

## SEARCHES - PERSONS

### PREAMBLE:

The Fourth Amendment to the U.S. Constitution guarantees the right of people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. This policy is intended to assist officers in making reasonable searches of persons.

### POLICY:

It is the policy of the Omaha Police Department (OPD) to search persons in order to remove weapons, locate evidence, and remove instruments of escape. OPD officers shall conduct Stop and Frisks and Custodial, Inventory, Strip, and Body Cavity Searches in accordance with all applicable laws and OPD policies and procedures.

### DEFINITIONS:

Articulable Facts: Facts that officers can verbalize which give rise to a reasonable suspicion that a person has committed, is committing, or is about to commit a crime.

Body Cavity Search: A search involving not only a visual inspection of skin surfaces but the internal physical examination of body cavities, and, in some instances, organs such as the stomach cavity.

Custodial Search: A search for weapons, evidence, instruments and/or contraband incident to a lawful arrest or of persons who are being taken into police custody, including Emergency Protective Custody or Civil Protective Custody (voluntary or involuntary). Custodial Searches will take place prior to transport of persons, when possible.

Frisk: A search within the meaning of the Fourth Amendment but is limited in purpose to the detection of concealed weapons.

Inventory Search: Process of taking and listing personal property for safekeeping, the protection of detention officers/personnel and preventing contraband from entering detention facilities. An Inventory Search is conducted as an extension of the Custodial Search and is conducted during the booking process.

Probable Cause: Probable Cause exists where facts and circumstances within the officer's knowledge are more probable than not to warrant a belief that the suspect has committed, or is in the process of committing a crime. Probable Cause is established by two building blocks: 1) An awareness of the articulated facts, and 2) A gathering of supportive evidence.

Reasonable Suspicion: Specific, reasonable inferences which the officer is entitled to draw from the facts in light of their experience. Reasonable Suspicion is something less than the Probable Cause standard and will not support an arrest. Reasonable Suspicion is established by three building blocks: 1) Specific articulated facts, 2) Rational inferences, and 3) Plausible conclusions.

Stop: A temporary seizure of a person short of an arrest.

Strip Search: Any search of an individual requiring a person to remove or arrange some or all clothing to permit inspection of genitals, buttocks, female breasts, or undergarments.

### PROCEDURE:

#### I. Stop and Frisk

- A. Generally, a police officer who has Reasonable Suspicion based on their own observations or authenticated information that a crime was, or is, about to be committed, may Stop and Frisk a person (NRS § [29-829](#); *Terry v. Ohio*, 392 U.S. 1, 21, (1968)).

**NOTE:** In a Stop and Frisk situation, justification of a warrantless search is based on an officer's belief that the individual presents a potential danger to the officer.

- B. A Stop and Frisk is used prior to arrest for officer safety to search for weapons only (NRS § [29-829](#)).

**NOTE:** The Frisk is not a search for evidence. Its sole objective is to determine if the individual who has been stopped possesses weapons.

- C. The following are required for a legal Stop and Frisk:

1. The officer must make a lawful stop (e.g., observes unusual conduct which leads them to Reasonable Suspicion).
2. The officer must reasonably believe that the person stopped may be armed and presently dangerous.

**NOTE:** A person in possession of or carrying a weapon alone, whether concealed or unconcealed, is not enough to justify a Stop and Frisk (NRS § [13-330](#); *Terry v. Ohio*, 392 U.S. 1, 21, (1968)). An officer must have Reasonable Suspicion that extends beyond a person being in possession of or carrying a weapon alone before stopping the person. See OPD's "[Weapons Offenses – Booking and Charges](#)" policy for more details.

3. The officer must identify themselves as a police officer.
4. The officer must make reasonable inquiries.
5. The officer's concern for their own safety or the safety of others is not dispelled by the listed inquiries.

- D. Officers shall thoroughly articulate the above reasons for the Stop and Frisk in any applicable reports (i.e., Incident Report, Information Report, Field Contact/Observation Card, etc.).

1. Officers shall, at a minimum, complete a Field Contact/Observation Card to document the above reasons for the Stop and Frisk if no other report is completed. (See the OPD "[Information Gathering and Field Observation \(FO\) Card](#)" policy for procedures on completing the report).

- E. Stops.

1. A police officer may stop any person in a public place whom they reasonably suspect of committing, who has committed, or who is about to commit a crime and may demand their name, address, and an explanation of their actions (NRS [§29-829](#)).
2. The "Model Rules for Law Enforcement" on "Stop and Frisk" has listed guidelines that may be considered in deciding on Reasonable Suspicion for a stop including:

- a. The Person's Appearance:

- (1) Does the person generally fit the description of a person wanted for a known offense?

- (2) Does the person appear to be suffering from a recent injury, or to be under the influence of alcohol, drugs, or other intoxicants?
- b. The Person's Actions:
  - (1) Is the person running away from an actual or possible crime scene?
  - (2) Is the person otherwise behaving in a manner indicating possible criminal conduct? If so, in what way?
  - (3) Were incriminating statements or conversations overheard?
  - (4) Is the person with companions who themselves are reasonably suspicious?
- c. Prior Knowledge of the Person:
  - (1) Does the person have an arrest or conviction record, or is the person otherwise known to have committed a serious offense?
  - (2) If so, is it for offenses similar to one that has just occurred, or which the officer suspects is about to occur?
  - (3) Does the officer know of the person's record?
- d. Demeanor During the Contact:
  - (1) If the person responded to questions during the contact, were the person's answers evasive, suspicious or incriminating?
  - (2) Was the person excessively nervous during the contact?
- e. Area of the Stop:
  - (1) Is the person near the area of a known offense soon after its commission?
  - (2) Is the area known for criminal activity (a high crime area)?
  - (3) If so, is it the kind of activity the person is thought to have committed, be committing, or about to commit?
- f. Time of Day:
  - (1) Is it a very late hour?
  - (2) Is it usual for people to be in the area at this time?
  - (3) Is it the time of day during which criminal activity of the kind suspected usually occurs?
- g. Police Training and Experience:
  - (1) Does the person's conduct resemble the pattern or *modus operandi* followed in particular criminal offenses?

- (2) Does the investigating officer have experience in dealing with the particular kind of criminal activity being investigated?

h. Police Purpose:

- (1) Was the officer investigating a specific crime or specific type of criminal activity?
- (2) How serious is the suspected criminal activity?
- (3) Might innocent people be endangered if investigative action is not taken at once?

i. Source of Information:

- (1) If the basis of the officer's Reasonable Suspicion is, in whole or in part, information supplied by another person, what kind of person is the information source?
- (2) Is the person a criminal informant, a witness, or a victim of a crime?
- (3) How reliable does the person appear to be?
- (4) Has the person supplied information in the past that proved to be reliable?
- (5) Is the person known to the officer?
- (6) Did the officer obtain the information directly from the person?
- (7) How did the person obtain the information?
- (8) Was any part of the information corroborated prior to making the stop?

3. These above guidelines are applicable to only police stops as defined above and DO NOT APPLY:

- a. When merely talking to a person so long as they are free to go.
- b. When stopping an individual in order to make an arrest.
- c. In situations where officers detain an individual but do not have Probable Cause to arrest them.

4. Officers shall thoroughly articulate the above reasons for the Stop in any applicable reports (i.e., Incident Report, Information Report, Field Contact/Observation Card, etc.).

F. Frisks

1. To conduct a valid Frisk, officers shall have Reasonable Suspicion that their safety or that of another person in the vicinity is in danger because a particular person might be carrying a weapon or dangerous instrument for the purpose of harming someone or for use in committing some other type of crime.

**NOTE:** A person in possession of or carrying a weapon alone, whether concealed or unconcealed, is not enough to justify a Stop and Frisk (NRS § [13-330](#); *Terry v. Ohio*, 392

U.S. 1, 21, (1968)). An officer must have Reasonable Suspicion that extends beyond a person being in possession of or carrying a weapon alone before stopping and frisking the person. See OPD's "[Weapons Offenses – Booking and Charges](#)" policy for more details.

2. The following list contains factors that alone or in combination may be sufficient to create Reasonable Suspicion for a Frisk:
  - a. The Person's Appearance:
    - (1) Do the person's clothes bulge in a manner suggesting the presence of any object capable of inflicting injury?
  - b. The Person's Actions:
    - (1) Did the person make a furtive movement, as if to hide a weapon, as the person was approached?
    - (2) Is the person nervous during the course of the detention?
    - (3) Are the person's words or actions threatening?
  - c. Prior Knowledge:
    - (1) Does the officer know if the person has a police record for weapons offenses?
    - (2) For assaults (on police officers or others)?
    - (3) Does the officer know if the person has a reputation for carrying weapons illegally or for violent behavior?
  - d. Location:
    - (1) Is the area known for criminal activity (i.e., a "high crime" area)?
    - (2) Is the area sufficiently isolated so that the officer is unlikely to receive aid if attacked?
  - e. Time of Day:
    - (1) Is the confrontation taking place at night?
    - (2) Does this contribute to the likelihood that the officer will be attacked?
  - f. Police Purpose:
    - (1) Does the officer's suspicion of the suspect involve a serious and violent offense such as an armed offense? If so, the same factors justifying the Stop also justify the Frisk.
  - g. Companions:
    - (1) Has the officer detained a number of people at the same time?

- (2) Has a Frisk of a companion of the suspect revealed an illegal weapon or a weapon possessed illegally?
  - (3) Does the officer have assistance immediately available to handle the number of persons they have stopped?
- 3. Officers shall thoroughly articulate the above reasons for the Frisk in any applicable reports (i.e., Incident Report, Information Report, Field Contact/Observation Card, etc.).
- 4. A Frisk will consist of a thorough pat down, but only over exterior clothing. Officers may go inside a heavy overcoat if necessary for an effective pat down, but not inside the clothing normally worn inside a building, such as a jacket or sweater. Jacket or sweater pockets may be patted down from the exterior.
  - a. If Reasonable Suspicion exists that a person has hidden metal weapons or objects on them, officers may use a metal detection wand to search the person during a Frisk, if available.
- 5. When possible, persons will be frisked by an officer of the same sex if such an officer is on-scene or can arrive within a reasonable period of time.
  - a. If the situation demands that a suspect be frisked and an officer of the same sex is unavailable, the frisk will not be delayed until an officer of the same sex can be located.
  - b. Officers of the opposite sex will adhere to the following guidelines when frisking a suspect:
    - (1) Officers will conduct the frisk in view of an MVR and/or another officer's Body Worn Camera. If no MVR or BWC is available, another officer will be present to witness the search.
    - (2) Officers will note in their reports or a Field Contact/Observation Card if the search was recorded, and if not why, and the name and serial number of the officer who witnessed the search.
    - (3) When conducting a frisk on a suspect of the opposite sex, the scope of the search will be for WEAPONS only, to include the waistband, checking pockets with the backside of the hand, and outer garments.

**NOTE:** If an officer is uncertain of the gender of the person being frisked, they will respectfully inquire as to the person's gender. Officers will not question the identity of the person absent articulable, compelling reasons, nor inquire about the intimate details of an individual's anatomy. Searches will be conducted based on the gender with which that person identifies.

G. Other Incriminating Evidence.

- 1. If during a legal frisk, an officer feels an item other than a weapon that the officer has Probable Cause to believe is evidence of a crime, the officer may seize that evidence.
- 2. The incriminating nature of the item must be immediately apparent to the officer.
  - a. The incriminatory nature of the item is immediately apparent if the officer at that moment has Probable Cause to associate the item with criminal activity (contraband, stolen property, or useful as evidence of a crime).

3. The officer shall not manipulate the item in order to ascertain the incriminating character where it is not immediately apparent to the officer.
- H. Concealed/Unconcealed Weapons (NRS § [13-330](#), [28-1201 – 28-1202.04](#), [69-2427 – 69-2439](#), [69-2442 – 69-2449](#)).
  1. Citizens have the right to carry concealed/unconcealed weapons if they comply with all applicable laws. Officers shall adhere to the OPD [“Weapons Offenses – Booking and Charges”](#) policy when stopping a person carrying concealed/unconcealed weapons.

## II. Custodial Search

- A. A Custodial Search is a search for weapons, evidence, instruments, and/or contraband and is used in the field incident to a lawful arrest and prior to transporting persons who are being taken into police custody including Emergency Protective Custody or Civil Protective Custody (voluntary or involuntary). Custodial Searches will take place prior to transport of persons, when possible.
- B. When an officer has made a lawful physical arrest and the violation requires physical custodial incarceration per Nebraska State Statutes and OPD policies and procedures, the officer shall make a thorough search of the person, subject to Section D below, and the surrounding area under the person's direct control.
  1. A Custodial Search will consist of a full search of the clothing and personal property in the person's actual possession, (e.g., briefcase, suitcase, or other items within their reach, a desk drawer if they are sitting at a desk, etc.).
  2. Incident to an arrest, officers may, as a precautionary matter and without Probable Cause or Reasonable Suspicion, look in closets and other spaces immediately adjoining the place of arrest from which an attack could be immediately launched (Chimel v. California).
    - a. A protective sweep, aimed at protecting the arresting officers, is NOT a full search of the premises, but may extend only to a cursory inspection of those spaces where a person may be found.
    - b. A protective sweep will last no longer than is necessary to dispel the Reasonable Suspicion of danger and shall, in all cases, last no longer than it takes to complete the arrest and depart the premises.
  3. If Reasonable Suspicion exists that an arrestee has hidden metal weapons or objects on themselves, officers may use a metal detection wand on an arrestee in the field prior to transport.
    - a. Metal detection wands are available in UPB Sergeant cars, at OPD Headquarters, and at Douglas County Department of Corrections (DCDC).
- C. Officers will adhere to the OPD [“Searches – Vehicles”](#) policy when searching a vehicle incident to an occupant's arrest.
- D. Gender Considerations.
  1. Female Subject / Male Officer(s).
    - a. Male officers shall not conduct Custodial Searches of female subjects.

- b. Male officers who need to conduct a Custodial Search of a female subject shall request a female officer to meet them in the field to complete the Custodial Search of the female subjects.
  - (1) The location of this meeting will be determined by how close the nearest available female officer is to the requesting officer's location.
    - (a) If the female officer is reasonably close to the location, the officers will meet at the location.
    - (b) If the female officer is not reasonably close to the location, the officers may meet at a location of mutual agreement.
      - (i) In this situation, the male officer(s) shall take the following actions.
        - (I) Conduct a cross-gender pat-down prior to transporting the subject to the meeting location.
        - AND –
        - (II) Ensure arrestees and other subjects who have been placed into handcuffs remain handcuffed and under observation at all times until the female officer completes the Custodial Search.
  - (2) At the meeting location, the female officer shall conduct a thorough Custodial Search of the subject.
    - (a) The female officer shall remove all personal property and items of evidential value from the female subject, and place the items into an evidence bag/envelope.
      - (i) The evidence bag/envelope will remain with the male officer(s) after the search, and will be transported to the location that is receiving the subject and/or to OPD Evidence/Property Unit, if evidence.
  - (3) When the search is complete, the female officer will return to service and the male officer(s) will transport the subject.
- NOTE:** Time and distance shall be considered. If a female OPD officer is not reasonably available within a timely manner and/or reasonable distance, the male officer(s) shall follow procedures as though no female officer is available to meet them in the field.
- c. In an arrest situation, if no female officers are available to meet the male officer(s) in the field to conduct a Custodial Search of a female arrestee, the male officer(s) shall contact a Sergeant.
  - (1) The Sergeant shall confirm that no female officers are available and then call the DCDC Watch Commander (See [PPM Appendix A](#) for the phone number) to explain the situation.



(a) The DCDC Watch Commander will locate a female Corrections officer to conduct the search upon the arrestee's arrival at DCDC.

(i) In this situation, the arresting male officer(s) shall take the following actions:

(I) Conduct a cross-gender pat-down prior to transporting the arrestee to DCDC.

– AND –

(II) Ensure the arrestee remains handcuffed and under observation at all times until the female Corrections officer completes the Custodial Search at DCDC.

d. In an EPC or CPC situation, if no female officers are available to meet the male officer(s) in the field to conduct a Custodial Search of a female EPC or CPC subject, the male officer(s) shall contact a Sergeant for direction.

## 2. Male Arrestee / Female Officer(s).

a. Whenever possible, male subjects will be searched by a male officer if such an officer is on-scene or can arrive within a reasonable period of time.

b. If no male officer is available to search a male subject, a female officer may complete the Custodial Search. A female officer in this situation shall adhere to the following guidelines when searching a male subject:

(1) Female officers will adhere to the guidelines for frisking a suspect of the opposite sex, including recording and reporting procedures, and will limit the scope of the search to be for WEAPONS ONLY, to include the waistband, checking pockets with the backside of the hand, and outer garments.

(2) If an item that appears to be a weapon is felt during the search, officers may retrieve the item regardless of the gender of the subject.

(3) In an arrest situation, female officers will then transport the male subject to the DCDC for a full Custodial Search.

**NOTE:** In an EPC or CPC situation, female officers will then transport the male subject to the receiving facility and advise personnel they were unable to complete a full Custodial Search of the subject.

## 3. Non-Traditional Gender Identity/Expression.

a. If the officer is uncertain as to the sex of the subject, the officer will adhere to the following procedures:

(1) The subject's gender will be determined based upon the sex listed on their valid government-issued ID.

(2) If the officer cannot locate the subject's valid government-issued ID, the subject's gender will be determined based on the sex listed in an official government/law enforcement database.

- (3) If the officer cannot locate the subject listed in a government database, the officer will politely and respectfully inquire as to their gender.
  - (i) In this situation, officers will not question the gender identity provided by the subject absent articulable, compelling reasons, nor will officers inquire about the intimate details of their anatomy.
- (4) If a subject informs an officer that they identify as a gender that is different from the subject's legally-documented sex, or if the subject requests that an officer of another sex conduct the search, the officer should request an officer of that gender to be present during the search.
- (5) If there is any doubt as to who should perform the search, an officer should notify a supervisor and request that the supervisor respond to the scene prior to searching, unless a delay would jeopardize officer or public safety.

### III. Inventory Search

- A. The purpose of an Inventory Search is to inventory and take personal property for safekeeping, to protect detention personnel, and to prevent contraband from entering DCDC.

**NOTE:** Any evidence found as a result of an Inventory Search may be admissible as evidence.

- B. Officers shall conduct an Inventory Search on all arrestees prior to entering the DCDC booking area. An Inventory Search is conducted at DCDC after the arrest as a standard part of the booking procedure prior to incarceration and will consist of a careful and complete search of the person and their property prior to turning the person over to DCDC staff.

- 1. Officers shall adhere to the following procedures when completing Inventory Searches at the DCDC:

- a. All arrestees shall remain handcuffed and restrained during the entire booking process.

**EXCEPTION:** Cooperative, non-combative arrestees may be unrestrained/uncuffed in order to remove their own piercings, hair clips, and jewelry. Once these items are removed, the restraints shall be reapplied.

- b. Upon arrival at the DCDC, officers shall enter the Admission/Pre-Booking area, place the arrestee into the area of the floor marked with a red outlined box, and immediately conduct a pat-down search.

- (1) The pat-down search can be conducted by an officer of the same gender as the arrestee or an officer of the opposite gender, but must be done on ALL arrestees regardless of any searches that were conducted prior to arriving at DCDC.

**NOTE:** This "red box" area is under constant surveillance, so all actions within are observed and recorded by DCDC staff.

- c. Prior to an arrestee's handcuffs being removed and prior to having an arrestee remove any part of their clothing, officers shall use a metal detection wand to search the arrestee and their belongings.

- (1) If the arrestee was not searched with a metal detection wand prior to transport, officers shall use the wand to search them upon arrival at DCDC.
- (2) Metal detection wands are available at DCDC in the Pre-Booking area. Metal detection wands are also available in UPB sergeant cars and at OPD Headquarters.

d. Gender Considerations.

- (1) Male suspects will be searched by a male OPD officer and female suspects will be searched by a female OPD officer, whenever possible.
  - (a) DCDC staff will not assist with the search. OPD officers shall request additional OPD officers to meet them at DCDC to assist, if needed.
  - (b) If officer staffing is an issue, the arresting officer(s) shall contact an on-duty OPD Lieutenant or higher-ranked Command Officer who will then contact DCDC for a resolution.
- (2) Same-gender officers shall conduct a full Inventory Search of the arrestee in the “red box” area.
- (3) On the rare occasion that an opposite-gender search is required, officers shall conduct a cross-gender pat down of the arrestee in the “red box” area.
- (4) Non-Traditional Gender Identity/Expression.
  - (a) If an officer is uncertain as to the sex of a suspect, the officer will adhere to the following procedures:
    - (i) The suspect’s gender will be determined based upon the sex listed on the suspect’s valid government-issued ID.
    - (ii) If the officer cannot locate the suspect’s valid government-issued ID, the suspect’s gender will be determined based on the sex listed in an official government/law enforcement database.
    - (iii) If the officer cannot locate the suspect listed in a government database, the officer will politely and respectfully inquire as to the person’s gender.
      - (l) In this situation, officers will not question the gender identity provided by the suspect absent articulable, compelling reasons, nor will the officer inquire about the intimate details of the suspect’s anatomy.
  - (b) If a suspect informs an officer that they identify as a gender that is different from the suspect’s legally-documented sex, or if the suspect requests that an officer of another sex conduct the search, the officer should request an officer of that gender to be present.

- (c) If there is any doubt as to who should perform the search, an officer should notify a supervisor and request that the supervisor respond to the scene prior to searching, unless a delay would jeopardize officer or public safety.
  - e. Shoes shall be removed and searched.
  - f. All property shall be placed in the property bags provided by DCDC and itemized as required by DCDC policy, including cellular telephones, items of evidentiary value, implements of escape, etc.
    - (1) The personal property bag(s) shall be labeled according to DCDC policy and will indicate the name and date of birth of the arrestee, as well as any other information required by DCDC.
    - (2) DCDC may require the officer to complete a DCDC inventory form for bags or other external containers containing the arrestee's personal property.
    - (3) The personal property bag(s) shall be placed into the DCDC property pass through bin which is located below the booking window.

**NOTE:** DCDC will allow pocket knives under three inches (3") in length to be placed in the arrestee's personal property. Knives over three inches (3") in length will be either booked as OPD evidence, if appropriate, or released to a responsible person.
  - g. Drugs, weapons, and other contraband shall be taken from the arrestee, secured, and documented per OPD policies and procedures.

**NOTE:** As a reminder, cellular telephones will not be searched without a warrant. (See the "[Evidence — Search and Seizure of Cellular Phones and Electronic Devices](#)" policy).
  - h. Coats and outerwear shall be removed.
  - i. All bags, purses, etc. shall be thoroughly searched.
  - j. Any item(s) in the arrestee's possession that are considered evidence of criminal activity shall be set aside and booked as evidence per OPD policy.
- C. OPD officers shall not be dispatched to DCDC to perform Inventory Searches for outside agencies. Officers who are inadvertently dispatched to DCDC to conduct an Inventory Search for an outside agency shall contact their supervisor. The supervisor shall contact the outside agency representative. Outside agencies shall be directed to contact a DCDC supervisor for assistance with arrestee searches.

#### IV. Strip/Body Cavity Searches

- A. The Omaha Police Department recognizes that use of strip searches and body cavity searches may, under certain conditions, be necessary to make certain of the safety of officers, civilians and detainees, to detect and secure evidence of criminal activity, and to safeguard the security and safety of facilities. Strip searches and body cavity searches shall be conducted only with proper authorization and justification, and with regard for the human dignity of those being searched.

B. Strip Searches.

1. Individuals arrested for traffic violations and other minor offenses of a nonviolent nature will not be subject to strip searches unless the arresting officer has Reasonable Suspicion that the individual is concealing contraband or weapons.
2. Reasonable Suspicion may be based upon, but is not limited to, the following:
  - a. The nature of the offense(s) charged.
  - b. The arrestee's appearance and demeanor.
  - c. The circumstances surrounding the arrest.
  - d. The arrestee's criminal record, particularly past crimes of violence and narcotics offenses.
  - e. The discovery of evidence of a major offense in plain view or in the course of a search incident to arrest.
  - f. Detection of suspicious objects beneath the suspect's clothing during a field search incident to arrest.
3. Officers shall clearly articulate the reason for the strip search in the appropriate report.

**NOTE:** If no other report is completed, officers shall complete an Information Report detailing the reasons for the strip search whenever one is conducted.
4. All adult strip searches, including field strip searches, will be approved by a command officer at the rank of Lieutenant or above.

**EXCEPTION:** Narcotics Unit Sergeants may approve strip searches including field strip searches.
5. All juvenile strip searches shall be approved by a command officer at the rank of Captain or above, and will be approved only when exigent circumstances exist.
6. Field strip searches of arrestees will be conducted only when exigent circumstances exist, and only in privacy.
7. When authorized by the supervising authority, strip searches may be conducted only under the following circumstances:
  - a. By officers who are familiar with the process.
  - b. In conformance with hygienic procedures and professional practices.
  - c. In a place that is not accessible to the public and where general access is restricted (preferably at the DCDC or another area that affords privacy, such as an interview room).
  - d. By the fewest number of officers necessary and only by those of the same sex.
  - e. Under conditions that provide privacy from all but those authorized to conduct the search.

8. If a suspect consents to be strip searched, the involved officer(s) shall complete the “strip search” section of [OPD Form 5](#) (Permission for Search) to document the suspect’s consent. This shall be done prior to conducting the consensual strip search.
  - a. If the suspect refuses to sign [OPD Form 5](#), then the officer(s) shall not conduct a consensual strip search.
9. Following a strip search, the officer performing the search will submit a Supplementary Report clearly articulating the Reasonable Suspicion and, at a minimum, the following:
  - a. Date, time, and place of the search.
  - b. Identity of the officer conducting the search.
  - c. Identity of the approving authority (Lieutenant or above).
  - d. Identity of the individual searched.
  - e. Those present during the search.
  - f. A detailed description of the nature and extent of the search.
  - g. Any weapons, evidence, or contraband found during the search.

C. Body Cavity Searches.

1. Body cavity searches shall only be conducted with a warrant approved and authorized by a Judge.
2. Officers shall recognize that a body cavity search is highly invasive of personal privacy and is reasonable only where the suspected offense is of a serious nature and/or poses a threat to the safety of officers or others.
3. Officers will adhere to the following procedures if visual examination of a suspect during a strip search and/or other information led an officer to believe the suspect is concealing a weapon, evidence, or contraband within a body cavity:
  - a. If circumstances warrant, the officer will advise the suspect of the Miranda warnings prior to questioning the suspect to determine the nature and location of the contraband. (See the “[Miranda Warning — Law of Interrogation](#)” policy). This approach may influence the suspect to voluntarily remove the evidence or contraband.
  - b. The suspect will be kept under constant visual surveillance until a body cavity search is conducted or an alternative course of action is taken.
  - c. The officer will consult with their immediate supervisor to determine whether Probable Cause exists to seek a search warrant for a body cavity search.
    - (1) The decision to seek a search warrant will be authorized only by a command officer at the rank of Lieutenant or above.
  - d. If Probable Cause exists for a body cavity search, an affidavit for a search warrant will be prepared that clearly defines the nature of the alleged offense and the basis for the officer’s Probable Cause.

- e. On the basis of a search warrant, a body cavity search will be performed only by an authorized agency physician or by another medically trained employee at the physician's direction.
  - (1) The authorized medical professional conducting the search will give a copy of the medical report to the requesting law enforcement agency. The witnessing officer will co-sign that report and include a copy in the case file.
- f. For safety and security reasons, the search will be conducted at a medical facility with an officer of the same sex present to secure recovered evidence and maintain the evidentiary chain of custody.
  - (1) In the extremely rare case when a juvenile body cavity search warrant is approved and authorized by a Judge, such body cavity search shall be conducted by a medical professional at Methodist Children's Hospital.
- g. Body cavity searches will be performed with due recognition of privacy and hygienic concerns.
- h. Following a body cavity search, the officer(s) directing such search will submit a Supplementary Report articulating the Probable Cause and, at a minimum, the following:
  - (1) Date, time, and place of the search.
  - (2) Identity of the officer(s) directing medically trained employees to perform the search.
  - (3) Identity of the approving authority (Lieutenant or above).
  - (4) Identity of the individual searched.
  - (5) All those present during the search.
  - (6) A detailed description of the nature and extent of the search.
  - (7) Any weapons, evidence, or contraband found during the search.

D. Non-Traditional Gender Identity/Expression.

- 1. If an officer is preparing to conduct a strip search or body cavity search, but is uncertain as to the sex of a suspect, the officer will adhere to the following procedures.
  - a. The suspect's gender will be determined based upon the sex listed on the suspect's valid government-issued ID.
  - b. If the officer cannot locate the suspect's valid government-issued ID, the suspect's gender will be determined based on the sex listed in an official government/law enforcement database.
  - c. If the officer cannot locate the suspect listed in a government database, the officer will politely and respectfully inquire as to the person's gender.

- (1) In this situation, officers will not question the gender identity provided by the suspect absent articulable, compelling reasons, nor will the officer inquire about the intimate details of the suspect's anatomy.
2. If the suspect informs an officer that they identify as a gender that is different from their legally-documented sex, or if the suspect requests that an officer of another sex conduct the search, the officer should request an officer of that gender to be present.
3. If there is any doubt as to who should perform the search, an officer should notify a supervisor and request that the supervisor respond to the scene prior to searching, unless a delay would jeopardize officer or public safety.

## REFERENCES:

### I. Laws

- A. U.S. Constitution, Amendment 4.
- B. *Terry v. Ohio*, 392 U.S. 1, 21, (1968); *Chimel v. California*, 395 U.S. 752, 89 S. Ct. 2034, 23 L. Ed. 2d 685 (1969); *U.S. v Stewart*, 2016 WL 7017258, \*2 (D. Neb. 2016); and *Maryland v. Buie*, 494 U.S. 325, 110 S. Ct. 1093, 108 L. Ed. 2d 276 (1990).
- C. Nebraska Revised Statutes: NRS § [13-330](#), [28-1201 – 28-1202.04](#), [29-829](#), [69-2427 – 69-2439](#), [69-2442 – 69-2449](#).

### II. Previous OPD Orders

- A. Previous General Orders: #96-74, 79-89, 80-89, 10-97, 62-02, 7-10, 16-11, and 75-17, 48-20, 48-20 Supplemental #1, 43-21, 43-21 Supplemental #1, 17-23, 17-23 Supplemental #1 and 2, and 4-25.

### III. CALEA Accreditation Standards

- A. Relevant CALEA Accreditation Standards: 1.2.4, 1.2.8, 70.1.1.