilian, list name, date of birth, address, city, state, zip code, and social security number; and
 - i. Date, time, and name of contraband/evidence custodian receiving the item(s).
2. Removal of Item(s)
 - a. Any time an item is removed from evidence or contraband area, an entry will be made in the evidence-based software with the person's name removing the item, purpose of removal, and date and time removed and returned. (5-ACI-3A-42 b#2, 4-ACRS-2C-03 b#2)

Section-04 Security	OP-040109	Page: 13	Effective Date: 07/16/2024
----------------------------	------------------	-----------------	-----------------------------------

- b. When the item(s) is ultimately disposed of, an entry will be made in the evidence based software listing date and time of removal, method of disposal, and name of person disposing of the item.

3. Log Storage and Auditing Requirements

- a. Facilities, probation and parole regions, and the OIG will maintain separate contraband and evidence logs which will be located on the evidence-based software. This software automatically backs itself up to a cloud-based server.
- b. The facility/unit head/administrator/Inspector General will ensure that an audit of the evidence log and contraband log is conducted at least quarterly. The audit will be conducted by someone other than the contraband/evidence custodian by reviewing all entries made in the log since the previous audit.

V. References

Policy Statement P-040100 entitled "Security Standards for the Oklahoma Department of Corrections"

Uniform Controlled Dangerous Substances Act of 1971
OP-030118 entitled "Visitation"

OP-030120 entitled "Inmate Property"

OP-040117 entitled "Investigations"

OP-050108 entitled "Use of Force Standards and Reportable Incidents"

OP-110215 entitled "Rules Concerning the Individual Conduct of Employees"

OP-150601 entitled "Tobacco Regulations"

22 O.S. § 982.F.

22 O.S. § 1372.A.

57 O.S. § 21.

57 O.S. § 510.

63 O.S. § 2-507. and 63 O.S. § 2-508.

Section-04 Security	OP-040109	Page: 14	Effective Date: 07/16/2024
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VI. Action

The chief administrator of Institutions/chief administrator of Community Corrections and Contract Services is responsible for compliance with this procedure.

The Inspector General is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: OP-040109 entitled "Control of Contraband and Physical Evidence" dated January 21, 2022

Distribution: Policy and Operations Manual (4-ACRS-2C-01)
Agency Website

Section-04 Security	OP-040109	Page: 15	Effective Date: 07/16/2024
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<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
OSBI Form	"OSBI Inventory of Drugs Submitted for Destruction Website Link and/or Other Items in OSBI Custody for Destruction"	osbi.ok.gov

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment A	"Contraband/Evidence Tag Front" "Contraband/Evidence Chain of Custody Back"	Attached
Attachment B	"Seizure of Contraband Cellular Telephones"	Attached

