

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 04/24/09	NUMBER 04.04.110
	SUBJECT SEARCH AND ARREST IN CORRECTIONAL FACILITIES	
SUPERSEDES 04.04.110 (02/01/09)		AUTHORITY MCL 19.141 <u>et seq.</u> , 333.21527, 764.16, 764.25a, <u>et seq.</u> , 791.204, 800.281, <u>et seq.</u> ; Administrative Rules 791.2210, 791.6611
ACA STANDARDS 4-4192 - 4-4194, 4-ACRS-2C-01, 4-ACRS-2C-02, 4-ACRS-2C-04, 4-ACRS-2C-05, 4-ACRS-2C-06, 2-CO-3C-01		PAGE 1 OF 11

**POLICY STATEMENT:**

To ensure the security of and safety within Correctional Facilities Administration (CFA) and Field Operations Administration (FOA) facilities, offenders and their living space within the facility will be subject to search on a regular basis. In addition, employees and others who enter a correctional facility may be subject to search. Searches will be conducted in a professional manner and within the confines of this policy.

**RELATED POLICY:**

04.01.110 Access to Department Facilities

**POLICY:**

DEFINITIONS

- A. Body Cavity: The interior of the human body not visible by normal observation, such as the rectal cavity and the vagina.
- B. Contraband: Property which is not allowed on facility grounds by State law, Administrative Rule or Department policy or procedure. For prisoners, this includes personal property identified as contraband pursuant to PD 04.07.112 "Prisoner Personal Property".
- C. Controlled Substance: A drug, substance, or immediate precursor as set forth in MCL 333.7201 to 333.7231, including heroin, cocaine, LSD, and marijuana.
- D. Employees: Department of Corrections, Department of Community Health, Department of Information Technology, Civil Service Commission, and contractual employees providing services in a correctional facility, unless otherwise stated.
- E. Members of the Public: Visitors, volunteers, attorneys, contractors, elected state officials, and anyone else who is not an employee, staff from the Office of Legislative Corrections Ombudsman, or a prisoner, unless otherwise stated.
- F. Reasonable Suspicion: Suspicion based on a specific fact or facts and rational inferences drawn from those facts, based upon the knowledge and experience of corrections staff. Examples of information on which a reasonable suspicion may be based include, but are not limited to, the following:
  - 1. Information which is from an identified source who is reasonably reliable and credible;
  - 2. An anonymous tip which is corroborated by some other evidence;
  - 3. Discovery of a suspicious item during a search;
  - 4. Observation of unusual behavior such as appearing to conceal an item in clothing.

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G. Searches:

1. Patdown Search: A brief manual and visual inspection of body surfaces, clothing, briefcases, and similar items. The only clothing items that may be required to be removed are outerwear (e.g., coats, jackets, hats) and shoes. All items shall be removed from pockets.
2. Clothed Body Search: A thorough manual and visual inspection of all body surfaces, hair, clothing, wigs, briefcases, prostheses, and similar items and visual inspection of the mouth, ears, and nasal cavity. The only clothing items that may be required to be removed are outerwear (e.g., coats, jackets, hats), shoes, and socks; however, all items shall be removed from pockets.
3. Strip Search: Visual inspection of all body surfaces of a person who has been required to remove all or most of his/her clothing and jewelry for purposes of the search. This includes visual inspection of the mouth, ears, and nasal cavities. Unless determined by the Warden to be unnecessary for an assignment within the security perimeter which requires a strip search (e.g., Michigan State Industries), it also includes visual inspection of the entrance to the vagina and rectal cavity; in such cases, the person will be required to bend and spread his/her buttocks, and spread the lips of her vagina, to allow inspection. All clothing and articles which are removed also shall be inspected for contraband.
4. Body Cavity Search: Search which involves physical intrusion into a body cavity by the person conducting the search.

GENERAL INFORMATION

- H. For purposes of this policy, "correctional facility" includes FOA Residential Reentry Program (RRP) facilities and "Warden" includes the RRP facility Supervisor, except as otherwise indicated in this policy directive.
- I. This policy primarily addresses searches of prisoners, employees, and members of the public entering or in a correctional facility since that is where most searches occur; however, any search by Department staff shall be conducted in accordance with the requirements of this policy. If a search is required of a parolee in an RRP facility or of a probationer in the Special Alternative Incarceration Program, it shall be conducted consistent with the requirements set forth in this policy for prisoners, unless specifically stated otherwise in this policy directive.
- J. The Department's responsibility to manage and control the State's correctional facilities includes the duty to prevent contraband from entering those facilities. Pursuant to MCL 800.281 et seq., it is a felony to bring any of the following items into a correctional facility or onto facility property where prisoners may have access to them without prior written permission of the Warden:
1. Any weapon, including a pocket knife, or other implement which may be used to injure another person or which may be used in aiding a prisoner to escape;
  2. Any alcoholic beverage or poison, except that not more than two ounces of wine may be brought into a facility for use by a clergy member during religious ceremonies;
  3. Any prescription drug or controlled substance without written certification of need from a licensed physician, except that prescription drugs and controlled substances may be brought into a correctional facility as medical supplies for that facility. The physician's written certification must include the name of the person prescribed the drug or controlled substance, the prescribed dosage and frequency, and the reason it was prescribed.
- K. In addition to those items prohibited by State law, Department policy prohibits other items from being brought into a correctional facility or on facility grounds. Personal cellular telephones and pagers are

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prohibited except as set forth in PD 04.04.100 "Custody, Security and Safety Systems" or PD 06.01.115 "Custody, Security and Safety Systems - Corrections Centers and Technical Rule Violation Centers". In addition, audio or visual recording devices, including cameras, are prohibited unless approved by the Warden or, for news media representatives, approved in accordance with PD 04.01.110 "Access to Department Facilities". Beginning February 1, 2009, tobacco products also are prohibited both inside a correctional facility and on facility grounds except as set forth in PD 01.03.140 "Smoking; Possession/Use of Tobacco Products". Visitors also are prohibited from bringing money into a correctional facility, except where allowed for use of vending machines. Wardens may prohibit other items from being brought into their respective facilities; however, items may not be prohibited that are otherwise specifically allowed pursuant to Department policy.

- L. The following types of searches shall be used by Department staff to detect contraband within a facility or attempting to be brought into a facility:
1. Screening devices such as a hand-held or walk-through metal detector. Screening devices are required at all CFA facilities. The FOA Deputy Director shall determine whether such devices shall be required at an RRP facility;
  2. Patdown searches;
  3. Clothed body searches;
  4. Strip searches;
  5. Body cavity searches.
  6. Obtaining body fluids or other sample for alcohol and controlled substance testing in accordance with PD 03.03.115 "Substance Abuse Programming and Testing";
  7. Use of dogs which have been trained to detect controlled substances;
  8. Search of a room, bunk area, cell, vehicle, or other personal property.
- M. If a prisoner flees when an employee notifies him/her of a search, the employee shall make every effort to identify the prisoner and charge him/her with the appropriate disciplinary violation. However, an employee ordinarily should not pursue a fleeing prisoner under circumstances which might endanger the employee or arouse other prisoners. A prisoner may be forced to submit to a search, subject to the requirements contained in PD 04.05.110 "Use of Force".

#### SEARCH OF PRISONERS

- N. The search of a prisoner receiving inpatient psychiatric services, or psychiatric services through the Crisis Stabilization Program (CSP) or Rehabilitative Treatment Services (RTS) shall be conducted as determined by the Warden in conjunction with the Director of the Corrections Mental Health Program. This includes a search of the prisoner's cell/room and property.

#### Patdown, Clothed Body, and Cell/Room Searches

- O. Department employees have authority to conduct a patdown or clothed body search of a prisoner at any time. For male prisoners, these searches need not be conducted by a staff member of the same sex as the prisoner being searched. Patdown and clothed body searches of female prisoners shall be conducted only by female staff except when female staff are not readily available to conduct a search in an emergency or where there is a reasonable suspicion that the prisoner is in possession of contraband. Staff shall determine whether a patdown or clothed body search is more appropriate in each situation, depending on the circumstances necessitating the search.

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- P. As part of a patdown or clothed body search, a prisoner is required to remove all items from his/her pockets. If the prisoner refuses to do so, or there is a reasonable suspicion that contraband is present, the staff member may remove the items. A prisoner who refuses to comply with a direct order to remove the items may be issued a major misconduct for disobeying a direct order.
- Q. In CFA, each non-housing unit corrections officer and corrections medical aide who has direct prisoner contact shall conduct patdown or clothed body searches of at least five randomly selected prisoners per shift. Both housing unit and non-housing unit staff may be required to conduct additional searches at the discretion of the Warden. Such searches shall be recorded on the Daily Prisoner Shakedown Report (CSJ-468) and in the appropriate logbook.
- R. A prisoner's possessions, living area, and work area are subject to search at any time, with or without suspicion that contraband is present; however, a search shall not be conducted for the purpose of harassing or humiliating a prisoner. Staff members conducting a search in a prisoner's living or work area shall use reasonable care in conducting the search to protect and safeguard the prisoner's property and shall attempt to leave searched areas in a similar condition to what they were prior to the search. The search need not be conducted in the prisoner's presence.
- S. In CFA, each housing unit officer shall conduct searches of at least three randomly selected cells/rooms/living areas per shift, except the night shift. Additional searches may be required at the discretion of the Warden. Such searches shall be recorded in the appropriate logbook. Recorded information shall include the date and time of the search, the area searched, and the names of the employees conducting the search.

#### Strip Search

- T. A prisoner may be subjected to a strip search whenever it is determined by staff that such a search is necessary. If the prisoner resists, s/he may be forced to submit to the search subject to PD 04.05.110 "Use of Force". In CFA, all prisoners shall be subject to a strip search upon return from an off-site detail (e.g., writ; hospital) and after each contact visit. A strip search shall not be required following a non-contact visit unless there is reasonable suspicion that the prisoner is concealing contraband.
- U. A strip search shall be performed by and only in the presence of employees of the same sex as the prisoner being searched, except in any of the following situations:
1. An emergency;
  2. When a prisoner is being transported to a destination outside the facility and none of the transportation staff are of the same sex as the prisoner;
  3. If the staff member is a supervisory employee whose presence is required by policy.
- V. A strip search shall be conducted in a place which prevents the search from being observed by those not assisting in that search, unless an emergency requires that it be conducted immediately and there is no opportunity to move to a sheltered area. If a strip search is videotaped, the videotape shall be immediately locked in a secure area outside the security perimeter of the facility. Only the Warden or his/her supervisors may authorize release or viewing of the videotape.
- W. A written report identifying the employees involved in a strip search and the reason for the search shall be submitted to the Warden by the end of the shift after which the search occurred; the Strip Search/Body Cavity Search Report (CAJ-289) shall be used for this purpose. If the search was performed by or in the presence of an employee of the opposite sex as the prisoner being searched, the reason it was performed by that employee also shall be included in the report. The report is not required, however, for the following routine strip searches unless performed by or in the presence of an employee of the opposite sex as the prisoner being searched:
1. Upon admission to a segregation housing unit;

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2. Prior to departure from or upon arrival at a facility on an inter-institutional transfer;
3. Upon arrival from a jail or arrival at an RRP facility;
4. Prior to departure from or upon return to a facility from an off-site detail, or an assignment which requires a strip search; e.g., Michigan State Industries (MSI);
5. When a CFA prisoner housed in one level of custody enters a higher custody level area of the institution for any reason;
6. When a prisoner is required to remove clothing as part of the procedure for taking a urine sample for controlled substance testing;
7. Following a contact visit.

Body Cavity Search

- X. If there is a reasonable suspicion that a prisoner is concealing contraband or a potentially self-injurious item within a body cavity, the prisoner may be held in isolation in accordance with Paragraph Z and/or forced to submit to a body cavity search. All of the following conditions must be met if a prisoner is subjected to a body cavity search:
1. Prior to the search, written authorization shall be obtained from the Warden. The Warden may authorize such a search only when there is reasonable suspicion that the prisoner is attempting to carry contraband or a self-injurious item within a body cavity. The Warden also shall determine if an approved body cavity search will be videotaped.
  2. MCL 764.25b requires the search to be conducted by a licensed physician or a physician's assistant, licensed practical nurse, or registered nurse acting with the approval of a licensed physician. Therefore, the only staff authorized to conduct such searches are those employed by or under contract with the Bureau of Health Care Services (BHCS).
  3. Medical personnel who perform a body cavity search need not be of the same sex as the prisoner being searched. However, all other persons who are present during the search shall be of the same sex as the prisoner, and there always shall be at least one staff member present who is the same sex as the prisoner being searched.
  4. The search shall be conducted in a place which prevents it from being observed by a person not conducting or necessary to assist with the search. If a body cavity search is videotaped, the videotape shall be immediately locked in a secure area outside of the security perimeter of the facility. Only the Warden or his/her supervisors may authorize release or viewing of the videotape.
  5. A written report of the search shall be completed as soon as possible but not later than the end of the shift after which the search occurred; the Strip Search/Body Cavity Search Report (CAJ-289) shall be used for this purpose. The original of that report shall be sent to the Warden. A copy shall be given to the prisoner, with any information that would pose a threat to the custody and security of the facility deleted.
- Y. In accordance with MCL 333.21527, a person suspected of being the victim of a sexual assault shall not be required to submit to collection of evidence of such an assault if intrusion into a body cavity is required unless the person has given his/her consent. This provision also applies to a prisoner who is a suspected victim of a sexual assault.

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#### Isolation of Prisoners to Retrieve Contraband

- Z. Whenever a prisoner is suspected of swallowing an item of contraband, or concealing contraband in his/her rectal cavity, the Warden or Deputy Warden after consultation with appropriate BHCS medical staff, may order the prisoner to be held in isolation in an observation room, which may be stripped except for a mattress. The prisoner may remain in isolation in the observation room for a reasonable period of time, as determined by appropriate BHCS medical staff, to determine whether the contraband is excreted; approval of the Chief Medical Officer, BHCS, is required, however, to continue the prisoner in isolation for more than 48 hours.
- AA. While in the observation room, the prisoner shall have access to food, fresh drinking water, and toilet facilities; however, water for the toilet facilities may be turned off inside the room provided the water is turned on as needed for flushing of the toilet facilities by staff. At a minimum, the prisoner shall have access to a paper or tear-resistant cloth gown and blanket, underpants, toilet paper, and, if a female prisoner, a brassiere and, if needed, sanitary napkins. All other personal and state-issued clothing and property may be removed from the prisoner, except for a wedding band and dentures.
- BB. Immediately after placement in an observation room, a prisoner shall be referred for evaluation, and an evaluation completed, as set forth in PD 03.04.100 "Health Services" and PD 04.06.180 "Mental Health Services", or, if the prisoner exhibits suicidal or other self-injurious behavior, PD 04.06.115 "Suicide Prevention". Nursing staff shall monitor the prisoner and conduct nursing assessments as needed. The shift commander shall visit the prisoner at least twice during each shift to check on the prisoner's general well-being. Each visit shall be documented using the Special Housing Unit Record (CAJ-278), Segregation Checklist (CAJ-894), or SAI Restraint Logbook, as appropriate. Nursing staff shall be notified immediately if the prisoner shows any signs of medical or mental decompensation. All staff shall document in the unit logbook pertinent information regarding the prisoner's behavior.

#### SEARCH OF EMPLOYEES

- CC. Staff from the Office of Legislative Corrections Ombudsman entering a facility as a representative of that Office shall be subject to search in the same manner as an employee.
- DD. The responsibility to manage and control correctional facilities and prevent introduction of contraband encompasses the authority to search employees and their property while on the grounds of any facility. Whenever it is necessary to search an employee, reasonable attempts shall be made to have the employee voluntarily agree to be searched. If an employee refuses to submit to a search, s/he will not be forced to submit unless a search warrant has been obtained but entry into the secured area of the facility on that occasion shall be denied. A Department employee shall be warned that such refusal constitutes grounds for disciplinary action up to and including dismissal and that s/he may be refused entry into the facility until disciplinary action has been completed in accordance with PD 02.03.100 "Employee Discipline".

#### Use of Screening Devices; Patdown and Clothed Body Searches; Search of Property

- EE. All employees shall submit to the use of a hand held screening device or a walk through screening device prior to entering a CFA institution and at other times as determined by the Warden.
- FF. Employees also shall submit to patdown or clothed body searches as a part of a general periodic search of all employees or randomly selected employees, as determined by the Warden, entering the facility during a certain time period. The Warden or designee shall determine the frequency of such searches and whether a patdown or clothed body search will be used. All employees searched shall be subject to the same type of search. Patdown and clothed body searches shall be conducted by an employee of the same sex as the employee being searched. If a random selection of employees is chosen to be searched, the Warden shall ensure the method used to select the employees is truly random.

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GG. In addition to the searches identified in Paragraphs DD and EE, an individual employee may be specifically singled out and requested to submit to a clothed body search if there is reasonable suspicion that the employee is attempting to conceal evidence of a crime or carry contraband onto facility property or into or out of the facility. Such searches may be carried out only upon authorization of the Duty Administrative Officer or, in an RRP facility, upon authorization of the Administrator of the Office of Parole and Probation Services, FOA, or designee. The search shall be conducted by an employee of the same sex as the employee being searched. If an employee of the same sex as the person being searched is not readily available to conduct the search, the search may be conducted by an employee of the opposite sex with approval of the supervisor who authorized the search. In all such cases, the supervisor approving the search shall submit a written report identifying the employees involved, the reason for the search, and why it was conducted by an employee of the opposite sex. The report shall be submitted through the appropriate chain of command to the Warden not later than the end of the shift after which the search occurred.

HH. A search of an employee's vehicle or personal property may be conducted only if there is a reasonable suspicion that the employee is attempting to conceal contraband and only upon authorization of an employee with the rank of shift commander or above. The search shall be conducted in the presence of the employee or his/her designated representative. However, any vehicle or other personal property which is taken inside the security perimeter of a correctional facility, including gun towers, shall be subject to search. In such cases, the employee's consent is not required, reasonable suspicion is not necessary, and the employee or his/her representative does not need to be present to conduct a search.

#### Strip Search

II. An employee shall not be forced to submit to a strip search unless a search warrant has been obtained. However, an employee who refuses to submit to a strip search may be subject to discipline and refused entry into the facility as stated in Paragraph DD.

JJ. All strip searches of employees shall be subject to the following conditions:

1. There shall be reasonable suspicion that the employee is concealing contraband or evidence of a crime.
2. Prior written authorization shall be obtained from the Warden.
3. The search shall be conducted by a person of the same sex as the person being searched. All other persons present also shall be of the same sex as the person being searched.
4. The search shall be conducted in a place which prevents it from being observed by anyone not conducting or assisting in the search. The search shall not be videotaped unless authorized by the Warden. If it is videotaped, the tape shall be immediately locked in a secure area outside the security perimeter of the facility. Only the Warden or his/her supervisors may authorize release of the videotape.
5. A written report of the search shall be prepared as soon as possible but not later than the end of the shift after which the search occurred; the Strip Search/Body Cavity Search Report (CAJ-289) shall be used for this purpose. The original of the report shall be sent to the Warden, and a copy given to the employee who was searched subject to deletions permitted by the Freedom of Information Act.

#### Body Cavity Search

KK. Consistent with MCL 764.25b, a body cavity search of an employee shall not be conducted without a valid search warrant. If the Warden believes that such a search is required, s/he shall contact the appropriate law enforcement agency and ask them to proceed.

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## SEARCH OF MEMBERS OF THE PUBLIC

- LL. Members of the public entering a correctional facility are subject to search in order to prevent the introduction of contraband. If a member of the public refuses to be searched, s/he will not be forced to submit unless a search warrant has been obtained, but entry into the secured area of the facility on that occasion shall be denied and s/he may be required to leave the premises. A person subject to a clothed body search who is wearing clothing which prevents a thorough clothed body search also shall be denied entry and may be required to leave the premises.
- MM. All members of the public shall be required to walk through a screening device or submit to the use of a hand-held screening device prior to entering a CFA institution; however, this requirement may be waived by the Warden for anyone personally escorted by the Warden or his/her designee.
- NN. Elected state officials, judges, attorneys, and law enforcement personnel on official business within the institution also shall be subject to a patdown search unless personally escorted by the Warden or designee, in which case they will be subject to a patdown search only if specifically required by the Warden. All other members of the public shall be subject to either a patdown or clothed body search as determined by the Warden; however, anyone who is personally escorted by the Warden or designee shall be subject to the patdown or clothed body search only if specifically required by the Warden. A clothed body search shall be required under all circumstances to visit a prisoner except for elected state officials, judges, attorneys, and law enforcement personnel visiting a prisoner on official business. If the visitor is wearing a prosthesis, brace, cast, or similar item which cannot be removed to allow for a clothed body search, the visit shall be non-contact in accordance with PD 05.03.140 "Prisoner Visiting".
- OO. All clothed body searches shall be conducted by an employee of the same sex as the person being searched. If an employee of the same sex is not readily available and the person does not wish to wait, s/he may sign a Clothed Body Search of Visitor - Waiver (CAJ-290) allowing the search to be done by a member of the opposite sex.
- PP. In CFA, a visitor who brings in a baby as a visitor shall be required to change the baby's diaper, using a disposable diaper supplied by the institution, in the presence of a staff person prior to the visit. The institution shall dispose of the diaper which was removed. Wardens shall ensure that disposable diapers are on hand for use by visitors as needed and shall ensure that visitors are advised that cloth diapers are not allowed. To allow easy viewing of the contents, only clear, non-glass baby bottles shall be allowed on a visit.
- QQ. Members of the public entering an RRP facility shall be subject to search as determined by the FOA Deputy Director. If clothed body searches are required, they shall be conducted consistent with the requirements set forth in Paragraphs LL through OO.
- RR. Items left in a locker or other secured area designated by the Warden outside the security perimeter shall not be searched unless a search warrant has been obtained. Any personal property which is taken inside the security perimeter of a CFA institution shall be searched. Reasonable suspicion that contraband is present or consent of the visitor is not required. The FOA Deputy Director shall determine whether such searches shall be conducted at an RRP facility.

### Strip Search

- SS. Members of the public entering a facility shall not be forced to submit to a strip search unless a search warrant has been obtained. A strip search shall not be requested unless all of the requirements set forth in Paragraph JJ are met. Persons who voluntarily submit to a strip search must sign a Consent to Strip Search form (CAJ-256) before that search is undertaken. Refusal to submit to a strip search shall constitute grounds for refusal to allow the person to visit or enter the facility on that occasion and the person shall be required to leave the premises.

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### Body Cavity Search

- TT. A body cavity search of a member of the public entering a facility shall be subject to the same conditions as a body cavity search of an employee as outlined in Paragraph KK.

### Search of Vehicles

- UU. If it is suspected that there is contraband in a vehicle on facility grounds that does not belong to an employee, the matter shall be referred to the appropriate law enforcement agency. Employees shall not search the vehicle.
- VV. If a vehicle is discovered in an area of the facility grounds which has been posted against trespassing, the vehicle and its occupants may be detained while the appropriate law enforcement agency is summoned. However, only reasonable non-deadly force shall be used unless the person detained attempts to use deadly force, as outlined in PD 04.05.110 "Use of Force".

### FACILITY SEARCHES FOR CONTROLLED SUBSTANCES

- WW. Michigan State Police (MSP) or, with approval of the CFA or FOA Deputy Director or designee, other law enforcement agency dogs trained to detect controlled substances may be used for the purposes of detecting controlled substances within or on the grounds of Department facilities as determined by the CFA or FOA Deputy Director, as appropriate, or designee. The dogs also may be used in or on the grounds of Department facilities for training purposes with approval of the appropriate Warden or, for FOA, the Administrator of the Office of Parole and Probation Services or designee. MSP or other law enforcement agency providing the dogs shall be responsible for selecting dog handlers. Whenever a search is approved, the appropriate Warden and CFA Regional Prison Administrator, or for an RRP facility, the Administrator of the Office of Parole and Probation Services or designee shall be notified when and where the search will be conducted; advance warning shall not be provided to any other facility/institutional staff or to offenders.
- XX. The Administrator of the Internal Affairs Division in Operations Support Administration or designee shall be responsible for coordinating searches by dogs with MSP or other law enforcement agency. However, the Warden is responsible for coordinating tactical planning, which shall include the following:
1. Ensuring search teams are brought into the facility as soon as possible after arrival.
  2. Determining target areas to be searched.
  3. Ensuring sufficient staff are available to safely and effectively conduct the search. If an MSP or other law enforcement agency detective accompanies the search team, s/he shall be in charge of their staff while on site.
  4. At the end of each search, facility staff shall meet with MSP or other law enforcement staff to critique the search. If problems arise that cannot be resolved through this process, the Warden and the Internal Affairs Division Administrator shall coordinate corrective action.
- YY. After a search is conducted in his/her facility or on the facility grounds by a drug dog team, the Warden shall provide a written report to the Regional Prison Administrator or Administrator of the Office of Parole and Probation Services, as appropriate, with a copy to the Internal Affairs Division Administrator, detailing the search. Each report shall include a complete description of any controlled substance found during the search.

### AUTHORITY TO DETAIN/ARREST EMPLOYEES AND MEMBERS OF THE PUBLIC

- ZZ. Whenever the Warden or designee or, for FOA, the Administrator of the Office of Parole and Probation Services or designee determines there is reasonable suspicion that a person will attempt to bring any of

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the items identified in Paragraph J onto facility grounds or into a correctional facility, the Warden or designee or, for FOA, the Administrator of the Office of Parole and Probation Services or designee may request the appropriate law enforcement agency to be present for questioning or search of the person; in such cases, the Internal Affairs Division Administrator also shall be contacted.

- AAA. The appropriate law enforcement agency shall be called whenever a person is found to be in possession of a non-authorized alcoholic beverage, poisonous substance, controlled substance, prescription drug, or weapon. The person should be detained if possible, using whatever non-deadly force is necessary, awaiting the arrival of the appropriate law enforcement agency. The contraband should be taken from the individual if possible, using non-deadly force if necessary, in accordance with PD 04.05.110 "Use of Force". However, if a reasonable suspicion exists that the person has a weapon or other implement which may be used to injure another person and the circumstances change to that of self-defense, the force reasonably necessary to disarm the person and defend one's self may be used. If law enforcement chooses not to appear, the person shall be required to leave the premises. The contraband shall be disposed of as set forth in Paragraphs DDD through GGG.
- BBB. Although Department employees are not law enforcement officials, they have the same authority as other civilians to make arrests under the following conditions:
1. For a felony committed in their presence;
  2. When the person is known to have committed a felony, though not in the employee's presence;
  3. When requested by a law enforcement officer to assist the officer in making an arrest.
- CCC. Only non-deadly force may be used to detain a person unless the individual being held attempts to use deadly force.

#### DISPOSITION OF CONTRABAND

DDD. Department staff shall not destroy a suspected controlled substance which has been confiscated from anyone, including a prisoner. All suspected controlled substances which are confiscated shall be turned over to MSP. The Internal Affairs Division Administrator shall be contacted if MSP refuses to take the controlled substances.

##### Employees

EEE. Contraband found in the search of a contractual employee shall be handled in the same manner as for members of the public. All contraband found in the search of any other employee, or of his/her vehicle or personal property, shall be retained as evidence, whether or not law enforcement chooses to appear, as it must be held for use in the employee disciplinary process. If no criminal charges are brought, the item shall be returned to the employee upon completion of the disciplinary process, with the exception of controlled substances which shall be turned over to MSP.

##### Members of the Public

FFF. Whenever a law enforcement agency has been contacted and chooses not to appear and/or arrest a person in possession of contraband or law enforcement was not required to be contacted, the contraband, unless it is a controlled substance or weapon, shall be returned to its owner and the person allowed to leave. Controlled substances and weapons shall be retained and turned over to MSP.

GGG. Anyone found on facility grounds taking unauthorized pictures of a correctional facility shall have the film or tape confiscated. In the case of a digital recording device, the memory card also shall be erased. The camera or recording device shall be immediately returned to the owner. All other items prohibited pursuant to Paragraph K may be retained if necessary as evidence for an administrative hearing, but must be returned as soon as possible. If possible, a photograph should be taken of the

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item as evidence and the item returned immediately.

### PROCEDURES

HHH. Wardens and the FOA Deputy Director shall ensure that operating procedures are developed as necessary to implement requirements set forth in this policy directive; in FOA, a manual may be issued in lieu of operating procedures for this purpose. Operating procedures and/or manuals shall be completed within 60 calendar days after the effective date of the policy directive. This includes ensuring their existing operating procedures are revised or rescinded, as appropriate, if they are inconsistent with policy requirements or no longer needed.

### AUDIT ELEMENTS

III. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: PLC 04/23/09