

## Custodial Searches

### 903.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Irvine Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

#### 903.1.1 DEFINITIONS

Definitions related to this policy include:

**Pat-Down Search** - This is the normal type of search used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the prisoner, or other prisoners.

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - 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.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

### 903.2 POLICY

All 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.

### 903.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

# Irvine Police Department

## Policies

### *Custodial Searches*

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#### **903.4 SEARCHES AT POLICE FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Irvine Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual 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.

##### **903.4.1 GENDER SEARCH REQUIREMENTS**

If an arrestee of the opposite gender of both the transporting officer and custody officer is brought into the secured facility, the custody officer shall request either a police matron clerk or an officer of the same gender as the arrestee to conduct the search, and be present for any direct contact.. This is meant to include searching of juveniles during juvenile detentions at the police station.

Employees are not to search or enter the cell of a prisoner of the opposite gender, unless another same-gender employee is present.

In the event an employee is not readily available to search incoming prisoners and conduct safety inspections every 30 minutes, the prisoner shall be transported to the county jail or other appropriate facility, or released pursuant to another lawful process (e.g., citation, O.R. release, etc.).

##### **903.4.2 MATRONS**

The police matron clerk is not a custody officer as defined in Penal Code §831 and need not meet the training requirements established by the Corrections Standards Authority in PC §6035. Personnel employed in the classifications below, however, must successfully complete a Jail Security Clerks/Matrons Course.

Matrons do not have the responsibility or the authority for the custody of the arrestee. That responsibility belongs to the custody officer or arresting officer. The matron does not take "delivery" of arrestees, nor does she perform any portion of the booking process. The person performing matron duties will:

- (a) Conduct pat-down searches.
- (b) Escort and remain present with the arrestee during restroom use or the obtaining of a blood or urine sample.
- (c) At the custody officer's request, assist with the arrestee safety check.
- (d) Remain available to the custody officer while the arrestee is in the facility.

The police matron clerk should be a non-sworn, female employee in the following classifications:

- (a) Police Lead Records Specialist
- (b) Police Records Specialist

# Irvine Police Department

## Policies

### *Custodial Searches*

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- (c) Public Safety Dispatcher Supervisor
- (d) Public Safety Dispatcher
- (e) Public Safety Assistant

#### **903.5 STRIP SEARCHES**

No person arrested and held in custody on a misdemeanor or infraction offense, except those involving weapons, possession of controlled substances or violence, shall be subjected to a strip search or visual body cavity search prior to placement in the general jail population unless an officer has determined that there is reasonable suspicion based upon specific and articulable facts to believe such person is concealing a weapon or contraband which would be discovered by such a search (Penal Code § 4030(f)).

- (a) No strip search or visual body cavity search shall be conducted without prior written authorization from a supervisor. The time, date, and place of the search, the name and gender of the person conducting the search and a statement of the results of the search shall be recorded in the arrest record. A copy of the written authorization and recorded information shall be retained and made available to the arrestee or other authorized representative upon request .
- (b) All strip and visual body cavity searches shall be conducted under sanitary conditions and in an area of privacy so that the search cannot be observed by persons not participating in the search (Penal Code § 4030(m)).
- (c) Unless conducted by a physician or other licensed medical personnel, the officer(s) conducting the strip search or visual body cavity search shall be of the same gender as the person being searched (Penal Code § 4030(l)).
- (d) Whenever possible, a second officer of the same gender should also be present during the search, for security and as a witness to the finding of evidence.
- (e) The officer conducting a strip search or visual body cavity search shall not touch the breasts, buttocks or genitalia of the person being searched (Penal Code § 4030(j)).
- (f) No employee should view an arrestee's private underclothing, buttocks, genitalia or female breasts while that person is showering or changing clothes unless the arrestee otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the arrestee with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the arrestee's consent and/or otherwise protect the arrestee's privacy and dignity.

Nothing in this policy section shall prohibit the otherwise lawful collection of trace evidence from an arrestee in accordance with the provisions of (c) through (f) above and based on a valid exigency, consent or a search warrant.

# Irvine Police Department

## Policies

### *Custodial Searches*

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#### 903.5.1 STRIP SEARCH PROCEDURES

Strip searches at Irvine Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the watch commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search.
- (d) The search area should be equipped with a fixed video camera that captures the movement of staff members, but not to show the arrestee while the strip search is conducted.
- (e) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (f) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (g) The primary member conducting the search shall prepare a written report to include:
  - 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 individual who was searched.
  - 5. The name and sex of the members who conducted the search.
  - 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, that were recovered.
  - 10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (h) No member of the opposite gender should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

# Irvine Police Department

## Policies

### *Custodial Searches*

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- (i) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the watch commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.
- (j) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

#### **903.6 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

- (a) No individual shall be subjected to a physical body cavity search without written approval of the watch commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.
- (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:

# Irvine Police Department

## Policies

### *Custodial Searches*

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1. The facts that led to the decision to perform a physical body cavity search of the individual.
  2. The reasons less intrusive methods of searching were not used or were insufficient.
  3. The watch commander's approval.
  4. A copy of the search warrant.
  5. The time, date and location of the search.
  6. The medical personnel present.
  7. The names, sex and roles of any department members present.
  8. Any contraband or weapons discovered by the search.
- (f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

#### **903.7 TRAINING**

The Training Manager shall ensure members have training that includes (28 CFR 115.115):

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