

DEFINITIONS

CPS: Corrections Program Supervisor located at a Probation and Parole office.

Confiscate: To legally remove and/or seize property that violates the rules outlined in this directive and those directives referenced above.

Contraband: An item used by an inmate/offender in an unauthorized or prohibited manner or altered in any way; property in excess of allowable property limits; any item that an inmate/offender, staff person, volunteer, or contractor is not specifically authorized to have in their possession in a correctional facility or field site; and/or anything that can pose a danger or risk to the safety and security of staff, the facility, the field, or public.

Inmate: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is in custody at a Vermont Department of Corrections facility. For purposes of this directive, this includes pre-trial detainees.

Inmate Property Matrix: A listing of the type, quantity of the type, and quantity of personal and facility property authorized for an inmate to retain according to their classification.

Liability Limits: The limit of Vermont Department of Corrections liability for any single item of offender property that may be lost, stolen, damaged, or destroyed to an amount equal to the approved claim value of a single item up to \$50.

Offender: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is under the supervision of the Vermont Department of Corrections and supervised in the community.

Offender/Inmate Personal Property: All items of approved property belonging to, and properly acquired by, an inmate/offender.

Pro Se: One who represents oneself in a court proceeding without the assistance of a lawyer.

SOS: Security and Operations Supervisor located in correctional facilities.

PROCEDURAL GUIDELINES

1. Overview

Administrative Directive #321.01, *Offender/Inmate Property*, establishes in part the amount and type of personal property an inmate may retain in their possession and the volume of property a facility will maintain in secure storage. The directive also outlines an inmate's responsibility for maintaining their own property.

- a. The Department of Corrections will not be responsible for any property personally retained by the inmate which is lost, stolen, damaged, consumed, or discarded while in the inmate's possession.

- b. Due to an offender's return from community status to incarceration, items not allowed in the correctional facility per directive #321.01 will be confiscated by field staff and inventoried.
- c. An inmate/offender who claims to have personal property that has been lost, missing, or damaged due to Department of Corrections' negligence, should follow the procedures outlined in this directive.

2. Request for Investigation

- a. An inmate/offender who claims to have property that has been lost or damaged due to Vermont Department of Corrections negligence may initiate an investigation as follows:
 - i. Complete the top portion of the *Report of Lost or Damaged Property form (Attachment 1)* in this directive or *Attachment 8* in #321.01, *Inmate/Offender Property*, and submit it to the facility Security and Operations Supervisor (SOS) or field Corrections Program Supervisor (CPS);
 - ii. Attach all documentation proving ownership of the items lost or damaged;
 - iii. Submit a *Report of Lost or Damaged Property form* within seven (7) calendar days of the discovery of lost or damaged items to the facility SOS or field CPS where the loss or damage to property occurred.
- b. Facility only: The facility will attempt within reason to recover property stolen by other inmates. However, the facility will not be responsible for the reimbursement of those items unless it is proven through investigation to be based on Department of Corrections' negligence.
- c. The SOS or CPS must respond within fifteen (15) business days to an inmate/offender's request for an investigation, and bring the matter to a resolution. Day one (1) is the first business day after receipt of the request. If the allegation involves another correctional facility/field site, an additional (15) business days will be granted to investigate. The SOS or CPS will copy the *Report of Lost or Damaged Property form* and send it to the Assistant Superintendent.
 - i. A staff member who is a party to the "property" dispute shall not be assigned to investigate the dispute.
 - ii. Failure to respond within these time frames will require a report from the Assistant Superintendent or CPS to the Director of Facility Operations outlining the reasons why.
- d. If the investigation conducted by the SOS or CPS results in a resolution of the lost or damaged property report, and the inmate/offender is satisfied with the settlement offer, then the matter is concluded.
- e. If the allegation of lost or damaged property proves valid based on a staff person's negligence, compensation will be awarded to the inmate/offender.
- f. Compensation will be made to an inmate/offender in the form of an agreement to settle their claim of lost or damaged property. This agreement will be acknowledged by the inmate/offender's signature and a witness signature on the bottom of the *Report of Lost or Damaged Property form*.
- g. Payment will be made by check through the appropriate Business office once the agreement is signed and returned.

- h. Personal property to be compensated for shall be valued at replacement cost (not to exceed the \$50 limited liability for any one item) less depreciation. However, depreciation shall not exceed ninety percent (90%) of the item's limited liability value.
- i. If the initial investigation does not resolve the allegation of lost or damaged property, the inmate/offender may request a review of a disputed property claim by the Director of Policy Development and Offender Due Process and the Director of Facilities Operations or the Field Services Executive. This request does not constitute a filing of a "Small Claims Suit" with the Small Claims Court.
- j. If an inmate/offender requests a review of a disputed property claim, they should include with the appeal:
 - i. A letter requesting the review;
 - ii. A copy of the completed *Report of Lost or Damaged Property form*;
 - iii. All supporting documentation including:
 - a) Issued receipts for the property in dispute
 - b) Any proof of ownership
 - c) Any Release of Liability forms where applicable
 - d) Any other documentation an inmate/offender believes to be relevant.
- k. The Director of Policy Development and Offender Due Process will respond to the review within twenty (20) business days from the date that the inmate/offender submits their request for review.

3. Small Claims Court

An inmate/offender who believes that their allegation or claim of lost or damaged property has not been resolved appropriately may elect to sue in Small Claims Court.

- a. An inmate/offender may only file a small claims suit after first exhausting all administrative remedies and allowing the Department of Corrections the opportunity to review and investigate the claim.
- b. The Department of Corrections must issue a determination within ninety (90) days of the date on which the inmate/offender submitted their *Report of Lost or Damaged Property*, or the claim will be deemed granted.

4. Responsibilities of the Facility Superintendent

Each Superintendent will:

- a. Ensure that a copy of this Administrative Directive is in the facility law library and facility library, should there be one;
- b. Ensure that information contained in this directive is referenced in the facility Inmate Handbook;
- c. Ensure that all property claims of lost or damaged property are investigated in a timely manner;
- d. Represent their facility, or ensure that the Assistant Superintendent or SOS represents their facility and/or the Vermont Department of Corrections, on a pro se basis with Small Claims Court, pursuant to applicable Court rules.

5. Responsibilities of the Field District Manager

Each District Manager will:

- a. Ensure that a copy of this Administrative Directive is available to offenders supervised through a field office;
- b. Ensure that all property claims of lost or damaged property are investigated in a timely manner;
- c. Represent their field office, or ensure that the Corrections Program Supervisor represents the field office and/or the Vermont Department of Corrections, on a pro se basis with Small Claims Court, pursuant to applicable Court rules.

TRAINING

The Facility Superintendent or District Manager, or their designee, is responsible for ensuring that facility or field staff are trained in the provisions of this directive.

QUALITY ASSURANCE

The Director of Policy Development and Offender Due Process, in conjunction with the Director of Facility Operations, is responsible for developing and incorporating quality assurance procedures into the DOC Security and Compliance Audits.

