

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency \_\_\_\_\_

Department \_\_\_\_\_

Contact \_\_\_\_\_ E-mail \_\_\_\_\_ Phone \_\_\_\_\_

Statutory Authority for Promulgating Rules \_\_\_\_\_

Rule Title: \_\_\_\_\_

### Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204) Legal Notice Published ..... \_\_\_\_\_

☐ 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment ..... \_\_\_\_\_

☐ Other \_\_\_\_\_ Reviewed by Legislative Council ..... \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Adopted by State Agency ..... \_\_\_\_\_

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

## CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)


Signature

Phone Number

E-mail Address

Title

Date

 <div style="text-align: center;"> <b>ADMINISTRATIVE RULES STATE</b>   <b>OF ARKANSAS</b>   <b>BOARD OF CORRECTIONS</b> </div>	<b>Section Number:</b> <b>DOC 40</b>	<b>Page Number:</b> <b>1 of 5</b>
	<b>Board Approval Date:</b> <b>05/26/2015</b>	
	<b>Supersedes:</b> <b>DOC 401</b>	<b>Dated:</b> <b>09/19/2011</b>
	<b>Reference:</b>	<b>Effective Date:</b> <b>06/19/2015</b>
<b>SUBJECT: Searches for and Control of Contraband</b>		

**I. AUTHORITY:**

The Board of Corrections is vested with the authority to promulgate Administrative Rules by Act 50 of 1968, Extraordinary Session, as amended; Acts 548 and 549 of 1993, Regular Session (Ark. Code Ann. § 16-93-1203 and 12-27-105 of 1993).

**II. PURPOSE:**

To provide the Departments of Correction (ADC) staff with information and guidelines regarding approved procedures for the suppression of contraband and to specify approved search methods.

**III. APPLICABILITY:**

To all employees and especially those employees involved in searches for the suppression of contraband.

**IV. DEFINITIONS:**

- A. Contraband: Any article not authorized nor issued to an offender as personal or state property, nor purchased through the facility commissary specifically defined as contraband including any excessive, authorized personal property whether seized during a residential, vehicle, or body search.
- B. Personal Property: Items which are purchased by an offender, within limits as posted in the facility of assignment.
- C. State Issued Property: Items issued to an offender for personal use and clearly identified as state property of the offender unless of a rapidly expendable nature.

- D. Reasonable Suspicion: Facts and rational inferences that department officials are entitled to draw from in light of the person's experience.

The following are among the factors to be considered in determining reasonable suspicion:

- (1) the demeanor of the suspect
- (2) the gait and manner of the suspect
- (3) prior background or character
- (4) whether the suspect is carrying anything and what they may be carrying
- (5) their manner of dress
- (6) the time of day or night the suspect is observed
- (7) any overheard conversation
- (8) information received from a third person
- (9) whether the suspect is consorting with others whose conduct is "reasonably suspect"
- (10) a visible effort to conceal an article
- (11) an effort to avoid identification or confrontation by officials

- E. Individuals: May include but not be limited to offenders, employees, contracted staff, visitors, volunteers, and any persons entering or leaving a facility.

- F. Offenders: Persons in the custody of ADC or confined in an ADC Facility.

**V. POLICY:**

It shall be the policy of the ADC to have procedures in place that detect and deter the introduction, manufacture, possession, and/or conveyance of contraband.

**VI. PROCEDURE:**

All contraband discovered during a search or otherwise is to be confiscated, recorded pursuant to the appropriate administrative directive and reported to a supervisory officer. The supervisory officer should investigate to determine exactly where the contraband came from and how it was introduced.

- A. General Searches:

Searches shall include but not be limited to the following elements:

1. Searches of individuals entering the facility, including searches of persons, packages, and other items;
2. Searches of all vehicles entering and leaving the facility;
3. Inspection of packages and other non-vehicular items entering and leaving the facility to include inspection by electronic means;

4. Use of hand-held and walk-through metal detectors or other detection technology to detect and deter the movement of contraband.

B. Offender Searches:

Procedures for offender searches shall include the following:

- (1) Use of pat and strip searches;
- (2) Use of intrusive body cavity searches in accordance with established procedures;
- (3) Shakedowns in facilities shall be carried out in accordance with established procedures;
- (4) Shakedowns in other common areas, including but not limited to offender and program work areas such as the kitchen, visitation room, and school; halls, day rooms, activity areas, and outside recreation areas.

1. Pat Searches of Offenders

Pat searches may be conducted by an employee of either gender and may be performed in any area of the facility and during movements. Pat searches ordinarily do not require an offender to remove clothing other than hats and gloves.

2. Strip Search of Offenders

Strip searches shall be conducted in a professional manner by staff the same gender as the offender. In cases of emergency (i.e., escape, riot, etc.), this provision may be waived.

3. Facility Contraband Searches

- a. Unannounced and irregular searches of facilities shall be performed on a continual basis.
- b. Each facility will have Standard Operating Procedures (SOP's) established for searches. Copies of the SOP's are to be a part of all post orders.

C. Contraband Searches Associated with Facility Lockdown:

The Warden/Center Supervisor may determine that a facility lockdown or partial lockdown is necessary to facilitate a search for contraband. A facility lockdown shall be premised on the presence of contraband, e.g., recent surfacing of contraband of a serious nature; potentially dangerous weapons; or a large quantity of drugs or cash which, in the estimation of the Warden/Center Supervisor constitutes a significant threat to the security of the facility and safety of offenders and staff.

D. Search of Staff:

1. Pat Search of Staff

The pat search is conducted while the employee is wearing clothes. All staff is subject to pat searches. Pat searches may be conducted at random. Pat searches may be conducted by an employee of either gender.

2. Strip Search of Staff

All staff is subject to strip searches. All strip searches may be conducted in an area separate and private from offenders and other staff if possible and in such a way as to ensure tact, privacy and a minimum of embarrassment. Strip searches will be conducted by staff of the same gender as the person being searched. The warden/center supervisor must have a reasonable suspicion that contraband may be introduced into the facility.

E. Search of Visitors:

1. Pat Search of Visitors

The pat search is conducted while the visitor is wearing clothes. The person conducting the search must be of the same gender as the person being searched.

All visitors shall be notified by a plainly visible sign that pat searches may be conducted. The search of a visitor shall only occur prior to or during the visitor's meeting with the offender. Entry to the facility will be denied if an individual is not willing to submit to a search.

2. Strip Search of Visitors

Strip Searches will be conducted only if reasonable suspicion exists. Strip searches will be conducted by staff of the same gender as the person being searched. Strip searches of visitors will not be conducted indiscriminately and must be authorized by the Warden/Center Supervisor or, in his or her absence, the Deputy/Assistant Warden or Assistant Center Supervisor. Any visitor refusing a search (pat or strip) shall be escorted from Department property and be indefinitely suspended from visitation privileges.

F. Personal Property:

Although it is essential that all searches are thorough and systematic, it is equally important that no damage, loss or abuse occur to any personal property. Any such loss or damage that is determined to be through neglect may result in disciplinary action against the negligent employee(s) and officer(s) and they will be liable for the cost of replacement of such items.

1. Excessive Authorized Personal Property:

Authorized offender personal property in living quarters which constitutes a significant safety concern, seriously impairs reasonable visual observation or impedes reasonable search or exceeds maximum number of allowed items by policy shall be considered contraband.

These confiscated items shall be disposed of in accordance with established procedures.

2. Unauthorized Personal Property Received at Facilities

Offenders who possess or receive in the mail unauthorized personal property shall have such property confiscated and disposed of in accordance with established procedures.

3. Contraband Personal Property at Time of Inter-Facility Transfer

Upon transfer, an offenders' personal property not allowed at the receiving facility shall be disposed of in accordance with established procedures.

4. Copy of Confiscated Item Form Delivered to Offender Pursuant to administrative directive, a form will be completed by the officer conducting the shakedown of an offender's cell, property or person and shall be completed at the time of the shakedown. A copy of this form will be given to the offender within 72 hours following the shakedown of his/her cell, property or person only if items of contraband or personal property are confiscated.

G. Disposition of Contraband:

All contraband shall be safeguarded under the supervision of the Deputy/Assistant Warden/Assistant Center Supervisor until termination of its utilization as evidence. Contraband shall then be disposed of in accordance with current policy.

**VII. REFERENCES:**

ACA Standards

AR401