

TRAINING BULLETIN

SEARCHES OF PERSONS

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Searches of Persons

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INTRODUCTION

To ensure his own safety, an officer must search persons he detains or arrests in order to discover whether they are armed. In cases where the officer has probable cause or a warrant for an arrest (except those involving traffic offenses or public drunkenness), he can search a suspect to discover weapons, evidence, or contraband.

The importance of thoroughly searching persons at the time of arrest is shown by the fact that searches at the jail often reveal weapons still in the possession of suspects who have been searched by at least two officers – the arresting officer and the transporting officer. Weapons discovered at the jail might easily have been used against the officers and other persons with whom he suspect came into contact after his arrest.

This Bulletin presents techniques for conducting safe and lawful searches of persons who have been stopped or arrested. It emphasizes safety and thoroughness.

DEFINITIONS OF SEARCHES

The cursory search ("pat-down" or frisk) and the full search differ according to law.

The courts currently hold that, even when the facts are short of probable cause to arrest, you may detain a person and subject him to a limited search for weapons if you have reason to believe that he is or may be armed and dangerous.

The cursory search is a frisk or pat-down of a subject's outer clothing which can include all areas of the subject's person from which a weapon might be readily available (including his or her hair). The only purpose of the cursory search is to discover deadly or dangerous weapons. The intent of decisional law on this point is to strictly prohibit evidentiary or exploratory searches by officers in cases where probable cause to arrest is not present yet to allow officers the opportunity to protect themselves from armed attack.

A full, search is not limited to those areas from which a weapon might be immediately available. It is performed under one of the following conditions: by authority of a valid search warrant; as incident to a valid arrest (excluding traffic offenses or public drunkenness); by consent of the subject; in an emergency situation; or on the grounds of probable cause. (The officer must be prepared to support with observable facts his decision to make a full search on the grounds of probable cause.)

Whether an officer conducts a cursory search or a full search, his primary purpose is to protect his own safety by assuring himself that the subject is not armed with a concealed weapon. With the exception of a concealed weapon (or evidence or contraband which resembles a concealed weapon), nothing discovered during a cursory search is admissible in the courts. The discovery of evidence or contraband during a full search is admissible in the courts, but is, in terms of your safety, obviously of less immediate importance than the discovery of weapons.

SEARCHES IN NON-ARREST SITUATIONS

These searches are carried out when you do not have probable cause to arrest a person but you do have reason to feel that he may be a threat to you. The occasion for such a search may arise during any contact or stop you make. Remember that in a cursory search you are limited to those areas of the subject's person from which a weapon might be readily available.

It is important to point out that a cursory search need not always be performed formally as described and pictured below. Many times an informal (or even visual) cursory search will fully serve your to know whether a person constitutes a danger to you while you maintain the level of the contact without escalating its violence potential. Many persons have become violent and resisted an officer because a formal cursory search was conducted in an inappropriate situation.

Do not be afraid to use conversation as a tool to help make your evaluation as to whether the person is armed. Many officers have found that they can reassure themselves about their safety with the person with whom they are dealing by asking the person if he has any concealed weapons, while at the same time patting the person's coat and or trousers pockets in a seemingly informal and inoffensive manner.

Above all, do not initiate a "formal" cursory search to "punish" a person or to assert your authority merely because you do not like his attitude or because he has been verbally uncooperative. Such a technique inevitably and unnecessarily increases the likelihood of a violent confrontation, particularly if the person to be searched is in the company of his friends. As Departmental policy, you are required to be able to articulate the reasons you conducted a cursory search to justify it as proper police procedure. The same necessity to articulate the reasons for a cursory search is already a matter of decisional law in terms of the admissibility of evidence obtained by such a search.

In cases where you elect to perform a formal cursory search of a person you have not placed under arrest, tell the person that for your own safety you are going to search him quickly for weapons, and that you have the authority to do so. Have him turn around with his back to you, as shown in Figure 1, and place his hands on the back of his head with his fingers interlaced.

Place our strong hand (right or left, as the case may be) on the subject's clasped hands so that you can anticipate and control any sudden movement by the person. (The strong hand/weak hand sequence of searching is recommended throughout this bulletin because at the conclusion of the search you will be in the most natural position to handcuff the subject, should such action be appropriate). Do not lose contact with the subject's clasped hands.

Search one side of the subject with your weak hand from the top of the subject's head to just below his pants pockets.

After searching one side of the subject, reverse the above procedures and search the other side.

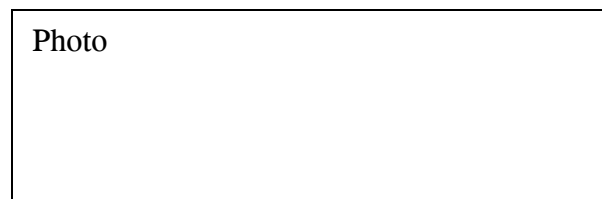


Figure 1

Use the "grasping hand" method (i.e., use your fingers to ascertain the shape of the objects on the person). Merely brushing your hand over the surfaces of a coat or a pants pocket will not tell you what is present. The grasping hand method is the only type of search which allows you to discover the presence of small weapons.

The cursory search is limited to the hands and the outer garments of the subject (i.e., sleeves, coat pockets, waist, and pants pockets) except when the garment (i.e., a heavy leather jacket) is resistant to the sense of touch; in such cases, the inner lining may be pat searched. You can use your fingers to feel the shape of objects in the person's pockets, but you cannot put your hand inside the pocket, as in a full search.

You may remove and examine any object you encounter which has the feel and configuration of a weapon. A cursory search of a person who has not been arrested does not, however, justify removing narcotics paraphernalia or other items unless these items have the feel and configuration of a weapon which could be used against you.

SEARCHES INCIDENT TO AN ARREST

When dealing with an arrested person you do not intend to handcuff¹, it is only necessary to conduct one, thorough search (as described below in The Full Search of an Arrestee). You should, however, realize the increase physical anger to you of conducting a full search of an unhandcuffed person.

When dealing with a suspect whom you have arrested and intend to handcuff*, it is necessary to conduct two searches – one prior to handcuffing, and another subsequent to handcuffing. The first search will be a complete, formal cursory search, in which the suspect is in a standing, kneeling, or prone position. The primary purpose of this search is to remove any weapons the suspect might have immediately available. Then the suspect is handcuffed in accordance with existing procedures.

The second search, which takes place after the suspect has *been* handcuffed, will be a full search which has as its object the removal of weapons (whether immediately available or hidden) and the discovery of evidence or contraband.

You should make the following practices a part of your technique for conducting searches:

- Call for cover. If possible, always have a cover officer present before searching or handcuffing an arrestee. Attempt to maintain or "freeze" a situation until cover arrives.
- Never search a suspect with your weapon in your hand.
- Always search from behind the suspect. Searching from the front makes you vulnerable to a blow, a knee in the groin, or a kick.
- Keep your eyes on the suspect's head and shoulders. Any attempt at movement by the suspect will appear first in this area.
- Maintain effective control of the suspect. (Until, or unless, he is handcuffed, keep his hands behind his head and hold on to them with your own hand.)

¹ Except persons arrested for public intoxication or offenses which require the subject first to be taken before a magistrate (e.g., traffic offenses). These persons may only be pat searched by the field officer. A full search may not be exercised unless the arresting officer can articulate facts justifying it. A person arrested under these conditions will, however, be subjected to a full search when the arrest changes to a "custodial" arrest (i.e., when he is booked into the jail).

Should an unhandcuffed arrestee offer resistance during a search, do not wrestle him to the ground. Push the suspect away from you and prepare to use verbal persuasion to get him back into position or, depending on the degree of resistance and danger presented to your safety, physical control techniques to effect his apprehension.

Wrestling with a suspect you have not thoroughly searched presents two dangers:

- that he will draw a weapon you have not discovered, or
- that he will seize yours, and turn it against you.

You have a better chance to defend yourself if you step back and use the proper methods to protect yourself and restrain the prisoner.

When you search an arrestee, follow a methodical pattern which, by repetition, will become second nature to you. You risk forgetting which areas you have searched if you search one part of an arrestee's body, skip to another, and then return to the original part.

The possibility that a suspect will attack you always exists and no method of searching is foolproof. The following search positions are commonly employed to prepare arrestees for the handcuffing which usually precedes the full search, but only the first two are recommended:

- the standing search position; used for misdemeanor offenders and felons:
- the kneeling search position; the safest method, and use for dangerous felons;
- the prone search position; used only for violently resisting or intractable prisoners; or
- the wall search; an obsolescent method.

While reviewing these positions, remember that a well-conducted cursory search prior to handcuffing reduces the element of danger to you during an arrest, but is not intended as a substitute for the subsequent full search of the arrestee.

Use the search positions described below (with the exception of the wall search) to assure yourself that the arrestee does not have weapons immediately available. You should limit this search to the arrestee's hands, sleeves, coat pockets, back, waist, and pants pockets because you will search the rest of his body after handcuffing him.

The Standing Search Position

With the arrestee's back toward you, order him to place his hands behind his head with his fingers interlocked. Order the arrestee to spread his legs at least two feet apart. (Do not kick the arrestee's feet to spread them apart.) Then grasp the arrestee's hands with your strong hand in order to control his arm movements. Do not lose contact with the arrestee's clasped hands. With your free hand, push forward on his hips and at the same time pull his head back toward you, thus arching his back and placing him off balance. (Note: Use his hands to pull him back; never pull an arrestee by the hair.) In this position, if the arrestee offers resistance, a light downward motion will force him to the ground and allow you to step back in order to apply another form of restraint.

Search one side of the arrestee with your weak hand from the top of the suspect's head to just below his pants pockets, as shown in Figure 2.

After searching one side of the suspect, reverse the above procedures and, search the other side.

When you intend to arrest a person but not to handcuff him, you should use the standing search position to make your first and only search complete and thorough (as described in The Full Search of an Arrestee on page 11).



Figure 2

The Kneeling Search Position

Of all search positions, this is the safest and should be used whenever possible when you intend to handcuff the suspect.

Order all arrestee to place his hands behind his head with his fingerinterlocked. Command him to kneel and cross his ankles with his toes pointing back and out, as shown in Figure 3. Then, pull the suspect back toward you by grasping his joined hands with your strong hand, thus placing pressure on his crossed legs and making it difficult for him to move. Do not let the arrestee sit back on his heels. Should it become necessary, a slight shove will send the suspect away from you, giving you time to apply another form of restraint.



Figure 3

The Prone Search Position

The prone search position is an unsafe method. It is not used often, but it may be the only position available in a situation involving a violent subject who has been subdued or a subject who refuses to stand up.

If you do use this method, order the subject to lie face down with his arms stretched out to the sides. Have the subject spread his legs wide apart or cross them so that he cannot make any sudden leg movements. Then, grasp the suspect's clothing near the rear of his collar and search for weapon at the small of the suspect's back, his rear belt area, and his rear trousers pockets, as shown in Figure 4. Handcuff him before searching further.

After the subject has been handcuffed, kneel on one side of him and search him thoroughly for weapons all along that side, starting from the upper portion of his body to his legs. You may lift the subject slightly to reach the front portions of his upper torso. When you have completed searching one side of the subject, move to a kneeling position on the other side and repeat the search process. When you have completed the search assist the subject to his feet.



Figure 4

The Wall Search

In past years great emphasis was placed on the wall search as the most efficient and expedient method of searching a suspect. This view, which was held throughout the law enforcement community, is no longer held unanimously, and the wall search is losing its status as an accepted technique.

Research and experience have shown that the wall search has serious deficiencies as a method because:

- it is impossible for some suspects to maintain the position for any length of time;
- it is impossible for some suspects to take the position at all;
- many dangerous suspects have acquired enough familiarity with the position to have devised ways of combating it;
- when dealing with more than one suspect an officer cannot keep them all in sight with this method, and the role of the cover officer becomes more complex;

- the method requires the aid of a barrier for the suspect to lean against, but the officer has no control over the nature of the available barrier;
- reflective surfaces (especially those on the police vehicle) can be a positive danger to an officer conducting a wall search because the suspect can see where the officer is behind him.

Furthermore, experience shows that officers tend to conduct wall searches in a lax fashion: for example, they fail to have the suspect bring his feet out from a fixed object sufficiently far to upset his balance; thus, the suspect merely leans against the fixed structure. It has also been found that a wall or a vehicle provides a point of leverage from which the suspect can rebound and attack the officer.

When at all possible, it is recommended that you use any other accepted method or position for searching in preference to the wall search method.

The policy of the Department is that the wall search is a dangerous search position and should be avoided.

The Full Search of an Arrestee

Whether or not the arrestee has been handcuffed to curtail his movements, he must be thoroughly searched for weapons and contraband. This search is normally conducted in the standing search position. An arrestee who has been kneeling or prone should be brought to his feet for this search.

The search position is generally the same as that described on page 7 of this bulletin; if the arrestee is not handcuffed, his hands should be kept behind his head with his fingers interlocked. The search differs from those previously described in its extent.

The places in which a person might hide a weapon or contraband are limited only by his imagination. It is your job when making a full search to assume nothing, to be systematic, and to be thorough. Do not assume, for example,

- that any person you have lawful authority to arrest is unarmed;
- that you have disarmed him during your cursory search;
- that you have disarmed him after removing one weapon; or
- that some innocuous item is not a potential weapon.

The following list indicates areas which should be given special attention:

- the palms of the hands;
- the arms and any garment sleeves;
- the shoulder blades in the center of the back;
- the neck and any garment collar;
- hair (especially females and large hair styles);
- lapels;
- neckties;
- watch pockets;
- pants pockets;
- belts, waistband, and surrounding area;
- crotch area; and
- trouser legs.

In addition, the following items should be searched after the primary body search:

- shoes (should be removed if suspicious for any reason);
- hats (should be searched inside and out; they should be removed during the cursory search and examined after the full search); and
- all objects the suspect may be carrying, such as lunchboxes, suitcases, purses, combs, and other small objects.

Be alert for the unexpected when conducting a search. Remember, the arrestee has the elements of surprise and reaction time in his favor. A desperate prisoner will not be awed by your uniform or the authority of your office.

Do not allow an unhandcuffed arrestee to pick up anything he lets fall to the ground and do not pick it up yourself until you can do so safely; he may be waiting for the opportunity to reach for a weapon or to attack you. He may be matching his wits against yours and gambling that you will not find the weapon he has concealed. Be suspicious of all requests an arrestee may make of you.

Do not assume that a frisk or search has been made by another officer, especially when there is more than one prisoner or more than one officer present. Moreover, do not assume that because another officer has conducted a search that an arrestee does not still possess any weapons or contraband.

SEARCHING FEMALE SUBJECTS

Laws governing search and seizure make no distinction between the treatment of men and women, and you may conduct a search of a person of either sex when necessary.

However, the search of a female always presents special problems and the usual procedure when an arrested female must be searched for evidence is to handcuff her hands behind her back and transport her to the jail to be searched by a female jailer.

You can and should search a female if you have probable cause to believe that she is armed with a deadly weapon.

Before beginning to search a female for weapons, instruct her to remove high heel shoes, if she is wearing them. You should order her to kick them off, rather than remove them by hand. (When transporting a female, do not return high heeled shoes to her; keep them in the front seat of your police vehicle.)

If the female is carrying a purse, take it from her and search it after you have completed your search of her person for weapons. You should also request the female to remove her coat, if she is wearing one. It can be searched later.

The following additional procedures are recommended for searching female subjects:

- Never search a female when you are alone. Always have a cover officer present.
- Search the female while standing behind her, as you would a man.
- Search her hair first. It is usually not necessary to disarrange the hair to any great degree, but a thorough search should be made because many hair styles (including wigs) make it possible to conceal weapons and contraband. Then ask her to put her hands on the back of her head.
- Begin your search by grasping the female's hands with your strong hand and searching with your weak hand as previously described.

- Before you search the front of a female subject's body, explain to her that you intend to conduct such a search and that you will do it in a manner which is designed to cause her a minimum of embarrassment.
- For your own protection, use the back of your hand when searching the sides of the female's body. Use your right hand for the left side and vice-versa.
- Search inside her blouse collar to be certain no weapon is affixed to a chain and hanging around her neck.
- Check the rear bra straps by sliding your fingers under the straps through the blouse.
- Remember to check the front bra straps. Any further search of this area, however, should be performed by a female police officer or a female jailer. If you note a weapon concealed in the bra you are well within your rights to remove it.
- If the suspect is wearing a dress or a skirt, handcuff her and grasp the lower edge of the garment through the suspect's legs from behind, as shown in Figure 5, and draw it back between the legs in a twisting motion. Any weapon will normally become visible beneath the dress once it has been tightened. If a weapon is felt or observed, remove it in order to search the thigh and leg, use the back of your hand.
- Shorts and slacks present no unique problems. While these garments are easier to search than dresses or skirts, the back of the hand should still be employed.

Female suspects have been found occasionally to have concealed weapons in the lower leg portion of a girdle. Usually when the dress is tightened such articles become apparent. A careful search of this area should, ideally, be conducted by a female police officer or a female jailer.



Figure 5

OTHER CONSIDERATIONS

Handling Evidence or Contraband

When you find evidence on a suspect's person, you should immediately call the discovery to the attention of your cover officer. The cover officer will then be able to testify in court as to the discovery.

You may find it difficult to recall where you found a piece of evidence on a suspect. One way to remember is to place the evidence on your own person in the same place, or as nearly as possible the same place. You should, however, never put a weapon in the front of your own gun belt.

When searching more than one subject, be certain that the evidence taken from one does not become mixed with that taken from another.

Procedure Following an Unproductive Search

In a situation where you do not have probable cause to arrest, and your frisk or cursory search does not disclose properly seize able evidence, you may, nevertheless, continue your detention of the person for a reasonable period of time until the conclusion of your investigation.

Returning Possessions.

If you do not arrest the person you frisk, any objects taken from him must be returned upon the completion of the detention.

Searching the Wrong Person

If you conclude that a person you have stopped and searched has not been involved in any wrong-doing, and your detention of the person ends in his or her release, take the time to explain why the stop occurred. The person will have been upset by the search, and you should try to leave him or her with some understanding and acceptance of the situation. Do not make an innocent person hostile to the Department.

CONCLUSION

This bulletin has presented the distinction between a cursory search and a full search. In discussing searches incident to an arrest, it has presented the general need for two searches – one before handcuffing, and one afterwards. It has indicated the areas of a subject's person – male or female – which should be searched and has discussed various search positions. It presents techniques for searching in terms of purpose, effectiveness, and safety.