

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: STRIP AND BODY CAVITY SEARCH

C-550

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REFERENCE: Way v. County of Ventura (9th Cir. 2006) 445 F.3d 1157; Craft v. County of San Bernardino (C.D. Cal. 2006) 468 F.Supp.2d 1172; Bull v. City & County of San Francisco (N.D. Cal.) 2006 U.S. Dist. LEXIS 9120, PC 4030, DPPM F-100, F-200, DBPPM P-410, State of California Office of the Attorney General Opinion No. 17-302

POLICY

The Detentions Bureau recognizes that strip searches, visual body cavity searches, and physical body cavity searches are at times necessary to resolve a deputy's suspicion that an incarcerated person is concealing a weapon or contraband that poses a threat to the safe, secure, orderly, and controlled environment of the facilities and the safety of staff, other incarcerated people, and/or the public.

The Bureau also recognizes that such searches are necessarily intrusive of an individual's privacy rights and, as such, require greater justification than other less intrusive searches.

To ensure that such searches are conducted only when adequate justification exists and do not intrude upon an incarcerated person's privacy any more than is reasonably necessary to meet the security and safety objectives of the search, the following policy will be adhered to.

DEFINITIONS

When used in this policy:

- **Clothing Exchange** means a process by which incarcerated people exchange one set of clothing for another. Clothing exchanges will be conducted in private (e.g., behind a closed privacy partition).

- **Forced Clothing Removal** means the use of reasonable force to remove an incarcerated person's clothing. It is necessary that an incarcerated person be readily identifiable by their clothing to confirm proper housing and to prevent access to prohibited areas of the facilities or escape from custody. It is also necessary to ensure that an incarcerated person being placed on suicide watch or in a safety cell be dressed in an appropriate safety garment.

For the purposes of this policy the forcible removal of clothing is not a strip search; it is a use of force pursuant to DPPM F-100. Reasonable force may be used to forcibly remove clothing when an incarcerated person refuses a lawful order to exchange one set of clothing for another (e.g., exchanging civilian clothing for incarcerated person clothing, exchanging specific color of incarcerated person clothing upon transfer or change of classification) after being given a reasonable opportunity to comply. All forced clothing removals shall be conducted by staff of the same sex as the incarcerated person and shall be documented with a JMS incident report and an Incident Report in accordance with DPPM F-200 and Section A-1500 of this manual.

Note: If a forced clothing removal is conducted on a transgender or intersex incarcerated person, staff conducting the forced clothing removal shall be of the gender indicated on the incarcerated person's Gender Search Preference Form.

- **Contact Visit** means a visit in which the incarcerated person and the visitor are not separated by a barrier that prevents the passing of contraband.
- **Strip Search** means a search requiring a person to remove or arrange some or all of their clothing so as to permit a visual inspection of the underclothing, female breasts, buttocks, or genitalia of such person by a Sheriff's Office staff member.
- **Visual Body Cavity Search** means the visual inspection of the anal and/or vaginal area, generally requiring the subject to bend over and spread the cheeks of the buttocks, to squat, and/or otherwise expose body cavity orifices.
- **Physical Body Cavity Search** means physical intrusion into a body cavity for the purpose of discovering any object concealed in the body cavity.

DIRECTIVE #1

All strip searches and/or visual body cavity searches that are to be conducted based on reasonable suspicion must be authorized and approved by the shift supervisor in writing **prior** to the search being conducted.

DIRECTIVE #2

All authorized strip searches and/or visual body cavity searches that are conducted based on reasonable suspicion will be documented in a JMS incident report.

DIRECTIVE #3

Staff will adhere to the following provisions when conducting a strip search and/or visual body cavity search:

- Staff will conduct any search of an incarcerated person in a professional, equal, and impartial manner so as not to harass or cause humiliation to the incarcerated person. Staff will refrain from making any degrading or humiliating comments during a search.
- Staff will use only that amount of force reasonably necessary to conduct a legitimate search on an uncooperative arrestee or incarcerated person.
- Staff may immediately seize any contraband or weapon an incarcerated person is attempting to destroy, conceal, or use against any person if the delay in obtaining a staff member of the same sex, or gender indicated on a Gender Search Preference Form, would result in the destruction of evidence or a threat to the safety of any person.
- Staff will not conduct strip searches and/or visual body cavity searches of any incarcerated person within the view of any other incarcerated people, including other incarcerated people who are also being searched. **“Group strip searches” are prohibited.**
 - Officers may conduct strip searches and/or visual body cavity searches on multiple incarcerated people if the incarcerated people are separated by privacy partitions and cannot see one another.
- Strip searches and/or visual body cavity searches will be conducted by a staff member of the same sex as the incarcerated person being searched. Staff members of the opposite sex will not be allowed to view the strip search.
- Transgender or intersex incarcerated people will be strip searched by staff of the gender indicated on their Gender Search Preference Form. Staff members of the gender not indicated on an incarcerated person’s Gender Search Preference Form will not be allowed to view the strip search.
- Only those officers reasonably necessary to safely conduct the search will be allowed to view the search. Additional staff of either gender may monitor the search by listening from an adjacent area in the event they are needed to assist with a combative incarcerated person or other exigent circumstance.

- Staff may use a flashlight during a strip search and/or visual body cavity search to illuminate portions of the incarcerated person's body as needed. Staff will exercise caution to avoid shining the light directly in the incarcerated person's eyes.

- Staff shall not touch the incarcerated person during the search, except as reasonably necessary to restrain a combative incarcerated person, to prevent the loss or destruction of evidence, or for the protection of staff.

Strip searches and/or visual body cavity searches will not be video recorded unless, for safety reasons, they must be conducted in an area already under video surveillance.

Procedure A: Strip / Visual Body Cavity Search Justifications

With the exception of the circumstances listed below, staff **will not** subject any incarcerated person to a strip search or visual body cavity search unless a peace officer has determined that:

- There is reasonable suspicion, based on specific and articulable facts, to believe the arrestee is concealing a weapon or contraband; **and**

- That a strip search or visual body cavity search is reasonably likely to result in discovery of the weapon or contraband; **and**

- The deputy has obtained the shift supervisor's written authorization (see Procedure B of this section).

Reasonable suspicion to conduct a strip search or visual body cavity search may be based on a combination of factors including, but not limited to:

- The conduct of the incarcerated person (indicating the incarcerated person may be concealing a weapon or contraband);

- In the case of a new arrestee, the nature of the offense for which the arrestee was arrested;

- The incarcerated person's prior criminal and incarceration history.

The incarcerated person's charges and known history alone will not justify a strip search, but may be considered as factors which, in combination with other factors, would justify the search. Information and observations used to develop such reasonable suspicion may be gathered from various sources including, but not limited to, the arresting officer, transporting officer, or detention staff.

Exceptions to the Reasonable Suspicion Requirement

Staff **will** conduct a strip search and visual body cavity search on any **arraigned** incarcerated person who is:

- Returning from a contact visit, not including visits with law enforcement personnel, attorneys, or jail staff;
- Returning to the facility from an outside medical appointment;
- Returning to the facility after serving on an outside work crew;
- Returning to their housing unit at the end of their shift serving within the facility as an incarcerated person laborer;
- Being placed in a safety cell due to behavior that reveals intent to cause physical harm to themselves or others or is being placed on suicide watch.

Note: The above exceptions only apply to those incarcerated people who have been arraigned. Reasonable suspicion and supervisory authorization (as described in Procedure B) is always required to conduct a strip search/visual body cavity search on incarcerated people who have not yet been **arraigned**.

Procedure B: Strip Search/ Visual Body Cavity Search Authorization Prior to the Search

If a strip search and/or visual body cavity search is to be conducted based on reasonable suspicion, **the deputy will:**

- Complete a Strip Search/Visual Body Cavity Search Authorization Form (see **attachment A**) detailing the **facts** that caused the deputy's suspicion;
- Take the completed form to the shift supervisor to obtain authorization;

If the shift supervisor approves the search, conduct the search as soon as reasonably possible adhering to the provisions outlined in Directive #1.

The Shift Supervisor will:

- Review the Strip Search/Visual Body Cavity Search Authorization Form;
- Approve or disapprove the search and check the appropriate box on the form;
- Print their name, their CAD ID#, and sign and date the form.

After the search is complete, the Deputy will:

- Document the following information on the Strip Search/Visual Body Cavity Search Authorization Form:
 - Name and CAD ID# of the deputy conducting the search;
 - Names of other persons present during the search;
 - Location search was conducted;
 - Date and time of search;
 - JMS and Incident Report case numbers;
 - Results of the search;
 - Items seized during the search;
- Return the completed form to the Shift Supervisor.

The Shift Supervisor will:

- Review the completed Strip Search/Visual Body Cavity Search Authorization Form;
- Print their name, their CAD ID#, and sign and date the form;
- Forward all completed forms (including disapproved ones) to the Section Manager.

The Section Manager will:

- Review the completed Strip Search/Visual Body Cavity Search Authorization Form;
- Sign and date the form;
- Forward the form to the Facility Administrative Sergeant.

The Administrative Sergeant will:

- Scan the completed Strip Search/Visual Body Cavity Search Authorization Form and e-mail a copy to the Compliance Section SST;
- Place the original form in the incarcerated person's custody record file.

The scanned copies will be entered into an electronic archive and maintained by the Compliance Section SST.

Procedure C: Strip Search/Visual Body Cavity Search Technique

To conduct a strip search and visual body cavity search, staff will:

- Direct the incarcerated person to remove all of their clothing. The deputy will search the clothing.
- Direct the incarcerated person to lean forward, run their fingers through their hair and pin their ears forward to allow inspection behind the ears.
- Direct the incarcerated person to open their mouth. The deputy will visually inspect the mouth and nasal cavities.
- Direct the incarcerated person to extend their arms forward and fingers outward. The deputy will visually inspect the incarcerated person's hands, wrists under the wristband, arms, and armpits. Direct the incarcerated person to rotate their wristband to cause anything hidden under the wristband to become dislodged.
- If necessary, instruct the incarcerated person to lift the breasts to permit visual inspection underneath them.
- If the incarcerated person is male, direct him to pull back the foreskin of the penis and to lift the penis and scrotum to permit visual inspection.
- Direct the incarcerated person to face away from the deputy to permit visual inspection of the back of the incarcerated person's body.
- Direct the incarcerated person to lift their feet and wiggle their toes to permit inspection of the bottom of the incarcerated person's feet and cause anything between the toes to become dislodged.
- Direct the incarcerated person to squat and cough, in order to dislodge any contraband within the anal cavity.
- Direct the incarcerated person to bend forward, spread the buttocks, and cough, to allow visual inspection of the anal area. If the incarcerated person is female, direct her to spread the labia to permit inspection of the vaginal area.
- The steps described above will be performed in the order listed unless there is a compelling reason to conduct the steps out of order. (For example, a deputy may inspect the incarcerated person's mouth first if there is a reasonable

suspicion contraband is being hidden there and a delay might allow the incarcerated person to dispose of the contraband).

- In such cases, the searching deputy will describe the change in the order of the steps and the reason for the change in the relevant report.
- **However, to maintain the incarcerated person's hygiene, the visual inspection of the incarcerated person's genitalia and anal cavity shall be conducted after those steps that require the incarcerated person to touch other parts of their body (e.g., running their hands through their hair).**
- At the conclusion of the search, incarcerated person shall then be provided the opportunity to use hand sanitizer or wash their hands with soap and water.
- If the deputy detects contraband in an incarcerated person's body cavity, the deputy will instruct the incarcerated person to remove the item, taking reasonable steps to ensure the safety of the deputy and preservation of the evidence.
- Under no circumstance will a deputy remove an item from within an incarcerated person's body cavity.
- If the incarcerated person refuses, take reasonable steps to restrain and monitor the incarcerated person to prevent the destruction or disposal of the contraband.
- Contact the supervisor to determine if a search warrant for a physical body cavity search will be sought (See Procedure D).

- If a weapon or contraband is discovered, complete a JMS incident report. An Incident Report will also be completed if required by Section A-1500 of this manual (e.g., a weapon is found, the incarcerated person is going to be charged with a crime, there is a use of force, etc.).
 - When completing the JMS incident report, the deputy will in addition to any other applicable incident codes use incident code 4041 Contraband Found During Strip Search to provide data for audit purposes.
- If, after the search, the deputy believes the incarcerated person is concealing a weapon or contraband inside a body cavity, the deputy will contact the shift supervisor to determine if a search warrant for a physical body cavity search will be sought (See Procedure D).

Procedure D: Physical Body Cavity Searches

Physical body cavity searches are very invasive searches and will only be conducted under the following circumstances:

- Pursuant to a court order; or
- Under the authority of a search warrant, issued by a magistrate, specifically authorizing the physical body cavity search.

Note: An incarcerated person's consent is **not** sufficient to permit a physical body cavity search.

Physical body cavity searches shall be conducted at Kern Medical (KM) and only by a Physician, Nurse Practitioner, Registered Nurse, Licensed Vocational Nurse, or Emergency Medical Technician Level II licensed to practice in the State of California.

The shift supervisor will review all requests for physical body cavity searches prior to the search. If a physical body cavity search is authorized, the Shift Supervisor will arrange to have the incarcerated person transported to KM for the search.

The Shift Supervisor will ensure that:

- A JMS Incident, and Incident Report, is completed detailing the circumstances, justification, reason, authorization for the search, and the results of the search.

Any supporting documentation (e.g., copies of search warrants, court orders, etc.), are forwarded to the Compliance Section to be filed and retained for at least five years.