



#408.08, Field Searches of Individuals

Policy Information

Chapter: Security and Supervision

Supersedes: New

Local Procedure(s) Required: No

Applicability: All staff (including contractors and volunteers)

Security Level: “B” – Anyone may have access to this document.

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Jon Murad, Commissioner

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#408.08, Field Searches of Individuals

Purpose

This policy outlines the policy, philosophy, and procedure for searches of persons by field staff of the Vermont Department of Corrections (DOC). For the purposes of this policy, the DOC recognizes that drug screenings are searches.

Field staff may also conduct clothed searches and drug screenings of supervised individuals, within strict parameters, to ensure the safety of staff and others, as well as compliance with supervised individuals' conditions of supervision.

Authority

28 V.S.A. §§ 101(3), 202, 353, 403, and 723

Definitions

Clothed Search: A manual inspection of a person requiring the individual being searched to remove all outer layers of clothing (e.g., coats, gloves, hats, footwear, extra layers) down to a base layer (e.g., socks, shorts/pants/skirt, shirt), so that staff may run hands across the individual's clothed body to detect any hidden objects.

Different-Gender Search: A search that meets the following criteria: (1) For an individual who is intersex or identifies as transgender and/or gender-diverse, the gender of the staff conducting or observing the search does not match the approved gender for searches of that individual, as recorded in the individual's accommodation and housing determination review custom form; or (2) For other individuals, the gender of the staff conducting or observing the search does not match the gender of the individual being searched.

Exigent Circumstances: Emergency situations when not searching the incarcerated individual presents an immediate and serious threat to the safety and security of that individual, others, or the operation of the facility.

Protective Hairstyle: A hairstyle that minimizes ongoing manipulation and exposure to the elements such as wind, water, humidity, heat, and oil. Protective hairstyles keep hair out of the face and away from the body as much as possible. Protective styles associated with types 3 and 4 hair, most commonly associated with near African-ancestry, include the use of braids, wigs, locs and/or twists.

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Reasonable Suspicion: Requires specific, articulable facts, along with rational inferences, that would lead a reasonable person to believe the individual to be searched possesses contraband, such as a prohibited or dangerous item.

Same-Gender Search: A search that meets the following criteria: (1) For an individual who is intersex or identifies as transgender and/or gender-diverse, the gender of the staff conducting or observing the search matches the approved gender for searches of that individual, as recorded in the individual's accommodation and housing determination review custom form; or (2) For other individuals, the gender of the staff conducting the search or observing the search matches the gender of the individual being searched.

Unclothed Search: A systematic inspection of an individual requiring the removal of all clothing, prosthetics, and other items from the person, to permit the visual inspection of skin surfaces including genital areas, breasts, and buttocks, with the primary purpose of detecting hidden contraband, weapons, or prohibited items on or within the person's body.

Policy

The DOC's policy is to promote safety and security for all individuals, in all its interactions. The DOC recognizes its correctional system is binary even though that binary does not represent all the individuals DOC employs or serves. The DOC recognizes that supervised individuals represent a population with higher rates of exposure to trauma than the general population. The DOC strives to ensure individuals are not unnecessarily re-traumatized through our search practices.

The DOC will conduct searches of individuals when necessary to meet its mission of providing court-ordered custody and supervision with compassion and care. Staff shall conduct all searches in a manner that is respectful of all individuals. Staff responsible for conducting searches shall be trained how to conduct searches in accordance with this policy.

Field staff conduct searches to ensure staff safety and compliance with conditions of supervision.

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Overarching Principles and Standards

1. Staff shall conduct all searches in a manner that protects the privacy, confidentiality, and personal dignity of the individual being searched, to the extent consistent with the purpose of this policy.
2. Staff shall comport themselves professionally while interacting with any persons.
3. Staff shall avoid the damage or loss of items while searching.
4. Staff shall not require an individual to alter a protective hairstyle as part of a routine search, unless there is reasonable suspicion that individual has contraband concealed in the hair.
5. Field staff shall not conduct unclothed searches.

Considerations for Searches and Drug Screening Observations

A. Gender Considerations

1. The following rules apply to different-gender searches:
 - a. Except when exigent circumstances exist, staff shall ensure that all clothed searches of individuals are same-gender searches.
 - b. For the purposes of this policy, the DOC recognizes that drug screenings are searches.
 - i. Staff shall conduct all drug screenings in accordance with the DOC policy on the drug screening of individuals under the custody and supervision of the DOC.
 - ii. Staff shall ensure that all drug screenings are same-gender searches.
 - c. Staff members of any gender may observe clothed searches of any gender.
 - d. Whenever field staff conduct a different-gender search, they shall:
 - i. Document it in an incident in the Offender Management System (OMS), in accordance with the policy on incident reporting; and
 - ii. Notify the District Manager or designee.
2. Prior to conducting searches, staff shall receive training in how to conduct different-gender clothed searches, and searches of supervised individuals who are intersex, or who identify as transgender and/or gender-diverse, in a professional and respectful manner, and in the least intrusive manner possible consistent with safety needs.

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3. At intake, staff shall conduct searches based on the perceived gender of the individual.
 - a. If the Supervisor reasonably believes that an immediate accommodation that is contrary to the perceived gender of the individual would reduce risk when performing the search of an individual who is transgender, intersex, or gender-diverse, the Supervisor may temporarily accommodate the individual's request.
 - b. If the request is temporarily accommodated and results in behavior that raises in a security concern, staff may remove the temporary accommodation and shall document the behavior in an incident report, in accordance with the OMS technical guide.
4. During intake, staff shall document the answer to the gender questions in the custom form OMS.
 - a. This information shall be used for the purposes of:
 - i. Identifying the supervised individual's gender; and
 - ii. For an individual who is intersex or identifies as transgender and/or gender-diverse:
 - a) The individual will also indicate a preference to be searched by a man, woman, or either for:
 - 1) Clothed searches; and
 - 2) Drug screens, and all other searches of the person.
 - b) The Gender-Diverse Management Committee shall meet to finalize any accommodations, in accordance with the policy on gender identification, care, and placement.
 - b. An individual may request to update this information at any time during the course of supervision, in accordance with the policy on gender identification, care, and placement.

B. Religious Considerations

1. When conducting searches, field staff shall treat all religious items or articles of clothing with respect.
2. Field staff may only require an individual being searched to remove a worn religious item during a search if the removal is essential to conduct the search.
3. Field staff may search the religious headwear of anyone entering into a probation and parole office, including supervised individuals, visitors, volunteers, contractors, or other staff members. Field staff shall conduct the search, as follows:
 - a. When searching any individual's religious headwear, field staff shall ask if the individual wants a person of the same gender to search the headwear, and accommodate that request if possible.

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- b. A field staff member shall escort the individual to a private area to remove the headwear and allow it to be searched. The field staff member conducting the search shall:
 - i. Allow the individual to remove and replace the headwear themselves; and
 - ii. Provide the individual the opportunity to use a mirror to replace the headwear when the search is complete.
- c. Field staff may require a supervised individual to remove religious headwear, and may search religious headwear, at any time for security reasons.

Field Searches of Individuals

A. Probation and Parole Offices

Field staff shall search all individuals entering the secure portion of a probation and parole office prior to entry, unless the District Manager deems otherwise (e.g., exempting staff, visitors, or law enforcement), as follows:

- 1. All personal property deemed unnecessary for the purpose of the visit shall be stored prior to entry into the secure portion of the building; and
- 2. Field staff shall:
 - a. Search any bags the individual brings into the secure portion;
 - b. Ask the individual to empty pockets of all possessions; and
 - c. Use a metal detector to aid the search.

B. Clothed Searches

- 1. Field staff may only conduct a clothed search of supervised individuals.
- 2. Field staff may conduct a clothed search of a supervised individual in any of the following circumstances:
 - a. Prior to transport to a correctional facility, for weapons or other objects that may present a danger;
 - b. In cases when an individual is arrested for violating the conditions of supervision;
 - c. In cases when a field staff member reasonably believes that staff safety is at risk.
- 3. When conducting a clothed search, field staff shall require the individual being searched to remove all outer layers of clothing (e.g., coats, gloves, hats, footwear, extra layers) down to a base layer of clothing (e.g., socks, shorts/pants/skirt, base layer shirt).

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4. Field staff are not required to obtain consent for clothed searches conducted in accordance with the above criteria.

C. Drug Screenings

For the purposes of this policy, the DOC recognizes that drug screenings are searches. Field staff:

1. Shall conduct all drug screenings in accordance with the policy on drug screening; and
2. Shall not:
 - a. Collect a different-gender drug screening specimen, unless requested otherwise by the individual on the approved gender identification and accommodation form; or
 - b. Conduct a drug screening of any supervised individual, unless the individual consents and sign the *Drug Screening Log and Consent* form.

Search Refusals

In cases when a supervised individual who has a condition of supervision that allows for a search refuses to comply with such a search, field staff shall consider it a violation of community supervision.

Training

Field staff shall be trained in how to conduct searches in compliance with this policy. The training will include the topics of:

1. Respectful searches and communication, including:
 - a. How to conduct searches in a trauma-informed manner;
 - b. The use of Advanced Communication Techniques (ACT);
 - c. How to conduct searches in a gender-responsive manner; and
 - d. Matters of consent with regard to certain groups (e.g., supervised individuals who have a developmental disability, language access need, or legal guardian);
2. How to determine reasonable suspicion;
3. Search procedures, including:
 - a. The types of searches, and when each type is required or authorized;
 - b. The procedural steps of conducting a search; and
 - c. How to use necessary equipment during a search (e.g., metal detector, handheld device (e.g., wand));

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4. Procedures to follow if an individual refuses a search; and
5. Special considerations for searches, including:
 - a. Gender considerations;
 - b. Religious considerations; and
 - c. Considerations related to disabilities.