

CUSTODY SEARCHES

Approved By: Geoff Jones Chief of Police
CALEA 6th Edition Standard: 1.2.8; 70.1.1; 70.1.2; 70.1.6

902 CUSTODY SEARCHES

902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of persons in custody to include strip searches and body cavity searches.

902.2 POLICY

It is the policy of the Columbia Police Department that all custody searches should be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of persons subject to any search.

902.3 DEFINITIONS OF SEARCHES

Definitions related to this policy include:

Body cavity search - The inspection of a person's anus or genitalia, including but not limited to inspections conducted visually, manually or by means of any physical instrument (§ 544.193(1)(1), RSMo).

Pat/Custody search - For the purposes of this policy a pat search and custody search are one in the same within the confines of the police department, other temporary detention facility, holding facility, medical facility or any other situation where a person is in our custody. A pat/custody search is an in-custody search of a person and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Intersex - Intersex means 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.

Inventory Search - A warrantless search conducted for the purpose of placing personal property in safekeeping to prevent loss of the property and claims against police for such loss.

Search - A thorough visual and manual examination of an arrested person and the area immediately around that person for weapons, contraband or evidence that might be destroyed. A search does not require the removal or rearrangement of some or all of a person's undergarments or clothing directly covering the person's genitalia, buttocks, anus or female breasts.

Strip search- The removal or rearrangement of some or all of the clothing of a person so as to permit an inspection of the genitals, buttocks, anus, breasts or undergarments of such person, including but not limited

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to inspections conducted visually, manually or by means of any physical instrument (§ 544.193(1)(2), RSMo).

Transgender – Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

Watch Commander – For purposes of this policy the Watch Commander will be the patrol lieutenant on duty. In the absence of a patrol Lieutenant all decisions/authorizations requiring a Watch Commander shall be forwarded to an Assistant Chief over patrol.

902.4 CUSTODY AND INVENTORY SEARCHES OF DETAINEES

For the safety of all involved, an officer shall conduct a custody search of a person:

- a. Immediately after his/her arrest;
- b. When receiving a person from the custody of another; and
- c. Before transporting a person in custody in any police vehicle.

Upon arrest, a preliminary inventory of the person’s property shall be included as part of the custody search prior to placing the person in the transport vehicle. Back packs, purses and other containers shall be searched for weapons or contraband. Contents of the person’s pant, shirt and coat pockets will be removed and placed in an appropriate container. The detainee’s property will be stowed away from the detainee’s access for transport to the processing facility. Belts, necklaces and other Jewelry may be removed later, at the processing facility, under more controlled conditions to prevent loss in the field. Belts should be inspected to make sure they do not contain concealed weapons. If concerned, remove the detainee’s belt prior to transport. This initial inventory should be captured as a verbal dictation by audio or video recording on the officers body worn camera and/or vehicle recording system. A more detailed inventory will be completed at the processing facility.

When transporting arrestees/detainees, the transporting officer shall conduct a thorough search of the area around and beneath the vehicle seat both prior to the transport and after the transport is complete.

Whenever practicable, the custody search should be conducted by an officer of the same gender as the person being searched. If an officer of the same gender is not reasonably available, the detainee should be positioned in such a way that the search is captured on video and, if available, a witness officer be present.

902.5 SEARCHES AT POLICE TEMPORARY DETENTION AND HOLDING FACILITIES (GENERAL)

Upon entry into the police department or a holding facility such as the Boone County Jail, a custody search shall be conducted again on all persons in custody **prior to removing restraints**. Except in exigent circumstances, the search should be conducted by an employee of the same gender as the person being searched. If an officer of the same gender is not reasonably available, the detainee should be positioned so

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that the search can be captured in a video recording and, if available, a witness officer be present. The reporting officer shall document in his/her report attempts made to provide a same gender employee and the reason why one was not reasonably available.

Custody searches should also be conducted any time a person in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

Detainees will be searched again, and a visual inspection of the cell will be conducted, prior to placing them in a CPD temporary detention cell. These searches shall be done to ensure the accuracy of previous searches and prevent a detainee from entering a CPD temporary detention cell with weapons or contraband or having access to items left in the cell from a previous occupant.

902.5.1 CUSTODY SEARCH PROCEDURE AT TEMPORARY DETENTION OR HOLDING FACILITIES

Upon arrival, officers or transporting personnel shall do the following:

- a. Immediately secure all firearms and other weapons in designated areas or patrol vehicle as appropriate for the specific facility policy.
- b. All detainees brought into the facility shall be searched again by the officer or other authorized employee and any remaining property such as a belt shall be removed **prior to removing the restraints (rings and necklaces may be removed after restraints are removed)**.
- c. If the detainee is being transferred from CPD to BCJ after processing, the detainee shall not be in possession of any personal property (other than clothing and shoes) upon entry into the jail.
- d. If the detainee is being transferred from CPD to BCJ after processing, and has identified as transgender or intersex, the officer shall relay the information to the receiving personnel.
- e. Once the detainee has been searched, the officer may remove restraints and begin processing or replace restraints with those of the receiving facility as appropriate. If in a receiving facility, the officer will relinquish control of the detainee and transfer custody at this time.

902.5.2 JUVENILE CUSTODY SEARCHES WITHIN TEMPORARY DETENTION FACILITY

Cross gender custody searches of juveniles inside a temporary detention facility should be avoided unless exigent circumstances exist or a transgender or intersex juvenile requests to be searched by an employee who matches their gender identity and not the gender assigned at birth. If an exigent circumstance exists, or a same gender employee is not available in a reasonable time frame, the search will be conducted in view of a camera and, if possible, a witnessing officer or employee. The searching officer shall document in his/her report the exigent circumstance or their attempts to comply and the reasons why a same gender or preferred gender search could not be accommodated.

902.5.3 TRANSGENDER OR INTERSEX CUSTODY SEARCHES W/IN TEMP. DETENTION FACILITY

This section covers custody searches of both adult and juvenile transgender or intersex detainees.

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Some subjects who come into our custody may have, in one or more ways, changed their gender by medical operation or other physical or physiological modification since birth. A subject's gender expression (the subject's current self-identification and expression of being either masculine or feminine, notwithstanding their sex at birth) may differ from their sex at birth even without medical or other physiological modification. If a detainee indicates they are transgender or intersex a detainee may choose to be searched by an employee of the same gender for which they identify. The officer or authorized employee should honor the request absent exigent circumstances or the lack of reasonable availability of a requested gender employee. Searches conducted under exigent circumstances or by employees whose gender does not comply with the detainee's request will be conducted in view of a camera and, if possible, a witnessing officer or employee. The searching officer shall document in his/her report the exigent circumstance or their attempts to comply with the gender request and the reasons why a preferred gender search could not be accommodated.

902.6 STRIP SEARCHES

All strip searches conducted at the Columbia Police Department require the written permission of a Watch Commander (Lieutenant) or Assistant Chief (Patrol if possible) if the Watch Commander is not available.

No person arrested or detained for a traffic offense or an offense which does not constitute a felony may be subject to a strip search or body cavity search by any law enforcement officer or employee unless there is probable cause to believe that such person is concealing a weapon, evidence of the commission of a crime or contraband (§ 544.193(2), RSMo).

The strip search shall be performed by persons of the same sex as the person being searched, and shall be conducted on premises where the search cannot be observed by any person other than the persons physically conducting the search. Nothing in this order shall prohibit a readily available person from being present at the request and consent of the person being searched. For the purpose of this section, a transgender or intersex detainee may choose to be searched by an employee of the same gender for which they identify.

Officers/employees conducting the search shall make sure all recording devices are disabled during the strip search.

Requirements and authorization for a strip search of a juvenile offender are the same as for an adult except that the juvenile will be asked to identify the gender of staff with whom they would feel most comfortable conducting the search. This applies to strip searches of transgender or intersex juveniles. See policy 324 Temporary Custody of Juveniles for additional information regarding custody of Juveniles.

No detainee shall be searched or examined for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by

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reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

Factors to be considered in determining probable cause for a strip search include, but are not limited to:

- a. The detection of an object during a pat-down search that may be a weapon or contraband and cannot be safely retrieved without a full or partial strip search.
- b. Circumstances of a current arrest that specifically indicate the person may be concealing a weapon or contraband. A felony arrest charge or being under the influence of a controlled substance do not suffice as reasonable suspicion absent other facts.
- c. Custody history (past possession of contraband while in custody, assaults on staff, escape attempts).
- d. The person's actions or demeanor.
- e. Criminal history.

902.6.1 STRIP SEARCH PROCEDURES

Strip searches at Columbia Police Department facilities shall be conducted as follows:

- a. Written authorization from the Watch Commander shall be obtained prior to the strip search using the Columbia Police Department Body Search Authorization Form (located on PowerDMS). The completed form will be included as an attachment to the appropriate offense report and Blue Team entry.
- b. All employees involved with the strip search shall be of the same sex as the person being searched unless, exigent circumstances exist, the search is conducted by authorized medical personnel, or a transgender/intersex detainee requests to be searched by a person of the same gender for which they identify.
- c. All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by persons not participating in the search. The search shall not be reproduced through a visual or sound recording.
- d. Whenever possible, a second officer of the same sex should be present during the search for security and as a witness to the finding of evidence.
- e. Employees conducting a strip search shall not touch the breasts, buttocks or genitalia of the person being searched.
- f. The primary employee conducting the search shall prepare a Blue Team entry and, in addition, include the following information in their offense report:
 1. The facts that led to the decision to perform a strip search.
 2. The reasons less intrusive methods of searching were not used or were insufficient.
 3. The written authorization for the search, obtained from the Watch Commander.
 4. The name of the person who was searched.
 5. The name and sex of the persons who conducted the search.

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6. The name, sex and role of any person present during the search.
 7. The time and date of the search.
 8. The place at which the search was conducted.
 9. A list of the items, if any, recovered during the search.
 10. The facts upon which the employee based his/her belief that the person searched was concealing a weapon or controlled substance, if the person was not arrested for a felony.
- g. A copy of the written Body Search Authorization Form shall be provided to the person searched.
 - h. No employee should view a detainee's private underclothing, buttocks, genitalia or female breasts while the detainee is performing bodily functions or changing clothes unless the detainee otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the detainee with cleaning themselves or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the detainee's consent and/or otherwise protect the detainee's privacy and dignity.

902.6.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

After conducting a proper pat-down search, a Police Officer in a field situation, and with adequate probable cause, may conduct a limited search by opening or rearrangement of a person's clothing to:

- a. Locate and seize a weapon that could be used against the officer or an innocent person. The removal of clothing that is inconsistent with modesty is prohibited in a field situation unless exigent circumstances are involved.
- b. Locate and seize controlled substances or evidence that cannot be recovered by a normal search and there is no reasonable alternative to ensure the arrestee cannot destroy or ingest the substance during transportation.

If a field strip search is made, the officer making the search shall include the facts of the incident in his or her Report. The officer shall immediately notify a Supervisor and comply with applicable Department reporting requirements.

902.7 BODY CAVITY SEARCH

Written authorization from the Watch Commander shall be obtained prior to any body cavity search using the Columbia Police Department Body Search Authorization Form (located on PowerDMS). The completed form will be included as an attachment to the appropriate offense report and Blue Team entry.

A body cavity search of any person detained or arrested for a traffic offense or an offense which does not constitute a felony may only be conducted pursuant to a duly executed search warrant, under sanitary conditions and by a physician, registered nurse or practical nurse, licensed to practice in this state (§ 544.193(4), RSMo)..

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A body cavity search of an adult arrested for a felony may be conducted at a medical facility by authorized medical personnel only if there is probable cause to believe that the person to be searched is concealing evidence of the commission of a criminal offense, including fruits or tools of a crime, contraband or a deadly weapon that could not otherwise be discovered or there is a legitimate medical or hygienic reason.

A body cavity search of a juvenile in CPD custody will only be conducted pursuant to a duly executed search warrant, under sanitary conditions and by a physician, registered nurse or practical nurse, licensed to practice in this state.

Body cavity searches at a medical facility shall be conducted as follows:

- a. Written authorization from the Watch Commander shall be obtained prior to the body cavity search using the Columbia Police Department Body Search Authorization Form (located on PowerDMS). The completed form will be included as an attachment to the appropriate offense report and Blue Team entry.
- b. The body cavity search shall be conducted by a physician, registered nurse or practical nurse, licensed to practice in this state.
- c. The search shall be conducted under sanitary conditions
- d. All employees involved with the search shall be of the same sex as the person being searched, except for medical personnel (28 CFR 115.115; 544.193 RSMo).
- e. The search shall be conducted in a secure area of privacy so that the search cannot be observed by persons not involved with the search.
- f. Employees involved with the search shall not touch the breasts, buttocks or genitalia of the person being searched.
- g. The primary employee involved with the search shall prepare a Blue Team entry and, in addition, include the following information in their offense report:
 1. The written authorization for the search obtained from the Watch Commander.
 2. The name of the physician, registered nurse or practical nurse.
 3. The name of the person who was searched.
 4. The name of the employees present during the search.
 5. The time and date of the search.
 6. The place at which the search was conducted.
 7. A list of the items, if any, recovered during the search.

A copy of the written authorization shall be provided to the person searched.

902.8 HANDLING OF DETAINEE'S PROPERTY

Employees shall take reasonable care in the handling of a detainee's property to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the detainee is released or transferred.

Effective: 06/01/2014

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Some property such as weapons or large items may not be accepted by a facility or agency taking custody of an individual from this Department. These items should be retained for safekeeping in accordance with the property and evidence policy.

All property shall be inventoried by objective description (this does not include an estimated value). The person from whom it was taken shall be required to verify the property inventory. Verification may be captured by body worn camera footage or completion of a property receipt containing the person's signature. If the individual is unwilling or unable to provide verification of the inventory, the inventory must be recorded on body worn camera or conducted in the presence of another officer. The reporting officer should document how verification is obtained and the name of the witness officer if applicable. An inventory documented on a property receipt shall contain the case number, date, time, employee's name and PIN number and information regarding how and when the property will be released.

Property returned to a person at CPD upon release should again be verified with the receiving person. This verification should be documented using the same options listed for the initial inventory verification.

Property released at the scene to another person at the request of the arrestee should be captured using the body worn camera and documented in the incident report in detail.

Employees are prohibited from borrowing or purchasing anything from a detainee, or loaning or giving money to a detainee.

Detainees shall not be allowed to retain any personal property while confined in the temporary detention facility.

Property belonging to the detainee but retained by an officer as evidence, shall be processed according to property and evidence procedures. The detainee shall be advised that such property will be kept as evidence and if requested, the officer shall provide the detainee a receipt. A property receipt shall be hand written or typed for his/her personal signature. It should include the description of the property (but not its value), the case number, date, time, officer's badge number and signature. When a receipt is issued, it should be documented in the arrest/offense report.

902.8.1 VERIFICATION OF DETAINEE'S MONEY

When feasible, all money belonging to the detainee and retained by an officer shall be counted in front of the detainee and captured on body worn camera video. Verification of the amount shall be documented as described in section 902.8 for other property. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The person sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added to the cash envelope, the officer making such change shall enter the

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amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

902.9 TRAINING

The Training and Recruitment Unit shall ensure members have initial and biennial training in, at a minimum:

- a. Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
- b. Conducting searches of cross-gender individuals.
- c. Conducting searches of transgender and intersex individuals.