

<p align="center">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p>Title: Searches</p>	<p align="right">Page 1 of 7</p>
<p>Chapter: Security and Supervision</p>	<p align="center"># 409.01</p>	<p>Supersedes 409.01 dated 01/11/1999</p>
<p>Attachments, Forms & Companion Documents: 1.</p>		
<p>Local Procedure(s) Required: Yes - for establishment of written facility protocols. Applicability: All staff (including contractors and volunteers) Security Level: "B" – Anyone may have access to this document.</p>		
<p>Approved:</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  <hr/> <p>Andrew A. Pallito, Commissioner</p> </div> <div style="text-align: center;"> <p><i>2/18/15</i></p> <hr/> <p>Date Signed</p> </div> <div style="text-align: center;"> <p><i>2/22/15</i></p> <hr/> <p>Date Effective</p> </div> </div>		

PURPOSE

This directive outlines procedure for searches of persons under the supervision of the Vermont Department of Corrections, and persons visiting correctional facilities. This applies to all searches in a correctional facility and searches of offenders supervised in the community.

POLICY

The Vermont Department of Corrections conducts searches of inmates, offenders, and facilities to ensure integrity and security of the correctional environment and to maintain safety of inmates/offenders, staff, and the public.

AUTHORITY

Pursuant to 28 V.S.A. chapters 1, 3, 5, 6, 7, 9, and 11.

REFERENCE

Department of Corrections Administrative Directive #XXX.XX *Gender Identification, Care, and Custody.*

DEFINITIONS

Pat-Search: The use of the hands over the clothed body to determine if an individual possess a weapon or contraband (i.e. drugs).

Strip-Search: A visual inspection of a person after all clothing items have been removed and a physical search of all items that were on, or in the possession of, the person being searched.

PROCEDURAL GUIDELINES

1. Correctional Facilities

- a. Any area in a correctional facility may be visually inspected or searched at any time. Staff may be assisted by trained dogs and/or electronic search devices.

2. Physical Searches of Person and Property & Drug Test Observations

- a. Inmate searches and drug testing observations will be conducted by staff of the same birth-sex, except when exigent circumstances exists; such as no female staff are on shift, or in an emergent situation when the search of an inmate is imperative to the safety and security of an inmate, or to the operations of a facility.¹
- b. Inmates who identify as transgendered or intersex will be pat or strip searched by staff member of the same gender that the inmate identifies as being their preferred choice. In exigent circumstances, such as no female staff are on shift, or in an emergent situation when the search of an inmate is imperative to the safety and security of an inmate, or to the operations of a facility any gendered staff may conduct the search.
- c. Correctional officers conducting or observing a strip search shall be of the same gender as the inmate subjected to the search except when exigent circumstances are such that delay would jeopardize the safety of the inmate, the officers, or to the safety and security of the facility.
- d. In determining the gender of the Correctional Officer that will conduct the search this directive incorporates the processes outlined in Administrative Directive 432.01 *Gender Identification, Care, and Custody*.
- e. Pre-Arrestment Inmates:
 - i. Department staff is authorized to conduct a pat search of an inmate at any

¹ Drug tested observations incorporates the definitions and characteristics identified in Administrative Directive 409.04.

time.

- ii. The inmate will not be required to remove any clothing during the pat search other than outerwear (i.e. coats, gloves, hats, footwear, etc.). Staff will require the inmate to remove all items from his or her pockets.
- iii. Strip searches shall be conducted as follows:
 - A. Persons arrested on felony charges shall be subjected to a complete strip search;
 - B. Persons arrested for misdemeanors may be strip searched only if there is reasonable suspicion to believe that the person is in possession of items that would constitute a safety or security threat to the inmate or the operations of the facility. If the admitting officer believes that reasonable suspicion exists, the Shift Supervisor shall be consulted. The Shift Supervisor shall decide if reasonable suspicion exists and, if so, may give permission for the strip search. The Shift Supervisor shall then file an incident report, describing the supporting facts lead to a decision to conduct a strip search.²
 - C. Persons detained pursuant to federal civil deportation proceedings shall be treated in the same manner as misdemeanants until an appearance has been made before a federal magistrate or judge.

f. Post-Arrestment Inmates:

- i. Department staff is authorized to conduct a pat search of an inmate at any time.
- ii. The inmate will not be required to remove any clothing during the pat search other than outerwear (i.e. coats, gloves, hats, footwear, etc.). Staff will also require the inmate to remove all items from his or her pockets.
- iii. Strip searches are authorized in any of the following situations:
 - A. When an inmate has had a contact visit or has had contact with persons or areas outside the facility or with a person in a lower security level, e.g., inmate returns to facility from furlough status or from court; or
 - B. When an inmate exhibits behavior that would reasonably lead one to believe that the inmate is concealing contraband, such as difficulty walking or sitting, dilated eyes, or assaultive behavior; or

² The Shift Supervisor's incident report shall be made consistently with Administrative Directive 405 *Reporting Incidents*.

- C. Before an inmate changes housing areas.
 - D. On a random, unannounced basis; or
 - iv. Physical contact with the inmate's body should be avoided.
 - v. Close or special observation or dry cell status may be authorized by the Superintendent or designee if s/he has a reasonable suspicion that an inmate has ingested contraband or has concealed contraband in a body cavity and the methods of search specified above are inadequate or likely to result in physical injury to the inmate. The inmate may remain under constant or special observations until s/he has voided the contraband or until sufficient time has elapsed to preclude the possibility that the inmate is concealing contraband. The length of close observation status will be determined on an individual basis by the Superintendent or Security and Operations Supervisor in consultation with qualified health personnel.
 - vi. The use of a fluoroscope, major instrument (including anoscope or vaginal speculum), or surgical intrusion is allowed only if a physician authorized and conducted by such use for medical reasons and the inmate consents.
- g. Incapacitated Persons:
- i. Inmates lodged pursuant to 18 V.S.A. §9144 may be subject to the following searches:
 - A. Department staff is authorized to conduct a pat search of an incapacitated person at any time.
 - B. The incapacitated person will not be required to remove any clothing during the pat search other than outerwear (i.e. gloves, hats, footwear, etc.). Staff will require the incapacitated person to remove all items from his or her pockets.
 - C. Strip searches of incapacitated persons are authorized if the search of an inmate is imperative to the safety and security of an inmate, or to the operations of a facility. If the admitting officer believes that reasonable suspicion exists, the Shift Supervisor shall be notified. The Shift Supervisor shall decide if reasonable suspicion exists and, if so, may give permission for the strip search. The Shift Supervisor shall then file an incident report to document the facts which support the decision to conduct a strip search.³
- h. Persons Held by Civil Contempt Order:

³ The Shift Supervisor's incident report shall be made consistently with Administrative Directive 405 *Reporting Incidents*.

- i. Persons lodged by court order for civil contempt shall be treated for the purposes of this directive as pre-arraignment inmates, until they have had their first hearing upon which they will be treated as a post-arraignment inmate.
- i. Visitors:
 - i. Visitors to correctional facilities may be subjected to search by trained dogs or may be required to submit to metal detection, or other electronic devices. Visitors shall not under any circumstances be subject to a strip search by Department of Correction's staff. The personal property of visitors brought into a facility is subject to search at any time. Visitors may be required to empty packages at any time, at the request of staff.
- j. Furloughees and Supervised Community Sentence (SCS):
 - i. The following applies to searches of the property, residences, and persons of inmates who are being supervised in the community when on furlough or SCS:
 - A. For furloughees and SCS offenders residing in housing that is not owned or leased by the Department of Corrections, if there is a household member agreement, the residence may be searched on a routine or random basis if the household member who signed the agreement consents; if the furloughee or SCS offender lives on his/her own, the residence may be searched on a routine or random basis if the furloughee or SCS offender consents; if there is reasonable suspicion to search a residence, a corrections employee shall get consent from either a signatory of the household member agreement, or from the furloughee or SCS offender if s/he lives alone before conducting the search; the personal property of the furloughee or SCS offender may be searched if reasonable suspicion exists.
 - B. If a household member or a furloughee or SCS offender refuses to consent to a search, the offender may be found in violation of their conditions of supervision, and lodged at a correctional facility pending due process.
 - C. For all offenders the following factors may be considered in establishing a reasonable suspicion for violating a condition of the supervision:
 - 1) Observation of an offenders unusual behavior;
 - 2) Suspicious or criminal activity of the people with whom the furloughee or SCS offender is associating;
 - 3) Recent reports from credible informants of a furloughee's or SCS offender's violation;

- 4) The furlougee's or SCS offender's history of criminal behavior.
 - D. Department staff is authorized to conduct a pat search of a furlougee or SCS offender for weapons or other objects that may present if reasonable suspicion exists.
 - 1) The offender will not be required to remove any clothing during the pat search other than outwear (i.e. coats, gloves, hats, footwear, etc.). Staff will require the offender to remove all items from his or her pockets
 - E. Strip searches of offenders in the community are not authorized.
- k. Probationer/Parolees:
 - i. The following applies to searches of the property, residences, and persons of probationers/parolees who are under supervision in the community:
 - A. Searches of the personal property and residences of probationers and parolees may be conducted only when a court or the Parole Board has expressly created a search condition or when the offender consents to the search upon request. The search provided for by a condition may be conducted only if reasonable suspicion exists or if the condition specifically allows for a search without reasonable suspicion. Staff may be assisted by trained dogs under the control of the assigned dog handler and/or by electronic search devices.
 - B. Department staff is authorized to conduct a pat search of the probationer/parolee for weapons or other objects that may present a danger during a visit to the offender's residence or during transport if reasonable suspicion exists.
 - 1) The probationer/parolee will not be required to remove any clothing during the pat search other than outwear (i.e. coats, gloves, hats, footwear, etc.). Staff will require the probationer/parolee to remove all items from his or her pockets.
 - C. Strip searches are not authorized.
 - D. Probationer/parolees who are arrested for violating the conditions of their probation/parole shall, upon lodging at a correctional facility, be treated like post-arraignment inmates for purposes of this directive.
- l. Law enforcement:
 - i. Law enforcement officers may not accompany corrections employees on searches

of offenders' residences, property, or persons unless law enforcement's presence is necessary for the personal safety of the corrections' employee, or if the offender consents, or law enforcement has a search or arrest warrant or has probable cause to search.

TRAINING

The Director of Human Resources Development has the responsibility and authority to develop and deliver training connected with the performance of the duties outlined in the 409 Policy series.

QUALITY ASSURANCE

Work site managers will develop local procedures that comply with the requirements set forth in this Directive.