



Policy and Procedure

Policy Number

11.41

Chapter

Law Enforcement Operations

Article

Strip and Body-Cavity Searches

Authorized By:

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Effective Date: October 16, 2020

PURPOSE

This policy provides guidance regarding strip and body-cavity searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Department or other detention facilities. Such items can pose a serious risk to the safety and security of Department members, individuals in custody, and the public.

POLICY

All strip and body-cavity searches shall 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 those who are subject to any search. Searches shall not be used for intimidation, harassment, punishment, or retaliation.

DEFINITIONS

A **body-cavity search** is a search that includes a visual inspection and may include a physical intrusion into a body-cavity. Body-cavity means the stomach or rectal cavity of an individual, and the vagina of a female person but does not include the mouth of any person.

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

A **strip search** is a search that requires an individual in-custody to remove or rearrange some or all of his/her clothing to permit a visual inspection of the genitals, buttocks, anus, or female breasts of such person. This includes monitoring an individual who is changing clothes, where his/her buttocks, genitalia or female breasts are visible. For the purposes of this policy, a strip search does not include a search incident to arrest when an officer must rearrange or remove the clothing of a person in custody to remove weapons or contraband during high-risk situations requiring immediate action for the health, safety, and welfare of those present.

GENERAL GUIDELINES

Strip Searches <CRS § 16-3-405(1)> <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, including juveniles, to a strip search unless there is a reasonable belief based upon specific and articulable facts that the person has a health condition requiring immediate medical attention or there must be a reasonable belief based upon specific facts to support a reasonable suspicion that the particular person has concealed contraband beneath his or her clothes. Factors to be considered in determining reasonable belief include, but are not limited to any of the following:

- 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)

Strip Search Procedures <CRS § 16-3-405(3) (4)> <28 CFR 115.115><CALEA 1.2.8 (a, b, c)> <CRS § 16-3-405 (4)>

The Department strongly discourages the use of strip searches in any area other than at the Department. However, if the officers reasonably believe 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 police commander prior to the strip search being conducted; written authorization shall be obtained from the police commander if the search is to be conducted on a person who was 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 sex 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.
- The search shall not be audio or video recorded.
- Whenever possible, a second officer of the same sex as the person being searched should be present during the search for security and as a witness to the finding of evidence.
- 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.
- In instances involving juveniles, the juvenile's parent or legal guardian will be contacted and asked to come to the location prior to the search, if practicable.

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

A body-cavity search may be conducted as follows:

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. <CALEA 1.2.8 (a)>

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





No person, including juveniles, shall be subjected to a body-cavity search without written approval of the police 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.

A body-cavity search must be performed under sanitary conditions. Except for medical personnel, persons present must be of the same sex 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 persons not participating in the search and the search shall not be audio or video recorded.

If the body cavity search involves a juvenile, the juvenile's parent or legal guardian will be contacted and requested to come to the medical facility prior to the search if practicable.

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. Assignment of an officer to strip search a transgender detainee will be based upon the anatomical status of the individual at the time of the search as identified by the detainee. An intersex person is one whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. An intersex person may choose which sex officer may perform the strip search.

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 reasons less intrusive methods of searching were not used or were insufficient.
- The written authorization for the search, obtained from the police 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 police 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 sex of the persons who conducted the search.
- The name, sex 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-sex searches.
- Conducting searches of transgender and intersex detainees.

