

13 May 2025

Your ref: [REDACTED]
Our ref: GIPA25 [REDACTED]

[REDACTED]

Dear [REDACTED]

Formal Access Application - Notice of Decision

I refer to your Formal Access Application under the *Government Information (Public Access) Act 2009* (GIPA Act) that you lodged with the Department of Communities and Justice (the Department) on behalf of your client, [REDACTED] where you requested access to the following information:

- [REDACTED]
2. *A copy of the procedures and protocols for strip searching juvenile detainees as adopted by the Department for Frank Baxter during 2006.*
- [REDACTED]

Decision

I am authorised by the Principal Officer, for the purposes of section 9(3) of the GIPA Act to decide your access application.

I have decided:

- Pursuant to section 58(1)(a) of the GIPA Act to provide you access to some of the information requested in your application,
- Pursuant to section 58(1)(b) of the GIPA Act that some of the information requested in your application is not held by the Department.

Under section 53 of the GIPA Act, the Department must conduct reasonable searches for the government information you have requested in your application. In order to locate the information requested in your access application, searches were conducted of the Youth Justice information holdings.

In relation to point 1 of your request, Youth Justice have advised that the search registers for Frank Baxter Juvenile Justice Centre that contained information for the period 06/10/2006 to 02/02/2007 have been destroyed and they are unable to search for the information that falls within the scope of your request.

Therefore, I have decided pursuant to section 58(1)(b) of the GIPA Act that the information requested at point 1 of your application is not held by the Department.

In relation to point 2 of your request, Youth Justice were able to locate the information that falls within the scope of your request.

I have carefully considered your request in view of the objectives of the GIPA Act where you have a legally enforceable right to obtain information, unless there is an overriding public interest against disclosure of the subject information. Further, I have also considered the requirements of section 74 of the GIPA Act, which provides that an agency may delete information from a record to which access is provided if the deleted information is not relevant, or within the scope of the information applied for, or an agency has decided to refuse access to that information.

I have decided to provide you with a complete copy of the information requested in your access application in accordance with section 58(1)(a) of the GIPA Act.

In deciding your application, I was required to conduct a “public interest test” where the public interest considerations favouring disclosure of government information were weighed against those factors that do not favour disclosure. The following are a number of public interest factors I considered which favour disclosure of the information requested:

- Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.
- Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.
- Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.
- The information is personal information of the person to whom it is to be disclosed.
- Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.
- Disclosure of the information could reasonably be expected to advance the fair treatment of individuals in accordance with the law in their dealings with agencies.
- Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.
- Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.

On this occasion, I have not identified public interest factors against disclosure that outweigh the factors in favour of disclosure and the information has been released to you in full.

If you are aggrieved by any of the reviewable decisions in this notice of decision, you may seek a review under Part 5 of the GIPA Act, by requesting any one of the following:

- An internal review that must be lodged with Open Government, Information and Privacy within 20 working days of this notice of decision. You must lodge your internal review at the address shown at the bottom of the first page and must be accompanied by the appropriate application fee of \$40.
- Alternatively, a request for an external review may be lodged with either the Information and Privacy Commission, or the NSW Civil and Administrative Tribunal. Please note that you must lodge your request for an external review within 8 weeks of this notice of decision.

If you have any questions or concerns in relation to this matter, please contact me by phone or email.

Yours sincerely

Hayley Croft

Hayley Croft
OGIP Advisor
Open Government, Information and Privacy Unit
Department of Communities and Justice

Searching Detainees



ADMISSION - BASIC PROCEDURE
 BEHAVIOUR MANAGEMENT – MANAGING DIFFICULT BEHAVIOUR
 BEHAVIOUR MANAGEMENT – MINOR MISBEHAVIOUR
 BEHAVIOUR MANAGEMENT – SEGREGATION
 CONTRABAND – PREVENTION AND DETECTION
 INCIDENT – GENERAL INFORMATION
 INCIDENT – SUBSTANCE USE / POSSESSION
 PERSONAL PROPERTY OF DETAINEES
 SEARCHING - USE OF DRUG DETECTOR DOGS
 USE OF FORCE AND INSTRUMENTS OF RESTRAINT

DEPARTMENTAL DISCIPLINARY PROCEEDINGS



SEARCHING UNITS AND OTHER AREAS



CHILDREN (DETENTION CENTRES) ACT 1987:
 S.14 – FUNCTIONS OF THE DIRECTOR-GENERAL

CHILDREN (DETENTION CENTRES) REGULATION 2000:
 CL.5 ADMISSION OF DETAINEES
 CL.12 UNAUTHORISED POSSESSION OF PROPERTY
 CL.13 DISPOSAL OF PROPERTY
 CL.14 RECORDS TO BE KEPT CONCERNING PROPERTY
 CL.50 USE OF FORCE
 PART 7 MISBEHAVIOUR



1.1 ABUSE-FREE ENVIRONMENT
 1.2 RESPECT, DIGNITY, INDIVIDUAL FOCUS
 1.3 REGARD TO AGE AND GENDER
 7.4 PROTECTIVE CARE
 7.5 SELF HARM AND SUICIDE PREVENTION
 7.6 SEPARATION
 7.7 USE OF FORCE
 11.3 ETHICAL CONDUCT



JJ-A005 INCIDENT ADVICE
 JJ-A009 STAFF REPORT
 JJ-A021 USE OF SEGREGATION RETURN
 JJ-A056 SEGREGATION RECORD BOOK
 JJ-A057 RECORD OF SEGREGATION
 JJ-A058 REPORT ON USE OF FORCE
 JJ-A059 SEARCH REGISTER

JJ-CW014 CASE NOTES

When to use this procedure

The department has a duty of care to its clients and its staff. This duty may be jeopardised if dangerous or other illicit objects or substances are brought into a Juvenile Justice Centre. To minimise the entry of such objects or substances into centres, staff may be required to search detainees under well-defined circumstances and conditions.

This procedure is used to search a detainee:

- As part of routine; or
- When there is 'reasonable belief' the detainee may be in possession of contraband.

The circumstances in which searches can be used are described in more detail below. The types of searches that can be conducted are also described below.

When not to use this procedure

When a detainee has met with a departmental staff member within the centre, unless staff has reasonable belief that the detainee has obtained an illicit object or substance ( below), the detainee is not required to be searched in any way.

This procedure must never be used unless the reasons described in this procedure exist. Search procedures must never be used to harass or intimidate a detainee.

Duty of care

Staff employed by the Department of Juvenile Justice have common law and statutory duties of care towards clients of the department. Failure of an employee to discharge his or her duty of care, or otherwise act within the law, leaves the employee individually or the department (or both) open to criminal or civil action.

Departmental disciplinary action may also be taken under the Public Sector Employment and Management Act 2002 against any staff member found guilty of failing to discharge his or her duty of care.

Types of searches and reasons for their use

With appropriate approval, centre staff may perform searches in the circumstances outlined below, and using the methods outlined below.

Wand and clothed body search

A wand search involves the use of an approved metal detector on a fully clothed detainee. A clothed body search involves the careful patting down of a detainee's clothed body after the removal of outer garments (such as a coat, jacket, etc.), and shoes and socks.

Depending on the specific circumstances outlined in these procedures, a wand search followed by a clothed body search should be used when a detainee:

- moves from one area to another, where he or she may have had access to dangerous objects or substances. This includes leaving vocational and other program areas; and
- at any other time when there is a "reasonable belief" ( below) that the detainee may be in possession of an illicit object or substance.

Strip search

A strip search involves visual examination of the upper body after removal and searching of upper garments, followed by visual examination of the lower body after return of the upper garments and the removal and searching of lower garments.

Routine strip search

A strip search **must** be routinely used when a detainee:

- is first admitted to a centre;
- returns to a centre from court appearance or medical appointment;
- returns to a centre from day or overnight leave;
- returns to a centre from a special activity outside the centre such as training or work experience;
- returns to a unit within the centre following a visit by a family member or significant other.

The use of strip searching during initial admission and subsequent re-entries to a detention centre is justified to protect the safety, security and good order of the centre by detecting contraband and illicit items (including drugs and potential weapons) and preventing their entry into the detention centre.

Apart from the circumstances above, a strip search should not be used routinely and must be based on the principles of reasonable belief outlined below.

Non-routine / one-off strip search

A non-routine one-off strip search may be authorised by a Unit Manager or a more senior officer only when:

- a clothed body search has failed to find an object detected during a wand search; or
- there is "reasonable belief" ( below), following a wand and clothed body search that a detainee possesses an illicit object or substance; and
- the detainee has been repeatedly asked by searching staff, the Unit Manager, and other staff called to assist, to surrender the suspected contraband, but refuses to cooperate.

Series of random strip searches

There is only one other occasion when a strip search may legitimately be performed. It may happen as part of a series of random strip searches of a detainee, authorised by the Manager or an Assistant Manager for a brief and definite period of time (usually no more than a few days), following the detainee being found, WHILE IN CUSTODY, in possession of an illicit object or substance.

The reasons and frequency for such random strip searches must be recorded in the detainee's Case Notes and signed by the approving officer, in addition to an instruction in the Unit Log Book for the unit in which the detainee resides. ( JJ-CW014)

Searching with drug detector dogs

Separate procedures exist for this type of search –  SEARCHING – USE OF DRUG DETECTOR DOGS.

Principles of searching

This procedure is based on the following principles:

- Generally, people being searched and those conducting the search consider searches to be intrusive, embarrassing, and uncomfortable.
- Because many detainees have been sexually abused, the prospect or experience of a clothed body or strip search (especially if performed insensitively or in contravention of proper procedure) may result in hostile reaction or even emotional trauma.
- Search procedures should not place the mental and physical health and safety of detainees or staff at risk.
- Staff should be aware of the need to maintain the privacy, dignity and rights of the person being searched.

National Standards and United Nations rules

The treatment of detainees in relation to searching is also regulated by the *Standards for Juvenile Custodial Facilities* (March 1999) – eg. standards 1.1, 1.2, and 1.3.

The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* also apply to search procedures. The relevant UN Rules are:

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles.
12. The deprivation of liberty should be effected in conditions and circumstances that ensure respect for the human rights of juveniles.
28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations.
66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.
- 87(a). No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman, or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever.
- 87(d). All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation.
- 87(f). All personnel should seek to minimise any differences between life inside and outside the detention facility which tend to lessen due respect to the dignity of juveniles as human beings.

Whilst departmental staff have obligations under the above UN Rules, these must be balanced with legislative duty of care obligations to protect the safety and security of staff, detainees and the community as outlined below.

Legislation

Managers have a legal obligation under the **NSW Occupational Health & Safety Act 2000** to ensure a safe and secure workplace for all people in the workplace. This includes ensuring systems of work and the working environment are safe and without risk to a person's health. The detection of illicit substances or items and other contraband, and the prevention of their entry into a detention centre, is fundamental to those obligations.

Managers and departmental staff also have specific responsibilities under the **Children (Detention Centres) Act 1987 and the Children (Detention Centres) Regulation 2000** to maintain discipline and good order among detainees, facilitate proper control and management of the detention centre and to protect the safety, security and good order of the centre. Procedures to detect and prevent the trafficking in illicit drugs and other contraband are directed at meeting these obligations.

Delegation to approve searches

In the case of a strip search, a Unit Coordinator or a more senior staff member must give verbal approval and must sign the appropriate authorisation in the Search Register at the first available opportunity following verbal approval. Unit Coordinators may only approve a non-routine strip search in the absence of their supervising Unit Manager or Assistant Manager, and must inform one of those more senior officers as soon as practicable after the strip search has been conducted (e.g. when the Unit Manager/Assistant Manager returns to duty). In this case, the Unit Manager or Assistant Manager must check the Search Register, sign the relevant entry, and discuss any concerns with the approving Unit Coordinator (eg. questionable "reasonable belief" grounds) (JJ-A059)

Only the Director Operations, Regional Directors, and Assistant Regional Directors have the delegation to approve use of force to conduct a strip search (BELOW). However, in absolute emergencies, where the detainee or another person's life is at extreme risk, force can be used to conduct a strip search, after which one of the above officers must be contacted **immediately** and informed about the incident.

Definition of "reasonable belief"

A reasonable belief may be formed when relevant and reliable evidence is available to sustain the belief. This means that:

- (a) The evidence must be "relevant" to the content of the suspicion (e.g. the fact that a knife is missing from the kitchen is not relevant to the suspicion that a detainee who is being re-admitted to the centre after returning from leave is carrying contraband).
- (b) "Reliable" evidence must be either:
 - (i) evidence of something a staff member himself or herself detected (first-hand); or
 - (ii) reliable information received by staff from the detainee to be searched, another detainee, a staff member, or another person (second-hand).

Examples of "reasonable belief":

- (1) A staff member observes a detainee taking possession of an unauthorised item or substance during a visit and refuses to surrender or denies the existence of such item or substance;
- (2) A staff member overhears a conversation between detainees in which one states that he or she has drugs in his or her possession;
- (3) Staff observe physical or other behaviours or mannerisms that could be indicative of drug use e.g. unsteady gait; slurred speech; dilated pupils; 'on the nod'; etc;
- (4) Staff detect the smell of cannabis or cigarettes coming from a detainee's room and a room search fails to uncover the substance.

Exceptional unexplained evasive behaviour by a detainee is “relevant and reliable evidence”, and therefore may form the basis of a reasonable belief that contraband is being concealed.

Where “reasonable belief” is the justification for conducting a search, the basis of the belief should be recorded in the Search Register. **It is not sufficient to record “reasonable belief” as the reason for the search – the actual observation or evidence must be recorded in the Search Register.** (JJ-A059)

Rules for searches

- Whenever a search is performed, two staff members must be present, one performing the search, the other acting as observer of the searching staff member. **NOTE:** the second officer is not present to observe the detainee, but to observe the other staff member to ensure the correct procedure is followed.
- Staff involved in a search must be trained in these procedures and in infection control guidelines. If two trained staff members are not available, a Unit Coordinator or another more senior officer must observe the search.
- The staff member conducting a clothed body search or a strip search **must** be of the same sex as the detainee being searched. The second staff member (observer) may be of the opposite sex if two same-sex staff members are not available. (above – second officer)
- The designated or nominated search room or area must afford the detainee privacy and preserve his or her dignity. If this room is normally under camera surveillance, staff conducting the search must ensure that the cameras/videos are turned off during the procedure.
- Unless special circumstances exist, only those staff involved in the search procedure should be present.
- Clothed body or strip searches must be performed in a private room, out of view of other staff or detainees. During a strip search only one staff member should be able to look at the detainee's body.
- Centres must have “dump bins” or disposal bins installed in all search areas for the purpose of disposing of illicit objects.
- The search room or area should be free of excess furniture and non-fixed items.
- Before a search begins, the reasons for the search (and also the applicable procedure, if the detainee is not familiar with the procedure) are to be clearly explained to the detainee by the staff member conducting the search.
- Staff about to conduct a search must give all detainees the opportunity to voluntarily surrender, in private, any illicit object or substance in their possession. Detainees being admitted to the centre, or who are returning to the centre, must be informed that no police action or action under behaviour management procedures (eg. minor misbehaviour provisions) will be taken against them if they dispose of drugs and other substances voluntarily. This applies to detainees being admitted to the centre and those returning from court, leave, camps, outings, and in transit from another centre.
- Detainees who voluntarily surrender during non-admission and non-return search circumstances (eg. during a room or area search) may be subject to behaviour management procedures or possible police action and should be informed of this possibility during such searches. (BEHAVIOUR MANAGEMENT – MANAGING DIFFICULT BEHAVIOUR; INCIDENT – SUBSTANCE USE / POSSESSION)
- During a strip search, staff are not permitted to touch the body of the detainee, and the detainee cannot be directed to raise his or her legs (unless to check the soles of his or her feet), squat, part his or her buttocks, or handle his or her genitalia. The detainee can be directed to remove and hand over any illicit object or substance attached to any part of his or her body.
- When searching the lower half of a detainee's body during a strip search, the staff member conducting the search must view both sides of the detainee's body, including the genitals.

The visual search of the genital area must be thorough but swift, to minimise the detainee's embarrassment as far as possible.

- Information about each search conducted, including the appropriate authority for a strip search, is to be recorded in the Search Register, which is to be made available for perusal by the Regional Director, Assistant Regional Director, or any other senior officer of the Department, and the Official Visitor and Ombudsman representative. (☐ JJ-A059)
- If a staff member witnesses a search that is not performed appropriately or in accordance with these guidelines, he or she must report this observation immediately to the Unit Coordinator or the Unit Manager (in his or her absence the Duty Manager).

Equipment

Appropriate searching equipment can be found in the **Drug Search Kit**. A Drug Search Kit should be located in or near all designated search areas and in each unit, in a location or cabinet that cannot be accessed by detainees. Regular checks must be conducted on this equipment (eg. once per shift), to ensure all items are always available, there is an adequate amount, and that it is operational. It is recommended that each Unit Coordinator delegate this responsibility to one member of his or her team.

Each Drug Search Kit should contain:

- weight scales
- writing material (pens, paper, folders, clipboard)
- polaroid camera and film
- puncture resistant gloves
- telescopic inspection mirror and ruler
- evidence bags
- contaminated waste bag
- disposable overalls
- medical equipment, including AIDS pouch, bleach, dressings, protective masks, syringe holders, puncture-proof plastic container with a screw-top lid for collection of sharps
- OHS stickers.

It is the responsibility of the Assistant Manager (Generalist) to ensure all designated search areas and all units in the centre have a Drug Search Kit and that the equipment is always readily available and operational for search staff.

Safety procedures

Latex and puncture-resistant gloves for use in searches must always be available in the admissions office and other designated search areas. Gloves must be worn throughout any kind of search involving contact with a detainee's clothes.

Special care is required to avoid injury from concealed sharp objects. Searching staff should never put their hands or fingers in areas that are not clearly visible. **Mirrors, rulers, pens and other objects** should be used to search areas where visibility is limited.

A **pat-down motion** must be used in preference to a sliding-hand motion when conducting clothed body searches. In any event, patting down must be performed with extreme caution to avoid injury from concealed sharp objects.

If concealed items are detected on a detainee during a search, the detainee should be asked to surrender the items to the searching staff member by placing them in an open area on a table or desk in the search area.

A detainee subject to a clothed body search or strip search should be asked to:

- empty out his or her pockets;

- remove shoes and socks, turn the socks inside out and shake out shoes;
- run hands through his or her hair;
- turn down collars and cuffs;
- take off outer garments such as sloppy joes, jumpers, coats, laying them flat on a table.

Sharps should be placed in a puncture-proof plastic container with a screw-top lid. The sharp end of a needle should never be touched by hand, and a syringe should be picked up with a gloved hand by the barrel end. In the event of an injury, such as a needle-stick injury, abrasion, or laceration, infection control guidelines are to be followed, first aid applied and medical attention sought immediately. Puncture proof plastic containers should be available in the Drug Search Kit, to ensure easy access during searches.

Pornographic material

Managers must ensure that detainees are advised on admission that any pornographic material will be destroyed when confiscated and a record kept of the material destroyed. This includes videos, magazines, pictures or written articles which may adversely affect the safety, security and good order of the centre. (📖 CONTRABAND – PREVENTION AND DETECTION)

Staff who bring in pornographic material or contraband items to a Juvenile Justice Centre or fail to confiscate and dispose of such material, will be in breach of the Code of Conduct and duty of care and may be subject to disciplinary action. (📖 DEPARTMENTAL DISCIPLINARY PROCEEDINGS)

Confiscated monies

Confiscated monies found during search procedures are to be processed as contraband. (📖 CONTRABAND – PREVENTION AND DETECTION)

Searching detainees with medical / surgical dressings or plaster casts

If staff reasonably believe that a detainee is concealing an illicit object or substance behind a medical or surgical dressing or plaster cast this should be discussed with the centre's Registered Nurse with a view to determining a procedure for searching and removing such an object or substance in manner that will not cause further injury.

If there is any difference of opinion or doubt about medical or safety issues involved in the proposed removal of a medical or surgical dressing or plaster cast for the purpose of searching, further consultation with a medical practitioner must occur before the search is conducted. The detainee may have to be segregated or otherwise closely observed and kept separate from other detainees for the waiting period.

If, after necessary medical consultation, it is decided to remove a medical, surgical dressing or plaster cast to facilitate a search, the procedure must be performed either by the Registered Nurse or a medical practitioner in the presence of a searching staff member.

After the search, a replacement medical or surgical dressing or plaster cast (eg. back slab) must be applied by the Registered Nurse, a medical practitioner, or at a Plaster Clinic. The original dressing must not be placed on the wound again.

Refusal to be searched

There will be occasions when a detainee refuses to be searched. In such cases, the detainee must be treated sensitively because the reasons for refusal may be of a very personal nature. Not every refusal to be searched will be a “rebellious” act or an attempt to avoid being caught with an illicit object or substance.

The reason for the search should be clearly explained or repeated by the staff member, or by another person thought to share a better working relationship with the detainee. Staff should actively seek out the assistance of another staff member who may have a different approach or relationship with the detainee and go to the Casework File to locate any information that may be relevant in this situation.

The detainee may be asked to nominate an available adult or staff member to observe the search. Alternatively, the detainee's parents or a significant other may be asked to assist, either by phone or in person, in gaining the detainee's co-operation for the search.

If refusal continues, or the detainee is uncooperative, then the search should cease and the detainee should be regarded as a safety and security risk and placed in segregation for his or her own protection or for the protection of staff or other detainees. (📖 SEGREGATION)

If, at the end of the segregation period, the detainee continues to refuse to be searched, he or she must be given an instruction to comply and be warned that refusal will result in the detainee being placed in confinement under the Minor Misbehaviour provisions of the legislation. (📖 BEHAVIOUR MANAGEMENT - MANAGING DIFFICULT BEHAVIOUR & MINOR MISBEHAVIOUR)

Continued refusal should be dealt with as a minor misbehaviour, not through use of force. If all the above options have been exhausted with no result and there is no immediate or urgent risk to the detainee the Unit Manager must consult with his or her supervising Assistant Manager and (where necessary) the Centre Manager. In the event the search is being conducted by **transporting staff**, the transporting officer must contact the Assistant Manager (Transport) before any further action is taken. (📖 BEHAVIOUR MANAGEMENT – MINOR MISBEHAVIOUR)

Use of Force

Use of force for the purpose of searching may seem to be authorised by legislation through clause 50(1)(f) & (g) of the Children (Detention Centres) Regulation 2000 - “to search a detainee in circumstances in which the detainee refuses to submit to being searched” or “to seize any dangerous or harmful article or substance that is in the possession of the detainee”. Advice received from the Crown Solicitor's Office indicates that using force to facilitate a strip search is a complicated issue and extreme caution should be exercised whenever this is being considered as an option.

Decision to use force

Use of force by staff to conduct a strip search procedure on a detainee to retrieve a dangerous item, harmful article or substance should only be considered:

- after a wand and clothed body search has been conducted;
- when there is an immediate and urgent risk to a detainee's life or limb;
- when all alternatives have been attempted or considered.

The major determinant of the need to use force is urgency. If the detainee can be contained, and the level of risk kept to a minimum, use of force to strip search the detainee should not occur.

Delegation and approval

The delegations to approve use of force to conduct a strip search are outlined above.

If the reason for which force is considered necessary is not an absolute emergency, supervising staff should contact the Centre Manager who will seek approval from the Regional Director or the Assistant Regional Director. Placements / Transport staff should contact the Director of Transport, Placements and Drug Intelligence Branch who will seek approval from the Director Operations. Each of these senior officers must ensure staff has exhausted every alternative option before seeking or providing approval for use of force to conduct a strip search.

Where the situation is considered an absolute emergency, and seeking approval would increase the likelihood of harm to the detainee or another person, the Unit Manager/Assistant Manager responsible for the detainee (in their absence the Duty Manager or (after hours) Unit Coordinator) must contact the Centre Manager immediately after the use of force has occurred. The Centre Manager must then inform the Regional Director or Assistant Regional Director, and ensure all reports are completed and forwarded to Regional Office.

In the case of transport-related incidents, the transporting officer must contact the Assistant Manager (Transport) who will report to the Director, Transport, Placements and Drug Intelligence Branch. The Director TPDIB must then inform the Director Operations and ensure all reports are completed and forwarded to the Operations Unit.

Reports

The use of force to conduct a strip search must be treated as an incident. (📖 INCIDENT – GENERAL INFORMATION).

In addition to an Incident Advice being completed by the most senior supervising officer, each staff member involved in the use of force – those using the force and those observing the use of force – must complete a detailed Staff Report outlining the circumstances leading to the use of force, the alternative options that were attempted to retrieve the contraband, and the way in which the decision to use force was made. Each staff member involved in the use of force must also complete a separate Report on Use of Force. (📖 JJ-A005; 📖 JJ-A009; 📖 JJ-A058; 📖 JJ-A059) (📖 USE OF FORCE AND INSTRUMENTS OF RESTRAINT)

When completing the Incident Advice the senior officer must demonstrate that every alternative means of retrieving the contraband was attempted. Such means should be listed in the order they occurred and should include, but may not be limited to: (📖 JJ-A005)

1. Wand and clothed body search
2. Request for the detainee to willingly participate in a strip search, an explanation of the procedure, and details of the possible consequences for refusal
3. If the detainee refused, repeated requests at least three more times, at intervals of no less than five (5) minutes
4. Use of another staff member or support person to request that the detainee participate in a strip search, to explain the procedure, and to detail the possible consequences for refusal.

Support and counselling

After any incident where force was used to strip search a detainee it is compulsory to refer the detainee and all staff involved or present for counselling. The detainee should be referred to a counsellor/psychologist, preferably his or her Primary Worker. Staff should be referred to the counselling service subsidised by this department. All referrals should be noted on the Incident Advice and any need for follow-up recorded on an Incident Follow-Up Advice. (📖 JJ-A005; JJ-A007) (📖 INCIDENT – GENERAL INFORMATION)

Processing and recording of contraband

All contraband items and/or suspected drugs are to be processed with the exception of contraband items disposed in “dump bins” or disposal bins found during admission procedures or when detainees are returning to the centre. (📖 CONTRABAND – PREVENTION AND DETECTION)

How this procedure works

Where Unit Managers have responsibilities in these procedures, this relates to the Unit Manager responsible for the detainee involved, or the unit in which the event occurred. In the absence of that Unit Manager, his or her supervising Assistant Manager assumes the responsibilities. In the absence of the Assistant Manager, the Duty Manager assumes those responsibilities in these procedures.

After hours, when the Manager, Assistant Managers and Unit Managers are not on-site at the centre, the Unit Coordinator assumes these responsibilities.

Wand and clothed body search

A wand search must be conducted prior to a clothed body search. A wand search will not locate illicit substances that do not have metal content or wrapping.

It is the responsibility of the Assistant Manager (Generalist) to ensure the centre has an adequate number of wand metal detectors, and that these are located in areas where searches most commonly occur. The Assistant Manager (Generalist) must also ensure that a procedure is in place for the regular checking and maintenance of wand metal detectors.

The Assistant Manager (Generalist) is also responsible for ensuring that all staff who conduct searches are trained in the use of wand metal detectors, and that there are regular refresher training sessions. In most centres, it should be the responsibility of Unit Managers to conduct training and instruction sessions with supervising or searching staff.

Before starting a wand and clothed body search

	Responsible	Action Required
1	Staff conducting search	- For a <u>non-routine wand and clothed body search</u> (i.e. a search based on “reasonable belief”), contact the Unit Coordinator, and: request approval to conduct the wand and clothed body search; explain the reasons for the search; request that a second trained staff member attend to observe or conduct the search. Do not conduct any part of the search until there is a second trained officer present.
2	Unit Coordinator	- If you determine that the <u>reasons for the non-routine search are adequate and reasonable in view of the principles applying to searching</u>, give approval for the search. Sign the Search Register. For non-routine wand and clothed body searches this may be done after the search has been completed. The basis of “reasonable belief” must be documented in the Search Register. (📖 JJ-A059)

3 Staff conducting search	<u>For both routine and non-routine searches:</u> • Ensure you are in an area where security and privacy can be maintained (this is not necessary when the search consists of a wand search only). • Ensure the detainee to be searched is separated from other detainees in the area, to prevent any passing of contraband items. • Inform the detainee that he or she will be given a wand and clothed body search. • Explain the wand and clothed body searching procedure to the detainee before commencing the search, unless the detainee is familiar with the procedure at the centre. • Ask the detainee if he or she has any items of contraband and allow him or her to hand over such items or place them in an evidence bag before the search begins. <u>If this is a non-admission search or a non-return search, inform</u> the detainee that he or she may be punished under Minor or Serious Misbehaviour provisions, or may be referred to the police if the contraband is voluntarily declared and handed over at this stage, however decisions regarding punishment, etc, will consider the fact that the detainee voluntarily provided the contraband to staff.
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Proceeding with the wand search

Responsible	Action Required
4 Staff conducting search	• Direct the detainee to remove all articles from his or her pockets and turn the pocket linings out. • Direct the detainee to face away from you. • Direct the detainee to raise his or her arms up and to the side, with the palms of his or her hands facing upwards. • Direct the detainee to place his or her legs and feet apart, feet flat on the ground. This should be at a distance where the detainee is still comfortable and can maintain his or her balance. <u>It is advisable that a low stool (kept especially for this purpose) is used for the detainee to stand on. This lowers the chances that the wand will detect metal embedded in the floor.</u> <u>The detainee must remain with arms outstretched and legs apart for the entire wand search.</u> • Move the wand across and over the detainee's body: 1. <u>Right side of body:</u> • start at the side of the detainee's right foot; • move the wand up the right side of the detainee's body to his or her right armpit; • move the wand along the underside of the detainee's right outstretched arm, around his or her right hand, then across the top of the right arm, to the neck. 2. <u>Head area:</u> • move the wand over the detainee's head, passing the right ear, over and around the head area, down past his or her left ear to the neck. 3. <u>Left side of body:</u>

	• move the wand along the top of the detainee's left arm, over the hand, then along the underside of his or her left arm; • move the wand down the left side of the detainee's body, to the side of his or her left foot. 4. <u>Inside legs and crotch</u> • move the wand from the inside of the detainee's right foot, up along the inside right leg, past the crotch area, and down the inside left leg to the left foot. 5. <u>Back of body</u> • move the wand (holding it lengthwise and flat across the detainee's body) up along the back of the detainee's body. 6. <u>Soles of shoes</u> • direct the detainee to raise each of his or her feet and move the wand across the sole of each shoe. 7. <u>Front of body</u> • direct the detainee to face you; • move the wand (holding it lengthwise and flat across the detainee's body) from the head down along the front of the detainee's body.
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Proceeding with the clothed body search

A wand search must be conducted before starting this procedure. Detainees are to remain dressed for a clothed body search. Extra layers of clothing such as jackets, jumpers, sloppy joes and shoes must be removed.

Responsible	Action Required
CLOTHING	
5 Staff conducting search	• Put on a pair of puncture-resistant gloves. • Ensure that you are standing at a safe distance from the detainee, and in sight of the second officer. • <u>If not already done as part of the wand search</u>, direct the detainee to remove all articles from his or her pockets and turn the pocket linings out. • Direct the detainee to remove the following items, placing them on a table or another flat surface: 1. outer jacket or jumper; 2. shoes and remove inner soles (to be shaken by the detainee); 3. socks – turned inside out; 4. wrist watch and any jewellery. • Search all the removed items of clothing in the presence of the detainee. Use protective equipment at all times when conducting this procedure – eg. gloves, ruler. • Pay close attention to: 1. collars, cuffs, facings, lapels, seams and linings of clothing; 2. heels and linings of shoes.

UPPER BODY	
6	Staff conducting search <u>To search hands:</u> • Direct the detainee to face you. • Direct the detainee to move his or her hands out to the side of his or her body with fingers spread apart. • Check the detainee's hands for contraband. <u>To search the head area:</u> • Direct the detainee to bend his or her head forward. • Direct the detainee to run the hands through his or her hair – from the back to the front. • Direct the detainee to raise his or her head, open the mouth and remove any false teeth. • Look into the mouth cavity and then direct the detainee to run a finger around between teeth and gums. • Direct the detainee to turn his or her head to each side and to pull the ears forward. <u>To search the neck and torso:</u> • Direct the detainee to stand <u>facing away</u> from you, with his or her feet apart and arms raised from the sides. • Carefully pat down the detainee, starting at the back of the head. Follow a direct course around the collar, ensuring that nothing is hidden inside or under the collar of the shirt. • Place both hands on the base of the detainee's neck, covering the shoulders with palms open and pressing firmly. • Pat down the back and side to the belt line. <u>To search the arms:</u> • The detainee should still be facing away from you. • Place one hand under the detainee's armpit and the other hand on top of his or her shoulder. • Carefully pat down the entire length of both sleeves to the cuff or end of the shirt. • Repeat the procedure with the other arm.

LOWER BODY	
7 Staff conducting search	<u>To search the waist and legs:</u> • The detainee should still be facing away from you. • Direct the detainee to release the belt line and turn it out. • Search the belt line. • From the back of the waistline, carefully pat down over the buttocks and sides of the hips and legs. • <u>If the detainee is wearing long trousers</u>, starting at either leg, place both hands around the leg and carefully pat down from the top down. Search any trouser turn-ups or cuffs. Repeat this on the other leg. <u>To search feet:</u> • The detainee should still be facing away from you. • Direct the detainee to lift one leg at a time to display the soles of his or her feet and toes. • Direct the detainee to wiggle his or her toes (to release anything held there). • Direct the detainee to replace any items of clothing or jewellery that were removed (if such items are permitted in the centre).

Items found

8 Staff conducting search.	• <u>If items of contraband were found</u>, wearing protective equipment place the items in the sharps container or secure evidence bag. All protective equipment is located in the Drug Search Kit. • Seal the container/bag and label it with: 1. the detainee's name and date of birth; 2. the item of contraband found (if unknown, a description, e.g. green vegetable matter, white powdery substance); 3. the day, date and time of the search; 4. your name, as the searching officer. • Give the evidence to the Unit Manager to be secured in the Assistant Manager (Generalist) office for the purpose of investigation if required.
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After a search

	Responsible	Action Required
9	Staff conducting search	<u>If items of contraband were found:</u> • Ensure sharps (syringes and needles) are placed in a puncture-resistant container. • Inform the Unit Manager of the result of the search. • Ensure the Unit Manager receives the sealed container with contraband intact.
10	Unit Manager	• Report any items of contraband found to the Assistant Manager (Generalist). • Ensure search staff have placed sharps (syringes and needles) in a puncture-resistant container. • <u>If the items found are unauthorised for use by the detainee within the centre, but nevertheless are not items that ought to be forfeited,</u> ensure the items are placed with the detainee's stored property and are recorded accurately by Admissions staff (PERSONAL PROPERTY OF DETAINEES). • <u>If directed by the Assistant Manager (Generalist),</u> Complete an Incident Advice form and fax/email it and any other reports about the incident to the Drug Intelligence Unit and the Regional Director or Assistant Regional Director. (INCIDENT – SUBSTANCE USE / POSSESSION) (JJ-A005 / JJ-A009) • Submit the Incident Advice and any other reports about the incident to the Assistant Manager (Generalist). (JJ-A005 / JJ-A009) • Check that the Search Register has been completed correctly. (JJ-A059) • If there is more information needed, direct staff to enter the additional information in the Search Register before signing. • <u>When the Search Register is accurately completed,</u> sign the appropriate section confirming the search has been conducted in accordance with departmental procedures.

Strip search

A strip search should always be conducted with the detainee partially clothed. The search must be conducted in the following order:

1. top half of clothing removed and searched;
2. top half of body checked for contraband;
3. top half of clothing (one layer) returned and shirt put on by the detainee;
4. bottom half of clothing removed and searched;
5. bottom half of body checked for contraband;
6. bottom half of clothing returned and put on by the detainee.

Staff conducting a strip search must maintain a high level of sensitivity throughout the search procedure. Due regard must be given to privacy, decency, sexual assault history, cultural difference, and maintaining the detainee's self-respect.

The searching staff member must never touch the detainee at any time during a strip search procedure. Both staff members should be of the same sex as the detainee, if possible. If this is not possible, the staff member conducting the strip search must be of the same sex of the detainee whilst the second staff member (observer) can be of the opposite sex (note: this staff member does not observe the detainee).

The searching staff member must remain in sight of the second officer (observer) at all times during the search procedure. The second officer is (i) a witness to the searching procedure and (ii) responsible for ensuring the search procedure is conducted correctly.

Before starting a strip search

	Responsible	Action Required
1	Staff conducting search	- For a non-routine strip search (i.e. a search based on "reasonable belief"), contact the Unit Manager and: 1. request approval to conduct the strip search; 2. explain the reasons for the search; 3. request that a second trained staff member (of the same sex as the detainee if possible) attend to observe or conduct the search. Do not conduct any part of the search until there is a second trained officer present.
2	Unit Manager	- If you determine that the reasons for the non-routine search are <u>adequate and reasonable in view of the principles applying to searching</u>, give verbal approval for conducting the search. Sign the Search Register at the first available opportunity following verbal approval. The basis of "reasonable belief" must be declared in the Register. (JJ-A059)

3	Staff conducting search	<u>For both routine and non-routine searches:</u> • Ensure you are in an area where security and privacy can be maintained. • Ensure the detainee you are going to search is separated from other detainees in the area to prevent any passing of contraband items. • Inform the detainee that a strip search will be conducted. • Explain the strip search procedure to the detainee before commencing the search, unless the detainee is familiar with the procedure at the centre. • Ask the detainee if he or she has any items of contraband and allow him or her to hand over such items or place them in an evidence bag before the search begins. Inform the detainee that he or she may still be dealt with under Minor or Serious Misbehaviour provisions or a referral to the police if contraband is voluntarily declared and handed over at this stage, however decisions regarding punishments etc, will take into consideration the fact that the detainee did volunteer the contraband.
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Proceeding with the strip search

Responsible	Action Required		
POCKETS, FOOTWEAR, ETC.			
4	<table border="1"> <tr> <td data-bbox="435 1052 570 1125">Staff conducting search</td><td data-bbox="626 1062 1433 1818"> • Put on a pair of puncture-resistant gloves. • Ensure that you are standing at a safe distance from the detainee and in sight of the second officer. Do not touch the detainee at any time during this search. • Direct the detainee to remove all articles from his or her pockets and turn the pocket linings out. • Direct the detainee to remove the following items, placing them on a table or another flat surface: 1. outer jacket or jumper; 2. shoes (to be shaken by detainee); 3. socks – turned inside out; 4. wrist watch and any jewellery. • Search all the removed items of clothing in the presence of the detainee and use protective equipment (eg. ruler, etc.). • Pay close attention to: 1. collars, cuffs, facings, lapels, seams and linings of clothing; 2. heels, linings and inner soles of shoes. • <u>Footwear should not be returned to the detainee until the entire search is completed.</u> </td></tr> </table>	Staff conducting search	• Put on a pair of puncture-resistant gloves. • Ensure that you are standing at a safe distance from the detainee and in sight of the second officer. Do not touch the detainee at any time during this search. • Direct the detainee to remove all articles from his or her pockets and turn the pocket linings out. • Direct the detainee to remove the following items, placing them on a table or another flat surface: 1. outer jacket or jumper; 2. shoes (to be shaken by detainee); 3. socks – turned inside out; 4. wrist watch and any jewellery. • Search all the removed items of clothing in the presence of the detainee and use protective equipment (eg. ruler, etc.). • Pay close attention to: 1. collars, cuffs, facings, lapels, seams and linings of clothing; 2. heels, linings and inner soles of shoes. • <u>Footwear should not be returned to the detainee until the entire search is completed.</u>
Staff conducting search	• Put on a pair of puncture-resistant gloves. • Ensure that you are standing at a safe distance from the detainee and in sight of the second officer. Do not touch the detainee at any time during this search. • Direct the detainee to remove all articles from his or her pockets and turn the pocket linings out. • Direct the detainee to remove the following items, placing them on a table or another flat surface: 1. outer jacket or jumper; 2. shoes (to be shaken by detainee); 3. socks – turned inside out; 4. wrist watch and any jewellery. • Search all the removed items of clothing in the presence of the detainee and use protective equipment (eg. ruler, etc.). • Pay close attention to: 1. collars, cuffs, facings, lapels, seams and linings of clothing; 2. heels, linings and inner soles of shoes. • <u>Footwear should not be returned to the detainee until the entire search is completed.</u>		

UPPER CLOTHING	
5	Staff conducting search • Direct the detainee to remove his or her upper layer of clothing. Undergarments (eg. bras, singlets etc) can be left on until overgarments have been searched. • Direct the detainee to place the upper layer of clothing on the table. • Direct the detainee to move away from the table. • Search all the removed items of clothing in the presence of the detainee and use protective equipment (eg. ruler). • Pay particular attention to collars, cuffs, facings, lapels, seams and linings of clothing. • Direct the detainee to remove undergarments for searching when all upper clothing has been searched.
UPPER BODY	
6	Staff conducting search <u>To search hands:</u> • Direct the detainee to face you. • Direct the detainee to move his or her hands out to the side of the body, with fingers spread, to see if he or she has anything in the hands. <u>To search the head area:</u> • Direct the detainee to bend his or her head forward. • Direct the detainee to run the hands through his or her hair – from the back to the front. • Direct the detainee to raise the head, open the mouth and remove any false teeth. • Look into the mouth cavity and then direct the detainee to run a finger around between teeth and gums. • Direct the detainee to turn the head to each side and to pull the ears forward. • Direct the detainee to raise the arms so that it is possible to view the armpits. • Visually inspect the top half of the detainee's body. • Direct the detainee to put on his or her upper clothing (one layer only).

LOWER CLOTHING	
7	Staff conducting search • Direct the detainee to remove his or her lower layer of clothing – under-garments (eg. underpants,) can be left on until over-garments have been searched. • Direct the detainee to place the clothing on the table. • Direct the detainee to move away from the table. • <u>Tell the detainee that he or she can turn away from you for privacy.</u> • Search all the removed items of clothing in the presence of the detainee and use protective equipment (eg. ruler). • Pay particular attention to pockets, linings, seams and facings in the clothing. • Conduct the search of clothing in this step as quickly as possible (still ensuring a thorough search), so that the detainee can be searched and have the clothing returned as soon as possible to reduce embarrassment as much as possible. • Direct the detainee to remove undergarments for searching when all lower body clothing has been searched.
LOWER BODY	
8	Staff conducting search • <u>If the detainee is wearing a long shirt or other garment that comes below the waist,</u> ask the detainee to lift the clothing to the waist-line and to hold it there while you search the lower body. Do this as quickly, but thoroughly, as possible to reduce embarrassment. • Visually inspect the lower half of the detainee's body, including: 1. between the toes (ask the detainee to wiggle the toes); 2. soles of the feet (ask the detainee to lift one leg at a time to display the soles); 3. inner parts of the legs and the pubic area. • Do not direct the detainee to lift genitalia, squat or part buttocks. • Direct the detainee to put on his or her lower layer of clothing. • Allow the detainee to place all remaining clothing on, and return his or her shoes and socks and any items that the detainee may have had in his or her pockets and is allowed to keep.

Items found

9	Staff conducting search • <u>If items of contraband were found</u>, wearing protective equipment, place them in the sharps container or secure evidence bag. All protective equipment is located in the Drug Search Kit. • Seal the container and label it with: 1. the detainee's name and date of birth; 2. the item of contraband found (if unknown, a description, e.g. green vegetable matter, white powdery substance); 3. the day, date and time of the search; 4. your name, as the searching officer. • Give the evidence to the Unit Manager to be secured in the Assistant Manager (Generalist) office for the purpose of investigation if required.
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After a search

	Responsible Action Required
10	Staff conducting search <u>If items of contraband were found:</u> • Ensure sharps (syringes and needles) are placed in a puncture-resistant container. • Inform the Unit Manager of the result of the search. • Ensure the Unit Manager receives the sealed container with contraband intact.
11	Unit Manager • Report any items of contraband found to the Assistant Manager (Generalist). • Ensure search staff have placed sharps (syringes and needles) in a puncture-resistant container. • <u>If the items found are unauthorised for use by the detainee within the centre, but nevertheless are not items that ought to be forfeited</u>, ensure the items are placed with the detainee's stored property and are recorded accurately by Admissions staff. (📖 PERSONAL PROPERTY OF DETAINEES) • <u>If directed by the Assistant Manager (Generalist)</u>, complete an Incident Advice and fax it to the Regional Director or Assistant Regional Director. (📖 JJ-A005) (📖 INCIDENT – SUBSTANCE USE / POSSESSION; 📖 CONTRABAND – PREVENTION AND DETECTION). • Check that searching staff have completed the Search Register correctly. (📖 JJ-A059) • <u>When the Search Register is accurately completed</u>, sign the appropriate section confirming the search has been conducted in accordance with departmental procedures. .