



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

To: All Superintendents

From: James A. O’Gorman, Deputy Commissioner for Correctional Facilities

Date: March 5, 2020

Subject: Directive #4936, Search of DOCCS Employees- Attachment A

A handwritten signature in black ink, appearing to be "James A. O'Gorman", written over the "From:" line of the memorandum.


Directive #4936, “Search of DOCCS Employees” - Attachment A, delineates the items facility staff are allowed to carry into our Departmental facilities.

Effective immediately and until further notice, the size of allowable hand sanitizer will be increased from travel size to a maximum size of 12 fluid ounces. Staff bringing this item in will not leave it unattended or in areas accessible to inmates.

Volunteer staff will be allowed to bring in travel size hand sanitizer with alcohol as one of the ingredients.

Any questions regarding this matter should be addressed with your respective Assistant Commissioner for Correctional Facilities.

Please read at lineup for 96 hours and ensure that all civilian staff are also made aware of this temporary change.

	Corrections and Community Supervision DIRECTIVE		TITLE Search of DOCCS Employees	NO. 4936
				DATE 07/10/2019
SUPERSEDES DIR #2115, #4936 Dtd. 4/04/17	DISTRIBUTION A	PAGES PAGE 1 OF 7	DATE LAST REVISED	
REFERENCES (Include but are not limited to) 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 inmates threatens the security of the facility; it endangers the safety of inmates, 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 work spaces. 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 him or her entrance to the facility or workplace, and may constitute grounds for disciplinary action. The Department's policy and procedures concerning such searches are contained in Directive #4936, "Search of DOCCS Employees."

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 inmates 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 hand held). 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 satisfaction of the supervisor, he or she will immediately notify the Watch Commander who in turn will notify the Superintendent, Deputy Superintendent for Security (DSS), or Officer of the Day (OD) to determine the next appropriate step or if additional processing procedures are necessary.

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 member, Central Office staff and other Department employees entering any correctional facility for official business will be processed as facility employees, they will be subject to metal detector and periodic pat frisk searches under the same manner as prescribed in Section II-A & B.

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, 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 sex as the employee being searched. In addition, the Watch Commander may approve a pat frisk of an employee based on suspicion or inability to clear the metal detector.

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, the Watch Commander or above is required to authorize the search of religious headwear.

C. 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 Superintendent, Acting Superintendent, or the Officer of the Day when the Superintendent or Acting Superintendent is absent from the facility and cannot be contacted.
3. Prior to ordering such a strip search, the Superintendent, Acting Superintendent, or Officer of the Day must make a determination of reasonable suspicion, based upon a review of the specific facts in each situation and rational inferences drawn from the facts.

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

- Illustration #1: Superintendent Doe receives information from two Correction Officers that employee Roe is bringing marijuana 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 in order to approve a strip search of employee Roe.
- Illustration #2: Inmate Jones informs Superintendent Doe that employee Roe is helping inmate 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 approve the employee's strip search.
- Illustration #3: Superintendent Doe receives general rumors from uniformed supervisors and another reliable source that employee Roe was bringing contraband into the facility. Further, the Superintendent received the same general information from an inmate who has provided reliable information in the past at another facility. Finally, contraband had been discovered at the facility. These facts justify the Department's decision to approve a strip search of employee Roe.

- Illustration #4: Inmate Jones gives information to the Department that employee X was bringing drugs into the facility. There is no evidence that this inmate had a history of providing reliable information in the past. Further, there is no corroborating evidence. These circumstances do not satisfy the reasonable suspicion standard to justify a strip search.
4. Strip searches must be supervised by a uniformed supervisor having at least the rank of Lieutenant, or at a minimum security facility where it may be a Sergeant if he or she is the ranking supervisor present.
 5. 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 OD as provided in II-C-2 above.
 6. Employees who are to be 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 for the employee's clothing to be placed off of the floor.
 7. The employee to be searched shall be escorted to the appropriate private area and kept under direct visual observation until commencement of the search.
 8. The supervising and searching employees must be of the same sex as the employee being searched. 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.
 9. An employee may refuse to submit to a strip search, but such refusal shall be cause to deny the employee's entrance to the facility and shall be grounds for disciplinary action.
 10. 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.
 11. Subsequent to the search, the employee will be provided with a statement 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 report shall be delivered to the employee and, upon the employee's request, the union representative no later than the end of the work day following the day the request was made.
 12. A copy of such statement shall be forwarded to the Deputy Commissioner for Correctional Facilities.

When on Department property not associated with a correctional facility (e.g., Central Office, satellite offices, regional parole offices, and other Department properties), pat or strip searches may be conducted only on the order of the assigned Deputy Commissioner having oversight of that area.
 13. 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.

D. 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 Superintendent's determination of reasonable suspicion regarding a specific individual.
 - 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 prior to ordering the strip search of an employee.
2. Strip frisks are not allowed 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 Superintendent has first secured a search warrant for that person to be strip frisked.

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

- A. All staff will be required to use a clear bag (approximate dimensions 11" wide by 7" deep by 10" tall, with a zipper pouch in front) as distributed by the Department. Staff will be permitted to identify their issued 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.
- B. Staff members requiring the use or carry of personal medical devices/supplies of a private/sensitive nature, or female employees who are required to carry feminine hygiene 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 Section III-A of this directive, which will allow for appropriate inspection, while maintaining privacy from a distance.
- C. Staff shall be permitted to carry, on their person, or in their clear bags, those items that are outlined on Attachment A, "Staff Allowable Items List."

STAFF ALLOWABLE ITEMS LIST

- Clear employer-provided bag (all other bag(s) are **PROHIBITED** except for staff, whose job assignment requires carrying documents into and/or out of the facility, 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 (1) change of clothing to be secured in a locker not accessible by inmates
- 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 Thermos™
 - All consumable canned goods (e.g., beverages/soda, food that can be heated)
 - Tea
 - Ground coffee and coffee filters
 - Coffee cream
 - Sugar
- Plastic eating utensils
- Cold pack
- Ace bandage (1)
- Wrist wrap (1)
- Band aides (6)
- Neosporin (small tube)
- Depends
- Ceramic coffee mug
- Feminine hygiene products
- Tissues
- Toothbrush
- Toothpaste (travel size only)
- Breath mints (1) retail package
- One (1) Chap Stick or lip balm

- Lotion (travel size only)
- Hand sanitizer (travel size only)
- Sunscreen (travel size only)
- Plastic comb or brush
- Rain coat
- 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)
- 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 7.13 of the Employees' Manual:**
 - Controlled substances are not permitted to be possessed, stored, or consumed in any facility, except upon valid order or prescription from a qualified physician. Under no circumstances shall inmates have access to opiates, narcotics, or other substances producing similar affects.
 - Employees who must, on orders of a physician, take medication during working hours shall bring into the institution only the dosage which 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.

Personal items not listed above, such as personal affects 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.