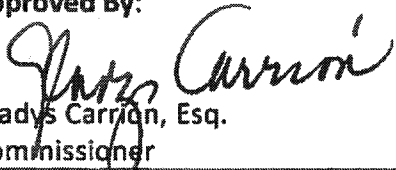


**Limited Secure Placement Personal Youth Search Policy**

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| <b>Approved By:</b><br><br>Gladys Carrion, Esq.<br>Commissioner  | <b>Date Issued:</b><br><u>6/10/2016</u>  | <b>Number of Pages:</b><br>11  | <b>Number of Attachments:</b><br>1 |
| <b>Related Laws:</b><br>NA  | <b>ACS Divisions/Provider Agency:</b> Youth and Family Justice; and Limited Secure Placement Provider Agency Staff | <b>Contact Office/Unit:</b><br>John Dixon<br>Associate Commissioner<br>Close to Home<br><a href="mailto:john.dixon@acs.nyc.gov">john.dixon@acs.nyc.gov</a> |                                    |
| <b>Supporting Regulations:</b><br>18 NYCRR § 441.18(d)  | <b>Supporting Case Law:</b><br>NA  | <b>Key Words:</b><br>Limited secure placement;<br>LSP; search; personal search;<br>contraband; strip search;<br>security search; pat-frisk search          |                                    |
| <b>Related Policies:</b> <ul style="list-style-type: none"> <li>• Searches of Non-Secure and Limited Secure Juvenile Justice Placement Facilities</li> <li>• Contraband Policy for Juvenile Justice Placement</li> <li>• Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their families involved in the Child Welfare, Detention and Juvenile Justice System</li> <li>• Safe Intervention Policy for Juvenile Justice Placement</li> </ul>  |  | <b>Supersedes:</b><br>NA<br><br><b>Bulletins &amp; Directives:</b><br>NA   |                                    |
| <b>Related Forms:</b> Search Request Form for Transgender and Intersex Youth  |  |  |                                    |
| <b>SUMMARY:</b> The purpose of this policy is to provide clear guidance for staff to follow with respect to personal youth searches. Limited secure placement (LSP) providers are required to implement search policies and practices designed to maintain contraband-free programs throughout the LSP system. The primary purpose of any personal search is to protect the safety of youth and staff in the LSP facility, the community, and others who may be present, within a context that respects and promotes dignity and healthy relationships through effective communication, making empathetic connections, being sensitive to a youth's abuse and trauma history, and establishing a structured, consistent environment. This policy makes clear the circumstances under which personal searches described in this policy are mandatory, and the circumstances under which such searches are to be conducted at the discretion of facility staff and/or Administration for Children's Services (ACS) staff. LSP providers are expected to make determinations regarding the need for personal searches based on ongoing assessments of the level of trust and open communication with individual youth and to conduct searches within the broader context of a conversation about personal responsibility, safety, and trust. |  |  |                                    |
| <b>SCOPE:</b> This policy applies to all LSP facilities.  |  |  |                                    |

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## I. INTRODUCTION

The following policy was developed for use in the limited secure placement (LSP) system of the New York City Administration for Children's Services (ACS), the spirit of which rests firmly on the premise that youth placed in residential settings shall be placed in programs close to home and for only as long as is necessary to maintain public safety and impart the skills and tools each youth needs to succeed in the community. All LSP settings are to prioritize youth-centered programming and strive to provide youth with the full range of individual supports they need to achieve their treatment goals. Like the youth in LSP programs, families are to be treated with utmost dignity and respect, and shall be integrated into programming and treatment as full partners throughout the period of each youth's placement and aftercare. Communities and the natural resources they possess are to be valued and relied upon as part of the formula for success in each case. The primary responsibility of all those associated with the LSP system is to protect the safety and security of communities and the safety and security of youth and staff in LSP.

## II. DEFINITIONS

- A. Personal Search – A search of a youth's person to determine whether or not a youth has concealed contraband<sup>1</sup> on his or her person or in his or her clothing. The primary purpose of any personal search is to protect the safety of youth and staff of the LSP facility, the community, and others who may be present, within a context that respects and promotes dignity and healthy relationships through effective communication, making empathetic connections, being sensitive to a youth's abuse and trauma history, and establishing a structured, consistent environment. The employee(s) conducting a search must assure its thoroughness while maintaining the dignity of the youth being searched. All LSP staff conducting searches must be trained in conducting professional, respectful, and minimally intrusive searches and in conducting the searches of transgender<sup>2</sup> and intersex<sup>3</sup> youth.

Personal searches consist of pat-frisk searches, security searches, and strip searches. With the exception of pat-frisk searches, all searches shall be conducted in the presence of a supervisor and a child care staff member. Pat-frisk and security searches shall be conducted by personnel of the same gender or gender identity as the youth, except in exigent circumstances. Strip searches shall be conducted by personnel of the same gender or gender identity as the youth. LSP staff must offer

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<sup>1</sup> See ACS Policy and Procedure #2015/03, *Contraband Policy for Juvenile Justice Placement*.

<sup>2</sup> See ACS Policy #2012/01, *Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare, Detention and Juvenile Justice System*.

<sup>3</sup> Intersex Person— A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

transgender and intersex youth the opportunity to request that staff of a particular gender or gender identity conduct any necessary search, and staff shall comply with that request absent exigent circumstances and shall document any deviation from the youth's preference. LSP staff are prohibited from searching transgender or intersex youth for the purpose of determining genital status.

1. Pat-Frisk Search – A visual and manual inspection of a youth's body that consists of physically patting down his or her clothing. The youth may be required to remove his or her outer clothing such as a coat, hat, and shoes. Pat-frisk searches may also include the use of a hand-held metal detector to detect metal objects on a youth and his or her personal items and property on his or her person.
  2. Security Search – An inspection to check for contraband, conducted to maintain the safety and security of staff and youth, that requires the youth to wear a medical gown or robe after removing his or her upper garments, and then subsequently to remove the rest of his or her garments. The medical gown or robe shall remain on the youth during this type of search. Security searches shall also include the use of a hand-held metal detector to detect metal objects on a youth's person and/or in his or her personal items and property.
  3. Strip Search – An inspection to check for contraband believed capable of inflicting harm on the youth, staff, or others, conducted to maintain the safety and security of youth and staff. A strip search requires individualized reasonable suspicion that the youth is in possession of potentially dangerous contraband and may only occur after a security search has been conducted. This type of inspection requires a youth to remove all clothing. The removed clothing is carefully inspected and the body is visually inspected only, without probing any of the body cavities. All strip searches require prior supervisory approval from staff at a facility director level or above.
  4. Body Cavity Search – A visual, manual, and/or instrument inspection of a youth's anal or vaginal cavity. **LSP staff shall not conduct body cavity searches.**
- B. Reasonable Suspicion – The amount of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific and articulable facts, and the logical inferences and deductions which can be drawn from those facts. The standard does not require absolute certainty, but rather a reasonable, articulable basis for the suspicion.
- C. Exigent Circumstances – Any set of temporary and unforeseeable circumstances that require immediate action in order to combat a serious threat to the security of the facility.

### III. GUIDELINES AND PROCEDURE

#### A. Pat-Frisk Searches

1. Pat-frisk searches must be conducted on a youth as part of routine procedure and do not require individualized reasonable suspicion to believe that a specific youth is in possession of contraband if the search is part of a routine procedure. Each LSP provider will be required to create procedures for routine, objective, and respectful pat-frisk searches and provide these procedures to ACS. Any non-routine pat-frisk searches require individualized reasonable suspicion that a specific youth is in possession of contraband. All pat-frisk searches must be documented in the Facility Activity/Communication Log Book and the Searches for Contraband Log.
2. Youth must be pat-frisk searched every time they enter or leave the facility or off-site school, after receiving a visit at the facility, or at the discretion of staff when there is reasonable suspicion that a youth may possess contraband.
3. Pat-frisk searches shall be conducted by personnel of the same gender or gender identity as the youth and in the presence of a witness, except in exigent circumstances. In such a circumstance, a supervisor must approve and document the pat-frisk of a youth by a person of the opposite gender. Youth may be required to remove any outer clothing covering their heads, hands, and feet, as well as outer garments such as scarves, coats, and shoes.
4. Pat-frisk searches shall be conducted in the following manner:
  - a. The search is conducted by patting the outer clothing over the entire length of the youth's body and examining the seams and pockets of the youth's clothing. The youth's skin shall be touched only at the shirtsleeves and collar. The search shall require the youth to run his or her fingers through his or her hair under the observation of a staff member in order to confirm that weapons or other contraband are not hidden in the hair. The youth can be required to open his or her mouth as part of the contraband search.
  - b. At the discretion of the staff member and a supervisor, a handheld metal detector may be used to check for contraband in a youth's hair or other parts of the body.
  - c. In conducting a pat-frisk, employees shall strive to preserve the dignity of the youth being searched.

- d. LSP staff must undergo training regarding pat-frisk searches before staff may participate in a pat-frisk search.
- e. Any contraband identified during the search shall be confiscated in accordance with the *Contraband Policy for Juvenile Justice Placement*, and if appropriate, be logged and stored with the youth's personal valuable property or returned to the youth's parent or guardian.

B. Security Searches

1. Circumstances under which security searches may be conducted:

- a. Upon admission into any LSP facility and upon readmission as a result of revocation of aftercare status, all youth must be subjected to a security search without any individualized reasonable suspicion that a particular youth is in possession of contraband.
- b. After admission to a facility, a youth may be subject to a security search based on individualized reasonable suspicion that the youth may possess contraband believed capable of inflicting harm on the youth, staff or others and has not been detected by a less intrusive search.
- c. All non-routine security searches require either prior supervisory approval or, in exigent circumstances, post-search review by a supervisor within 24 hours. After a post-search review by a supervisor, the supervisor shall document the basis of the authorization, or lack thereof, in the Facility Activity/Communication Log Book as soon as possible following the non-routine search.
- d. All non-routine security searches shall be conducted in the presence of a supervisor or his or her designee.
- e. All non-routine security searches must be documented by the supervisor in the Facility Activity/Communication Log Book, the Searches for Contraband Log, and the youth's case record. The reasons for all searches conducted based on reasonable suspicion that a youth is in possession of contraband must be documented in the Searches for Contraband Log.

2. Security Searches shall be conducted in the following manner:

- a. Security searches will be conducted by personnel of the same gender or gender identity as the youth and in the presence of a witness, except in exigent circumstances. In such circumstances, a supervisor must approve and

document the security search of a youth by a person of the opposite gender. All cross-gender searches must be documented, noted as such, and include the reason why the cross-gender search was performed.

- b. Prior to commencement of the security search, the youth shall be informed that a security search will be conducted, the consequences of finding contraband in the search and be given an opportunity to surrender any contraband. The finding of any contraband will result in the generation of an incident report as well as the stated behavioral consequences.
- c. Youth shall then be required to surrender all items of personal property or contraband to the staff member conducting the search.
- d. Youth shall be directed to a private area equipped with a privacy screen, curtain, or door out of the view of other youth. Youth shall be directed to:
  - i. Remove their upper garments (e.g., shirt, sweater, undershirt, bra);
  - ii. Put on a medical gown or a robe; and
  - iii. Remove all of their remaining articles of clothing, including undergarments.
- e. The youth shall then be directed to close his or her robe and step out from behind the curtain.
- f. Staff shall put on latex-free gloves prior to commencing the search.
- g. Staff shall ask the youth whether he or she has removed all of his or her clothing. If all the clothing has not been removed, the youth shall be asked to step back inside the private area and remove the remaining clothing item(s). If all clothing has been removed, the youth shall then turn around and face the staff.
- h. Staff shall inquire if the youth has any sharp objects on his or her person or in his or her clothes, and offer the youth the opportunity to surrender these objects prior to searching and/or reaching into a youth's pockets.
- i. A staff member shall perform a thorough examination of all of the youth's personal property in front of the youth, including the youth's clothing, any personal items and eyeglasses. Staff shall run a handheld metal detector over the clothing items as well. Any contraband identified during the search shall be confiscated in accordance with the *Contraband Policy for Juvenile Justice Placement*, and if appropriate, be logged and stored with the youth's personal valuable property or returned to the youth's parent or guardian with dated documentation indicating the property transfer.

- j. The youth shall be asked to hold out his or her arms, and a staff member of the same gender or gender identity shall pass a handheld metal detector up and down the outline of the youth's body and over the youth's body without touching the youth.
  - k. All permissible items shall be returned to the youth upon the youth clearing the security search.
  - l. Prior to letting the youth back into the privacy area, staff members shall inspect the area for contraband.
  - m. Youth who have cleared the security search shall be given their clothing back after a thorough search, and be permitted to put on their clothing with the same level of privacy indicated above.
3. LSP staff must undergo training regarding security searches before LSP staff may participate in or conduct a security search.

C. Strip Searches:

1. Circumstances under which strip searches may be conducted:
- a. A strip search may only occur after a security search has been conducted and it is believed by staff that a youth remains in possession of contraband capable of inflicting harm or injury on the youth, staff or others;
  - b. Strip searches must be conducted in a location that provides privacy and reasonable comfort out of the view of other youth, and must be conducted with awareness and sensitivity to any known or possible past history of abuse and/or trauma;
  - c. All strip searches require prior supervisory approval from staff at a facility director level or above. Each LSP provider must clearly designate which supervisor is responsible for providing approval for strip searches and an alternate supervisor who may approve strip searches if the initial supervisor is unreachable; and
  - d. A youth may only be subjected to a strip search based on individualized reasonable suspicion that the youth may possess contraband believed capable of inflicting harm on the youth, staff or others that has not been detected in a less intrusive search and is of a sort capable of causing harm to the youth, staff or others.
2. Strip searches shall be conducted in the following manner:



- a. Strip searches will be conducted by personnel of the same gender or gender identity as the youth and in the presence of a witness. The witness shall be of the same gender or gender identity as the youth.
- b. Prior to commencement of the strip search, the youth shall again be informed of the consequences of a contraband finding and be given another opportunity to surrender any contraband.
- c. The youth shall then be required to surrender all items of personal property or contraband to the staff member conducting the search.
- d. The youth shall be directed to remove the gown worn during the security search.
- e. In all cases a strip search shall involve the following:
  - i. A search of the youth's clothing once removed;
  - ii. A visual inspection of the youth's naked body;
  - iii. A visual examination of the mouth, nose, and ears of the youth;
  - iv. A visual examination of the youth's hair by requiring the youth to run his or her hands through his or her hair;
  - v. A visual examination of exposed armpits, bottoms of feet, separated fingers, toes and skin folds with the youth being directed to move to permit inspection;
  - vi. A visual inspection of the buttocks area after the youth has been directed to separate the buttocks while standing;<sup>4</sup>
  - vii. For youth with male genitalia, a visual inspection of the penis/scrotum areas with the youth being directed to lift the penis; and
  - viii. A visual inspection of the area underneath the breasts with the youth being directed to lift the breasts.
- f. The youth will be required to squat and cough deeply where there is reasonable suspicion to believe that the youth is hiding contraband in a body cavity after the contraband has not been detected by means of a pat-frisk search, metal detector search, security search or other search procedure.
- g. Prior to letting the youth back into the privacy area, the staff member shall inspect the area for contraband.

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<sup>4</sup> The purpose of this inspection is to visually assess the area between the youth's buttocks and is not for the purpose of conducting a body cavity search.

- h. A youth who has cleared the strip search shall be given his or her clothing back and be permitted to dress in a private area equipped with a privacy screen, curtain, or door.
  - i. LSP staff shall contact the youth's parent/guardian within 12 hours of conducting a strip search to alert them to the occurrence and to inform them of the reason for the search and its outcome.
  - j. LSP staff shall make appropriate referrals for mental health services for any youth who express or exhibit behaviors that suggest emotional distress or traumatization following a strip search.
- 3. If a youth asks to use a restroom prior to the commencement of or during a strip search, a staff member of the same gender or gender identity as the youth shall accompany the youth to the restroom and maintain visual contact of the youth while the youth uses the restroom. The youth shall be instructed not to flush the toilet until staff has had an opportunity to check the toilet for contraband.
- 4. If during the course of a strip search a youth admits that he or she has contraband in an anal or vaginal cavity, or a search technique such as a metal detector search indicates that a youth is hiding contraband in an anal or vaginal cavity, LSP staff shall contact emergency personnel and the youth shall be transported to a hospital by emergency personnel for removal of the contraband.<sup>5</sup> If both the youth and on-site LSP medical staff consent, on-site LSP medical staff may assist with the removal of contraband from a youth's body cavity while waiting for emergency personnel to arrive.
- 5. If a youth refuses to cooperate with any aspect of the search, staff shall use a continuum of strategies, including safe crisis management and counseling, to resolve the youth's lack of cooperation. Staff shall follow the *Safe Intervention Policy for Juvenile Justice Placement* to address the acute physical behavior of the youth.
- 6. Staff conducting the strip search must wear latex-free gloves while the search is being conducted. Staff must not touch the youth during the strip search unless the touching is necessitated by a need to use emergency safety physical intervention to address the acute physical behavior of a youth in accordance with the *Safe Intervention Policy for Juvenile Justice Placement*.
- 7. LSP staff must undergo training specifically regarding this policy before staff may participate in a strip search.

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<sup>5</sup> Body cavity searches are prohibited, and LSP staff shall not conduct a visual inspection of a youth's anal or vaginal cavity as part of any search procedure.

8. All strip searches must be documented in the Facility Activity/Communication Log Book, the Searches for Contraband Log, and the youth's case record. The reasons for the strip search must also be documented in the log book. All contraband discovered during a search must be documented and stored in accordance with the *Contraband Policy for Juvenile justice Placement*.

D. Additional Requirements for Searches of Transgender and Intersex Youth

1. No LSP staff member shall conduct searches of transgender or intersex youth solely for the purpose of determining genital status.
2. Upon admission,<sup>6</sup> LSP provider intake staff shall offer transgender or intersex youth the opportunity to request that staff of a particular gender conduct any pat-frisk search of the youth.
  - a. LSP provider staff shall offer youth the opportunity to complete a Search Request Form for Transgender and Intersex Youth (Attachment A). LSP staff shall comply with that request absent exigent circumstances and shall document any deviation from the youth's preference.
  - b. If a youth does not indicate a preference, the staff member of the youth's self-identified gender shall perform the search.
  - c. Any ACS or LSP staff to whom youth disclose that they are transgender or intersex thereafter shall arrange for the youth to be offered the opportunity to complete the form if the youth has not already done so.
  - d. ACS and LSP staff shall also offer the youth the opportunity to complete a new form if he or she changes his or her preference.
3. LSP provider facilities shall establish procedures for review and approval by ACS that outline who will receive copies of the Search Request Form for Transgender and Intersex Youth, where such forms will be stored, how a youth's preferences will be communicated to staff, and how LSP provider facilities will assist a youth in changing his or her preference.

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<sup>6</sup> Transgender and intersex youth may make this request at any point during their juvenile delinquency case, including while in Detention and throughout placement in an LSP facility.



## ATTACHMENT A: SEARCH REQUEST FORM FOR TRANSGENDER AND INTERSEX YOUTH

You can request to be searched by either a male or female staff member while you are here. We will do our best to honor your choice unless there is a security emergency.

Please check the box next to the statement that best matches how you feel.

- ☐ I am most comfortable being searched by a **male** staff member.
- ☐ I am most comfortable being searched by a **female** staff member.
- ☐ I do not care whether a **male or female** staff member searches me.

**Youth's Signature:** \_\_\_\_\_

**Youth's Printed Name:** \_\_\_\_\_

**Today's Date:** \_\_\_\_\_

CC: Youth File