

For Input: Proposed Regulatory Amendments to Support the Contraband Strategy and Action Plan

September 2021

Context: Contraband Strategy and Action Plan

- Contraband is any item in possession of an individual in custody that is not issued by the ministry, in an area of an institution that is not permitted, or that has been modified from its intended purpose, and can be in the form of drugs, alcohol, weapons and other items such as cell phones.
- Despite our current methods to prevent, detect and reduce contraband, it remains a serious risk to the health and safety of our staff, individuals in custody and all those who enter our institutions.
- On June 1, 2021, the ministry announced the Contraband Strategy and Action Plan, which includes investments in more tools and technology to increase detection and enhance security measures.

As part of the Contraband Strategy and Action Plan and in alignment with work to support broader corrections system transformation, the **ministry is exploring changes to Regulation 778** under the *Ministry of Correctional Services Act* to enable enhanced searches of everyone entering the secure area of an institution where individuals in custody are located.

Research and Recommendations

Reviews have provided insights on contraband management practices, including the *Independent Advisor Report: Institutional Violence in Ontario* and the *2019 Annual Report of the Office of the Auditor General of Ontario*.

Research with Transport Canada was completed to understand how security screening is conducted throughout the air transportation system at 89 airports in Canada.

Key Findings from Reports

- All individuals (employee, volunteers, professional and personal visitors, etc.) entering secure areas of Ontario's correctional institutions should undergo security screening to enhance institutional safety and security.
- Ontario should adopt similar practices used in federal correctional institutions to screen staff when entering an institution.



Canadian Air Transport Security Authority

Airport security screening includes:

- **Physical screening of all persons**, including passengers and non-passengers (e.g., flight and cabin crews, vendors, etc.), entering the restricted area
- Non-passengers and their belongings, including vehicles, entering restricted areas are **selected for further screening using a randomizer tool**
- **Biometric identifiers** allow non-passengers access to the restricted areas of airports at larger airports

Correctional Service of Canada – Summary of Legislative Authority under the *Corrections and Conditional Release Act*

	Routine		Non-routine	
	Non-intrusive search	Frisk search	Frisk search	Strip search
Staff	Can be conducted by a staff member, without individualized suspicion, when entering or leaving the penitentiary or a secure area, under which circumstances must be limited to what is reasonably required for security purposes.		Can be authorized by an institutional head where there are reasonable grounds that the person is carrying contraband or carrying other evidence relating to a criminal offence <u>and</u> that a search is necessary to find the contraband or evidence. Frisk searches are conducted by a staff member; strip searches are conducted by a staff member of the same sex.	
Visitors			Can be conducted by a staff member where there are reasonable grounds that the person is carrying contraband or carrying other evidence relating to a specified offence (e.g., possession of contraband beyond visitor control point, delivery of contraband to/from individuals in custody).	Can be authorized by an institutional head where there are reasonable grounds that the person is carrying contraband or carrying other evidence relating to a specified offence (e.g., possession of contraband beyond visitor control point, delivery of contraband to/from individuals in custody) <u>and</u> belief that a search is necessary to find the contraband. Conducted by a staff member of the same sex after giving the visitor the option of voluntarily leaving the penitentiary.

Current State

The *Ministry of Correctional Services Act* enables superintendents to authorize a search to be carried out, in a prescribed manner, of the person and property of any individual in custody or other person on the premises of a correctional institution.

In Regulation 778:

	Routine	Non-routine
Staff	There is no regulatory authority to routinely search staff members.	Where the superintendent has reasonable cause to believe that an employee is bringing or attempting to bring contraband into or out of the institution, the superintendent may authorize a search of the person or any property of the employee that is located on the premises of the institution.
Visitors	The Searches section in regulation does not include searches of visitors (e.g., volunteers, contractors, lawyers). Searches of visitors are conducted following the Visiting Privileges provision in the regulation, which states the superintendent needs to authorize visits and may impose conditions on visits.*	

*Ministry policy states, if a visitor refuses a search, they are denied access and are asked to leave.

Scope

Guiding Principles:

Protection of Human Rights and Dignity

Safety and Security of the Facility

Prevention of Bias in Searches

Objective:

To reduce the ability for contraband to enter facilities through the movement of individuals not in custody.

Detect
contraband on
individuals not in
custody

Deter individuals
not in custody
from carrying
contraband

Types of Searches and Thresholds

To address the objective, authorities to conduct searches are under consideration, including types of searches varying in intrusiveness and the thresholds that need to be met to perform different types of searches.

Types of Searches (Increasing in Intrusiveness)

Non-intrusive search	Frisk search	Full-body scanner search
<ul style="list-style-type: none">• Metal detector• Canine search• Ion scanner	<ul style="list-style-type: none">• Conducted by hand or device on a clothed person	<ul style="list-style-type: none">• Conducted by scanner which produces image of body

As the type of search becomes more intrusive, a higher threshold will be required to be met and additional safeguards will apply.



Example: Before a large-scale event like a concert, you are often expected to walk through a metal detector upon entry to the venue and place your belongings through a scanner (non-intrusive search). If the metal detector goes off or a security personnel sees something that looks suspicious and therefore has reason to believe you may be carrying a prohibited object, they may pat you down with your consent (frisk search).

Discussion Questions

1

What principles, opportunities and challenges should be considered as the ministry explores and implements changes to regulation related to searches?

2

What considerations should the ministry keep in mind for searching those visiting an institution?

3

Do you have any other suggestions to reduce the likelihood of contraband entering an institution?