



Department of Corrections and Rehabilitation
NOTICE OF CHANGE
TO DEPARTMENT OPERATIONS MANUAL

Chapter 5, Article 19,
Searches

Transmittal Letter Number:

15-16

Revision Date:

October 13, 2015

The purpose of this document is to provide all Department Operations Manual (DOM) holders with information regarding the attached amendments to Chapter 5, Article 19, Searches.

The revision incorporates a change in the method of searching inmate visitors, which was driven by a change to the California Penal Code 6402. The revision also includes new language detailing the process for denying or suspending visitors for a period of time due to unwillingness to comply or participate in the drug interdiction process.

Please inform all persons concerned regarding the contents of this notice, which shall remain in effect until it is incorporated into the next edition of the DOM. If you have any questions, please contact Bryan Donahoo, Division of Adult Institutions at (916) 323-2160.

Original signed by:

K. Allison (for)

KELLY HARRINGTON

Director

Division of Adult Institutions

DEPARTMENT OPERATIONS MANUAL
CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS
ARTICLE 19 — ARREST, SEARCH AND SEIZURE

Revised December 16, 2014

[Sections 52050.1 through 52050.28.4 are unchanged]

52050.28.5 Searches

Revised October 13, 2015

EDDE may be used to search inmates, visitors, staff, employees of other government agencies, contract employees, contractors and their employees, volunteers, packages, mail, vehicles, Department property, and personal property brought onto institution grounds. Equipment shall be used in accordance with the manufacturer's instructions to avoid contamination of equipment operators and equipment.

EDDE scans of inmates, visitors, staff, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be conducted in a systematic and routine manner. EDDE swabs may be wiped along the following areas prior to scanning, e.g., hands and fingers and commonly touched or held articles such as pocket exteriors or openings, shoelaces, eyeglass handles, belt buckles, watch bands, bracelets, etc. At no time shall a swab be used on breast or groin areas. The swab will then be scanned by the EDDE.

Searches of Inmates

- If the presence of contraband is detected and confirmed, inmates shall be subject to an unclothed body search and ordered to submit to a urinalysis. Inmates require only one positive scan to be considered positive due to the reasonable unlikelihood of being inadvertently contaminated with drug residue from a secondary source. All inmate scanning results shall be documented on the EDDE ION Scanner Results Log – Inmates Scanned log.

Searches of Packages, Mail

- If the presence of contraband is detected and confirmed by the EDDE in packages or mail, the item(s) is to be confiscated and turned over to the ISU for investigation and disposition in accordance with Chapter 5, Article 41, Inmate Mail.
- All packages and mail testing shall be documented on the EDDE ION Scanner Results Log – Mail and Package log.

Searches of Inmate Visitors

- All inmate visitor testing results shall be documented on the ION Scanner Results Log – (Visitors).
- Visiting staff shall inform visitors they can refuse the enhanced inspection by the EDDE. Staff shall inform the visitor of further potential search and visitation options upon a positive alert or based upon the number of refusals occurring within a twelve month period as outlined in policy.
- If during the first scan of the EDDE, the scan result is negative, the visitor shall continue with processing into the visiting area.
- If the presence of contraband is detected on the first scan, the visitor shall be given the option of washing his/her hands with soap and water and a second scan shall be performed in the same manner as the first scan. If a visitor passes the second scan, they shall be permitted to have a regular visit and the scan shall not be recorded as a positive result.

- If the second scan is positive, the visitor shall be informed that he/she will be required to submit to a clothed body search as a condition of a non-contact visit, if space is available. Subsequently, if the clothed body search is negative for contraband, the visitor shall continue with processing into the non-contact visiting area. However, if the clothed body search results in the discovery of contraband, the visitor shall be denied entrance to the facility/institution and may be subject to arrest and referral for criminal prosecution. If the visitor refuses to consent to a clothed body search, visiting shall be denied for the day.
- All positive alerts (second EDDE scans/passive air scans), refusals to submit to clothed body searches after a positive alert, and/or refusals to participate in the drug interdiction process shall be recorded on the SOMS visiting record. Upon the visitor's next attempt to enter a CDCR institution, he/she shall be informed that he/she shall be subject to the following:

- First offense: A visitor who refuses to participate in a drug interdiction process may request a non-contact visit if space is available. The visitor shall be required to submit to a clothed body search as a condition of a non-contact visit. If the results of the search are negative for contraband, the visitor shall continue with processing for a non-contact visit. If the visitor refuses to consent to a clothed body search, visiting shall be denied for that day. A visitor, who refuses to submit to a clothed body search after a positive EDDE/passive air scan alert for the first time in a twelve (12) month period, shall be denied a visit for that day.

Upon the visitor's next attempt to visit within a twelve (12) month period, the visitor shall not have the option of being randomly selected to participate in the drug interdiction process. The visitor shall participate in the drug interdiction process occurring on that day. If the visitor refuses to comply with this directive, visiting shall be denied for that day. If the institution is not conducting a drug interdiction process, the visitor will be allowed a contact visit consistent with departmental policies.

- Second offense: A visitor who refuses to participate in a drug interdiction process or submit to a clothed body search after a positive EDDE/passive air scan alert for the second time in a twelve (12) month period shall be denied a visit for that day. The institution head or designee may issue an order to suspend the visitor from the institution within his/her jurisdiction for up to thirty (30) days, pursuant to CCR, Title 15, Sections 3176.1, 3176.2 and 3176.3. Upon the visitor's next attempt to visit within a twelve (12) month period, the visitor shall not have the option of being randomly selected to participate in the drug interdiction process. The visitor shall participate in the drug interdiction process occurring on that day. If the visitor refuses to comply with this directive, visiting shall be denied for that day. If the institution is not conducting a drug interdiction process, the visitor will be allowed a contact visit consistent with departmental policies.
- Third offense: A visitor who refuses to participate in a drug interdiction process or submit to a clothed body search after a positive EDDE/passive air scan alert for the third time in a twelve (12) month period shall be denied a visit for that day. The institution head or designee may issue an order to suspend the visitor from the institution within his/her jurisdiction for up to twelve (12) months, pursuant to CCR, Title 15, Sections 3176.1, 3176.2 and 3176.3. Upon the visitor's next attempt to visit within a twelve (12) month period, the visitor shall not have the option of being randomly selected to participate in the drug interdiction process. The visitor shall participate in the drug interdiction process occurring on that day. If the visitor refuses to comply with this directive, visiting shall be denied for that day. If the institution is not conducting a drug interdiction process, the visitor will be allowed a contact visit consistent with departmental policies.
- Fourth offense: A visitor who refuses to participate in a drug interdiction process or submit to a clothed body search after a positive EDDE/passive air scan alert for the fourth time in a twelve (12) month period shall be denied a visit for that day. The institution head or designee may issue an order to suspend the visitor from the institution within his/her jurisdiction for up to twelve (12) months and refer the case to the

director or designee for review of permanent exclusion of a person from any or all institutions/facilities, pursuant to CCR, Title 15, Sections 3176.1, 3176.2 and 3176.3.

- When conducting scans of inmate visitors there will be occasions when legitimate circumstances exist that may result in a positive EDDE scan. Should the person being scanned claim the EDDE alarm is due to one or several prescribed medications, that person must present a letter of verification signed by a licensed physician, licensed physician's assistant, or certified nurse practitioner confirming the medications prescribed are the cause of the EDDE alarm before they will be permitted a contact visit. The visitor shall be informed that he/she shall be required to submit to a clothed body search in accordance with Section 54020.13.2, as a condition of visiting. Any item(s) brought into the facility/institution by that visitor shall be subject to a thorough search. If no contraband is discovered, the visit shall proceed. If the document is not readily available, the individual shall be informed that he/she shall be required to submit to a clothed body search as a condition for non-contact visiting, if space is available. If no contraband is discovered, the visitor shall be permitted to have a non-contact visit.
- Denial of entrance into the facility/institution or the approval of a non-contact visit shall be in accordance with Chapter 5, Article 42.
- Inmate visitors, who appear to be under the influence of alcohol, drugs, or any other substance, to the extent that his or her presence in the facility/institution would pose a threat to his or her safety or the safety of others, or to the security of the facility/institution shall be denied entrance to the facility/institution.
- Inmate visitors found in possession of controlled substances are subject to arrest and referral for criminal prosecution pursuant to this Article.
- Any controlled substance(s) and or contraband confiscated shall be handled as evidence and in accordance with Chapter 5, Article 20.
- Upon request, a visitor may be given a copy of the EDDE printout of all positive scans for that visitor.
- The Office of Internal Affairs (OIA) Criminal Team Supervisor or Administrative Officer of the Day (AOD), shall be immediately contacted for consideration of an exigent investigation upon the discovery of illegal drugs or other criminal contraband in the possession or control of a visitor when there is reasonable suspicion that a departmental employee, employee of another government agency, contract employee, contractor and their employee, or volunteer is involved with the visitor.
- The arrest of a visitor shall not be made without consultation with OIA when there is reasonable suspicion that a departmental employee, employee of another government agency, contract employee, contractor or their employee, or volunteer is involved with the visitor. The OIA Regional Criminal Team Supervisor will assess the case factors and other investigative strategies prior to approval. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.
- When an arrest is made by ISU, in accordance with CCR, Title 15, Sections 3176.2 and 3316(a), the CDCR 837 form series, Crime/Incident Report; arrest reports; and staff reports documenting the arrest shall be forwarded to the local District Attorney's office by ISU.

Employees, Contractors, and Volunteers

- Department employees do not have the right to refuse to be searched. Employees of other government agencies, contract employees, contractors and their employees, and volunteers can refuse to submit to search; however, refusal shall result in the denial of entry and may result in a suspension from that CDCR institution for one

year. Employees of other government agencies, contract employees, contractors and their employees, and volunteers can appeal the suspension to the institution head. A written response shall be provided within 15 working days from receipt of the appeal. If dissatisfied with the institution's response or action, the appellant may refer the appeal, with a copy of the institution's decision, to the director or designee who shall provide a response within 20 working days from the date of receipt.

- Employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be randomly selected for scanning with the EDDE. All scanning of individuals shall be conducted in a manner that affords privacy. When employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers are scanned, the operator shall ensure that the audio alarm is deactivated and that a printout of all positive scans for the staff member, employee of another government agency, contract employee, contractor or their employee, or volunteer accompanies all written logs.
- If during the first scan of the EDDE, the scan result is negative, the individual will continue with processing into the institution.
- If the presence of contraband is detected on the first scan, the individual shall be given the option of washing their hands with soap and water and a second scan shall be performed in the same manner as the first scan. If the second scan is positive, and the presence of contraband is detected by the EDDE, supervisory staff shall be notified immediately. The individual shall be informed that he/she shall be required to submit to a pat down search by same gender supervisory staff in a private setting as a condition to enter the facility/institution. Any item(s) brought into the facility/institution by that individual shall be subject to a thorough search. If no contraband is discovered, the individual shall be allowed to enter the facility/institution.
- The OIA Criminal Team Supervisor or AOD shall be immediately contacted for consideration of an exigent investigation upon the discovery of illegal drugs or other criminal contraband in the possession or control of an individual.
- The OIA Regional Criminal Team Supervisor shall be contacted for consideration of an exigent investigation prior to the search of any departmental employee, employee of another government agency, contract employee, contractor and their employee, or volunteer when there is reasonable suspicion that the employee, employee of another government agency, contract employee, contractor and their employee, or volunteer is or will be in possession of illegal drugs or contraband. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.
- All employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers testing shall be documented on the ION Scanner Results Log - (Staff).
- An EDDE scan of an individual may be initiated consistent with established reasonable suspicion protocols.
- Employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers who appear to be under the influence of alcohol, drugs, or any other substance, to the extent that his or her presence in the facility/institution would pose a threat to his or her safety or the safety of others, or the security of the facility/institution shall be denied entrance to the facility/institution.
- Individuals who are searched and found to be in possession of illegal drugs or contraband are subject to arrest and referral for criminal prosecution pursuant to this Article.

- If an arrest is initiated, those arrested, along with the drugs or contraband discovered, shall be turned over to ISU pending further direction from OIA.
- Once the pre-booking process has been completed by CDCR staff, the arrestee(s) shall be transported by CDCR personnel or by local police/sheriff's department to a designated detention facility. Arrestee(s) shall not be held at the pre-booking area beyond a reasonable amount of time necessary to complete the process.
- In all cases where an individual is arrested for committing a criminal act while on institutional grounds in accordance with CCR, Title 15, Section 3316(a) and DOM Section 31140.20, a copy of the CDCR 837 form series, Crime/Incident Report; arrest reports; and staff reports documenting the arrest shall be forwarded to the OIA regional office and to the OIA Classifications Intelligence Unit along with the CDCR Form 989 (Part A) Confidential Request for Internal Affairs Investigation / Notification of Direct Adverse Action, and other supporting documents. A criminal investigative report and complaint shall be filed with the local District Attorney's Office by OIA.
- Searches of employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be conducted in accordance with Section 52050.15.

[Sections 52050.28.6 through 52050.29 are unchanged]

52050.30 References

Revised October 13, 2015

PC §§ 27, 830 - 849.5, 4030, 4573, 4573.6, 4573.9, 4574, 4576, 5054, 5058, 6402 and 11115.

CCR (15) §§ 3005, 3171, 3172, 3172.1 3173, 3173.2, 3176, 3176.1, 3176.2, 3176.3, 3176.4, 3177, 3178, 3179, 3270, 3287, 3288, 3289, 3290, and 3292.

GC § 3300 et al., Public Safety Officers Bill of Rights.

ACA Standards 4-4192 through 4-4194 and 4-4208.

Estes v. Rowland (1993) 14 Cal. App. 4th 508.

Coleman v. Brown (E.D. Cal. 2014) No. CIV. S-90-520 LKK DAD PC, Order issued August 11, 2014.