**NEW MEXICO ASSOCIATION OF COUNTIES**

**SAMPLE JUVENILE SEARCH POLICY**

**(8/14)**

**I. REFERENCES:** (4-ALDF-2A-20, 4-ALDF-2C-01, 4-ALDF-2C-03-4, 4-ALDF-2C-06, SJ-090, and SJ-091); 28 CFR §115.311 et seq.

**II. PURPOSE:**

The purpose of this policy is to provide guidelines for determining when searches are legally permissible and to establish procedures for conducting permissible searches.

1. **POLICY:**

It is the policy of [*insert county*] to ensure that the introduction of contraband and possession of contraband in the facility is minimized in order to protect the health, safety and welfare of juveniles, staff, and visitors, and to further the safe, secure, and orderly running of the Detention Center. This is accomplished by ensuring that the detention center has adequate and lawful procedures for conducting searches of juveniles, visitors and staff. This juvenile search procedure addresses intake and after intake searches of juveniles, required search documentation, and procedures for the disposition of contraband. All facility staff shall be trained on the facility juvenile search policy.

1. **DEFINITIONS:**

**Body Cavity Search**

A body cavity search is a search of an individual’s body cavity, (e.g., anus, vagina, nose etc.) that involves touching or probing with hands or an instrument for the purpose of detecting weapons, drugs or other contraband.

**Clothing Search**

A clothing search is the search of an individual’s clothing in which the juvenile is required to disrobe, one item of clothing at a time, and pass the clothing to the officer for inspection. There is no physical contact between the officer and the individual and the individual **is not** required to remove his or her undergarments.

**Exigent Circumstances**

Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

**Gender Nonconforming**

A person whose appearance or manner does not conform to traditional societal gender expectations.

**Intersex**

A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

**Pat Search**

A pat search is a search in which the individual’s clothing is not removed and the officer uses his or her hands to make contact with the clothed body of the juvenile being searched.

**Strip Search**

A strip search is the visual examination of an individual’s naked body for weapons, drugs or other contraband. A proper strip search requires removal of all clothing. However, any search that requires the subject to remove or arrange some or all of his or her clothing to permit a visual inspection of the breasts, buttocks, or genitalia shall be treated as a strip search and subject to the limitations described in this policy.

**Transgender**

A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

1. **SEARCH OF JUVENILES:**
2. **General**

Pat searches, clothing searches and strip searches shall only be conducted by trained detention staff who are the same gender as the subject of the search. Searches shall not be performed for the sole purpose of determining the juvenile’s genital status. Staff who perform searches of gender nonconforming, transgender and intersex juveniles must be trained in how to conduct searches of such juveniles in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs. Transgender and intersex youth shall be asked to complete a Transgender and Intersex Youth Search Preference Form (attached). When possible, two detention staff of the same gender as the subject will be present during strip searches. No non-essential personnel may witness a strip search.

1. **On Initial Intake**

Pat Search

All individuals booked into the Detention Center shall be subject to a thorough pat search by detention staff in order to retrieve contraband **prior to** being accepted from the arresting law enforcement agency.

Clothing Search

All individuals who are dressed out into a Detention Center uniform shall be subject to a clothing search at the time of the clothing exchange.

Strip Search

Strip searches of arrestees on intake may only be conducted when authorized in writing by [*insert ranks/titles of individuals who have authority to authorize strip search].* Strip searches may only be conducted when there is reasonable suspicion to believe the arrestee may be in possession of weapons, drugs, or other contraband under the limited circumstances described below. All strip searches must be documented.

Circumstances warranting strip search of arrestees on intake:

* 1. There is reasonable suspicion to believe the arrestee is carrying or concealing contraband because one or more of the charge(s) for which the arrestee is being booked involve possession or distribution of controlled substances, or the arrestee’s use of physical violence or weapons.
  2. Even though the arrestee’s charges do not involve drugs, weapons or violence there is reasonable suspicion to believe the arrestee is carrying or concealing contraband because:

1. The arrestee has a criminal record that includes convictions for crimes involving drugs, weapons or physical violence (so long as the convictions are sufficiently serious and recent to create a reasonable suspicion that the individual is carrying or concealing contraband);
2. The arrestee used or concealed contraband or attempted escape during a prior incarceration;
3. The arrestee’s appearance and demeanor or actions suggest they are carrying or concealing contraband;
4. The circumstances surrounding the arrest suggest they are carrying or concealing contraband;
5. The facility has learned from a credible third party that the arrestee may possess weapons, drugs or contraband; or
6. The officer conducting the pat search discovered evidence of a suspicious object beneath the arrestee’s clothing.

Other circumstances which may contribute to a determination of that a strip search is needed:

* + - 1. Whether the arrestee will be intermingled with the general population;
      2. Whether the arrestee has a known gang affiliation.

1. **After Intake**

Juveniles residing at the facility are also subject to searches after booking under the following circumstances.

Pat Search

A pat search is the most common search type used in the Detention Center. Pat searches shall be conducted by officers whenever a juvenile departs from or returns to a secure area.

Strip Search

Strip searches are utilized when there is reasonable suspicion to believe the juvenile is in possession of contraband that cannot be detected by a pat search and under the circumstances described below.

Circumstances **requiring** strip search of juveniles:

* 1. The juvenile is returning to the secure area of the facility from outside activities, such as, supervised leave, work release, work detail, court, medical furloughs, etc.;
  2. Before and after every contact visit.[[1]](#footnote-1)

Circumstances justifying strip search of juveniles but which require supervisor approval:

* + - * 1. The juvenile participated in an activity where they had an opportunity to mingle with outside groups, particularly where there were large numbers of people under minimal supervision;
        2. The juvenile is being admitted/discharged from maximum security;
        3. The juvenile is being placed on suicide watch and there is reason to believe that he or she is carrying or concealing something that could be used for self-harm;
        4. When information is learned that the juvenile possesses contraband;
        5. When an officer discovers evidence of a suspicious object beneath the juvenile’s clothing.

1. **Search Procedures**

Searches may only be conducted by staff trained in techniques that protect both juveniles and staff from bodily harm and civil liability. The least invasive form of search indicated (given the type of contraband the youth is suspected of carrying and the suspected method of introduction) shall be conducted. The subject shall not be touched any more than is necessary to conduct a comprehensive search of their person.

**SEARCHES SHALL NEVER BE USED TO DEGRADE, HARASS, EMBARRASS OR PUNISH**

1. Pat Search:

Pat searches shall be performed prior to departure from any secure area and when there is reasonable suspicion to believe a juvenile is in possession of contraband. Pat searches must be conducted by staff of the same gender as the juvenile. Staff shall ask all new arrestees to remove all of their personal property from their pockets and ask them if they have any weapons of any kind in their possession and where they are located before attempting to search. Pat searches shall be conducted as follows:

* + - 1. Stand behind the juvenile;
      2. Have juvenile removed hat, unbutton coat or jacket, and empty all personal articles from pockets;
      3. Put on gloves;
      4. Run hands under shirt collar and down upper part of each arm to wrist. Staff shall warn the juvenile before touching sensitive areas. With male subjects, bring back hands along underside of arms and armpits, sweeping hands down shirt front to belt from front to back. With female subjects feel around the perimeter of the breasts using the side of the hand and the outside of the thumb when searching the breast’s underside so as not to suggest cupping. With all subjects, run hands down front and back of legs to shoe tops and back up sides of legs, sweeping hands down the back from collar to belt. If an object is detected, try to identify it by gently squeezing it before attempting to remove it;
      5. Have juvenile remove shoes and socks;
      6. Examine hat, shoes, socks and other articles;
      7. When searching large groups of juveniles, such as work details, line up all juveniles with hats off, coats unbuttoned and pockets emptied;
      8. Do not allow juveniles to intermingle during searches. Juveniles who have not been searched, shall not be allowed to mingle with those who have; and
      9. After search is completed, check the area for contraband dropped or discarded by juveniles.

2. Clothing Search:

Clothing searches are conducted as part of the inventory of the detainee’s belongings when the individual is dressed into his or her detention uniform.

Clothing searches shall be conducted as follows:

a. Conduct the search in an area that assures privacy.

b. Prior to beginning the clothing search, conduct a pat-search of the individual.

c. Instruct the individual to face you and remove one item of clothing at a time.

d. Manually check each clothing item for weapons, drugs, or other contraband.

e. Allow the individual to retain their undergarments or the last item of clothing necessary to cover the individual’s breasts, genitalia and buttocks. If the individual is not wearing underpants have them empty all pockets and run your thumbs around the inside of the waist band and thoroughly check the hems and seams of the clothing.

f. Do not require the individual to remain unclothed for longer than the minimum time necessary to inspect each article of clothing.

g. Provide the individual with a detention uniform and secure their personal belongings.

3. Strip Search:

Strip searches must be conducted by staff of the same gender as the juvenile. When possible, two detention staff of the same gender as the subject will be present during strip searches. No non-essential personnel may witness a strip search.

Strip searches shall be conducted as follows:

a. Isolate the subject pending approval for the search.

b. Conduct the search in an area that assures privacy.

c. Conduct the search in a tactful, professional manner.

d. During a strip search, do not touch the subject except as required to control them.

e. Have the subject remove his or her clothing.

f. Physically examine the following areas:

* 1. All clothing;
  2. Run fingers over lining, seams, collars, cuffs, waistbands, and fly;
  3. Shoes, inside soles and heels;
  4. Socks, turning them inside out;
  5. False teeth, artificial limbs, plaster casts;
  6. If applicable, under bandages and dressings;
  7. Have the subject run their fingers through their hair. Check for wigs and hairpieces;

g. Visually examine the following areas:

1) The inside and outside of the subject’s ears;

2) The subject’s nostrils and mouth (above and below tongue);

3) Under the subject’s breast area and body fat creases (when necessary, have the subject lift their breasts or separate body creases);

4) The subject’s hands, torso, and back;

5) The subject’s genital area.

* + - 1. To obtain a clear view of the groin area, have the subject lift their penis and testicles;
      2. Have subjects with thick pubic hair part their pubic hair;
      3. To obtain a clear view of the rectum/vaginal area, have the subject to bend over and spread the rectum;
      4. Have the subject squat and instruct them to cough 3-5 times then re-inspect the rectum/vaginal area;

6) Between the toes and the soles of the subject’s feet.

h. Immediately after completing the search, have subject dress in appropriate attire.

4. Body Cavity Search:

The Detention Center does not conduct body cavity searches. Should strip examination and/or other information lead an officer to believe that an individual is concealing contraband, a weapon, or evidence within a body cavity, the officer shall consult with [*insert rank like jail administrator or shift commander]*  to determine whether sufficient justification exists for a body cavity search. Body cavity searches shall only be performed by healthcare personnel under conditions that give due regard to hygiene and the subject’s privacy.

**E. Search Documentation**

On Initial Intake

1. Detention Staff must complete an entry in the Booking Log for **every** individual booked into the Detention Center.
2. Detention Staff must also complete an Intake Search Form for **every** individual who is booked into the facility. This form will record which searches were performed and the results. The Intake Search Form is also used to document all justifications for strip searches performed on intake and the name of the approving supervisor. Any time a strip search is performed on initial intake a copy of the Intake Search Form must be submitted through the on-duty supervisor to the Detention Administrator.

After Intake

Juvenile Search Form must be completed any time contraband is found on a juvenile.

Cross Gender Searches

All cross gender searches shall be documented on a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and shall include a description of the exigent circumstances that justified the cross gender search.

**VI. DISPOSITION OF CONTRABAND:**

A. All contraband found during searches shall be confiscated. Illegal contraband shall be turned over to the Chief of Security, along with the Chain of Custody Form and handled as evidence. Confiscated contraband shall be stored in a secure cabinet within the Chief of Security office, or placed with law enforcement personnel, for prosecution.

B. Officers identifying juveniles possessing contraband shall complete a disciplinary report and Chain of Custody Form.

Attachments: Intake Search Form, Juvenile Search Form, Booking Log, Transgender and

Intersex Youth Search Preference Form

THIS SAMPLE POLICY IS BEING PROVIDED TO ASSIST YOU WITH DEVELOPING

YOUR FACILITY POLICY. IT IS NOT LEGAL ADVICE. YOU ARE ADVISED TO HAVE YOUR COUNTY ATTORNEY REVIEW AND APPROVE YOUR SEARCH

POLICY BEFORE IT IS IMPLEMENTED.

**INTAKE SEARCH FORM**

*Complete this form for* ***every*** *Booking/Intake.*

Date: Time *(Military Time)*:

Officer(s) conducting Search:

Supervisor approving Strip Search:

Subject’s Name: Subject’s Number:

**ڤ** Male ڤ Female Age: Occupation:

ڤ Known gang member ڤ Prior Criminal Record ڤ Felony charge ڤ Mis charge

ڤ Parole Violation ڤ Probation Violation ڤ Sentenced ڤ Petty Mis charge

Current Charges *(most serious)*:

**Search Type (s) Performed on Subject:** *(Check all that apply)*

ڤ Pat/Frisk ڤ Clothing ڤ Strip ڤ Body Cavity ڤ Other

**Was contraband found?** ڤ **YES** ڤ **NO**

**Which search type revealed contraband?**

ڤ Pat/Frisk ڤ Clothing ڤ Strip ڤ Body Cavity ڤ Other

**Contraband Type:**

ڤ Drug(s) ڤ Ignition Source(s) ڤ Money ڤ Tobacco ڤ Weapon ڤ Other

Describe Contraband:

**Contraband Location:** ڤ In Clothes ڤ In Orifice ڤ On Body ڤ Other

Describe Location:

**Reason(s) for STRIP search**: *(Check all that apply)*

**Current Charges:** ڤ Drugs ڤ Weapon(s) ڤ Violence

**Prior Criminal Conviction(s):** ڤ Drug(s) ڤ Weapon(s) ڤ Violence ڤ None

Describe:

**Incarceration (institutional) Record:** ڤ Contraband ڤ Escape/attempt ڤ Violence

ڤ Disciplinary ڤ Suicide Risk

Describe:

**Information learned from 3rd party that subject possesses weapons, drugs, or other contraband *(explain)*:**

ڤ Pat/frisk search revealed presence of object concealed beneath the clothing?

ڤ Circumstances of arrest *(explain)*:

ڤ Subject’s appearance/demeanor *(explain)*:

ڤ Other *(explain)*:

Completed by: Date:

Supervisor Approval: Date:

**JUVENILE SEARCH FORM**

*This form must be completed any time contraband is located on a juvenile.*

Date: Time *(Military Time)*:

Officer(s) conducting Search:

Supervisor approving Strip Search:

Juvenile’s Name: Juvenile’s Number:

**Search Type (s) Performed:**  *(Check all that apply)*

ڤ Clothing ڤ Pat/Frisk ڤ Strip ڤ Body Cavity ڤ Other

**Which search type revealed contraband?**

ڤ Clothing ڤ Pat/Frisk ڤ Strip ڤ Body Cavity ڤ Other

**Contraband Type:**

ڤ Drug(s) ڤ Ignition Source(s) ڤ Money ڤ Tobacco ڤ Weapon ڤ Other

Describe Contraband:

**Contraband Location:** ڤ In Clothes ڤ In Orifice ڤ On Body ڤ Other

Describe Location:

**STRIP SEARCH JUSTIFICATION**

Reason(s) for STRIP search: *(Check all that apply)*

ڤ Information learned from 3rd party that juvenile possesses weapons, drugs, or other contraband *(explain)*:

Contact with public: ڤ Work Release ڤ Furlough ڤ Court ڤ Porter/Work Detail

ڤ Contact Visit ڤ Other: *(specify)*

ڤ Pat/frisk search revealed presence of object concealed beneath the clothing? *(explain)*:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ڤ Juvenile’s appearance/demeanor *(explain)*:

ڤ Juvenile placed on suicide watch ڤ Contraband is located in Juvenile’s living area

ڤ Juvenile involved in violent incident (*explain*):

ڤ Other *(explain):*

Completed by: Date:

Supervisor Approval: Date:

Transgender and Intersex Youth

Search Preference From

You can request to be searched by either male or female staff member while you are at [*insert facility name*]. We will do our best to honor your choice.

Please check the box next to the statement that best matched how you feel.

 I am most comfortable being searched by a male staff member.

 I am most comfortable being searched by a female staff member.

 I do not care whether male or female staff members search me.

Youth Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Youth Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Officer Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Today’s Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. *It may not be necessary to require strip searches after every visit where there has been adequate surveillance during the visit and a pat or clothing search will be sufficient to turn up contraband. When tailoring this policy for implementation, facilities should consider whether this blanket provision is necessary and consistent with the general search procedure described in statement (D) below on using the least intrusive search necessary*. [↑](#footnote-ref-1)