



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
BUREAU OF JAIL MANAGEMENT AND PENOLOGY
144 Mindanao Avenue, Project 8, Quezon City



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BJMP
STANDARD OPERATING PROCEDURES
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CONDUCT OF BODY SEARCHES ON JAIL VISITORS

I. REFERENCES

1. Memorandum dated 30 April 2002 re: Prohibiting Female Lesbian Jailguards to Perform Search and Custodial Functions on Female Inmates and Visitors;
2. Memorandum dated 30 November 2001 re: Policy on Strip Search;
3. Memorandum dated 11 January 2001 re: Conduct of Strip or Body Search;
4. Chapter 200, Section 2.29 of Pinal County Sheriff's Office Adult Detention Center Facility Procedures re: Admission Searches;
5. Strip Searches and Pat Searches, Number 09-01-22, Boulder County Jail Policy Procedure Manual;
6. BJMP Revised Manual 2007;
7. BJMP SOP 2004-02 dated 14 November 2004 re: Control of Contraband and Physical Evidence;
8. Black's Law Dictionary. Abridged Fifth Edition. West Publishing, 1979;
9. Revised Rules of Court of the Philippines;
10. Republic Act no. 9165 - "The Comprehensive Dangerous Drugs Act of 2002"
11. Republic Act no. 7438 - "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof"; and
12. Dangerous Drugs Board Regulation No. 1, s. 2002 re: Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment.
13. Revised Penal Code

II. BACKGROUND/RATIONALE

The proliferation of contrabands in jail facilities is a perennial problem that the BJMP is confronting since its inception. Contrabands in the hands of inmates jeopardize jail security and hamper rehabilitation programs.

The use of various types of searches shall be necessary to protect the safety of visitors, inmates and personnel. It shall be used to detect and secure contrabands with the aim of safeguarding the security of the facility.

However, time and again, adverse claims and reports that visitors are sexually abused/harassed during the conduct of body searches have put the Bureau in the bad light.

While the conduct of various types of searches is indispensable in our campaign to prevent the entry of contrabands, it should be reasonably implemented with utmost care and fairness to protect the rights of the subject as well as shield the jail personnel from harassment complaints.

III. PURPOSE AND SCOPE

This SOP aims to provide adequate safeguards against the introduction of contrabands into jail facilities and to establish guidelines for different types of searches. All searches should be conducted in a professional manner, without violating the legal rights of visitors/inmates and with due respect and regard to human dignity.

IV. DEFINITION OF TERMS

ARREST - is the taking of a person into custody in order that he may be bound to answer for the commission of an offense.

CONTRABAND – any article, item, or thing prohibited by law and/or forbidden by jail rules that would pose as security hazards or endanger the lives of inmates. For this policy, contraband is further divided into the following categories:

- **Illegal contraband** – unlawful in itself and not because of some extraneous circumstance (i.e. dangerous drugs, weapons, potential weapons, explosives)
- **Merely prohibited and nuisance contrabands** – are those that may not be classified as illegal under the law but are forbidden by jail rules.(i.e. cellphone, money or other commodities of exchange such as jewelry, appliances and gadgets, excessive wearing apparels and sleeping paraphernalia, intoxicating liquors, cigarettes, pornographic materials, gambling paraphernalia and other products that are considered vices).

DANGEROUS DRUGS – means dangerous drugs as defined in Article I Sec. 3(j), RA 9165. Such drugs include, but not limited to, heroin, morphine, opium, cocaine or cocaine hydrochloride, marijuana, marijuana resin, marijuana resin oil, methamphetamine hydrochloride or “shabu”, methylenedioxymethamphetamine (MDMA) or “ecstasy”, paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic diethylamine (LSD) and gamma hydroxybutyrate (GHB).

PHYSICAL EVIDENCE – items with evidentiary value used in an administrative disciplinary proceeding or court proceeding.

PAT/FRISK SEARCH - is a search wherein the officer pats or squeezes the subject's clothing to attempt to detect contraband/s. For same gender searches the Pat/Frisk search is normally accomplished in concert with Rub Search.

RUB SEARCH - is a search wherein the officer rubs and/or pats the subject's body over the clothing, but in a more intense and thorough manner. In a rub search, the genital, buttocks, and breast (of females) areas are carefully rubbed-areas which are not searched in a frisk/pat search. Rub searches shall not be conducted on cross-gender individuals.

STRIP SEARCH - is a search which involves the visual inspection of disrobed or partially disrobed subject.

VISUAL BODY CAVITY SEARCH - is a search which involves the inspection of the anus and/or vaginal area, generally requiring the subject to bend over and spread the cheeks of the buttocks; to squat and/or otherwise expose body cavity orifices.

PROBABLE CAUSE – is defined as facts sufficient to support a reasonable belief that criminal activity is probably taking place or knowledge of circumstances indicating a fair probability that evidence of crime will be found. It requires more than a mere "hunch," but less than proof beyond reasonable doubt.

VISITOR - a person who enters a jail facility for a definite period of time to meet an inmate or personnel of the Bureau or conduct an official business or activity inside the jail. A visitor includes the relative, friend, lawyer, doctor, spiritual adviser, service provider or any person who enters the jail for the purpose of seeing or conferring with an inmate.

V. GENERAL POLICY

1. Searches are to be conducted in the least intrusive manner, while ensuring accomplishment of the intended purpose, yet maintaining respect for individual dignity and insuring the greatest level of privacy. Personnel performing searches shall not be allowed to talk/discuss the search they performed unless directed by the court or warden.
2. All visitors before being allowed entry into the jail must be requested to submit the things they carry to a thorough inspection and a thorough body search to prevent the entry of contraband/s in our jails.
3. Money, jewelry, gadgets and other commodities of exchange shall be duly turned over to the Property Custodian for receipting and eventual safekeeping in a safety vault or box. It shall be duly returned to the visitor upon his or her exit from the jail facility. All visitors who refuse to undergo search and inspection shall be refused entry into the jail.
4. All male visitors shall be searched by male jail officers while female visitors shall be searched by female jail officers only. At no instance that a female homosexual jail officer shall be allowed to conduct body search on female jail visitors while a male homosexual jail officer cannot body search a male jail visitor. Further, no person of the opposite sex shall be allowed to conduct or view strip searches.
5. In performing searches, sanitary gloves shall be worn by the jail officer.

6. The search should not be more extensive than necessary to determine the existence of contraband believed to be concealed on the subject.
7. Strip search and Visual Body Cavity Search shall only be conducted inside a searching room that is adequately lighted, safe and guarantees confidentiality.

VI. GUIDELINES IN THE CONDUCT OF PAT/FRISK/RUB SEARCH FOR VISITORS

1. All inmates' visitors who want to enter the jail facility must be subjected to body search and inspection of their belongings.
2. To perform a pat/frisk/rub search, the jail officer shall accomplish the following:
 - a. Instruct the subject to remove items from pockets, shoes, jackets, or any extra clothing.
 - b. Search the subject top to bottom being systematic:
 1. Shake out his/her hair;
 2. Grasp the collar and feel for any hidden items.
 3. Search each of the arms separately.
 4. Run hands down the shirt front, checking the pocket and stopping at the beltline. Then check the back using the same process.
 5. Once satisfied that all areas above the waist –the neck, arms, chest, and back are clear, check the waistline to feel for any small articles hidden.
 6. From the waistline, run hands down the subject's buttocks.
 7. Then move both hands to one leg. Repeat process on the other leg.
 8. Finally, run hands over the subject's lower abdomen and crotch carefully, feeling for concealed articles that may be taped to these areas
3. If during the pat/frisk/rub search the jail officer develops probable cause that contraband is being hidden by the subject which is not likely to be discovered, the Jail Officer shall request for a conduct of strip search/visual body cavity search.

VII. GUIDELINES IN THE CONDUCT OF STRIP SEARCH FOR VISITORS

The conduct of strip search shall be done provided all the following conditions are met:

1. All strip search shall be conducted with the knowledge of and directed by the Jail Warden or in his absence by the Deputy Warden / Jail Officer of the Day. A Strip Search/ Visual Body Cavity Search Authorization (SSVBCSA) (Annex A) shall be accomplished by the searcher for this purpose. The SSVBCSA Form shall include information that there is probable cause that contraband is being hidden by the subject or subject to be strip searched is suspected of bringing contraband inside the jail. It shall particularly state the source of information, if known, and the contraband to be brought in.
2. The visitor agrees to be strip searched which shall be in writing to shield the jail officer performing the search from harassment complaints. For this purpose, the Waiver of Right on Strip Search / Visual Body Cavity Search Form (Annex B) shall be signed by the visitor. It shall be duly explained by the jail personnel performing the search and should be understood by the subject. If the subject refuses, he/she will not be allowed to visit.

3. All strip search must be done in the confidentiality of an enclosed space. This area must restrict the possibility of visual access by person(s) not involved in the search.
4. To perform a strip search the jail officer shall accomplish the following:
 - a. Direct the subject to remove his/her clothing and hand the clothing to the searcher for inspection.
 - b. Clothing shall be examined by touch, using the squeeze and rub method which crushes every part of the clothing.
 - c. Articles should be scanned for bulges and signs of openings or freshly sewn areas. Linings should not be overlooked.
 - d. The searcher shall have the subject perform the following measures:
 1. Hold his/her hands out in front of his/her body with fingers spread;
 2. Turn his/her hands over showing the officer each side;
 3. Raise his/her arms over head allowing the officer to view the subject's underarms;
 4. Shake out his/her hair;
 5. Open his/her mouth with head tilted back. Lifting his/her tongue;
 6. Have the subject lift his/her feet so that the soles and spaces between the toes can be examined carefully.
 - e. Inspection of any covered wounds, casts, false teeth, prosthesis, etc. shall be conducted with assistance of a jail doctor or nurse.
 - f. After completion of the search, the officer shall return the clothing to the subject and allow the subject to redress.
5. If during the course of the strip search, the officer develops probable cause that contraband is concealed in an area not readily visible using the strip search, the officer shall proceed on conducting Visual Body Cavity Search.

VIII. GUIDELINES IN THE CONDUCT OF VISUAL BODY CAVITY SEARCH FOR VISITORS

1. To perform a visual body cavity search, the jail officer shall have the subject visitor perform the following measures:
 - a. Males: have them raise their scrotum allowing the officer to view underneath;
 - b. Females: have them raise their breast allowing the jail officer to view under the breasts.
If the subject is female, have her squat down and cough. This should dislodge anything hidden in the vaginal cavity.
 - c. Have the subject turn around with their back to the officer, bend over and/or squat, and use their hands to spread their buttocks allowing the officer to view the area of the anus or vagina. While the subject is in such position, the jail officer may further instruct him/her to cough to dislodge anything hidden in the anus/vaginal cavity.

IX. ACTIONS TO BE TAKEN UPON DISCOVERY OF CONTRABAND DURING SEARCH OF VISITORS

A. Merely Prohibited and Nuisance Contrabands

1. On first offense, the visitor shall be warned that it is prohibited and that he/she is at risk of being considered delinquent visitor if he/she do the same again.

Contraband shall be confiscated and turned over to the Property Custodian who shall dispose them accordingly.

2. If the same visitor committed the same or similar act, he/she shall be considered as delinquent visitor and shall be duly recorded by the searcher in a separate logbook exclusively for such visitors. It should be accessible to other searchers.
3. As disciplinary measure and for security reason, the warden may impose an order to ban the entry of delinquent visitor in accordance with the proviso of Sec. 4 (b) of the RA 7438 which provides:

“The provisions of the above Section notwithstanding, any security officer with custodial responsibility over any detainee or prisoner may undertake such reasonable measures as may be necessary to secure his safety and prevent his escape.”

4. Concerned inmate may also be subjected to disciplinary process under the Inmates’ Disciplinary Machinery if it is established that he/she has participated directly or indirectly in the commission of the offense.

B. Illegal Contraband except Dangerous Drugs

1. Possession of illegal contraband shall automatically result to denial of entry and immediate arrest of subject visitor. The provisions of RA 7438 shall apply. Section 2 of RA 7438 is hereunder provided for ready reference.

“Section 2. Rights of Persons Arrested, Detained or Under Custodial Investigation; Duties of Public Officers.

(a) Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

(b) Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

(c) The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or thumbmarked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person, otherwise, such investigation report shall be null and void and of no effect whatsoever.

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or

minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

(e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.

(f) Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights or by any international non-governmental organization duly accredited by the Office of the President. The person's "immediate family" shall include his or her spouse, fiancé or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

As used in this Act, "custodial investigation" shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law."

2. The said contraband will be confiscated and may further be used as evidence against the jail visitor in criminal action/proceeding. Proper handling of evidence (i.e. inventory, labelling and receipting of physical evidence obtained) shall be observed.
3. Confiscated contraband shall be properly turned over to the jail property/contraband custodian who shall turn over it to the police station where the subject visitor shall also be referred.
4. Subject visitor shall be arrested based on Sections 5 and 8 of Rule 113 - Arrest of the Revised Rules of Court.
5. A jail visitor who was found in possession of the contraband must be coordinated and turned-over immediately to the nearest police station who shall be the one to file the appropriate case against him/her with the Prosecutor's Office based on the report/complaint of the BJMP personnel who made the search. Detaining the subject without court order in the jail (BJMP manned jail) where he/she committed the said offense might constitute arbitrary detention.
6. No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention.
7. Concerned inmate may also be subjected to disciplinary process under the Inmates' Disciplinary Machinery if it is established that he/she has participated directly or indirectly in the commission of the offense.

C. Dangerous Drugs

1. Possession of dangerous drugs shall automatically result to denial of entry and immediate arrest of the subject visitor. Applicable procedures and/or provisions of RA 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" shall apply.

2. A jail visitor who was found in possession of the contraband must be coordinated and turned-over immediately to the Philippine Drug Enforcement Agency (PDEA). The jail warden shall make the necessary report to be the basis for filing of appropriate case against the subject.
3. For the custody and disposition of the confiscated/seized dangerous drugs, Section 21 of RA 9165 shall apply, to wit:

“Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team¹ having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided, That* when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however, That* a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of the same, in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s

¹ BJMP personnel in this case

which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample, duly weighed and recorded is retained;

(5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same...."

4. Concerned inmate may also be subjected to disciplinary process under the Inmates' Disciplinary Machinery if it is established that he/she has participated directly or indirectly in the commission of the offense.

X. SEPARABILITY CLAUSE

In the event that any provision or part of the policy be declared unauthorized or rendered invalid by a competent authority, those provisions not affected by such declaration shall remain valid and effective.

XI. REPEALING CLAUSE

All other existing issuances which are inconsistent with this policy are hereby rescinded or modified accordingly.

XII. EFFECTIVITY

This policy shall take effect immediately.


ROSENDO M. DIAL, CESO III
Jail Director (DSC)
Chief, BJMP

Name of Jail

STRIP SEARCH/ VISUAL BODY CAVITY SEARCH AUTHORIZATION (SSVBCSA)

Date: _____ / Time: _____

Rank and Name of Searcher: _____

Subject's Name: _____ Inmate to be Visited: _____

Probable cause to conduct Strip Search / Visual Body Cavity Search:

Source of information (if known): _____

Instruction to the Searcher: Searches are to be conducted in the least intrusive manner, while ensuring accomplishment of the intended purpose, yet maintaining respect for individual dignity and insuring the greatest level of privacy.

STRIP SEARCH:

HEAD: Check nose, ears and mouth. Have subject shake out his/her hair. Check under the tongue and around teeth.

ARMS & SHOULDERS: Instruct the subject to raise arms and check arm pits. Examine the subject with fingers spread and extended.

FEET: Check bottom of the feet and in between toes.

BANDAGES & CASTS: Examination of any prosthesis or false teeth will be accomplished with the assistance of facility medical personnel or qualified medical professional.

VISUAL BODY CAVITY SEARCH:

BREAST: Have the subject lift the breast, visually inspect.

GROIN: Inspect around penis, testicles or if female check the area of the vagina.

RECTAL: Instruct the subject to bend over/squat and spread the cheeks of the buttocks.

Signature of Searcher

Signature of Warden

WAIVER OF RIGHT ON STRIP/ VISUAL BODY CAVITY SEARCH

PAGPAPAUBAYA NG KARAPATAN SA KATAUHANG / MASUSING
PAGHAHALUGHOG / "VISUAL BODY CAVITY SEARCH"

I, _____, visitor of inmate/s _____
Ako si _____ dalaw ni/nina _____
 of _____ Jail hereby voluntarily submit myself for
ng _____ dito'y kusang loob na ihain ang aking sarili sa
 strip search / visual body cavity search by authorized BJMP personnel.
masusing pagahalughog / "visual body cavity search" ng otorisadong kagawad ng BJMP.

That any contraband found in my possession as a consequence
Anumang mga bagay na ipinagbabawal na matatagpuan sa aking pagliingat ay
may be used as evidence against me in criminal action/proceeding.
maaring gamitin laban sa akin sa anumang usapang kriminal/pamamaraan.

I therefore have understood the foregoing statements and
Samakatuwid, aking naintindihan ang mga nasabing pahayag at
affixed my signature to affirm my willingness to abide by the same.
ako ay lumagda upang ipagtibay ang aking kusang loob na pagsang-ayon dito.

Signature of Visitor

Lagda ng Dalaw

Name and Signature of Witness

Pangalan at Lagda ng Saksi

Date and Time of Search

Petsa at Oras ng Paghalughog