



CHAIRMAN'S MEMORANDUM

NO. 15-99

August 19, 1999

TO: SHERIFFS, JAIL ADMINISTRATORS, COMMISSIONERS OF CORRECTION,
NEW YORK CITY WARDENS

RE: Blanket Strip Search Policy

Recently, policies implemented by the New York City Department of Correction and the Nassau County Jail requiring all prisoners to be strip searched at the time of admission were struck down by the courts. Such "blanket" strip search policies have been routinely rejected by courts across the country. The Second Circuit Court of Appeals, the intermediate federal appellate court covering New York State, first struck down such a policy in 1986, and reaffirmed this rule of law in 1988 and 1994.

In these cases, the Second Circuit has clearly stated that the 4th Amendment to the Constitution precludes correctional officials from performing strip/body cavity searches of arrestees charged with misdemeanors or other minor offenses unless the officials have a reasonable, particularized suspicion that the arrestee is concealing weapons or other contraband. Such suspicion may arise from the crime charged, the particular characteristics of the arrestee, and/or the circumstances of the arrest. The Court has also rejected the contention that a policy of strip-searching every misdemeanor arrestee was justifiable because those arrestees were often housed among arraigned inmates, concluding that the risk of a misdemeanor arrestee introducing contraband into the general population does not warrant a strip search of all arrestees.

In conclusion, it is well settled that blanket strip search policies are unconstitutional. No such policy has been upheld by the courts in New York State. The Commission strongly urges all facility administrators to review their policies and procedures with legal counsel to ensure that they are consistent with the law.

Alan J. Croce, Chairman/Commissioner

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