



*"Service with Excellence
& Integrity"*

Arkansas Department of Community Correction

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ADMINISTRATIVE DIRECTIVE: 08-03 SEARCHES FOR, CONTROL AND DISPOSITION OF CONTRABAND AND EVIDENCE

TO: DEPARTMENT OF COMMUNITY CORRECTION (DCC) EMPLOYEES

FROM: G. DAVID GUNTARP, DIRECTOR

SUPERSEDES: AD 00-11

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APPROVED: Signature on File

EFFECTIVE: February 25, 2008

- I. APPLICABILITY.** This policy applies to DCC employees, visitors, volunteers, contractors, and offenders.
- II. POLICY.** The DCC will conduct searches to discover and control contraband and evidence and deter the introduction, possession, and/or manufacture of contraband in DCC offices and facilities. (3-3177)
- III. DEFINITIONS.**
 - A. Body Cavity.** This term refers to the rectum, vagina, mouth, ears and nose.
 - B. Body Cavity Search.** A physical search of the rectal and/or vaginal cavity by a registered nurse, nurse practitioner, physician or physician's assistant, after reasonable suspicion has been established.
 - C. Communication Device.** Any device including but not limited to cell phones, personal data assistants, "blackberries," or walkie-talkies, that allows the exchange of voice or data between any two or more individuals.
 - D. Contraband.** Items that are illegal, against residential facility policy or rules, or are prohibited by conditions of supervision.
 - E. Evidence.** Anything which may be helpful in forming a conclusion or judgment about illegal or unauthorized activity. Testimony, writings, or material objects offered in proof of an alleged fact or proposition.
 - F. Major Crime Scene.** An area where there appears to be evidence of a crime that would be a felony or a "serious" misdemeanor.

- G. Nuisance Contraband.** Any authorized item(s) maintained in an excessive amount or size that creates a hazard, impedes security, or is disruptive to the therapeutic community.
- H. Offender.** Persons in the custody or under the supervision of the DCC.
- I. Pat Search.** A means for detecting contraband hidden on a person's body that involves patting or sliding the hands along the fully-clothed body of a person.
- J. Reasonable Suspicion.** A degree of certainty based on facts and reasonable inferences drawn there from that cause one to believe that a person has violated the law, conditions of supervision, or policy.
- K. Residents.** Offenders incarcerated or confined to DCC residential facilities.
- L. Authorized Contractor.** Any outside agency or business entity which has a contract and/or agreement with DCC for the provision of a service to the agency.

IV. GUIDELINES.

- A. Employees Authorized to Conduct Searches.** Authorized employees may conduct searches within the scope of the guidance provided in policy.
- B. Searches of Property/Facilities.** Any personal or State property, including vehicles, is subject to search when on State property or in possession of someone on State property. Searches of all or portions of facilities and property are subject to the following guidelines:
 - 1. Searches must be thorough and systematic
 - 2. Supervisor concurrence should be obtained in advance of the search, when practicable; however, routine contraband searches at residential facilities do not require advance supervisor concurrence
 - 3. Employees must use care when conducting searches of offender, personal, and State property
 - 4. Evidence/contraband collected must be appropriately documented and reported to the supervisor, and
 - 5. The supervisor should occasionally conduct post-search reviews to ensure that searches are conducted in accordance with policy, procedures or other guidance.
- C. Circumstances for searches of persons.** Offenders may be pat searched by authorized DCC employees of either gender at any time with or without reasonable suspicion. During a pat search, the employee may conduct a visual inspection of the mouth, ear canal and nose, and may require removal of footwear, sweaters, coats, gloves and hats.
 - 1. Parole/Probation Services. The Parole/Probation Services policy provides additional guidance pertaining to searches and seizures. It addresses

circumstances under which warrantless searches may be conducted. When circumstances permit, Area Managers should analyze in advance the decision to search. They should also require officers to promptly inform them of contraband/evidence collected during a search, give the disposition of property seized and document the reasons for the search. The Manager should also conduct post-search reviews to ensure the search was conducted properly and provide guidance as appropriate.

2. Residential Services.

- a. **Communication Devices.** All visitors and employees are prohibited from bringing any personal communications devices into a DCC residential facility. Contractors are allowed to carry cell phones and other devices that are part of their business operation. Employees must take reasonable precaution to ensure residents do not have unauthorized access to computers, phones or cell phones within the facility.
- b. **Pat Search.** Searches of people visiting offenders are described in the policy pertaining to visiting a residential facility. Volunteers and contractors may be searched in the same manner as described for people visiting offenders.
- c. **Strip Search.** Offenders may be strip searched when there is reasonable suspicion or upon entering or prior to departure from the secure area of a facility. Strip search of an offender should be done by an employee of the same gender and, depending on staff availability, should be observed by a second employee of the same gender. The search should be conducted in a location and manner that protects the offender's privacy and, to the extent possible, keeps the search and results confidential. These restrictions may be waived during an emergency such as an escape or riot. (4-ACRS-2C-06).
- d. DCC employees at a residential facility may be strip searched when there is reasonable suspicion and the Deputy Director of Residential Services has granted permission for the search. Strip search of an employee must be done by an employee of the same gender and, depending on staff availability, should be observed by a second employee of the same gender. The search should be conducted in a location and manner that protects the employee's privacy and, to the extent possible, keeps the search and results confidential.
- e. **Body Cavity Search.** Offenders may be required to undergo a body cavity search conducted by a nurse, nurse practitioner, physician assistant or physician when there is reasonable suspicion and when approved by the Deputy Director of Residential Services or higher. The mouth, ears and nose should also be examined as part of the body cavity search. An employee should be present to collect any contraband, but need not observe the search. (4-ACRS-2C-04 and -2C-05)

- f. **Special Security Search.** Employees may be pat searched by a trained employee of the same gender as part of a special security search approved by the Center Supervisor, or higher DCC authority as part of the drug testing process or following a critical incident. The “special security search” does not require “reasonable suspicion.” Examples of a special security search include searching every 5th employee entering the residential facility, or searching all employees who work in a designated portion of the building.

D. Reasonable Suspicion. To act pursuant to “reasonable suspicion,” employees must be aware of specific objective facts, from which they make reasonable inferences, and upon which they are justified in concluding that reasonable suspicion exists. Unspecified suspicions or mere hunches fall short of providing reasonable grounds for actions which are permitted only on a basis of “reasonable suspicion.” Following are a few criteria which may be considered when determining reasonable suspicion:

1. Demeanor of individual
2. Gait and manner
3. Prior background or character
4. What the person is carrying or appears to be carrying
5. Manner of dress
6. The time of day or night the individual is observed
7. Overheard conversations
8. Information received from a third person
9. Whether the offender is with others whose conduct is reasonably suspect
10. Apparent effort to conceal an article or activity, and/or
11. Apparent effort to avoid identification or confrontation by officials.

E. Documentation. Prior to, or as soon as possible after taking action based on reasonable suspicion, the Supervisor should document both the “specific objective facts” and any “reasonable inferences” relied on to make the judgment. Even though evidence or contraband may not be discovered, documentation must be completed on an Incident or Hazard Report/Witness Statement.

F. Refusal to be Searched. If a person refuses to submit to an authorized search, the refusal must be reported promptly to the appropriate supervisor.

1. Offenders who refuse to be searched are to be appropriately managed.
2. Employees may be ordered to remain in the area and under supervision until the supervisor is informed.
3. All others who refuse to be pat searched should be denied access to the facility. A person denied access may request reconsideration for access. They may be requested to remain in the area while the appropriate supervisor is contacted, however, they may not be detained if they choose to leave.
4. Visitors on the Authorized Visitation List for a residential facility who refuse to be searched will have their visitation ended and visitation privileges revoked. Visitors whose privileges have been revoked for this reason may reapply for visitation privileges using procedures outlined in the visitation policy.

G. Collecting, Handling, Storing, Transferring and Disposition of Contraband or Evidence. (4-ACRS-2C-03)

1. Contraband or Evidence Found at a Major Crime Scene or Incident. When a major crime has been committed, or is suspected, follow procedures in the Emergency Plan and/or other applicable policy. Protect the crime scene and evidence by securing the area or individuals and wait for the arrival of local or Arkansas State Police. Whenever possible, field offices should use the appropriate local law enforcement agency to manage all aspects of collecting and handling the contraband/evidence for incidents outside of a DCC facility. Otherwise, contraband/evidence may be collected by trained staff. (3-3098 [P])
2. Contraband or Evidence Found at Other Than a Major Crime Scene or Incident. When police are not involved, all evidence and contraband, with the exception of nuisance contraband, is to be collected by trained staff and documented on Form 1, Evidence or Confiscated Property/Contraband. If the property owner or custodian of State property is apparent, they should be provided a copy of the form. The Incident or Hazard Report/Witness Statement must be completed as required.
3. Physical Evidence Collection. Physical evidence collection must provide for strict accountability to preserve the integrity of the disciplinary and legal process.
4. Control and Handling of Evidence or Contraband (Excluding Nuisance Contraband). Complete Form 1 for evidence/contraband, collected and tag all evidence. Transfer of evidence/contraband between staff and/or agencies should be kept to the minimum number of persons possible, and should be limited to persons trained in handling evidence/contraband. Whenever evidence/contraband is transferred to another trained custodian, the receiver will inspect the evidence/contraband to assure it is adequately described, sign for the evidence/contraband, and provide a copy of the transfer document to the person releasing custody. Upon collecting evidence, the DCC employee must decide whether the evidence should be turned over to the State Crime Lab for analysis. If turned over to the State Crime Lab, complete State Crime Lab Evidence Submission Forms, available on the State Crime Lab web site, and obtain a signature from the Crime Lab representative accepting custody. If someone else transports the evidence to the State Crime Lab, such as a State Police officer, have them sign the form, give them the original, and keep a copy. If it is not appropriate to send evidence to the State Crime Lab for analysis, the preferred step is to turn the evidence over to local or state police using AD Form 1. The supervisor must ensure all evidence is transferred to the State Crime Lab or local/State police.
5. Contraband/Evidence Storage. Contraband/evidence shall be stored in a designated secure area with access restricted to the custodian of the evidence until withdrawn by authorized individuals for appropriate use or transfer such as trial, transfer to police, use during a disciplinary committee hearing, return to the owner, or withdrawal for destruction.

6. Disposal of Evidence/Contraband. Evidence and Contraband will be disposed of as follows:
 - a. Weapons. Weapons must be disposed of as directed in the policy on Weapons and Security Equipment.
 - b. Legal Materials Belonging to Residents. For offenders at a DCC facility, the Senior Residential Supervisor may direct the resident to dispose of the material by shipping the material at the resident's expense or give the material to an authorized visitor.
 - c. Money Not Held as Evidence or Contraband. Money (not held as contraband or evidence) found by or in possession of a DCC resident will be deposited in the Resident Welfare Fund.
 - d. Disposition of Other Contraband/Evidence. If contraband/evidence has not been transferred or stored according to previous paragraphs, and there are no anticipated court cases nor need to transfer or hold the material for an anticipated hearing, choose an appropriate alternative from the following:
 - (1) Excess Personal Property Confiscated from Residents. Using Form 2, notify the resident of the intent to sell, discard, destroy the excess property, or for the resident to dispose of the material by shipping the material at the resident's expense or give the material to an authorized visitor. Such material cannot be given to a department employee. If instructions are not received from the offender within 30 days, follow disposition instructions below.
 - (2) Evidence should be returned to the owner if it is not illegal or against policy/rules to possess.
 - (3) Contraband may be returned to a visitor, volunteer, or contractor when they leave the facility if the contraband is not illegal to possess.
 - (4) If property is estimated to be worth over \$50.00, it can be turned in to the State Property Re-utilization Office (contact the Central Office, Administrative Services Section for guidance).
 - (5) Drugs should be transferred to a local police department for destruction.
 - (6) When the above alternatives are not appropriate, list the property on Form 1 and obtain supervisor approval for destruction/disposal. At least two DCC employees must be present upon destruction/disposal. Indicate the method of destruction/disposal, date, and both employees must sign the form.

H. Required Weekly Inspections. Center Supervisors must ensure weekly searches are conducted to minimize the presence of contraband. (4-ACRS-2C-02)

I. Requirement to Provide Guidance. Offenders and staff must be provided written contraband policy guidance. (4-ACRS-2C-01)

V. ATTACHMENTS/LINKS.

1. AD 08-03 Form 1a&b Evidence or Confiscated Property/Contraband
2. AD 08-03 Form 2 Notification of the Destruction, Discard or Sale of Confiscated Property/Contraband
3. AD 08-03 Form 3 Request Approval for a Body Cavity Search
4. [Evidence Submission Form](#) (Arkansas State Crime Lab)

**Arkansas Department of Community Correction
EVIDENCE OR CONFISCATED PROPERTY/CONTRABAND**

Date Evidence/Property Collected: _____ Time Collected: _____ AM PM

QUANTITY	TAG NUMBER	DESCRIPTION

INSTRUCTIONS:

CHAIN OF CUSTODY

- RECEIVED BY** Signature and printed/typed name of the person gathering the evidence or the latest person to possess the evidence. (The first person listed is the person collecting the evidence.)
- RELEASED BY** Use only when physical change of custody occurs. Avoid unnecessary changes of custody prior to relinquishing control of the evidence to the appropriate law enforcement agency.
- PURPOSE OF CHANGE** Specify why and how the evidence is being transferred. Evidence should be secured to deny access to persons other than the custodian.
- DATE/TIME** Enter the date and time of receipt and/or transfer.

Apparent Property Owner/Possessor _____ Location Collected: _____

RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE	DATE	TIME
	Signature: _____ Print Name: _____			
Signature: _____	Signature: _____			
Print Name: _____	Print Name: _____			
Signature: _____	Signature: _____			
Print Name: _____	Print Name: _____			

FINAL DISPOSITION OF PROPERTY

- | | |
|---|--|
| <input type="checkbox"/> Transferred to local or state police (for destruction). | <input type="checkbox"/> Mailed to resident's family or friend. |
| <input type="checkbox"/> Transferred to State Crime Lab. | <input type="checkbox"/> Returned to resident/offender/owner. |
| <input type="checkbox"/> Destroyed or discarded (complete Form 1b). | <input type="checkbox"/> Transferred to state office to be sold. |
| <input type="checkbox"/> Contraband money confiscated from CCC residents, deposited in Resident Welfare Fund. | |

NOTE - DISPOSITION OF STATE OR NON-STATE PROPERTY

In addition to this and other policies on the subject, **PRIOR TO** destroying or discarding all state or non-state property, review & follow appropriate guidance in the Administrative Services Manual for turning in items for resale. When destruction/discarding is appropriate, obtain prior approval signature from one of the following authorities: **AREA MANAGER/ASSISTANT**, **SENIOR RESIDENTIAL SUPERVISOR**, or higher. When a DCC employee destroys or discards property, a second employee **MUST WITNESS** the action and **BOTH MUST SIGN** the **Destruction or Disposition Form 1b**. Obtain disposition instructions from Administrative Services. Firearms are disposed of according to guidance in Weapons & Security Equipment policy. Drugs confiscated as contraband or evidence will be turned over to the appropriate police agency.

Arkansas Department of Community Correction
EVIDENCE OR CONFISCATED PROPERTY/CONTRABAND
Destruction or Disposition

Instructions. Follow all appropriate policy guidance to include Weapons & Security Equipment policy and Administrative Services Manual policy.

Property/Contraband Being Destroyed

QUANTITY	TAG NUMBER	DESCRIPTION

Name of Employee (Print)
Destroying or Discarding Property

Name of Supervisor (Print)
Approving Destruction or Discard

Signature of Employee
Destroying or Discarding Property

Signature of Supervisor
Approving Destruction or Discard

Method of Destruction or Discard Used

Date of Destruction or Discard

Name of Employee (Print)
Witnessing Destruction or Discard

Signature of Employee
Witnessing Destruction or Discard

**Arkansas Department of Community Correction
REQUEST APPROVAL FOR A BODY CAVITY SEARCH**

TO: _____

FROM: _____

RE: **REQUEST APPROVAL FOR A BODY CAVITY SEARCH**

DATE: _____

INSTRUCTIONS: Complete and submit this form to request approval for a body cavity search in accordance with the following guidance.

UPON APPROVAL OF THE DEPUTY DIRECTOR OF RESIDENTIAL SERVICES (or higher authority), residents may be required to undergo a body cavity search conducted by a nurse, nurse practitioner, physician assistant, or physician when there is reasonable suspicion that contraband has been concealed in a body cavity.

The mouth, ears and nose should also be examined as part of the body cavity search. An employee should be present **to collect any contraband**, but need not observe the search. Residents who refuse to be searched are to be appropriately managed by security staff so that medical personnel are able to complete the search. Justification for the search must be based on reasonable suspicion and in line with the criteria of the pertinent administrative directive. On completion of the search, the medical official performing the search will complete the appropriate section of this form below. This information must be documented even when no contraband is discovered.

Resident/Offender Name: _____ Resident/Offender Number: _____

FACTS UPON WHICH THE REASONABLE SUSPICION IS BASED:

Name of Requesting Officer (Print) Date Signature of Requesting Officer

This request is: **APPROVED** **DENIED**

Deputy Director (Print) Date Signature of Deputy Director

TO BE COMPLETED BY THE MEDICAL OFFICIAL

Name of Medical Official Performing Search: _____

Title/Position of Person Performing Search: _____

Employee Present to Collect Contraband: _____

Search Results: _____

Comments as Appropriate: _____