

Section:
Security and ControlsRelease Date:
April 6, 2022Sub Section:
N/A

Searches

1.0 Purpose

This policy establishes the procedural and reporting requirements for institutional staff, including operating managers, correctional officers, and custodial trained staff, who oversee or conduct searches.

2.0 Staff Affected

This policy applies to all Institutional Services staff responsible for the care, custody, control, and supervision of inmates, and whose position may require them to conduct or oversee searches.

3.0 Policy

Correctional Services recognizes that searches are a necessary correctional practice to maintain the security of its institutions, and to enhance the health and safety of staff, contracted staff, professional visitors, inmates, volunteers and other visitors, and the public.

Correctional Services' policy ensures that:

- 3.1** Where practical, and operationally feasible, consideration will be given to utilizing the Whole Body X-Ray Security Scanning System in lieu of conducting a strip search. This consideration does not apply to inmates coming into the institution from the community, transferring in, or from court.
- 3.2** Only correctional staff trained in the approved procedures will conduct searches. **s.N/R**
- 3.4** At all times, correctional staff will exercise sensitivity, professionalism, and preserve dignity and human rights while performing strip searches. Searches should be conducted in a manner that is consistent with Ontario Human Rights Code (Code) principles (see Code Related Needs and Requests).
- 3.5** Searches will not be performed based on prejudice or stereotypes. Groups that are protected under the Code, marginalized groups, or inmates who require accommodation (e.g. religious, spiritual, disability, etc.) will not be subject to more frequent or intrusive searches without justification.
- 3.6** Correctional staff will not, under any circumstances, conduct internal searches or touch the external area of an inmate's body cavities.
- 3.7** Relevant reports will be submitted in relation to searches, as required.

- 3.8** Frequent and thorough searches of inmates, will be conducted for the purpose of discovering contraband, objects and situations that might be dangerous or detrimental to the safety and welfare of staff, inmates, other persons or to the overall security of the institution. Searches are designed to achieve this by:
- 3.8.1** detecting and preventing the introduction, use or trafficking of contraband;
 - 3.8.2** recovering missing or stolen property;
 - 3.8.3** identifying items or situations which might assist in or contribute to an escape, disturbance, suicide, assault, or other serious occurrence;
 - 3.8.4** discouraging theft, trading and bartering by inmates;
 - 3.8.5** detecting the presence of and or the manufacture of weapons, escape devices, or intoxicants within the institution;
 - 3.8.6** identifying health, safety and security hazards which might remain undetected during less formal inspections; and
 - 3.8.7** monitoring and preventing waste, vandalism, or misuse of government property.

s.N/R

4.0 Definitions

- 4.1 Contraband:** unauthorized property in the possession of an inmate which may be an item not issued by the institution or an item that is issued by the institution but is:
- 4.1.1** used for a purpose other than that for which it was issued;
 - 4.1.2** possessed in a quantity in excess of what was issued; or
 - 4.1.3** possessed in an area other than where it belongs.
- 4.4 Strip Search:** a procedure during which the inmate is required to undress completely in front of a correctional officer for a visual search of their person to ensure that they do not possess contraband. The strip search includes a visual inspection of the external surface areas of an inmate's body cavities which is performed by an officer providing verbal direction to the inmate and without touching the inmate, in the manner taught as per training.

5.0 Responsibilities

- 5.1** The superintendent will oversee compliance with this policy.
- 5.2** The superintendent will establish a program of searches with defined standards for the frequency, locations, and circumstances when searches must be conducted which will be reflected in Standing Orders.
- 5.3** The superintendent or designate will establish local procedures for conducting searches where a threat is imminent or where an inmate refuses to be searched and will include these procedures in the local Standing Orders. Such procedures will be consistent with the Code.
- 5.4** Operating managers will ensure the search program is being completed and ensure searches are conducted professionally and in compliance with this policy and the Code.

- 5.5 Operating managers will ensure all required documentation has been completed and submitted.
- 5.6 Correctional staff will immediately report to the appropriate health care personnel any signs of illness, disease, parasites, or injury when conducting a search.
- 5.7 Correctional staff will conduct searches in a professional, non-discriminatory manner preserving inmate dignity, human rights and exercise sensitivity when performing this task.
- 5.8 Correctional staff will ensure that all applicable reports are submitted as required by policy (see Report Writing), or on the direction of a manager.

6.0 Procedures

6.1 Area Search Program Requirements

6.1.2

Increased or more intrusive searches (e.g. strip searches) will be conducted whenever there is reasonable cause to believe that there is an increased level of risk to the safety of any person or to the institution's security.

6.2 Search Equipment

6.2.1 The following equipment is provided for employees to use when conducting searches:

- a. flashlights
- b. hand held metal detectors (see Hand Held Metal Detectors)
- c. mirrors
- d. probes (for searching areas out of view)
- e. search gloves (refer to Search Gloves)

6.2.2 Institutions may also have the following equipment available to use when conducting searches:

- a. Body Orifice Security Scanner Chair (BOSS Chair)
- b. Whole Body X-Ray Security Scanning System

d. Walk Through Metal Detectors

6.2.3 Hand Held Metal Detectors

- a. Hand held metal detectors may be used as an assistive tool for searching inmates,
- b. Please reference the approved equipment list within the Security Control Equipment Policy for new minimum standards (see Security Control Equipment).

s.N/R

6.2.5 Search Gloves

- a. Given that approved search gloves are not totally puncture or cut proof, correctional staff are reminded that they must be used in conjunction with appropriate search procedures and search equipment such as probes, flashlights, and mirrors.
- b. Since search gloves do not provide an effective barrier to pathogens, it is recommended that disposable protective gloves (e.g. nitrile) be worn over the search gloves when contact with bodily fluids is anticipated. The disposable gloves must be changed after each contact with bodily fluids.
- c. After an employee has completed search duties, the search gloves must be cleaned (see Cleaning, Sanitizing and Disinfecting Security Equipment and Radio Microphones).

6.3 Search Considerations

6.3.1 Safety Precautions

Regardless of who or what is being searched, there are basic safety precautions to follow:

- a. Always cover open wounds on hands with protective dressings and wear gloves.
- b. Be systematic and thorough.
- c. Wherever possible, visual inspections are to be conducted prior to feeling clothing or items.
- d. Crimp clothing, seams, and items rather than sliding hand along clothing or items.

6.3.2 Code Related Needs and Requests

Correctional staff must be aware that inmates may require certain items to meet their medical, religious, spiritual (e.g. medicine pouches), gender expression or other Code related needs. These items must be handled with special care (see Spiritual and Religious Care, Indigenous Spirituality, and

Trans Inmate Management). All searches must be conducted in a manner that is consistent with the Code. In particular:

- a. Inmates who are to be searched may request accommodation based on Code protected grounds, including but not limited to creed, religion or disability. For trans inmates see Trans Inmate Management.
- b. Code related requests will be considered on an individual basis. Consultation should occur between the superintendent, Regional Office, Legal Services, Provincial Chaplain Coordinator, and the Human Rights Unit where assistance is needed in determining whether to support the request.
- c. Inmates will not be subject to more frequent, intrusive, or rigorous searches because of Code related characteristic (e.g. race, religion, gender identity or expression).
- d. Searches of inmates requesting accommodation under the Code will have certain considerations. Staff must accommodate inmates' Code related needs during the search process to the point of undue hardship, including:
 - i. gender of the correctional staff conducting the frisk or strip search.
 - ii. degree of privacy or discretion with which the search is conducted, if required.
 - iii. type of search being conducted (e.g. frisk versus strip search).
 - iv. steps taken to carry out search (e.g. for inmate in wheelchair).
 - v. type of search tool employed.
 - vi. handling of certain special items or garments (e.g. religious head coverings, medicine pouches, catheter bags, prostheses). Items that are required for Code related reasons must be handled with special care (see Indigenous Spirituality, Spiritual and Religious Care, and Trans Inmate Management).
 - vii. Searches are to be conducted in an area and a manner that will maintain privacy so as not to subject the inmate to embarrassment or humiliation. Where circumstances exist that prevent conducting the strip search in private, the reasons must be clearly identified on an Occurrence Report.
- e. If correctional staff have any questions or concerns about accommodation under the Code, they should speak with their manager.

s.N/R

6.5 Strip Search

- 6.5.1** Two staff members must be present in order to conduct a strip search. This includes the primary officer performing the search and a witness. The witness may be another officer or custodial trained staff who will also provide back up as needed.
- 6.5.2** While strip searches are a necessary correctional practice to maintain facility security, staff are reminded to be professional and exercise sensitivity in performing them (subject to Code Related Needs and Requests).
- 6.5.3** An inmate will be strip searched on admission or return (e.g. from court, temporary absence, outside work gangs) to the secure area of the institution, with the exception of the circumstance identified in 6.5.11 if applicable.
- 6.5.4** Where a search cannot be completed in a less intrusive manner (e.g. by use of the Whole Body X-Ray Security Scanning System), an inmate will be strip searched:
- a. whenever there is reasonable cause to believe that the inmate is carrying contraband within, into or out of the institution;
 - b. whenever an inmate is isolated as a suicide risk or other risk to themselves or other persons;
 - c. when the inmate is involved in or suspected of being involved in a disturbance or other significant occurrence where the security of the institution has been or might be jeopardized;
 - d. when searching an inmate's cell or dormitory;
 - e. when an inmate is returning from a place or activity where highly toxic or dangerous items are located; and
 - f. prior to entering and or leaving an open visiting area.
- 6.5.5** Where there are reasonable grounds to believe that an inmate has a dangerous weapon on their person that was not found or cannot be found during a frisk search, the officer may elect to initiate a strip search of the inmate.
- 6.5.6** At no time are inmates to be left standing uncovered prior to or following the search procedure. If necessary, inmates will be provided with a clean gown or underwear to preclude unnecessary embarrassment or humiliation. Strip searches of inmates will be conducted individually and in private unless it is not possible to do so due to extenuating circumstances.
- 6.5.7** Positioning of staff is as follows:
- a. Two staff members must be present when a strip search is conducted. The first staff member, who must be a correctional officer, is the primary searching officer and the second, who is a correctional officer or custodial trained staff member, is the back up or witness.
 - b. The primary searching officer is to be of the same gender as the inmate when having the inmate remove all clothing including underwear. Note exemptions (Subject to section Code Related Needs and Requests):
 - i. refer to the Trans Inmate Management policy; and

ii. in an emergency situation where a correctional officer of the same gender is unavailable and the officer has reasonable cause to believe that an immediate search is necessary because the inmate is concealing contraband that is dangerous or harmful, a search may be conducted with authorization from an operating manager. All necessary reports are to be submitted with justifications cited.

c. If the back up is not of the same gender as the inmate, the back up will take up a position so that the primary searching officer is visible to them, but the inmate cannot be seen. Every effort must be made to ensure inmate privacy (e.g. modesty screen or other suitable visual barrier).

d. When strip searching inmates who are men, a correctional officer who is a woman may act as the primary searching officer where it is not operationally feasible for a staff member who is a man to act as the primary searching officer. In this circumstance, the officer who is a woman will direct the inmate to remove all clothing except their underwear (also see Trans Inmate Management). Once an officer who is a man is available, the officer who is a woman resumes the role of the backup and an officer who is a man conducts the final strip search. Prior to commencing the strip search, the officer who is a woman must advise the inmate of this procedure.

6.5.8 The inmate being strip searched is verbally directed by the correctional officer to:

- a. empty the inmate's pockets;
- b. undress completely in front of the employee, including removing shoes and socks;
- c. open the inmate's mouth and remove any dentures;
- d. run the inmate's fingers vigorously through the hair;
- e. display the soles of the feet;
- f. present open hands and arms; and
- g. lean forward with a widened stance to allow a visual inspection of the external surface areas of the body cavities.

6.5.9 The inmate's clothing and items possessed in the clothing are also searched.

- a. officers are required to crimp seams; and
- b. pat clothing rather than sliding hand along clothing.

6.5.10 When conducting strip searches, officers must always be alert to signs of illness, disease, parasites, or injury, which will immediately be reported verbally to the appropriate health care personnel and the operating manager, in addition to documenting the incident on an occurrence report. To preclude risk of infection during the search process, the primary searching officer will wear disposable gloves and wash their hands immediately after the gloves are removed. Contaminated clothing will be placed in a degradable laundry bag for separate laundering.

6.5.11 An inmate in category 6.5.3 whose fine or bail is to be paid or posted very shortly after arrival may be exempted from the strip search procedure. These inmates will be frisk searched and kept apart from those inmates who will be admitted to the living units. If the fine or bail is not paid or posted, the inmate will then be strip searched.

6.5.12 With the exception of strip searches conducted on admission or return to the institution that are documented in the Admission and Discharge (A&D) logbook, a written record of all strip searches must be maintained in the appropriate area logbook and by the completion of a Search Record. An Occurrence Report may also be required.

6.5.13 Standing Orders will list any other circumstances under which the superintendent decides that inmates will be routinely strip searched.

Note: Inmates who are men may have experienced past sexual abuse. Where past traumatization is known or evident, men are to be referred to the appropriate clinical staff as with inmates who are women (see Strip Search of Inmates Who Are Women).

6.5.14 Strip Search of Inmates Who Are Women

In addition to the above strip search procedures ([6.5.1](#) to [6.5.13](#) with the exception of [6.5.7 d](#)), it is recognized that a significant number of inmates who are women have experienced sexual abuse. The practice of strip searching may inadvertently serve to re-traumatize women, reviving painful memories that may make it difficult for them to manage their time in custody. If this is apparent, they are to be referred to the appropriate clinical staff for assistance if required. Therefore, staff are reminded to be professional and exercise sensitivity when performing strip searches.

- a. An inmate on their menstrual cycle will be instructed to remove their tampon or sanitary pad.
- b. The correctional officer, who is a woman, conducting the strip search will immediately provide the inmate with new tampon or sanitary pad and a wrapper or paper bag for disposal of the used one.

6.5.15 Strip Search of Trans Inmates

See the [Trans Inmate Management](#) policy.

6.6 Inmate Refusal to be Searched, or Suspected to Possess Contraband

- 6.6.1** When an inmate refuses to be searched or resists a search, the operating manager will be immediately informed.
- 6.6.2** The inmate will be kept separate from other inmates until the inmate submits to the search or until there is no longer a need to search (e.g. where it is determined that the inmate no longer possesses contraband or hands over any contraband to staff and scans clean) the inmate. The operating manager will determine whether the inmate will be placed in segregation conditions (see [Inmate Housing Placement](#) and [Segregation Review and Oversight](#) policy) and will explain to the inmate why they are being kept separate from others and or placed in segregation conditions, including what is required of them in order to be placed in regular housing conditions.
- 6.6.3** The operating manager will determine whether the inmate will be in dry cell conditions (i.e. a cell in which the water supply has been shut off, however, drinking water will always be available).
- 6.6.4** The inmate will be monitored as determined by the operating manager until the inmate submits to a search, and the operating manager is satisfied that the inmate does not possess contraband; or until the operating manager deems that there is no longer a need to conduct a search.
- 6.6.5** Force will only be used to conduct a search in an emergency situation where an employee has reasonable cause to believe there is an imminent threat and that an immediate search is necessary because an inmate is concealing contraband that is dangerous or potentially harmful to personal safety or institutional security (see [Use of Force](#)), subject to [6.5.7](#).
- 6.6.6** If force is to be used, the staff members supervisor will authorize and record it on a Use of Force Occurrence Report, submit an Inmate Incident Report and initiate a Use of Force Local Investigation Report (see [Use of Force](#)).
- 6.6.7** The staff member using force will ensure that they provide their rationale in their Use of Force Occurrence Report and commence an Accident/Injury Report and follow the [Discipline and Misconduct](#) process.

Note: Staff using the force are not to be present for the taking of the inmate statement section of the Accident/Injury or other reports (see [Use of Force](#)).
- 6.6.8** This process will be included in the local Standing Orders.

s.N/R

7.0 Authority

Ministry of Correctional Services Act, RSO 1990, s. 5, 23.1

s.N/R

9.0 Revision History

| Date | Description of Change | Reference Sections |
|---------------|---|--------------------|
| April 6, 2022 | | |
| | Removed requirement to conduct a strip search based on housing location being segregation conditions or specialized care placement. | 6.5.3 |
| | Whole Body X-Ray Security Scanner System to be considered in lieu of strip searches in some circumstances. | 3.1 and 6.5.4 |
| | Inmate refusal to be searched. | 6.6 |

Section:
Inmate Management

Release Date:
June 14, 2022

Sub Section:
General Inmate Management

Trans Inmate Management

1.0 Purpose

This policy establishes requirements for the admission, placement and management of trans, two-spirit and non-binary inmates whose gender identity or gender expression is different from the sex they were assigned at birth or falls outside of the man-woman binary. Intersex people have needs that, while they may overlap with those of trans people, are different and unique and must be assessed on a case by case basis using a case management approach.

Note: Although the terms trans and transgender are often used interchangeably, this policy will use the term trans throughout as it may be understood as a more inclusive term.

2.0 Staff Affected

This policy applies to all authorized institutional employees involved in the admission, classification, placement and supervision of trans inmates.

3.0 Policy

This policy is to be read in conjunction with the Ontario [Human Rights Code](#) (Code) and all applicable Institutional Services policies that include, but are not limited to: [Admitting](#), [Searches](#) and [Classification](#).

s.N/R

3.2 In carrying out this process, as it relates to trans inmates, the following must be considered:

- 3.2.1** It is important that staff be open, respectful and professional with all inmates, especially those who may be vulnerable.
- 3.2.2** People may not always identify as man or woman because gender identity is not limited to only these two categories. It is a spectrum and is not always constant.
- 3.2.3** Trans inmates may self identify or may not, out of fear of physical harm or ridicule or previous negative experiences. A trans inmate's name and gender designation may be different from that which appears on their identity documents or holding documents. They may identify differently than they did during previous admissions. In light of this, assumptions about gender identity or placement should not be made based on previous admissions.

Gender specific pronouns are the ways we refer to each other in the third person. For example, she, hers, he, his, they, them, their, etc.. People who are transitioning might choose to change their pronouns. Staff must maintain a record of a trans inmate's legal name, chosen name and gender affirming pronouns. Staff must refer to a trans inmate in their chosen name and pronoun, both verbally and in written documents.

If staff are unsure of a trans inmates gender affirming pronouns, privately ask what pronouns they use in a sensitive manner. For example, how would you like staff to address you?

- 3.2.4** Steps must be taken to maximize privacy and confidentiality of any information related to the trans inmates gender identity and trans history, subject to the inmate's consent. Any conversations and consultations amongst staff must occur privately, out of hearing range of the inmate or anyone else that does not need to know.

Note: Direct questioning can be upsetting for some people however, if gentle and non-confrontational, most inmates will understand that you are doing your best to be sensitive and respectful.

s.N/R

- 3.2.6** The Code prohibits discrimination and harassment because of gender identity and gender expression in facilities and services. Trans inmates must be treated with dignity and respect and offered opportunities, access and benefits equal to those offered to other inmates of the gender they identify with, while attending to their health and safety and that of other inmates and staff.
- 3.2.7** In order to ensure appropriate assessment, placement and other services, trans inmates will be managed using a case management model, on a case by case basis. The case management process must begin as soon as possible upon the inmate's admission. See Case Management.
- 3.2.8** When it comes to accommodating inmates' gender identity or gender expression related needs, the procedure used to respond to an accommodation need is as important as the accommodation itself. The inmate must be consulted and invited to participate in the accommodation process. Among other things, the inmate must be advised of their options and informed of the possible benefits and risks associated with these options.

- 3.2.10** Where a trans inmate's individualized needs and circumstances are not taken into account and accommodated short of undue hardship, there may be a violation of the Code.
- 3.2.11** Policies, practices, comments or conduct (including non-verbal behaviour) do not need to be explicit to infringe a person's right to equal treatment without discrimination, harassment or a poisoned environment. Where a person is singled out, treated differently or adversely affected because of their gender identity or gender expression, even where the differential treatment does not include explicit reference to gender identity or gender expression, there may be a violation of the Code.
- 3.2.12** Where the most appropriate accommodation would cause undue hardship or requires time to accomplish, interim or next best solutions must be considered and implemented short of undue hardship. The rationale for not providing the most appropriate accommodation and the interim measures implemented must be documented on the Intake/Assessment and Plan of Care form for trans inmates. See Duty to Accommodate Short of Undue Hardship and Undue Hardship.
- 3.2.13** Trans inmates are entitled to have access to the same security level of facilities and quality of services afforded to other inmates with similar classification assessments.

6.0 Procedures

s.N/R

6.4 Searches

Note: This section should be read in conjunction with the general Searches policy.

- 6.4.1** While strip searches are a necessary correctional practice to maintain facility security, staff are reminded to exercise sensitivity in performing them. Trans inmates will be offered a private space in which to be searched, including any search of prosthetics. At no time are inmates to be left standing uncovered prior to or following the search procedure. Where necessary, trans inmates must be provided with a clean gown or underwear. Whenever possible, a modesty screen or other suitable visual barrier must be used to protect the privacy and dignity of the inmate.
- 6.4.2** The operating manager is responsible for authorizing a strip search, upon admittance, of a trans inmate prior to the commencement of the search.
- 6.4.3** In addition, the operating manager must explain the strip and frisk search process at the institution and the options available to the inmate. This must be done in private. The operating manager must ascertain the inmate's preference and answer any questions they might have about the search process. As part of this conversation, the admitting manager will acknowledge the discomfort the search process may cause the inmate and ask the inmate for input on how to maximize their dignity during the search process.
- 6.4.4** A trans inmate must be given the opportunity to choose who will perform any frisk or strip searches. The inmate may choose to be searched by a man, woman or both, for example a split search. Where the trans inmate elects to have a man and a woman involved in the search, for example a split search, the inmate must be provided the choice of which body parts are searched by whom.
- 6.4.5** The choice of strip and frisk search options made by the inmate is to be documented in detail on the following, for example, man search top, woman search bottom:
 - a. The Search Record Form
 - b. The Search and A&D log book
 - c. OTIS in the comment field attached to the trans alert with the goal of ensuring the information is communicated to the living unit, for example the unit card.
 - d. Part A of the Intake/Assessment and Plan of Care for Trans Inmate form is to be completed by the operating manager.

- 6.4.6** Any changes to this preference are to be requested by the inmate to the case manager. If approved, the inmate must be notified and the preference updated in OTIS by the case manager. If request is not approved, request and rationale for denial must be noted on Plan of Care form.
- 6.4.7** Conducting a strip search of an inmate is mandatory as per the Institutional Services Policy and Procedures Manual unless a valid Code related accommodation request has been submitted in writing by the employee and approved. Where accommodation has been requested, the operating manager must submit the request to the superintendent, who will notify the regional director who will consult with Legal Services Branch to assess the request.
- 6.4.8** Prosthetics used to express gender identity are body parts and should be treated as such. The operating manager must consult with the inmate to determine the most respectful way to conduct the search.

s.N/R

7.0 Authority

s.N/R

Ontario Human Rights Code

Ministry of Correctional Services Act; ref. "Functions of Ministry"; "Admissions and Transfers"; and "Use of Correctional Institution Lock-Up"

Regulations under the Ministry of Correctional Services Act; ref. "Duties of Superintendent, Health Care Professionals, Employees"; "Admission to Institution"; and "Searches"

Criminal Code of Canada, ref. "Imprisonment"

Freedom of Information and Protection of Personal Privacy Act, ref. "Collection and Retention of Personal Information"