POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER 8.32	TOTAL PAGES 8
	RELATED ACA STANDARDS: 2-CO-3A-01; 5-ACI-3A-19, 20, 21, 42, 3D-17; 4-ALDF-2C-01, 04, 05, 06; 4-ACRS-2C-01, 02, 03, 04, 05, 06; 4-APPFS-3B-11	
CHAPTER: 8 ADMINISTRATION	**SUBJECT:** **CONTRABAND: SEARCH, SEIZURE AND DISPOSITION**	
APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE: March 31, 2024	**/s/ Terra Taylor**	
APPROVED FOR PUBLIC RELEASE		

I. AUTHORITY: 11 *Del. C.* §§1258, 6504, 6517, 6562A-B; 16 *Del. C. Ch.* 47; 29 *Del. C.* §8903

II. PURPOSE: To outline the general procedures for the searches of areas and persons to be used to control and detect the flow of contraband entering correctional institutions. Nothing herein shall, or is intended to, create any right or entitlement to privacy or freedom from search or seizure beyond that already required by the Federal and State Constitutions.

III. APPLICABILITY: All Department staff, contract staff, volunteers, persons, or organizations conducting business with the Department, and all offenders under the custody or supervision of the Department.

IV. DEFINITIONS:

Body Cavity Search: A manual or instrument inspection of an individual's body cavities including anus, vagina, mouth, ears, nose, etc. performed by medically trained professionals.

Contraband: Any intoxicating liquor or drug prohibited under Chapter 47 of Title 16, except as prescribed by a physician for medical treatment; tobacco, nicotine products, any money, without the knowledge or consent of the Department of Health and Social Services or the Department of Correction; or any deadly weapon or part thereof or any instrument or article which may be used to effect an escape. Items include, but are not limited to:

- Items not authorized by law or DOC policy to be in a facility, the grounds of a facility, a vehicle, a contract program area, or in an offender's possession;
- Items that are authorized by law or DOC policy, but used in an unauthorized or prohibited manner;
- Items that are authorized by law or DOC policy, but altered;
- Items that ownership cannot be established; or

- Any mobile phones, cellular telephone, or other prohibited electronic device of any kind.

Cisgender: A person whose gender identity (i.e., internal sense of feeling male or female) is the same as the person's assigned sex at birth.

Correctional Facility: Any institution or office owned or operated under the jurisdiction of the Department.

Dry Cell: A room that is not equipped with running water or facilities in which bodily waste can be disposed.

Frisk Search: A search where an officer runs their hands over the clothed body of an offender to determine whether the individual possesses contraband.

Natal Sex: Term that refers to a person's status as male, female, or intersex based on physical characteristics. Natal sex is usually assigned at birth based on the appearance of external genitalia.

Officer: Sworn staff member in the correctional officer or probation officer series responsible for the custody, safety, security, and supervision of offenders in a DOC facility.

Possession: On the person or under their control.

Reasonable Suspicion: Some objective manifestation that, under the totality of the circumstances, would lead a reasonable Officer to conclude that contraband may be discovered. This standard demands more than a hunch, but less than probable cause.

Strip Search: A search during which an individual is required to remove their clothing. All clothing is searched and then a visual inspection of the person's body cavity is performed to include anus, vagina, mouth, ears, nose, etc.

Trafficking: Illegal trade or exchange.

Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

V. POLICY: The control of weapons and contraband in correctional institutions is essential to the safety of all persons in a facility and the general public; therefore, it is the policy of the Department of Correction that the following procedures will be used in the detection and control of contraband.

VI. PROCEDURES:

A. Strip Searches

1. Strip searches will be conducted for security purposes only. The search shall never be done for punitive purposes or as a form of harassment.

2. Strip searches will not be conducted for the sole purpose of determining an offender's natal sex.

3. All offenders are subject to strip search when:

    a. Upon intake to the facility;
    b. The individual had contact with the public after initial commitment, such as an offsite court appearance or contact visit;
    c. Leaving to or returning from any activity outside of the secure confines of the facility;
    d. Placed on psychiatric close observation (PCO) status;
    e. In conjunction with random cell searches and scheduled facility shakedowns;
    f. When returning from areas that have controlled tool inventories such as Motor Pool, Kitchen, and Maintenance;
    g. Being placed in an administrative separation from general population;
    h. There is reasonable suspicion that contraband is present.

4. Strip searches will only be conducted by sworn Officers.

5. Strip searches will only be conducted on offenders who are committed to a Level V or Level IV facility. Probation Officers are not authorized to conduct strip searches on probationers in the community.

6. Strip searches of employees, volunteers, visitors, or persons conducting business within Department, shall be conducted only upon authorization from the Security Superintendent or higher authority.

7. When staffing permits, two (2) Officers will be present to conduct a strip search. Staff members should not have physical contact with offenders when conducting strip searches except in accordance with DOC 8.30 – Use of Force or to render health care assistance.

8. Strip searches of offenders shall be conducted by Officers of the same natal sex as the offender being searched, absent exigent circumstances or when the offender is intersex or identifies as transgender and alternate search preferences have been approved in accordance with DOC 8.60A – Treatment of Transgender and Intersex Persons.

9. In accordance with DOC 8.60A -Treatment of Transgender and Intersex Persons, strip searches of transgender or intersex offenders will be conducted by an officer of the gender indicated on the offender's DOC Identification Card, except when 1) exigent circumstances exist, 2) there is no officer of the preferred gender available to conduct the search and delay would compromise institutional safety and security, or 3) failure to conduct an immediate search would jeopardize the safety of staff or offenders.

10. When a strip search is not conducted in accordance with the offender's preferences as indicated on the offender's DOC identification card, the Shift Commander will be notified and the Officer performing the search shall complete an incident report documenting the reason for the search and why the preference was not honored.

11. Offenders will open their mouths, lift their tongues, run the finger along the upper and lower gum line, and roll each lip for inspection.

12. Offenders will be required to remove all feminine hygiene products.

13. Offenders will be required to squat, cough, bend over, and spread buttocks for inspection.

    a. Pregnant offenders must be provided with accommodations or supports to prevent the risk of falls.

14. All medical bandages will be removed and inspected, in consultation with medical staff.

15. If applicable, offenders will lift their penis and testicles to provide a clear view of the groin area.

16. If applicable, offenders will lift and separate the breasts for inspection.

17. The following search plan shall be followed when conducting a strip search. After the individual removes their clothing, the Officer will examine:

    a. Pockets;
    b. Linings, seams, collars, cuffs, waistbands, and fly;
    c. Socks, shoes, including soles and heels;
    d. False teeth, artificial limbs, soft and plaster casts, and prosthesis;
    e. Hair, wigs, and hairpieces;
    f. Ears, nose, mouth, under arms, skin folds, hands, fingers, feet, and toes;
    g. All genitalia including penis, testicles, anus, groin, breast areas, and vagina (free of any feminine hygiene products).

B. Frisk Searches

1. Frisk searches may be conducted at random on any individual for the purposes of controlling contraband.

2. Frisk searches of transgender or intersex offenders committed to Level V or Level IV facilities will be conducted by an officer of the gender indicated on the offender's DOC Identification Card, or by a female officer, except when 1) exigent circumstances exist, 2) there is no female officer or officer of the preferred gender readily available to conduct the search and delay would compromise institutional safety and security or interfere with the flow of facility operations, or 3) failure to conduct an immediate search would jeopardize the safety of staff or offenders.

    a. When a frisk search is not conducted in accordance with the offender's preferences as indicated on the offender's DOC identification card or by a female Officer, the Shift Commander will be notified and the Officer performing the search shall complete an incident report documenting the reason for the search and why the search was not completed according to the preference or by a female Officer.

3. Frisk searches of male offenders committed to Level V or Level IV facilities may be conducted by a male or female officer unless an alternate search preference has been approved in accordance with DOC 8.60A – Treatment of Transgender and Intersex Persons.

    a. Frisk searches of male offenders committed to Level V or Level IV facilities should be conducted by male officers whenever possible, unless an alternate search preference has been approved in accordance with DOC 8.60A – Treatment of Transgender and Intersex Persons.
    b. Female officers conducting frisk searches of male offenders committed to Level V or Level IV facilities shall do so in accordance with their training on cross-gender searches (using the back of the hand).

4. Frisk searches of male offenders under Probation and Parole Supervision shall only be conducted by male officers absent exigent circumstances.

    a. When a frisk search of a male offender is not conducted by a male officer, the search shall be conducted as a cross-gender search (using the back of the hand) and an incident report documenting the reason for the search and the exigent circumstances that existed must be completed.

5. Frisk searches of female offenders shall only be conducted by female officers, absent exigent circumstances.

    a. When a frisk search of a female offender is not conducted by a female officer, the search shall be conducted as a cross-gender search (using the back of the hand) and an incident report documenting the reason for the search and the exigent circumstances that existed must be completed.

6. The following search plan shall be used when conducting a frisk search:

    a. Officer will require that all items will be removed from pockets and placed in an area away from the search.

b. Officer will require the individual to stand still, with feet apart, arms outward, and facing away from the Officer.
c. Officer begins the search by running their fingers carefully over the collar of the individual's shirt and/or jacket, feeling for contraband.
d. The Officer will move their hands downward over the shoulders and under the armpits using both hands, and then move down each arm.
e. The Officer will run hands over offender's chest, back and sides of the torso, stopping at the waistline.
f. The Officer will check the waistline by running fingers around the inside of the waistband and belt, checking for any hidden articles.
g. The Officer will start at the top of the thigh in the groin area, move down all sides of each leg and check pants' cuffs, and then inspect shoes, and remove if appropriate.
h. The Officer will run their hands over the offender's abdomen and groin area carefully, feeling for articles which might be concealed in this area.
i. Officer will inspect all items taken from the offender, being conscious of baggy clothing.

C. Area Searches

1. Area searches will be performed unannounced on an irregular basis and scheduled as part of a planned shakedown.

2. Search areas may include:

    a. Cells/Rooms/Dorms
    b. Work areas
    c. Common areas
    d. Visiting rooms
    e. Vehicles

D. Searches for Ingested Drugs or Contraband

1. This section of policy will be added to the post orders of all posts that include or could include observation of offenders suspected of ingesting drugs or contraband.

2. If there is reasonable suspicion that an offender has ingested drugs or other contraband, the offender will be separately housed in a dry cell. The Warden or designee verbally communicates to the offender the reason for being placed. No formal hearing on the matter is required. Documentation will be completed and placed in the unit logbook.

3. Offender will be held for a period of time to allow passage of the drugs/ contraband out of the body by natural functions. Usually, this period is not more than 72 hours. During this period, the offender will only have contact with staff and medical personnel.

4. The medical condition of the offender will be checked by authorized medical personnel at the beginning of the isolation period and at least every two (2) hours (or as frequently as deemed medically necessary by the medical care provider) until the time period is complete. The results of each medical check will be noted in the unit log. The offender will be prevented during this period from disposing of the suspected drugs or contraband by flushing away body waste. All body waste produced by the offender will be collected by medical staff.

5. The method of search of all body waste collected will be as follows:

    a. Body waste will be placed on a flat surface protected from drainage or spillage.
    b. Body waste will be searched for drug balloons or contraband packages with a flat stick, tongue depressor, or other suitable instrument.
    c. Personnel searching body waste will wear gloves, masks, and aprons or other suitable protective gear so that no contact is made with any body waste.
    d. If any suspicious item is found in the body waste, it will be separated from the waste and retained.
    e. At the completion of the search, after all suspicious items have been removed from the body waste, the remainder will be flushed into a toilet. Any materials used in the search that cannot be cleaned and recycled will be disposed of as medical waste.

E. Confiscated Contraband

1. For the purpose of handling confiscated contraband:

    a. Whenever contraband is found, the Officer shall place the contraband in an evidence bag or tagged with the following information:

        i. Name of individual possessing the contraband;
        ii. Location where the contraband was found;
        iii. Time and date the contraband was found; and
        iv. Officer(s) who found the contraband.

    b. All contraband found and confiscated shall be documented by staff. The Officer will submit the contraband to the area supervisor.
    c. In all cases that might involve arrest, the number of staff members handling the evidence shall be kept to a minimum. Each Officer receiving the contraband shall document the date and time of receipt and the date and time the contraband is released to an Officer in charge of the area.
    d. Evidence shall be immediately secured in the evidence locker until it can be retrieved by Internal Affairs (IA) or other designated official for possible referral to the proper authorities.
    e. Strict accountability of physical evidence collected in connection with a violation of law and/or institutional regulation must be established at

each facility/location to preserve the integrity of the disciplinary and/or legal process.

f. In cases that do not involve prosecution, the contraband should be properly tagged and held for evidence for disciplinary review.
g. Contraband currency will be confiscated and logged. Following a disciplinary hearing and a guilty finding by the Disciplinary Board, the currency will be handled in accordance with Delaware Code. Should the Disciplinary Board find the offender not guilty, the currency will be deposited into the offender's account.

F. Storage and Disposal of Personal Property/Confiscated Items

Each facility administrator shall adopt procedures providing for the appropriate storage and disposal of personal property including procedures for sending the property out to non-incarcerated individuals.

G. Items Entering the Institution from Outside

In order to control and effectively prosecute those who convey contraband into the institutions, each facility administrator shall adopt procedures to control items that may be delivered into the possession of the intended recipient.

H. Protection from Unreasonable Searches

Searches directed at solving new crimes should account for the preservation of evidence as well as the legal protection of individual rights.

07/01/92, 12/22/14, 09/01/22; Revised 03/31/24