

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 03/01/2019	NUMBER 04.04.110
	SUBJECT SEARCH AND ARREST IN CORRECTIONAL FACILITIES	
SUPERSEDES 04.04.110 (08/14/2017)		AUTHORITY MCL 19.141 et seq, 333.21527, 764.16, 764.25a et seq, 791.204, 791.215, 800.281 et seq; Administrative Rules 791.2210, 791.6611; Prison Rape Elimination Act (PREA) of 2003
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**POLICY STATEMENT:**

To ensure the security of and safety within correctional facilities, prisoners 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 Correctional 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 that 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 (common names).
- D. Employees (For Purposes of this Policy Only): Department of Corrections employees, staff from the Office of Legislative Corrections Ombudsman, and other State of Michigan employees acting in their official capacity unless otherwise stated.
- E. Members of the Public: Visitors, volunteers, attorneys, contractors, vendors' employees, elected state officials, and anyone else who is not an employee as defined in Paragraph D.
- F. Reasonable Suspicion: Suspicion based on a specific fact or facts and rational inferences drawn from those facts, based on 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 that is from an identified source who is reasonably reliable and credible;
  - 2. An anonymous tip that is corroborated by some evidence;
  - 3. Discovery of a suspicious item during a search;
  - 4. Observation of unusual behavior such as appearing to conceal an item in clothing.
- G. Searches:
  - 1. Pat-down 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, head coverings, and shoes. The removal of outerwear is not to result in a state of undress or a display of undergarments. 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, head coverings, shoes, and socks. The removal of outerwear is not to result in a state of undress or a display of undergarments. 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, nasal cavities, and exterior of the genitals. Unless determined by the Warden to be unnecessary, it also includes visual inspection of the entrance to the rectal cavity. In such cases, the person will be required to bend and spread his/her buttocks to allow inspection. A visual inspection of the interior of the vagina shall be conducted as part of a strip search only with the approval of the Warden or designee when there is reasonable suspicion that a person is concealing contraband in her vagina. In such cases, the person shall be required to bend and spread the lips of her vagina to allow inspection. All clothing and articles that are removed also shall be inspected for contraband. All strip searches shall be completed in an area where only the staff member(s) conducting the search can see the individual being searched.
  4. Body Cavity Search: Search that involves physical intrusion into a body cavity by the person conducting the search.
- H. Secure Perimeter: The outermost perimeter wall or fence and gate excluding the buffer fence (e.g., Gate 1, Sallyport) that encompasses the interior of a prison.

#### GENERAL INFORMATION

- I. For purposes of this policy, "prisoner" includes probationers and parolees housed in a correctional facility unless specifically stated otherwise in this policy directive.
- J. 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.
- K. Searches of religious head coverings (e.g., hijabs) shall be conducted in an area where only the staff member(s) conducting the search can see the individual being searched once the head covering is removed, if removal of the head covering in a non-private area would violate the individual's religious beliefs. Searches of wigs shall also take place in an area where only the staff member(s) can see the individual being searched once the wig is removed.
- L. Except as outlined in PD 04.06.184 "Gender Dysphoria," staff shall not search or physically examine a prisoner for the sole purpose of determining the prisoner's genital status.
- M. 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 implements that 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.

- N. 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 prohibited except as set forth in PD 04.04.100 "Custody, Security and Safety Systems." 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 Correctional Facilities." 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.
- O. 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 correctional facilities.
  2. Pat-down searches.
  3. Clothed body searches.
  4. Strip searches.
  5. Body cavity searches.
  6. Obtaining body fluids or other samples for alcohol and controlled substance testing in accordance with PD 03.03.115 "Substance Abuse Programming and Testing."
  7. Use of dogs that have been trained to detect controlled substances or other contraband.
  8. Search of a room, bunk area, cell, vehicle, or other personal property.
  9. Use of electronic phone detection equipment.
- P. 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 that 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

- Q. 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.

#### Pat-down, Clothed Body, and Cell/Room Searches

- R. Department employees have authority to conduct a pat-down 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. Pat-down 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 pat-down or clothed body search is more appropriate in each situation, depending on the circumstances necessitating the search.

Note: Male staff may visually inspect the mouth, ears, and nasal cavity of a female prisoner.

- S. As part of a pat-down 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 misconduct for disobeying a direct order.
- T. Each Corrections Officer and Corrections Medical Officer who has direct prisoner contact shall conduct a thorough pat-down or clothed body search of at least five randomly selected prisoners per shift except on third shift or due to exigent circumstances (e.g., mobilization, closed assignment, reassignment to a non-contact assignment) as identified by the Warden or designee. Both housing unit and non-housing unit staff may be required to conduct additional searches at the discretion of the Warden. All searches, including those done above the minimum, shall be documented in a logbook separate from the housing unit logbook and include the date, shift, the name and number of the prisoner searched, and the name of the employee conducting the search.
- U. A prisoner's possessions, living area, and work area are subject to search at any time, with or without suspicion that contraband is present. Cell conditions must be such that they are clear of all contraband including excess cardboard and plastic. 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.
- V. Each Corrections Officer assigned to a housing unit shall conduct thorough and complete searches of at least two randomly selected cells/rooms/living areas per shift, except on third shift or due to exigent circumstances (e.g., mobilization) as identified by the Warden or designee. However, the Warden or designee shall ensure that each cell/room/living area within the facility is searched at least once per month. Additional searches may be required at the discretion of the Warden. All searches, including those done above the minimum, shall be documented in a logbook separate from the housing unit logbook and include the date, shift, the area searched, and the names of the employees conducting the search.

#### Strip Search

- W. 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." All prisoners shall be subject to a strip search upon return from an off-site detail (e.g., writ, gate pass assignment, 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. All prisoners shall be strip searched when leaving MSI locations. These strip searches shall be logged in the assignment logbook. A custody supervisor shall be present for all non-routine strip searches.
- X. A strip search shall be performed only by employees of the same sex as the prisoner being searched. A strip search also shall be performed only in the presence of employees of the same sex as the prisoner being searched except that it may be conducted in the presence of a supervisory employee of the opposite sex when a supervisor's presence is required by policy and a supervisor of the same sex as the prisoner being searched is not available.
- Y. 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 recorded, the recording shall be immediately locked in a secure area. Only the Warden or his/her supervisors may authorize the release or viewing of the recording.
- Z. 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. 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:

1. Upon admission to, or release from, a segregation housing unit;
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 a Reentry facility;
4. Prior to departure from or upon return to a facility from an off-site detail, or an assignment that requires a strip search; e.g., Michigan State Industries (MSI);
5. When a 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

- AA. 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 CC 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 recorded.
  2. The search must be conducted by a licensed physician, physician's assistant, or nurse practitioner.
  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 that prevents it from being observed by a person not conducting or necessary to assist with the search. If a body cavity search is recorded, the recording shall be immediately locked in a secure area. Only the Warden or his/her supervisors may authorize the release or viewing of the recording.
  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 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.
- BB. In accordance with MCL 333.21527, a person suspected of being the victim of a sexual assault shall not be required to submit to the 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.

#### Isolation of Prisoners to Retrieve Contraband

- CC. Whenever a prisoner is suspected of swallowing an item of contraband or concealing contraband in a body 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 medical staff, to determine whether the contraband is excreted.

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Approval of the Chief Medical Officer or designee is required to continue the prisoner in isolation for more than 48 hours.

- DD. 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.
- EE. 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 "Suicidal and Self-Injurious Behavior." 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.

#### SEARCHES OF EMPLOYEES

- FF. 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.
- GG. The responsibility to manage and control correctional facilities and prevent the introduction of contraband encompasses the authority to search all 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. Employees who refuse to submit to an authorized search will be suspended immediately pending investigation. Violations of Work Rule 11 "Searches While on Facility Property" shall result in discharge.

#### Use of Screening Devices; Pat-down and Clothed Body Searches; Search of Property

- HH. All individuals entering the gate area shall be required to walk through the metal detector at a normal pace or be screened by use of a handheld metal detector. Gate staff shall conduct a pat-down search of an individual unable to clear the metal detector after two attempts. However, a Corrections Transportation Officer (CTO) entering the institution with equipment preventing the efficient use of a walk-through screening device shall instead submit to the use of a hand-held screening device or a pat-down search prior to entry. In the event of an emergency, the on-site Shift Commander may allow staff to bypass the metal detector.
- II. Gate staff shall allow no more than eight individuals in the gate at any given time excluding gate staff. Gate traffic shall be processed one direction at a time.
- JJ. Daily, employees also shall submit to pat-down or clothed body searches as a part of a general periodic search of all employees or randomly selected employees entering the facility during a certain time period. These searches shall be logged in a separate shakedown log. All employees searched shall be subject to the same type of search. Pat-down 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.
- KK. In addition to the searches identified in Paragraphs HH and JJ, 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. 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 THE 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.

- LL. 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 that is taken inside the secure 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

- MM. 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 GG.

- NN. 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 that prevents it from being observed by anyone not conducting or assisting in the search. The search shall not be recorded unless authorized by the Warden. If it is recorded, the recording shall be immediately locked in a secure area to which only the Warden has access. Only the Warden may authorize the release or viewing of the recording with approval of the Director.
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 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

- OO. 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.

#### SEARCH OF MEMBERS OF THE PUBLIC

- PP. 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 that prevents a thorough clothed body search also shall be denied entry and may be required to leave the premises.

- QQ. 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 correctional facility.
- RR. Elected state officials, judges, attorneys, and law enforcement personnel on official business within the institution also shall be subject to a pat-down search. Members of the public shall be subject to either a pat-down or clothed body search as determined by the Warden. A clothed body search shall be required under all circumstances to visit a prisoner. If the visitor is wearing a prosthesis, brace, cast, or similar item that 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." All law enforcement officers at the Detroit Detention Center (DDC) will be subject to search as outlined in DDC OP 04.04.100.
- SS. 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.
- TT. 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 that 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.
- UU. A locker or other secured area designated by the Warden outside the security perimeter may be searched. Any personal property that is taken inside the secure perimeter of a correctional facility shall be searched. Reasonable suspicion that contraband is present is not required to conduct the search.

#### Strip Search

- VV. Members of the public entering a correctional facility shall not be forced to submit to a strip search unless a search warrant has been obtained. A strip search of a member of the public shall not be requested unless all of the requirements for a strip-search of an employee are met set forth in Paragraph NN. 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.

#### Body Cavity Search

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

#### Search of Vehicles

- XX. 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.
- YY. If a vehicle is discovered in an area of the facility grounds that 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 AND OTHER CONTRABAND

- ZZ. Michigan State Police (MSP) or other law enforcement agency dogs may be used for the purposes of detecting contraband within or on the grounds of Department facilities as determined by the Deputy Director 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. MSP or other law enforcement agencies



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providing the dogs shall be responsible for selecting dog handlers. Whenever a search is approved, the appropriate Warden and the appropriate CFA Assistant Deputy Director (ADD) shall be notified when and where the search will be conducted. Advance warning of the search shall not be provided to any other facility staff or to offenders.

AAA. The Warden or designee shall be responsible for coordinating searches by dogs with MSP or other law enforcement agencies. The Warden also 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 shall coordinate corrective action.

BBB. 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 appropriate CFA ADD. 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

CCC. Whenever the Warden or designee determines there is reasonable suspicion that a person will attempt to bring any of the items identified in Paragraph M onto facility grounds or into a correctional facility, the Warden or designee may request the appropriate law enforcement agency to be present for questioning or search of the person.

DDD. 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 that 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 or others may be used in accordance with PD 04.05.110 "Use of Force." 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 GGG through III.

EEE. 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.

FFF. Only non-deadly force may be used to detain a person unless the individual being held attempts to use deadly force.

#### DISPOSITION OF CONTRABAND

GGG. Department staff shall not destroy a suspected controlled substance that has been confiscated from anyone, including a prisoner. All suspected controlled substances that are confiscated shall be

photographed and turned over to the MSP or local law enforcement. Department staff are authorized to conduct field testing of suspected marijuana and suboxone that cannot otherwise be readily identified. All other field testing shall be conducted by MSP or local law enforcement. The CFA Deputy Director or designee shall be contacted if the MSP or local law enforcement refuses to take the controlled substances. Department staff are not authorized to transport suspected controlled substances.

#### Employees

HHH. 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 the MSP or local law enforcement. However, medication that is a controlled substance for which the employee has a valid prescription shall instead be returned to the employee, except marijuana. MDOC employees are not allowed to use or possess marijuana.

#### Members of the Public

III. 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 weapon or a controlled substance for which the person does not have a valid prescription, shall be returned to its owner and the person allowed to leave. Weapons and controlled substances for which the person does not have a valid prescription shall be retained and turned over to the MSP or local law enforcement. However, medication that is a controlled substance for which the person has a valid prescription shall instead be returned to the person.

#### PROCEDURES

JJJ. If necessary, to implement requirements set forth in this policy directive, Wardens shall ensure that procedures are developed or updated.

#### AUDIT ELEMENTS

KKK. A Primary Audit Elements List has been developed and is available on the Department's Document Access System (DAS) to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 02/18/2019