
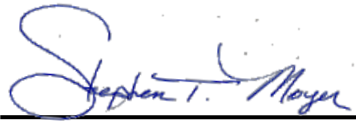


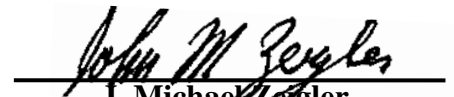
Executive Directive



Title: Search Protocol — Employees	Executive Directive Number: OPS.110.0048
Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland	Supersedes: EmDOC.110.0026 dated April 30, 2009; DPDS.110.0026 dated April 30, 2006
Related ACA Standards: N/A	Re:  Ex: Services
Related MCCS Standards: N/A	Effective Date: November 1, 2016 Number of Pages: 12



Stephen T. Moyer
Secretary



J. Michael Logler
Deputy Secretary
for Operations

.01 Purpose.

This directive establishes Department of Public Safety and Correctional Services (Department) policy and procedures governing conducting personal searches of an employee and items in the employee's possession.

.02 Scope.

This directive applies to all units of the Department responsible for the custody and security of an individual under the authority of the Department.

.03 Policy.

- A. The Department shall ensure Constitutional guarantees, statutory and regulatory rights, and, where applicable, employee rights established as part of an accepted labor agreement are protected when conducting an authorized personal search of an employee.
- B. The Department shall maximize efforts to maintain a safe and secure facility which is free of contraband.
- C. The Department shall ensure that a personal search of an employee is authorized and conducted in a courteous and professional manner by properly trained correctional personnel.

.04 Definitions.

- A. In this directive, the following terms have the meanings indicated.
- B. Terms defined.
 - (1) "Authorized search" means:
 - (a) A search method sanctioned under this directive; or

- (b) An otherwise restricted search protocol for which prior authorization is secured from the required authority.
- (2) “Body cavity search” means an inspection conducted by medically trained personnel to examine a body cavity, with or without the use of medical instruments, for the purpose of detecting and recovering concealed contraband.
- (3) “BOSS chair” means a Body Orifice Scanning System (BOSS) that uses a low intensity magnetic field to perform a non-intrusive electronic scan of the individual’s body for concealed metallic objects.
- (4) Contraband.
 - (a) “Contraband” has the meaning stated in Correctional Services Article, §10-801, Annotated Code of Maryland.
 - (b) “Contraband” as used in this directive:
 - (i) Refers to a specific item or substance that an individual is not authorized to possess.
 - (ii) Does not include quantities greater than an established limit for an authorized item or substance.
- (5) “Cross-gender search” means a search in which one or more search officers is not of the same gender as the individual being searched.
- (6) Employee.
 - (a) “Employee” means an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of employment classification.
 - (b) “Employee” includes:
 - (i) An employee of another government agency who is assigned to provide services within a Department correctional or detention facility;
 - (ii) A volunteer as defined in the Department’s Volunteer Program Manual; and
 - (iii) A student intern as defined in COMAR.12.02.13.01.
- (7) “Employee strip search” means a search that involves:
 - (a) A systematic, visual inspection of the individual’s entire body; and
 - (b) Removal or re-arrangement of some, or all clothing to permit visual observation of the genitalia, buttocks, rectal area, breasts, or other areas of the body conducive to concealing contraband.

- (8) “Established report protocol” means the content of Department and facility directives governing the report of searches and contraband confiscation, to include FIRM, OCMS, or other system of record authorized by the Department.
- (9) “Exigent circumstances” means a set of temporary and unforeseen conditions that requires immediate action to combat a threat to the security or order of a correctional or detention facility.
- (10) “Frisk search” means a non-intrusive examination performed by running hands over the clothed body while applying gentle pressure to determine if contraband is being concealed.
- (11) “IID” means the Department’s Internal Investigative Division that is responsible for investigating and reporting violations of criminal and ethics law and Department policy and procedures.
- (12) “Intense frisk search” means an enhanced version of the frisk search which requires the removal and search of all outer garments, to include shoes, headgear, wigs and hairpieces.
- (13) “Internal medical device” includes items such as a pacemaker or defibrillator, artificial joint, pin, stent, and plate.
- (14) “K-9 search” means deployment of a dog and handler contraband detection team, operating under the Department’s K-9 Unit Operations Manual.
- (15) “Managing Official” has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland.
- (16) “OCMS — Events module” means a component of the Department’s Offender Case Management System (OCMS) automated inmate information system used to record information concerning an inmate under the authority of the Department.
- (17) “Outer garments” means all clothing being worn except for the single layer of clothing being worn immediately over the underpants or bra;
- (18) “Probable cause” means facts and circumstances within an individual’s knowledge that would lead a reasonable person to believe that an individual possesses contraband based on specific facts and circumstances, rather than simply from a hunch or suspicion.
- (19) "Reasonable suspicion" means the apparent state of facts or circumstances which would lead a reasonably prudent individual to:
 - (a) Believe that something is wrong; and
 - (b) Have an apprehension or to imagine that a violation has been, is being, or will be committed by a specific individual based on only slight evidence which does not amount to proof.
- (20) Scan or Detector System.
 - (a) “Scan or detector system” means a non-invasive device used to detect metal objects or the presence of illegal or contraband substances on an individual’s person or among items in the individual’s possession.
 - (b) “Scan or detector system” may refer to:

- (i) A handheld wand passed over the body; or
- (ii) A stationary pass through metal detector that, may or may not be used in conjunction with a computer and digital camera, identifies areas concealing metal.
- (c) “Scan or detector system” does not include a “BOSS chair.”
- (21) “Transgender person” means a person whose gender identity, their internal sense of feeling male or female, is different from the person’s assigned sex at birth.

.05 Responsibility.

A. A managing official shall ensure that:

- (1) Random intense frisk searches of employees are conducted at correctional and detention facilities on a monthly basis;
- (2) The appropriate determination is made and relayed in response to any request for prior authorization to conduct an employee strip search;
- (3) A scan or detector system used in a Department correctional or detention facility:
 - (a) Conforms with established or recommended safety standards; and
 - (b) Is rated safe for all individuals regardless of age, sex, or medical conditions including:
 - (i) Children;
 - (ii) Pregnant women;
 - (iii) Medical radiation therapy patients; and
 - (iv) An individual wearing an internal medical device.
- (4) Searches are conducted:
 - (a) In accordance with procedures established under this directive; and
 - (b) Thoroughly and professionally, with safety and security being the paramount concerns;
- (5) When appropriate, employees with a disability or medical condition receive reasonable accommodations in order to be properly searched as authorized by the managing official, or a designee;
- (6) If an employee to be searched reports having an internal medical device, prior to being searched or after the employee triggers an alert, a supervisor shall:
 - (a) Ask the employee to produce medical documentation in order to facilitate, but not substitute for, a thorough alternative method of conducting the search; and

- (b) Take reasonable measures to confirm certificates or other documents provided by an employee claiming the presence of an internal medical device or medical condition that requires an alternate search method; and

(7) Searches are documented in compliance with established report protocol.

B. If an employee search results in recovering:

(1) Contraband, the employee conducting the search shall:

- (a) Request a correctional supervisor to respond to the location of the search for disposition of the employee and the contraband;
- (b) Submit a written report that, at a minimum, includes:
 - (i) Name and job classification, or title, of the employee found in possession of contraband;
 - (ii) Name and rank of correctional officer conducting the search;
 - (iii) Date, time, location, search method, and when applicable, information regarding search authorization, use of force, referral to infirmary; and
 - (iv) Search results, to include the disposition of the employee and contraband recovered.

(2) If an employee possesses a non-contraband item that exceeds the established limit for the item, the employee conducting the search shall follow facility protocol or consult a correctional supervisor who, after considering the nature of the contraband, shall take appropriate action, which may include:

- (a) Notifying the managing official and documenting the notification and any response from that notification;
- (b) Instructions to the correctional officer conducting the search regarding the disposition of the employee found to possess contraband; and
- (c) Accurate and thorough documentation of findings in accordance with applicable Department and facility procedures related to reporting, investigating and correcting employee misconduct.

C. Employee Scan or Detector Search.

(1) A scan or detector search of an employee and items in the employee's possession may occur at any time and does not require:

- (a) Reasonable suspicion; or
- (b) Prior authorization.

(2) A scan or detector search may be conducted independently of or in conjunction with other authorized employee search methods.

(3) A scan or detector search, at a minimum, shall be conducted:

- (a) Each time an employee enters the secure perimeter of a correctional or detention facility;
 - (b) When there is reasonable suspicion to believe the employee possesses contraband;
 - (c) When the shift supervisor or higher ranking official directs; or
 - (d) At other times to comply with a Department or facility procedure.
- (4) A scan or detector search shall be conducted by correctional officers who are trained and proficient in procedures consistent with manufacturer's instructions for a safe and accurate use to search an employee and items the employee possesses.

D. Employee Frisk Search.

- (1) An employee is subject to a frisk search at any time.
- (2) An employee frisk search does not require:
 - (a) Reasonable suspicion; or
 - (b) Prior authorization.
- (3) An employee frisk search may be conducted independently of or in conjunction with other authorized employee search methods.
- (4) An employee frisk search, at a minimum, shall be conducted:
 - (a) Each time an employee enters the secure perimeter of a correctional or detention facility;
 - (b) Anytime there is reasonable suspicion to believe the employee is in possession of contraband;
 - (c) When the shift supervisor or higher ranked official directs; or
 - (d) At other times in compliance with a Department or facility directive.
- (5) Except under provisions of §.05D(6) of this directive:
 - (a) A frisk search of a female employee shall be conducted by a female correctional officer.
 - (b) If there is reason to believe that the employee to be searched is a transgender or intersex person, the frisk search shall be conducted by a female correctional officer.
- (6) If a managing official, or a designee, provides authorization based on exigent circumstances to conduct a cross-gender frisk search of an employee, the correctional employee authorized to conduct the frisk search may not touch the:
 - (a) Genital area of the employee being frisk searched.
 - (b) The breast or genital area of the female employee, if a male correctional officer is conducting an authorized frisk search of a female employee.

- (7) A correctional employee conducting an employee frisk search shall:
- (a) Advise the employee that a frisk search is to be conducted; and
 - (b) Direct the employee to:
 - (i) Empty all pockets placing the contents in the container provided;
 - (ii) Leave empty pockets turned inside out;
 - (iii) Remove and submit for inspection items such as, a jacket, coat, scarf, shoes, or headgear; and
 - (iv) Submit for inspection additional items in the employee's possession, such as a package, briefcase, lunch box, or back pack.
 - (c) Perform a visual scan of the employee to identify items that may not have been removed when directed under §.05D(7)(b) of this directive and, if an item is observed, direct the employee to remove and place the item in the container provided.
 - (d) Except for prohibitions under §.05D(6) of this directive, conduct the frisk search by passing hands over the entire clothed body of the employee being searched, applying gentle pressure to detect concealed items.
 - (e) Thoroughly search items submitted for inspection as required under §05D(7)(b) of this directive, taking reasonable care not to damage the employee's property.
 - (f) Conclude the search by returning non-contraband items to the employee who was searched.
 - (g) Confiscate and process contraband in accordance with procedures established for handling and disposition of property.
 - (h) Document the search in accordance with requirements of the established report protocol.

E. Employee Intense Frisk Search.

- (1) An intense frisk search of an employee may be conducted:
- (a) As part of a random (at least weekly on each shift) intense frisk search of facility employees when ordered by the managing official;
 - (b) If a frisk, K-9, or scan or detector search provides reasonable suspicion to believe that contraband is hidden in a manner requiring a more intense search method; and
 - (c) If the employee fails to successfully pass a metal detector (hand-held or walk-through) or frisk search.
- (2) An authorized intense frisk search of an employee shall:
- (a) Be conducted in a private area, unless otherwise justified by exigent circumstances.

- (b) Be conducted with two staff of the same gender as the employee being searched. Except under provisions of §.05E(2)(c) of this directive, one of the staff shall be a supervisor.
 - (c) If a supervisor of the same gender as the employee being searched required under §.05E(2)(b) of this directive is not available at the facility, two staff of the same gender as the employee may be present during the intense frisk search.
 - (d) Only one of the two staff present is to actually perform the intense frisk search of the employee.
 - (e) If the employee subject to the intense frisk search is transgender or intersex, staff should consult with the transgender or intersex employee before conducting a search to determine the employee's preference in the gender of the staff conducting the search.
- (3) Staff conducting an intense frisk search of an employee shall:
- (a) Advise the employee that an intense frisk search is to be conducted;
 - (b) Instruct the employee to:
 - (i) Empty all pockets placing the contents in the container provided; and
 - (ii) Leave empty pockets turned inside out;
 - (c) Instruct the employee to submit for inspection all items in the employee's possession including, but may not be limited to:
 - (i) Shoes, worn or carried;
 - (ii) Outer garments;
 - (iii) If applicable, headgear, wig, or hair piece; and
 - (iv) Items in the employee's possession, such as a package, briefcase, lunch box, or back pack.
 - (d) Conduct the intense frisk search according to procedures established under §.05D(7) of this directive.

F. Employee Strip Search.

- (1) An employee strip search requires:
- (a) Probable cause to believe the employee is concealing contraband;
 - (b) That less intrusive search methods were used and were inconclusive; and
 - (c) If the strip search is to be conducted as part of an operation under the authority of:
 - (i) The facility's managing official, prior authorization from the DSO, or a designee, to conduct the employee strip search; or

- (ii) A unit under the authority of the Director, Investigative Services, prior authorization from the Director, Investigative Services, or a designee, to conduct the employee strip search and notification to the DSO, or a designee, that an employee strip search has been authorized.
- (2) If a supervisor determines that an employee strip search is appropriate, the supervisor may take steps necessary to preserve evidence and to control the situation before making the request and waiting for authorization (required under §.05F(1)(c) of this directive) to conduct the employee strip search.
- (3) An employee strip search shall be conducted:
 - (a) In a location and in a manner that ensures maximum privacy for the employee being strip searched.
 - (b) By staff in accordance with provisions under §§.05E(2)(b) — (d) of this directive.
 - (c) With two staff of the same gender as the employee being searched. Except under provisions of §.05E(2)(c) of this directive, one of the staff shall be a supervisor.
- (4) In cases of extreme emergency, if a supervisor of the same gender as the employee being searched required under §.05E(2)(b) of this directive is not available at the facility, two staff of the same gender as the employee may be present during the strip search.
- (5) Only one of the two staff present is to actually perform the strip search of the employee.
- (6) If the employee subject to the strip search is transgender or intersex, staff should consult with the transgender or intersex employee before conducting a search to determine the employee's preference in the gender of the officer conducting the search.
- (7) The individual conducting an authorized employee strip search shall advise the employee of the search and:
 - (a) Instruct the employee in requirements established under §§.05E(3)(a) and (b) of this directive;
 - (b) Instruct the employee to remove all clothing;
 - (c) If applicable, instruct the employee to run the employee's fingers through the employee's own hair;
 - (d) Instruct the employee to open the employee's mouth to permit a visual inspection and expose all areas by the employee being searched:
 - (i) If applicable, removing dentures;
 - (ii) Raising and moving the tongue; and
 - (iii) Pulling the lips away from the gums and teeth;
 - (e) Instruct the employee to turn the head from side to side and raise and lower the head to permit visual inspection of nostrils and ears;

- (f) Instruct the employee to open each hand, spread the fingers, and rotate the hands to permit a visual inspection the palm and back of each hand;
 - (g) Instruct the employee to raise the arms to permit a visual inspection of the armpits;
 - (h) If the employee being searched is male, direct the employee to lift the penis and testicles to permit a visual inspection of the genital area;
 - (i) If the employee being searched is female, direct the employee to lift each breast to permit a visual inspection of the area around and under each breast;
 - (j) If applicable, instruct the employee to raise layers of excess skin to permit a visual inspection of the area;
 - (k) Instruct the employee being searched to turn so that the employee's back is facing the correctional officer performing the search and:
 - (i) Lift each foot in turn to expose the sole, and then wiggle the toes;
 - (ii) Bend forward from the waist, approximating a 90 degree angle;
 - (iii) Spread the buttocks to expose the rectal area for a visual search; and
 - (iv) Return to an upright position, squat by bending at the knees, and cough forcefully;
 - (l) Remove and search items detected on the employee's body;
 - (m) Thoroughly search the employee's clothing and other items the employee possessed taking reasonable care not to damage the employee's property; and
 - (n) Return non-contraband items to the employee and permit the employee to dress.
- (8) The individual conducting the strip search shall:
- (a) If applicable, confiscate and process contraband in accordance with procedures established for handling and disposition of property.
 - (b) Document the search in accordance with requirements of established report protocols.

G. Employee K-9 Unit Search.

- (1) An employee is subject to a routine K-9 search at any time.
- (2) A managing official, or a designee, shall ensure that trained K-9 teams are regularly deployed to support employee searches authorized under this directive.
- (3) Employee K-9 searches shall be conducted and documented in compliance with the Department's K-9 Unit Operations Manual and governing directives.
- (4) The K-9 search team handler, shall ensure the proper handling of recovered contraband, to include:

- (a) The handling, processing, and storage of contraband for use as evidence in an administrative or criminal investigation;
- (b) Reporting contraband recovery to the IID in accordance with Department procedures; and
- (c) In accordance with procedures established for the handling and disposition of property, the disposal of contraband no longer required for administrative or criminal action.

H. Body Cavity Search. — An employee is not subject to a body cavity search.

I. BOSS Chair. — An employee is not subject to a BOSS chair search.

J. Resisting or Refusing to Submit to an Authorized Employee Search.

- (1) An employee who refuses to submit to a search authorized under this directive is subject to disciplinary action under the Department's Standards of Conduct & Internal Administrative Disciplinary Process (Standards of Conduct).
- (2) If an employee resists or refuses to submit to a search authorized under this directive before the search begins or at any time during the search, correctional staff shall:
 - (a) Take steps necessary to preserve evidence and to control the situation;
 - (b) Notify the managing official, or a designee, of the incident;
 - (c) Based on direction from the managing official, or a designee, if the employee is:
 - (i) Entering the facility, deny the employee entrance; or
 - (ii) Already in the facility, escort or have the employee escorted from the facility.
- (3) A managing official, or a designee, notified under §.05J(2)(b) of this directive shall ensure that appropriate disciplinary action is taken in accordance with the Standards of Conduct.

K. Emergency Response.

Employees arriving to a secure location in response to a live emergency action are not subject to immediate search.

.06 Attachments/Links.

There are no attachments or links to this directive.

.07 History.

- A. This Executive directive is issued to align responsibilities based on Department re-organization and style and format updates.
- B. This directive supersedes applicable portions of EmD.DOC.110.0026, Search Plan, dated April 30, 2009 concerning searching an employee, DPDS.110.0026, Search Procedures, dated April 30, 2006 and

provisions of any other prior existing Department, or unit communication with which it may be in conflict.

.08 Correctional Facility Distribution Code.

A

B

S — Custody and Security Staff