

Australian Capital Territory

Corrections Management (Searching) Policy 2009

Notifiable instrument NI2009-160

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Searching) Policy 2009*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policy

I make the

SEARCHING POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

James Ryan
Executive Director
ACT Corrective Services
25 March 2009



Alexander Maconochie Centre (AMC)



SEARCHING POLICY

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Purpose

To outline the searching policy.

Authority

Legislation

Corrections Management Act 2007, sections 14, 70, 104-106, 145, 147 and part 9.4.

Policy

Principles

All persons entering the AMC will be subject to a search of their person and any items in their possession. Persons entering the grounds of the correctional centre may be subject to a search.

Any person refusing to submit to a search will not be admitted to the centre.

Force may be used to remove a person from the grounds or Centre. Generally where a person refuses to leave the grounds or centre, the AFP will be requested to attend.

All areas of the AMC will be subject to searching on a routine basis in accordance with the search schedule. Included are: yard searches, common area searches, cell/room searches, perimeter and vehicle searches.

There will be four different categories of searches within the AMC:

- searches of people;
- searches of property; and
- searches of areas;
- searched of vehicles.

Reasonable care will be taken when conducting a search to protect the dignity and self-respect of the person being searched without impeding the effectiveness of the search. Gender, cultural and religious backgrounds will be regarded when conducting searches of property or persons.

When searching property, due care is to be taken to avoid damage to the property.

Prohibited items are defined in the *Contraband Policy*. Any items that may be seized as a result of a search should be retained in accordance with the *Contraband Seizure Procedure*, and the *Preservation of Evidence Policy and Procedure*.

Searching people

Prior to a scanning, ordinary, frisk, or strip search being performed, the corrections officer must ask the person who is being searched if they wish to declare any items that may be contraband or prohibited.

The following declaration will be used:

I am now going to conduct a frisk / strip search on you. Before I commence, is there any item on your person (or in your property) that you shouldn't have? Do you have any needle, syringe or other sharp objects on your person (or in your property)? Is there any item on your person (or in your property) that doesn't belong to you?

This declaration need not be used before a scanning search using a metal detector (portable or fixed) or itemiser.

A non-therapeutic Doctor will give the same declaration prior to conducting a body search.

Intrusiveness and privacy

When determining which type of search to conduct, regard must be given to the requirements of the search. The type of search conducted must be the least intrusive type of search appropriate to the situation considering the circumstances and desired outcome.

All searching must be conducted in an area appropriate to the type of search being conducted.

Scanning search

This is a search of a person by electronic or other means in which the person is not required to remove any clothing or be touched by another person. A scanning search may be conducted via a metal detector (portable or otherwise), x-ray machines, itemiser, or other device approved by the Superintendent.

A scanning search must be conducted in the presence of a person of the same gender as the person being searched. That person may not be a prisoner.

A corrections officer may conduct a scanning search if the officer believes on reasonable grounds that it is prudent to protect the safety of anyone at a correctional centre or to protect the security or good order at a correctional centre.

Ordinary search

This is a search of a person, and/or of articles in a person's possession in which the person is required to remove and have examined their overcoat, coat, shoes, jacket, and any gloves, etc.

An ordinary search must be conducted in the presence of a person of the same gender as the person being searched. That person must not be a prisoner.

A corrections officer may conduct an ordinary search if the officer believes, on reasonable grounds, that:

- it is prudent to protect the safety of anyone at a correctional centre or to protect the security or good order at a correctional centre; and
- an ordinary search is the least intrusive search appropriate to the situation considering the circumstances and desired outcome.

Frisk search

This is a search of a person (including a visitor) conducted by quickly running the hands over the person's outer garments, and an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

A frisk search must be conducted by a corrections officer of the same gender as the person being searched.

A corrections officer may conduct a frisk search if the officer believes, on reasonable grounds, that:

- it is prudent to protect the safety of anyone at a correctional centre or to protect the security or good order at a correctional centre; and
- a frisk search is the least intrusive search appropriate to the situation considering the circumstances and desired outcome.

Strip Search

This is a search of a prisoner, including all articles in the prisoner's possession, which requires the prisoner to remove all of their clothes (though not at the same time). The prisoner's body and clothing will be searched.

All prisoners will be strip searched on admission to a correctional centre.

Prisoners are the only persons who may be strip - searched by corrections officers.

Strip searches must be conducted by two corrections officers of the same gender as the prisoner being searched.

During the search, if the prisoner is compliant, corrections officers will have no physical contact with the prisoner.

All strip searches must be recorded in the Body/Strip Search Register. This record must include the reasons for the search.

Strip searches may be used to detect any of the items listed in the *Contraband Policy* or anything that may:

- be used to intimidate someone;
- be used to commit an offence or disciplinary breach;
- create a risk to the personal safety of someone; or
- create a risk to the security or good order at a correctional centre.

These items are referred to as 'seizeable items'.

A corrections officer may conduct a strip search:

1. when admitting a prisoner to a correctional centre as part of their initial assessment;
2. when a corrections officer has a *reasonable suspicion* that the prisoner is concealing a seizeable item;
3. when the following conditions are all satisfied:
 - a) the prisoner has recently not been under the control or immediate supervision of a corrections officer;
 - b) during that period, the prisoner may have had an opportunity to obtain a seizeable item;
 - c) a scanning, frisk, or ordinary search is only likely to detect a limited number of seizeable items; and
 - d) a scanning search is not available or could only be carried out using such force that would make it ineffectual.

A *reasonable suspicion* arises where a corrections officer has grounds to believe that a prisoner is concealing a seizeable item. The grounds for this belief must be sufficient to satisfy another corrections officer that the prisoner may be concealing a seizeable item.

The circumstance in which reasonable suspicion applies includes, but is not limited to:

- where a corrections officer is informed that a prisoner is in possession of a seizeable item;
- where a corrections officer is informed that contraband is located in a particular accommodation area (all prisoners in that area may be strip searched if further investigation does not identify a particular individual); and
- where a prisoner is behaving in a way which is consistent with being under the influence of a drug.

Note: the fact that a prisoner has previously been found to be in possession of contraband is not, in itself, sufficient.

Body search

This is a search of a prisoner including an examination of any orifice or cavity of the prisoner's body.

A non-therapeutic Doctor and nurse will conduct all body searches; however corrections officers of the same gender as the prisoner may be required to assist in the restraint of the prisoner.

If the Doctor conducting the body search is not of the same sex as the prisoner, the nurse must be of the same sex as the prisoner.

All body searches must be recorded in the Body / Strip Search Register.

Searching property

Prisoner's property

All property entering the AMC will be searched.

All personal property that a prisoner brings into the AMC, or has been brought in for them, will be subject to search by corrections officers. Prohibited items may be seized from visitors in accordance with the *Contraband Policy* and *Seizure of Contraband Procedure*.

Visitor's property

Visitors will not be allowed to bring any personal property into the prison when visiting prisoners. Lockers are located in the visits waiting area for the storage of personal items. (Prohibited items may be seized from visitors in accordance with the *Contraband Policy* and *Seizure of Contraband Procedure*).

Staff property

All property entering the AMC, including staff property, will be searched.

Staff may store personal items in the lockers provided.

All items brought through the Gate by staff must be carried in a clear plastic bag to facilitate searching. (Prohibited items may be seized from visitors in accordance with the *Contraband Policy* and *Seizure of Contraband Procedure*).

Area searches

Cell/room searches

A prisoner may have their cell/room searched at any time.

Cell searches will be conducted in such a way so as to cause as little disruption as possible whilst the search of the area is performed.

Common areas

Searches of common areas should be carried out on a routine basis in accordance with the search schedule. This will include:

- the kitchen;
- Industrial laundry;
- Visits centre;
- Women's community centre;
- common areas in cottages and cellblocks (including external fences and gardens);
- the activities building; and
- Programmes and education buildings.

Cellblock/cottage searches

Searches of the entire cellblock or cottages (including all cells) will occur at random intervals or on as needs basis. The programmed search schedule will be determined by the Deputy Superintendent. At a minimum all accommodation areas will be searched on a 6 monthly basis. More frequent searches may be conducted subject to intelligence or other operational reasons. All cellblock/cottage searches must be recorded in the Cell Search Register.

Perimeter searches

A search of the outside perimeter will take place at least three times during the day shift and twice during the nightshift, between the following hours:

- 0700hrs – 1200hrs
- 1200hrs – 2000hrs
- 2100hrs – 0700hrs

The frequency indicated must be regarded as a minimum. Shift managers are to vary the timing and frequency of perimeter patrols.

Particular attention must be paid to the structure of the perimeter fence as well as any damage to lighting and cameras. Any foreign material in the prisoner free areas must be examined.

Vehicle searches

All vehicles entering the AMC will be searched on entry and exit and will be recorded in the Entry / Exit Search Log Book

No vehicle will be allowed entry or exit from the AMC without being searched in the gatehouse by a correctional officer. Electronic scanning devices may also be used.

Vehicles passing through the AMC boom gate may be searched, including staff and visitors vehicles as approved by the Deputy Superintendent. Any person refusing to have their vehicle searched may be refused entry into the AMC.

Inability to complete a Prisoner search

There will be occasions when a corrections officer is unable to complete a search. This will generally be for two reasons:

- the corrections officer is unable to obtain the necessary assistance or find a suitable location to conduct the search; or

- the prisoner refuses to submit to a search or to cooperate with the search procedures.

When non-completion is caused by non-cooperation of the prisoner, the corrections officer should discuss the issue with the prisoner and attempt to elicit his/her cooperation. If this is not successful the corrections officer will inform the CO2 in charge of the area.

During this period, the prisoner must not be left unattended or out of sight of a corrections officer. The prisoner will not be permitted to contact any other prisoners.

The CO2 will attend and direct the prisoner to submit to the search.

Force will be used as a last resort and will be conducted in accordance with the *Use of Force Policy* and *Procedure*.

Corrective Services Dogs

Any person entering a correctional centre or the grounds of a correctional centre may be subject to a search by a dog handler and a corrective services dog. These searches will be conducted in accordance with the *Passive Alert Detectors Dog Policy*.

Forms/Templates

Body / Strip Search Register
Visitors Search Register
Officer Report Form
Seizure Article Book Form
Cell Search Register
Entry / Exit Search Logbook

Related policies and procedures

Use of Force Policy
Use of Force Procedure
Contraband Policy
Contraband Seizure Procedure
Preservation of Evidence Policy
Preservation of Evidence Procedure
Visits Policy
Incident Reporting Policy
Incident Reporting Procedure
Passive Alert Detectors Dog Policy