

**Chapter**

Law Enforcement Operations

**Article**

Strip and Body Cavity Searches

**PURPOSE**

It is the purpose of this policy to establish clear and consistent guidelines regarding strip and body cavity searches of individuals in custody. These searches are conducted to prevent the introduction of contraband, intoxicants, weapons, or other prohibited items into the Department or other detention facilities thereby maintaining the safety, security, and integrity of Department operations, personnel, individuals in custody, and the public.

**POLICY**

It is the policy of the department that all strip and body cavity searches be conducted in a manner that upholds safety, dignity, courtesy, respect for privacy and proper hygiene. Such searches shall be performed in compliance with applicable Department policy and laws to protect the rights of all individuals subject to search. Under no circumstances shall a search be conducted as a means of intimidation, harassment, punishment, or retaliation.

**DEFINITIONS**

**Body Cavity Search** is a search of any body cavity, other than the mouth.

**Gender** is the state of being male or female in relation to the social and cultural roles that are considered appropriate for men and women.

**Gender Expression** is an external appearance of one's gender identity, usually expressed through behavior, clothing, body characteristics or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine. Others perceive a person's gender through these attributes.

**Gender Identity** is one's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.

**Intersex** is a term that describes differences in sex characteristics that do not fit the typically binary idea of male or female. Sex characteristics include genitals, hormones, and chromosome patterns.

**Police Commander (Commander)** for the purpose of this policy refers to a Loveland police officer with the rank of lieutenant or higher.

**Strip Search** is having an arrested person remove some or all of their clothing so as to permit a visual inspection of the genitals, buttocks, anus, or chest/breasts of such person to look for concealed weapons and/or contraband.



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#### GENERAL GUIDELINES

**Strip Search Procedures** <CALEA 1.2.8 (a-c)> <CRS § 16-3-405> <28 CFR 115.115> <People v. King, 292 P.3d 959 (Colo. App. 2011)> <Schmerber v. California, 384 U.S. 757, (1966)> <People v. Carr, 168, 395 P.3d 1159 (Colo. App. 2016)>

Officers shall not subject any individual in custody to a strip search unless there is a reasonable articulable belief that the individual has a health condition requiring immediate medical attention or that the individual has concealed contraband or weapons beneath their clothes. Factors to be considered in determining reasonable belief include, but are not limited to:

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

The Department strongly discourages the use of strip searches in any area other than at the Department. However, if the officer reasonably believes that it is impractical or imprudent for the safety of those present or to secure evidence of criminal activity, they may seek authorization to conduct the search at another location.

Strip searches shall be conducted as follows:

- Officers will obtain verbal authorization from the Commander prior to the strip search being conducted.
- Strip searches shall not be conducted on those individuals arrested for traffic or petty offenses unless there is a reasonable articulable belief that the individual is concealing a weapon or a controlled substance or that the individual, upon identification is a parolee or an offender serving a sentence in any correctional facility in the state or that the individual is arrested for driving under the influence of drugs. Written authorization shall be obtained from the Commander on those individuals arrested for a traffic or petty offense. If the Commander is unavailable to come to the location to sign the strip search authorization form, the Commander may provide verbal authorization for the on-duty supervisor to sign the form.
- All employees involved with the strip search shall be of the same gender as the person being searched.
- All strip searches shall be conducted in a professional manner and in a secure area of privacy so that the search cannot be observed by persons not participating in the search.
- Body Worn Cameras (BWCs) shall be activated during all strip searches.
- All strip searches will be conducted with a witness officer present who is the same gender as the officer who is conducting the search.



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- Employees conducting a strip search shall not touch the breasts, buttocks or genitalia of the person being searched except as reasonably necessary during the removal of items attached to or against any such body part.

**Body Cavity Search Procedures** <CRS § 16-3-405(5)> <CALEA 1.2.8 (a, b, c)> <CRS § 16-3-405 (5)>

Department employees shall not conduct a body cavity search. A body cavity search shall only be conducted by a licensed physician or nurse. Officers will request a search warrant unless there is a legitimate medical emergency that makes obtaining a warrant impracticable.

Authorized medical personnel may conduct a body cavity search only for one or more of the following reasons:

- 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 weapon that could not otherwise be discovered.
- There is a legitimate medical or hygienic reason.

Even when the above criteria have been met, no person shall be subjected to a body cavity search without written approval of the Commander unless there is a legitimate medical emergency that makes obtaining written approval impracticable. If the Commander is unavailable to come to the location to sign the body cavity search authorization form, the Commander may provide verbal authorization for the on-duty supervisor to sign the form.

Body cavity searches shall be conducted as follows:

- A body cavity search must be performed under sanitary conditions.
- Except for medical personnel, persons present must be of the same gender as the person being searched.
- A body cavity search must be conducted in an area of privacy so that the search cannot be observed by people who are not participating in the search; and
- The search shall not be audio or video recorded.

**Juveniles**

Juveniles should not be strip or body cavity searched. Members will exhaust all other alternatives prior to seeking approval from a Commander when a juvenile is involved. Except under exigent circumstances, the juvenile's parent or guardian will be contacted and asked to respond to the facility where the search is being conducted.

**Transgender and Intersex Individuals** <28 CFR 115.5>

No transgender or intersex 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 reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner. In situations involving transgender or intersex individuals, they will be informed of the right to express a preference for the gender of the officer who will conduct the search.



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### **Reporting Strip or Body Cavity Searches** <CALEA 1.2.8 (d)>

Upon completion of a strip or body cavity search, the employee requiring the search shall complete a written report concerning the search, which shall include:

- The facts upon which the employee based his/her belief that the person searched was concealing a weapon or contraband.
- The reason less intrusive methods of searching were not used or were insufficient.
- The written authorization for the search, obtained from the Commander.
- If the search was conducted before or without the issuance of a search warrant, or if the search was conducted before or without the granting of written authorization from the Commander.
- The legitimate medical reason or medical emergency that justified the warrantless search or made obtaining written authorization impracticable.
- The name of the person who was searched.
- The name and gender of the persons who conducted the search.
- The name, gender and role of any person present during the search.
- The time and date of the search.
- The place at which the search was conducted.
- A list of the items, if any, recovered during the search.

### **Non-Testimonial Evidence Searches**

When officers are collecting evidence with or without a warrant that requires a person to remove clothing in a manner that fits the definition of strip search, the officer will follow the reporting requirements of this policy.

### **Training** <28 CFR 115.115>

The training sergeant and lead Loveland defensive tactics instructor shall ensure members have training in, at a minimum:

- Pertinent Department policy, case law, and state statutes.
- Conducting in-custody searches properly in a professional and respectful manner and in the least intrusive manner possible, consistent with safety and security needs.
- Conducting cross-gender searches.
- Conducting searches of transgender and intersex detainees.

