
 <p>NEW YORK STATE Corrections and Community Supervision</p> <p>DIRECTIVE</p>	TITLE		NO. 4936
	Search of DOCCS Employees		DATE 12/21/2023
SUPERSEDES DIR #4936 Dtd. 09/26/23	DISTRIBUTION A	PAGES PAGE 1 OF 11	DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Penal Law; Directives #2115, #3083, #4900, #4910, #4937, #4938; Employees' Manual	APPROVING AUTHORITY 		

- I. PURPOSE:** The presence of contraband within a Department workplace or a correctional facility and its possibility of subsequent possession and/or use by incarcerated individuals threatens the security of the facility; it endangers the safety of incarcerated individuals, employees, visitors, and the community.

Introducing or possessing contraband in a facility is a violation of the New York Penal Law and Department of Corrections and Community Supervision (DOCCS) Rules and Regulations and violators are to be prosecuted. Employees attempting to introduce contraband or who are in possession of contraband shall be subject to both prosecution and disciplinary action.

Sound security operations require routine, periodic, and special searches of all persons entering the workplace. This directive outlines the security procedures to be followed in searching employees while on Department property, which may include workspaces. See also Directive #4900, "Security in Gate Areas/Secure Posts," and Directive #4910, "Control of & Search for Contraband."

- II. GUIDELINES:** Section 2.30 of the Department's Employees' Manual states:

Any employee on Department property or while on duty is subject to search, which may include workspaces. All employees will routinely be subjected to a metal detector search and packages and other articles carried into the workplace may be routinely inspected. Pat or strip searches may be conducted. Any article that may not be properly taken into or out of the facility may be confiscated and turned over to the Officer in Charge for appropriate disposition. Refusal by an employee to submit to a search is insubordination, shall be cause to refuse them entry to the facility or workplace, and may constitute grounds for disciplinary action. The Department's policy and procedures concerning such searches are contained in this directive.

Among the many procedures that may be taken to ensure safe and secure facilities and workplaces is the procedure that permits the searching of employees at any time they are on Department property. The need for this procedure has been demonstrated by those occasions when employees have been found to possess contraband within the facilities or in the workplace.

It must also be recognized that all employees shall be treated fairly and in a dignified manner on those occasions when a search is required. Screening staff must be respectful of a person's belongings. Belongings and contents should not be handled carelessly, or in a manner that attracts unnecessary attention. Screening staff shall not make unnecessary or inappropriate comments regarding a person's belongings that might cause embarrassment. Additionally, no incarcerated individuals will be allowed to remain in the area, or allowed to view screening procedures, when electronic searches of staff are being conducted.

- A. **Metal Detector Searches:** All employees will be subject to metal detector searches upon entering a correctional facility in accordance with Directive #4900 (walk-through, Cellsense, and/or handheld). On a daily basis, the Superintendent or designee (rank of Captain or above) will determine in what manner this will occur, ranging from a random predetermined number of employees entering the facility that will change each shift and day, up to and including all staff entering that facility. The determination will be documented in the Watch Commander's Logbook. It is the responsibility of the staff person being searched to clear the metal detector. Metal detector searches must be supervised by a Sergeant or higher.
1. It is expected that the vast majority of staff persons will clear the metal detection screening with minimal delay. However, if the metal detector alerts and the alerting area is isolated and cannot be resolved, a handheld metal detector will be utilized. In the case of a staff person who may be wearing an underwire bra, the use of a handheld metal detector should resolve the alert to the satisfaction of the supervisor without the need for additional steps. However, if this particular alert or any other alert cannot be resolved to the satisfaction of the supervisor, they will immediately notify the Watch Commander, who in turn will notify the Superintendent, Deputy Superintendent for Security (DSS), or Officer of the Day to determine the next appropriate step or if additional processing procedures are necessary.
 2. Staff persons who have medical conditions that do not allow them to clear or pass through a walk-through metal detector device will be issued a pass by the Superintendent, upon receipt of administratively acceptable medical documentation indicating their medical condition and the extent of the restriction(s) regarding their ability to clear electronic screening. The purpose of the medical alert pass is not to relieve the entering person of the responsibility to clear the staff entrance and search procedure, but to provide an opportunity for the person and the administration to tailor the procedure to that person's unique medical situation. Screening staff conducting searches of entering staff persons with medical passes must still be reasonably assured that no prohibited objects are entering the facility.

NOTE: Board of Parole members, Central Office staff, and other Department employees entering any correctional facility for official business will be processed as facility employees and will be subject to metal detector and periodic pat frisk searches in the same manner as prescribed in subsections II-A and II-B.

3. Packages, containers, and other articles carried into the facility shall also be searched/frisked upon entrance and exit of the facility and may be subject to x-ray.
NOTE: Packages, containers, and other articles containing documents and equipment carried by members of the Board of Parole and their Court Reporters, Central Office staff, the Office of Special Investigations (OSI), the Bureau of Labor Relations in connection with an official investigation or labor relations cases, and the facility Executive team may be visually inspected, however, frisking staff are prohibited from reading or reviewing the content of such documents and shall not view the contents of the file folders without the approval of the Commissioner.

- B. Pat Frisk Searches: The Superintendent will order periodic pat frisk searches of any employee to be conducted in a designated area. Pat frisk searches shall be supervised by a uniformed supervisor of the rank of Sergeant or above or a non-uniformed employee of a higher pay grade than the employee being searched. The Officer conducting the pat frisk search must be of the same gender as the employee being searched unless exigent circumstances require a cross-gender pat frisk. A transgender employee shall be frisked by a staff member whose gender is consistent with the searched employee's gender identity. A gender nonconforming/gender nonbinary person may identify their preference for the gender of the frisking employee. The Watch Commander or above, after a discussion with the employee, will determine who should conduct a pat frisk of an individual who identifies as transgender or gender nonconforming/gender nonbinary. In addition, the Watch Commander may approve a pat frisk of an employee based on suspicion or inability to clear the metal detector.

NOTE: Searches of employees conducted by OSI as part of an investigation or a special operation may be conducted by an OSI member, regardless of rank, after supervisory approval has been granted in accordance with OSI policy.

1. Religious headwear is not considered part of a person's belongings, but rather their person. Random pat frisks should not ordinarily include removal and inspection of religious headwear. Except in emergencies, prior authorization is required by the Watch Commander or above to search the religious headwear of an employee.
2. General Procedures: When pat frisking an employee, the process shall be conducted with the employee standing, with their arms extended out to either side, parallel to the ground (not against the wall unless necessary). Mats should be utilized for the person to stand on upon the removal of shoes, particularly during inclement weather. If any item is confiscated from an employee during the frisk, the item must be treated as evidence until it is determined by the highest-ranking supervisor overseeing the search that the item(s) confiscated does not constitute evidence.
 - a. In the event of discovering an employee's medication, this will be handled with reasonable care taking into consideration the sensitive nature of such items and will be addressed in an area offering privacy.
 - b. The employee shall be required to remove their hat, coat, and any extra layer of clothing, which should be placed on a table, chair, or other available location.
 - c. The employee should also be provided a place to sit down for the removal of their shoes.

NOTE: All outwear garments and shoes shall also be frisked.

- d. When the screener is frisking the upper clothed thigh area of the employee, they shall use a downward motion along the leg, frisking all sides of the leg to the bottom and use care not to pat the clothed genital area of the person. This procedure will be repeated on the remaining side.
- e. Frisk of a Female Chest Area (includes transgender female staff): The screening employee shall use the back and side of the hand only and use care not to pat the clothed nipple area of the female employee. This procedure will be repeated on the remaining side.

- C. Search of Personal Belongings: Bags, containers, other personal property, and their contents shall be thoroughly searched in such a way as not to lose, damage, or destroy any articles. Particular care should be shown when searching food items. Before searching food items, a change of gloves is required. Employees shall be permitted to carry, on their person or in their clear bags, those items that are outlined in Attachment A, "Staff Allowable Items List."

If any item is confiscated from an employee during the search, it will be treated as evidence until it is otherwise determined not to constitute evidence. If medication is in question, the employee shall be taken to a private area to discuss.

- D. Search of Employee Workstations: At least quarterly, Superintendents will select a staff area within the facility to be frisked. These frisks will be reported on the Facility Operations Weekly Summary (FOWS) and in the quarterly reports submitted to the Deputy Commissioner for Correctional Facilities. Employee workstations include, but are not limited to, workstations, desks, storage cabinets, and lockers. Lockers at work locations must be authorized by the DSS, or functional equivalent. Access to locks (key or combination) must be provided to the DSS, or functional equivalent, in advance of authorization. It is expected that these lockers be inspected routinely, but no less than once per quarter, by a supervisor at the rank of Lieutenant or above and documented in the area search logbook per Directive #4910.

- E. Use of Canine (K-9) to Search Staff, Work Areas, and Personal Belongings: In addition to the above, the Department may deploy K-9s to sniff employees, their work areas, and their personal belongings for the presence of illegal drugs and contraband. A positive indication by a K-9 provides reasonable cause to conduct a further search of the person, place, or item. The Department shall use passive indication K-9s (those that indicate by sitting in front of or staring at the location) for the sniffing of people.

F. Strip Searches

1. **Definition**: For purposes of this directive, a strip search is defined as an inspection of the naked body of the person, and an examination of the person's clothes and personal effects.
2. A strip search of a facility employee may only be conducted on the order of the Deputy Commissioner and Counsel, or designee (not below Deputy Counsel).
3. **Reasonable Suspicion Definition**: Reasonable suspicion must be directed at a specific person and based on specific articulable facts and rational inferences.
4. **Factors Include**: The nature of the tip or information, the reliability of an informant, the degree of corroboration, and other facts contributing to suspicion or lack thereof. Information that contraband is being introduced into a correctional facility, including confidential information, provided either by reliable and credible sources or which is independently corroborated.

Other factors include, but are not limited to, observation, technological equipment, K-9 indicators, or pat frisk detection that contraband is present under the clothing of an employee. The Department will not strip search an employee based solely upon the information of incarcerated individuals or anonymous sources unless the information is corroborated by reliable and credible sources or objective evidence. Vague, unspecified, rudimentary hunches, or intuitive feelings, absent any of the additional factors listed above, do not meet the reasonable suspicion standard.

5. **Requesting Authorization:** The Superintendent, Officer of the Day, Deputy Commissioner for Correctional Facilities, Deputy Commissioner/Chief of Investigations, Assistant Commissioner/Assistant Chief of Investigations, or Director of Operations from OSI, or higher-ranking authority shall document the basis for their request to strip search an employee on State property. The requestor shall communicate all such information to the Office of Counsel, Deputy Commissioner and Counsel.

The Deputy Commissioner and Counsel will then make a determination as to whether sufficient facts have established reasonable suspicion, as defined in subsection II-F-3. The Communications Control Center shall be contacted in order to assist in locating the Deputy Commissioner or designee during hours when such offices are closed. The Deputy Commissioner and Counsel or designee's determination shall be documented.

6. **Authorization:** When the Deputy Commissioner and Counsel determines reasonable suspicion exists, their name shall be noted in the search request documentation. If the Deputy Commissioner and Counsel determines that reasonable suspicion does not exist to order a strip search, no strip search will occur. No documentation of the request may be kept in the employee's personnel records.

Any employee who refuses to submit to an authorized strip search shall be notified that they may be subject to adverse administrative action up to and including suspension of duty without pay.

The following illustrations will provide guidance in determining whether there is reasonable suspicion in order to approve an employee strip search.

- a. **Illustration #1:** Superintendent Doe receives information from two Correction Officers that employee Roe is bringing contraband into the correctional facility on a certain day. One of the Officers has given the Superintendent reliable information in the past. There is reasonable suspicion, and the Superintendent may request the employee's strip search.
- b. **Illustration #2:** Incarcerated individual Jones informs Superintendent Doe that employee Roe is helping incarcerated individual Smith to escape from the facility. Another employee confirms this with additional information that Roe is bringing in drugs and a hacksaw on a certain date. There is reasonable suspicion, and the Superintendent may request the employee's strip search.
- c. **Illustration #3:** Superintendent Doe receives general rumors from uniformed supervisors and another reliable source that employee Roe is bringing contraband into the facility. Further, the Superintendent received the same general information from an incarcerated individual who has provided reliable information in the past at another facility. Finally, contraband had been discovered at the facility. There is reasonable suspicion, and the Superintendent may request the employee's strip search.
- d. **Illustration #4:** Incarcerated individual Jones gives information to the Department that employee Roe is bringing drugs into the facility. There is no evidence that this incarcerated individual had a history of providing reliable information in the past. Further, there is no corroborating evidence. These circumstances do not support reasonable suspicion, and the Superintendent should not request the employee's strip search.

- e. Illustration #5: A search of an employee seeking entry to a correctional facility leads the searching employee to conclude that contraband is likely concealed beneath the clothing. There is reasonable suspicion, and the Superintendent may request the employee's strip search.
7. Procedure: A sequential approach to searching an employee's person is expected. An employee should be ordered to surrender any contraband on their person as a first step. Then, a pat frisk, metal detector, or other technological equipment search is appropriate.

If the search indicates the presence of contraband beneath the clothing, the employee shall be ordered to surrender any item believed or suspected of being contraband concealed beneath their clothing.

Once a strip search of an employee has been authorized, the employee will be informed that they may have a union representative present if they wish.
8. Strip searches must be supervised by a uniformed supervisor having at least the rank of Lieutenant, or a Sergeant at a minimum security facility where they may be the ranking supervisor on duty.
9. No more than one searching employee may be present in addition to the supervising employee. Additional staff presence must be approved by the Superintendent, Acting Superintendent, or Officer of the Day and must be documented as provided in subsection II-F-12.

Employees who are strip searched will be treated in a professional manner. Such strip searches shall be conducted in areas which are clean and heated, have appropriate floor covering on which to stand, and have a space, not on the floor, for the employee's clothing to be placed.
10. The employee to be searched shall be escorted to the appropriate private area and kept under direct visual observation until commencement of the search.

The supervising and searching employees must be of the same gender as the employee being searched (refer to subsection II-B for additional information). If a ranking female security supervisor is not available, the Superintendent shall designate a female employee (holding a higher grade than the employee being searched) to be present during the search.
11. An employee may refuse to submit to a strip search, but such refusal shall be a cause to deny the employee's entry into the facility and shall be grounds for disciplinary action.
 - a. The employee being searched may request the presence of a witness or union representative. If the employee being searched is a non-uniformed employee, every effort should be made to have the employee's supervisor present during the search if the employee so requests.
 - b. When on Department property not associated with a correctional facility (e.g., Central Office, satellite offices, regional Area Offices, and other Department properties), pat or strip searches may be conducted only on the order of the Deputy Commissioner and Counsel or designee (not below Deputy Counsel).
 - c. The search area on other Department properties will be designated by the assigned Deputy Commissioner, and in correctional facilities, will be designated by the Superintendent or Acting Superintendent.

12. Report of Strip Search: Subsequent to the search, the employee will be provided with a report that will include date of search, time of day, location, identification of searching employees, supervising employee, representative or witness present, and the results of the search. This statement report shall be delivered to the employee and, upon the employee's request, the union representative no later than the end of the workday following the day the strip search was conducted.

A copy of this statement shall be forwarded to the Deputy Commissioner and Counsel as well as the Deputy Commissioner with oversight of the responsible service unit (security, health, administration, programs, Community Supervision, etc.).

G. Prohibited Strip Searches and Frisks

1. Random strip searches are not allowed.
 - a. Definition: For purposes of this directive, a random strip search is a strip search conducted for security or investigatory reasons when there has not been a proper request made, based on reasonable suspicion, to the Deputy Commissioner and Counsel, and/or the Deputy Commissioner and Counsel has not approved the strip search.
 - b. Random strip searches are not to be ordered. There must be a finding of reasonable suspicion that an individual employee was attempting to introduce contraband into the correctional facility, followed by a formal request to the Deputy Commissioner and Counsel, and approval from the Deputy Commissioner and Counsel prior to ordering the strip search of an employee.
2. Strip frisks are not permitted without a search warrant.
 - a. Definition: For purposes of this directive, a strip frisk is defined as a search including a visual examination of the anal and genital areas of the person searched.
 - b. No employee shall be strip frisked unless the Department has first secured a search warrant for that person to be strip frisked.

III. ITEMS FACILITY STAFF ARE ALLOWED TO CARRY INTO A CORRECTIONAL FACILITY

- A. All employees will be required to use one clear bag (approximate dimensions 11" wide by 7" deep by 10" tall, with a zipper pouch in front) as distributed by the Department.
- B. All employees may alternatively purchase an optional clear bag, at their own expense, not to exceed 1,521 cubic inches, with black nylon edging and one black carry strap/handle, with a zippered pouch in front, consistent with Agency-level Labor Management Agreements.
- C. All staff will be permitted to identify their issued or optional clear bag with their name placed on the bottom of the bag only. The bag will not be altered in any manner, including but not limited to, any items affixed/placed, inscribed, sewn on, etc., to the clear bag.
- D. Uniformed Security Services Unit staff (Correction Officers, Sergeants) working at Lakeview Shock Incarceration Correctional Facility holding a bid job or relief bid of "Drill Instructor" will continue to be permitted to utilize the duffel style clear bag issued by the Department.

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- E. Staff members requiring the use or carry of personal medical devices/supplies of a private sensitive nature, or menstrual products, shall be permitted to carry said items in a pouch that is clear on one side and solid on the other. This bag will fit into the clear bag, as outlined in subsection III-A, which will allow for appropriate inspection, while maintaining privacy from a distance.

Staff shall be permitted to carry, on their person or in their clear bags, those items that are outlined in Attachment A, "Staff Allowable Items List."

STAFF ALLOWABLE ITEMS LIST

- Clear employer-provided bag or optional larger bag as specified in subsections III-A and III-D. All other bag(s) are prohibited except for staff, whose job assignment requires carrying documents into and/or out of the facility. They may be permitted to carry a briefcase, file box, or folders as approved by the Superintendent.
- Uniformed staff are permitted the items as listed in Directive #3083, "Uniform/Equipment Issue and Appearance."
- Employees required to wear Department-issued clothing are permitted one change of clothing to be secured in a locker not accessible by incarcerated individuals.
- Wallet/badge case with personal documents (e.g., identification cards, credit cards, driver's license, bank cards, etc.)
- Cash, no more than \$100, for food, ordered from an outside business, vending machines, and/or employee mess dining room, if equipped.
- Vehicle/personal keys
- 2 pens and 2 pencils
- Calendar book
- Notepad
- Pad folio (1)
- Highlighter (1)
- Key clip(s)
- Food/drinks (reasonable amounts as determined by the Watch Commander or above)
 - **Uncooked eggs, meats, poultry, and fish are PROHIBITED**
 - **Unprepared frozen food is PROHIBITED**
 - Microwaveable prepared meals are permitted
 - Packaged in the original packaging, if store bought, or in see-through clear plastic containers
 - Metal and glass containers are prohibited with the exception of a vacuum-insulated mug
 - All consumable canned goods (e.g., beverages/soda, food that can be heated); however, once opened, shall be removed by the individual who brought it into the facility at the conclusion of their tour of duty.
 - Tea
 - Ground coffee and coffee filters
 - Coffee cream
 - Sugar
- Plastic eating utensils
- Cold pack
- Elastic bandage or self-adhesive bandage wrap (1)
- Wrist wrap (1)
- Adhesive bandage (6)
- Antibiotic ointment (small tube)
- Adult incontinence product
- Ceramic coffee mug
- Menstrual products
- Tissues
- Toothbrush
- Toothpaste (travel size only)

- Breath mints (1) retail package
- One (1) lip balm
- Lotion (travel size only)
- Hand sanitizer (travel size only)
- Sunscreen (travel size only)
- Plastic comb or brush
- Raincoat
- Sweater
- Change of shoes
- Winter jacket, scarf, gloves, hat/earmuffs, facemask, and boots
- Umbrella (no golf size or pointed end)
- Watch (**PROHIBITED: Internet, Cellular, Bluetooth, or Wi-Fi capable/enabled**)
- Rings
- Earrings (no hoop or dangling, stud only)
- Bracelet(s)
- Necklace(s)
- Small compact mirror
- Eyeglasses (2 pairs) and non-mirrored sunglasses (1 pair)
- Contact lenses
- Contact lenses solution (1 Bottle)
- Hearing aids/batteries
- Tobacco products (maximum of one pack, can, pouch, or factory container of tobacco product)
- **Electronic Cigarettes are PROHIBITED**
- Pack of matches or lighter (2)
- Employees may carry a personally-owned knife with a folding blade (blade not to exceed 2" in length). The knife will be carried in such a way that it is out of view. Under no circumstances will a knife be carried in a sheath/pouch exposed. Combination tools, such as a Leatherman tool **are not authorized**.
- **Medication – In accordance with Section 7.13 of the Employees' Manual:**
 - Controlled substances are not permitted to be possessed, stored, or consumed in any facility except upon a valid order or prescription from a qualified physician. Under no circumstances shall incarcerated individuals have access to opiates, narcotics, or other substances producing similar effects.
 - Employees who must, on orders of a physician, take medication during working hours shall bring into the institution only the dosage that they will be required to take during their tour of duty (including epi-pens and diabetic supplies). See Directive #2115, "Drug Tests for Employees"; #4937, "Urinalysis Testing"; and #4938, "Contraband Drug Testing."
 - Over the Counter (OTC) medications that are readily identifiable are allowed into the facility; only the dosage which is required for tour of duty is allowed.
- Approved items for Lakeview Shock Incarceration Drill Instructors:
 - 1 Department-issued clear duffel bag
 - 1 clear personal hygiene bag (must fit inside of clear duffel bag)
 - 1 shampoo (travel size)
 - 1 soap/body wash (travel size)
 - 1 deodorant (non-aerosol)

- 1 towel (bath size)
- 1 washcloth
- 1 hair dryer (by approved gate clearance – to be secured in locker)
- 1 clothes hanger (plastic)
- Athletic supporter
- Department-issued physical training attire (e.g., 1 sweatshirt, 1 sweatpants, 1 t-shirt, 1 pair of shorts)
- Sneakers

Personal items not listed above, such as personal effects for an office, may be approved by the facility Superintendent and placed on a gate pass with a copy of such approval available for review.

Absent the aforementioned provision regarding personal items and the approval process, no items other than those listed above shall be allowed to be brought into the facility without the express written approval of the Commissioner or Deputy Commissioner for Correctional Facilities.