

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p>Title: Searches</p>		<p style="text-align: right;">Page 1 of 8</p>						
<p>Chapter: Security and Supervision</p>	<p style="text-align: center;"># 409.01</p>	<p>Supersedes 409.01 dated 02/22/2015</p>							
<p>Attachments, Forms & Companion Documents: All attachments, forms, and companion documents associated with this directive are available on the Department’s website.</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> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; text-align: center; border-bottom: 1px solid black;">SIGNED</td> <td style="width: 30%; text-align: center; border-bottom: 1px solid black;">8/14/2015</td> <td style="width: 30%; text-align: center; border-bottom: 1px solid black;">9/1/2015</td> </tr> <tr> <td style="text-align: center;">Andrew A. Pallito, Commissioner</td> <td style="text-align: center;">Date Signed</td> <td style="text-align: center;">Date Effective</td> </tr> </table>				SIGNED	8/14/2015	9/1/2015	Andrew A. Pallito, Commissioner	Date Signed	Date Effective
SIGNED	8/14/2015	9/1/2015							
Andrew A. Pallito, Commissioner	Date Signed	Date Effective							

PURPOSE

This directive outlines procedure for searches of persons under the supervision of the Vermont Department of Corrections (DOC), persons visiting correctional facilities, and any person who enters the secure portion of any correctional facility. Contraband in correctional facilities presents a myriad of safety and security concerns for staff, inmates, volunteers, and visitors. In order to improve safety and security, it is necessary that corrections staff has the authority to conduct searches of persons and possessions entering the secure part of correctional facilities.

POLICY

It is the policy of the DOC to promote the safety and security within state correctional facilities, and field offices, by conducting routine, random, and reasonable suspicion searches of all persons, including DOC staff, volunteers, visitors, inmates, offenders, or any other person who may enter the secure part of a correctional facility. All searches shall be carried out in a professional manner, where the dignity of the person subjected to the search is maintained.

AUTHORITY

28 V.S.A. §§ 101(1), 101(3), 102(b)(2), 102(c)(1), and 102(c)(5).

REFERENCE

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 law enforcement, trained dogs, and/or other devices.

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

- a. Inmate strip searches, inmate pat searches, and drug testing observations, will be conducted by staff members of the same birth-sex, except when exigent circumstances exist; such as no female staff is 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 Any employee conducting or observing a cross-gender search shall complete an incident report pursuant to DOC Administrative Directive #405 *Reporting Incidents*.
- b. Inmates who identify as transgendered or intersex will be pat searched by a staff member of the gender identified by the inmate on the *Gender of Preference Form*. Strip searches of inmates who identify as transgendered or intersex will be strip searched by a DOC staff member who has the same current gender status as the inmate.² In exigent circumstances, such as no female staff is 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, a staff member of any gender may conduct the search. Any employee conducting or observing a cross-gender search shall complete an incident report pursuant to DOC Administrative Directive #405 *Reporting Incidents*.
- 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 DOC Administrative

¹ Drug testing observations incorporates the definitions and characteristics identified in DOC Administrative Directive #409.04 *Offender Drug Testing*.

² All strip searches of inmates who identify as transgendered or intersex will be performed in accordance with DOC Administrative Directive #432.01 *Gender Identification, Care, and Custody*.

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 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.).
 - 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.³ 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.⁴
 - 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.).
 - iii. Strip searches are authorized in any of the following situations:

³ A safety threat includes self-harm. Any inmate at risk for self-harm will be treated in accordance with DOC Administrative Directive #362 *Suicide Prevention & Intervention in Facilities.*

⁴ The Shift Supervisor's incident report shall be made in accordance with DOC Administrative Directive #405 *Reporting Incidents.*

- 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 a 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, but not limited to, difficulty walking or sitting, dilated eyes, or assaultive behavior; or
- C. Inmate changes housing areas.
- D. On a random, unannounced basis.
- E. As part of a cell search or shakedown.

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 authorized and conducted by a physician in an outside medical facility for medical reasons and the inmate consents.

g. Incapacitated Persons:

i. Incapacitated Persons lodged pursuant to 18 V.S.A. § 4808 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.).
- C. Strip searches of incapacitated persons are authorized if the search is

imperative to the safety and security of the incapacitated person, an inmate, or to the operations of a facility.⁵ If the admitting officer believes that reasonable suspicion exists that the incapacitated person possesses contraband, 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.⁶

- h. Persons Held by Civil Contempt Order:
 - 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 Corrections' 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. All persons:
 - i. All employees, visitors, volunteers, contracted staff, and other non-staff persons entering a correctional facility may be subject to search of possessions at any time, including possessions on their person.
 - ii. All employees of the DOC are subject to search of personal possessions entering the secure area of a facility on a random basis or based on reasonable suspicion of possession of a prohibited item. If an employee uses a locker or other storage area at work, including a locking desk drawer or locking cabinet, the Department will either furnish the lock and keep a copy of the key or combination, or allow the employee to furnish a personal lock, but the employee must give the Department a copy of the key or the combination. No employee shall be physically forced to submit to a search by the Department. Any employee who refuses to submit to a search shall be denied entry to the secure perimeter of any correctional facility and may be subject to disciplinary action.⁷

⁵ A safety threat includes self-harm. Any inmate at risk for self-harm will be treated in accordance with DOC Administrative Directive #362 *Suicide Prevention & Intervention in Facilities*.

⁶ The Shift Supervisor's incident report shall be made in accordance with Administrative Directive #405 *Reporting Incidents*.

⁴ DOC Administrative Rule #409 *Searches for the Purpose of Limiting the Introduction of Contraband into Correctional Facilities*.

- iii. Searches of all persons shall be conducted in a manner that protects their privacy, confidentiality, and personal dignity to the extent consistent with this policy.
 - iv. For all persons, reasonable suspicion requires specific, articulable facts, when taken together with rational inferences therefrom, would lead a reasonable person to believe that the person to be searched possesses a prohibited item.
- k. Furloughees and Supervised Community Sentence (SCS):
- i. The following applies to searches of the property, residences, and persons of offenders who are being supervised in the community on furlough or SCS:
 - A. For furloughees and SCS offenders the residence may be searched on a routine or random basis if the offender consents, or if reasonable suspicion exists. If a household member, furlougee, 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.
 - B. For all persons, reasonable suspicion requires specific, articulable facts, when taken together with rational inferences therefrom, would lead a reasonable person to believe that the person to be searched possesses a prohibited item.
 - C. Department staff is authorized to conduct a pat search of a furlougee or SCS offender for weapons or other prohibited objects that may present if reasonable suspicion exists, or for transport to a correctional facility.
 - 1) The offender will not be required to remove any clothing during the pat search other than outerwear (i.e. coats, gloves, hats, footwear, etc.).
 - D. Strip searches of offenders in the community are not authorized.
 - E. Any employee conducting or observing a cross- gender pat search shall complete an incident report pursuant to DOC Administrative Directive #405 *Reporting Incidents*.
 - F. Cross-gender drug testing observations are not authorized.
- l. Probationers/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.
 - B. For all persons, reasonable suspicion requires specific, articulable facts, when taken together with rational inferences therefrom, would lead a reasonable person to believe that the person to be searched possesses a prohibited item.
 - C. 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 to a correctional facility.
 - 1) The probationer/parolee will not be required to remove any clothing during the pat search other than outerwear (i.e. coats, gloves, hats, footwear, etc.).
 - D. Strip searches are not authorized.
 - E. Probationers/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.
 - F. Any employee conducting or observing a cross- gender pat search shall complete an incident report pursuant to DOC Administrative Directive #405 *Reporting Incidents*.
 - G. Cross-gender drug testing observations are not authorized.
- m. Law enforcement:
- i. Law enforcement officers may not accompany corrections employees on searches of offenders' residences, property, or persons unless the officers' presence is necessary for the personal safety of the corrections employee, the offender consents, or with District Manager, or designee approval, the law enforcement officer has a search or arrest warrant or probable cause to search. DOC staff shall not search any person's residence in which an offender is not residing in.

TRAINING

The Training and Professional Development Director has the responsibility and authority to develop and deliver any necessary training associated with the implementation and adherence of this directive.

QUALITY ASSURANCE

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