

**PROPOSED REVISED POLICY 11.03**

<b>ALAMEDA COUNTY SHERIFF'S OFFICE</b>  <b>DETENTION AND CORRECTIONS</b>  <b>POLICY AND PROCEDURE</b>	<b>NUMBER:</b> 11.03	<b>PAGES:</b> 1 of 11
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<b>CHAPTER:</b> Intake, Transfer, Release and Records	<b>SUBJECT:</b> Inmate Searches - Strip, Visual and Pat Searches	

I. **PURPOSE:** To establish policy and procedure for searching inmates to detect and recover weapons, drugs and other contraband.

II. **POLICY:** Physical search of inmates in the Alameda County Sheriff's Office jails shall conform to Constitutional standards, provisions of Section 4030 of the California Penal Code, and applicable State and Federal case law.

III. **DEFINITIONS:**

A. **CONTRABAND:** Weapons, drugs, or other items that pose a threat to the safety and security of the jail or persons in the jail. In the jail, contraband also includes any item or article not issued by the facility, purchased from commissary, purchased through other approved channels, or approved by the Detentions and Corrections (D&C) Division Commander or designee. Any authorized items found altered in any way, except for sharpened pencils, will also be considered contraband.

B. **CLOTHED SEARCH (PAT SEARCH):** Inspection by sight, touch and electronic scanning device of an inmate's hair, mouth, ears, clothed body and outer clothing (including coats, hats, wigs, pockets, socks, and footwear). The touching of the body does not include grasping or kneading of the body (as opposed to grasping or kneading of the clothing, including undergarments, which is done to detect possible concealed contraband). Touching of the clothed breast, buttock and pelvic areas of the body shall be done with a bladed hand.

C. **CUSTODIAL SEARCH (STRIP SEARCH):** Thorough visual inspection of an inmate's underclothing, and/or vaginal/anal body cavity, and a thorough inspection by

- sight and touch of the inmate's clothing.
- D. **PHYSICAL BODY-CAVITY SEARCH:** Thorough physical inspection, by either instrument or manual means, of an inmate's anal and/or vaginal body cavities.
  - E. **INDIVIDUALIZED SUSPICION:** "Reasonable Suspicion" based on specific and articulable facts that would cause a reasonable deputy to suspect that a person may be concealing contraband. The facts may include current charges, criminal history, or any other factors that would lead a reasonable person to conclude that a strip search will result in discovering contraband. The legal standard to be met is "Reasonable Suspicion," not probable cause.
  - F. **SECURITY (SHAKEDOWN) SEARCHES:** Searches of jail facilities, jail grounds and jail vehicles to detect contraband and illegal activity.
  - G. **UNDERGARMENTS:** Includes traditional undergarments, such as panties, boxers, briefs, bras, or panty hose, as well any other article of clothing worn by the inmate underneath an outer layer of clothing, that is made of material that permits visual observation of the breasts, buttocks or pelvic area, or of panties, boxers, briefs, bras, or panty hose, which cover the inmate's breasts, buttocks or pelvic area.

#### IV. PROCEDURE

##### A. GENERAL SEARCH POLICY

1. All person searches conducted in the jail will be initiated with the singular purpose of finding weapons, drugs or other contraband. No search will be conducted as a punitive measure.
2. Searches or examinations of transgender or intersex detainees/inmates solely for the purpose of determining the detainee/inmate's genital status are forbidden. If the inmate's genital status is unknown, staff should use other means to determine the person's sex, such as reviewing arrest history, available databases, available medical records, speaking with the individual, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
3. All inmates, including new arrestees, who are being processed into the jail, may undergo a clothed search or metal detector search at any time without formal documentation.
4. Absent exigent circumstances, all strip searches will occur in the jail housing unit prior to each inmate being placed into a cell/dormitory. Strip searches will be conducted by deputies of the same sex as the inmate.
5. Each strip search will be done in a manner which ensures that no person except

those participating in the search can view the inmate who is being searched. This includes other inmates. There will be no group strip searches, absent exigent circumstances.

6. A supervisor's approval is required for every search conducted as a result of an exigent circumstance. Formal documentation and an incident report or a Strip Search Authorization Form is required.
7. Sentenced County, State or Federal inmates may be strip searched without cause and without the need for formal documentation.
8. Pre-arraignment inmates shall only be strip searched after it has been determined that there is individualized suspicion as defined in III-E above, that they may be concealing contraband. The search decision must be documented on the Classification Report Form (for new books) or on a Strip Search Authorization Form (in all other cases).
9. Post arraignment through pre-sentence inmates may be strip searched if there is individualized suspicion that they may be concealing contraband, or if they are returning from a contact visit, work crew, court, or other external appointment where they have been out of the security or supervision of jail staff. Supervisory approval is not required.
10. Physical body cavity searches shall be done by medically trained personnel and only under the authority of a search warrant issued by a magistrate specifically authorizing the physical body cavity search. These searches will be witnessed by a deputy of the same sex.

**B. SEARCH UPON INTAKE INTO THE JAIL (ALL INMATES):**

1. During the intake/receiving process, all inmates will be subject to a clothed pat search and metal detector search, using a hand wand or a walk through metal detector while the arresting officer is present.
2. Pat searches of female inmates in the intake hallway immediately adjacent to the pass-through cells from the Law Enforcement Lobby shall be conducted with use of current privacy screening measures to prevent viewing by male inmates in adjacent holding cells.
3. The clothed pat search will include:
  - a. Removing footwear, hats, wigs and outer garments (down to one layer of clothing over the undergarments) for physical inspection.
  - b. Turning the inmate's pockets inside out.

- c. A pat search of the inmate's clothed body to feel for hidden items.
- d. Absent exigent circumstances, female inmates will not be pat searched by male deputies. In the event the search becomes necessary, deputies will refer to their training regarding conducting pat searches of the opposite sex. The search shall be documented via memorandum to the Facility Commander, outlining the exigency.
- e. ***Transgender inmates will be given the opportunity to choose the gender of the deputy to perform the search. However, the ITR Sergeant on duty shall make the final decision as to who will perform the pat search. This decision shall be based upon all factors related to the expressed interest of the inmate, the availability of staff, and the overall safety of all parties involved. These searches shall be documented in a memorandum, via the chain of command, to the ITR Lieutenant and a copy to the PREA Coordinator.***

C. SEARCH IN THE BOOKING AREA (ANY INMATE):

1. After intake into the Intake, Transfer, and Release (ITR) area and during the booking process, any inmate may undergo a pat search and/or a metal detector search without specific cause.
2. Strip searching an inmate in the ITR area must be approved by a supervisor and documented in a report and/or by completing a Strip Search Authorization Form.
  - a. Individualized reasonable suspicion that the inmate is concealing contraband that will be found during the search must be established and documented.
  - b. The search must be done in an area where the inmate cannot be viewed by persons not participating in the search, including any other inmate.
3. Strip searching an inmate who is awaiting release in the ITR area must be approved by a supervisor and must be documented in a report and/or by completing a Strip Search Authorization Form. This includes inmates who are returning from court.
  - a. Individualized reasonable suspicion that the inmate is concealing contraband that will be found during the search must be established and documented.
  - b. The search must be done in an area where the inmate cannot be viewed by persons not participating in the search, including any other inmate.

E. SEARCH UPON FIRST HOUSING PLACEMENT (ANY INMATE):

1. The initial classification and custody status of each inmate who is to be housed in the general inmate population shall be determined during the booking process.

- a. Inmates in ITR on new charges, who will not be cited, shall be allowed a minimum of three hours to arrange for bail before being housed in the general population.
  - b. An inmate who has no intention to post bail may waive the three hour limit. The deputy who receives the waiver shall note it on the classification form and write their name and badge number on the form.
2. The classification process shall include a comprehensive review of the factors which determine if there is reasonable suspicion to strip search an inmate prior to entry into the general jail population.
  3. Individualized suspicion can be based upon a variety of factors including:
    - a. The arrestee's current charges when these include violent crimes, possession/use of weapons or possession of drugs.
    - b. The arrestee's criminal and/or arrest history when it includes violence, possession/use of weapons, possession of drugs, probation or parole status, previous criminal commitment, serious types or significant numbers of entries, and/or other factors which would indicate the possibility that the arrestee might carry or attempt to conceal weapons or dangerous contraband.
    - c. The arrestee's disciplinary history while in custody when it includes jail violence, assaults, or possession of drugs, weapons or contraband.
    - d. The appearance and/or demeanor of the arrestee, including conduct prior to, during, or following arrest; conduct at the jail during pre-admission or admission process; or general actions indicating that the arrestee is possibly concealing weapons/contraband.
    - e. If the arrestee is in possession of indicia, has tattoos, or is wearing clothing indicative of a criminal gang. The inmate self admits to being a member of a criminal gang.
    - f. The inmate activated the metal detector and the reason for the activation cannot be detected with a pat search.
    - g. If the arrestee is held pursuant to a warrant for failure to appear, the original charge shall be considered when determining whether he/she is subject to a strip search (e.g., a warrant that has an original charge involving weapons use or possession).
  4. The determination of each classification factor is documented on the Classification Report Form, including the search status determination (See Attachment #1).

- a. If the inmate is deemed to be strip searchable, the Strip Search Authorization portion of the classification form will be completed.
- b. If individualized suspicion cannot be established, the inmate's AJIS custody card shall be flagged with a "no search" notation and the computerized classification detail shall be updated denoting the no strip search status.

F. SEARCH UPON RETURN FROM AN APPOINTMENT (ALL INMATES)

1. Inmates returning from a work detail, court-ordered pass, hospital appointment, court appearance, contact visit (*Bell v. Wolfish (1979) 441 U.S. 520, 559-560*), interview, or other activities outside of the Santa Rita Jail (SRJ) or the Glenn E. Dyer Detention Facility (GEDDF) shall be strip searched upon return to the housing unit.
2. ***The absence of a female deputy to conduct a search shall not restrict the female inmates' access to regularly available programming or other out of cell opportunities.***

G. SECURITY (SHAKE DOWN) SEARCHES:

1. Security searches may be conducted randomly at any time or based on information that contraband may be found.
2. Inmates will be required to leave the area being searched, including their cell, room, or bunk prior to deputies searching the area.
3. Inmates returning to the searched area are subject to a pat search, and/or search using either a hand-held or walk-through mechanical device, metal detector, or other non-intrusive detection device.
4. Inmates returning to the searched area may be strip searched if there is articulable individualized suspicion. The strip search must be documented on a Strip Search Authorization Form.
5. Any contraband found while conducting a strip search shall be documented on the Strip Search Authorization Form and in the Contraband Log maintained by Classification.
6. If the quantity or type of contraband found supports additional criminal charges, the deputy conducting the search will complete a report, attach a copy of the Strip Search Authorization Form, and submit both to the District Attorney.

H. INMATES IN PRE-ARRAIGNMENT STATUS

1. Inmates who have not been arraigned or otherwise charged with a crime shall not be

strip searched unless there is individualized suspicion, as defined in III-E above, that they may be concealing contraband. The search must be documented on a Strip Search Authorization Form (Attachment #3).

2. Pre-arraignment inmates who were searched upon initial housing cannot be searched again unless individualized suspicion is re-established by an independent review. The search must be documented on a Strip Search Authorization Form.
3. When Classification determines that a pre-arraignment detainee does not meet the strip search criteria and there are no grounds to establish individualized suspicion:
  - a. Limit the search of that individual to a pat search and use of a metal detection device.
  - b. The inmate Automated Jail Information System (AJIS) custody/movement card and classification form will indicate "NO STRIP SEARCH."
  - c. Appropriate housing will be assigned to ensure the inmate's status is not exploited by other inmates.

#### I. SEARCH OF INMATE IN SENTENCED STATUS

1. Convicted and sentenced inmates may be strip searched without individualized, reasonable suspicion, so long as the search is performed for maintaining the jail's valid interests in institutional safety and security, and not for punishment or harassment.
2. A Strip Search Authorization Form will not be completed when sentenced inmates are searched. If contraband is discovered during a search, a criminal report will be completed and routed to the Sergeant or Watch Commander.

#### J. SEARCH OF INMATE HELD IN SAFEKEEPING FOR ANOTHER AGENCY:

1. Inmates courtesy housed for another agency may be strip searched prior to housing in the general jail population if they are sentenced. Otherwise, their strip search status shall be determined in the same manner as any other inmate.
2. State and Federal inmates may be strip searched if they are sentenced or are parole violators. Otherwise, their strip search status shall be determined in the same manner as any other inmate.

#### K. INMATE SEARCH AFTER COMMISSION OF A CRIME:

1. The mere fact that an inmate commits or is suspected of committing a new crime, does not justify a strip search.

2. When a new crime occurs, the decision to conduct a strip search shall be made using the guidelines set forth in this order.
  - a. For sentenced County, State or Federal inmates, see section IV-A-6
  - b. For inmates in a pre-arraignment status, see section IV-A-7
  - c. For inmates in post arraignment through sentenced status, see section IV-A-8

L. PHYSICAL BODY CAVITY SEARCHES:

1. Physical body cavity searches by either instrument or manual means shall be executed under authority of a search warrant or by the inmate's signed consent.
2. Body cavity searches must be performed by authorized medical personnel in the presence of Agency members of the same sex.
3. Physical body cavity searches will be conducted in a sanitary environment (as determined by medical personnel), and shall be shielded from the view of other inmates or Agency members of the opposite sex.

M. STRIP SEARCHING PERSONS WHO REFUSE TO COOPERATE:

1. Arrestees/inmates do not have the right to refuse to be strip searched when the search is conducted for reasons outlined in this Policy and Procedure. Those who refuse will be treated with due caution:
  - a. Restrain the inmate using handcuffs or waist chains and leg irons, as appropriate.
  - b. Start a Restraint Observation Log pursuant to D&C Policy and Procedures 8.12, "Observation Logs," and 8.26, "Use of Restraints."
  - b. Conduct a thorough pat search of the inmate to determine if there are obvious items of contraband in the inmate's possession and contact the Sergeant or Watch Commander for direction.
  - c. The inmate will not be housed, allowed access to the telephone, or released until the strip search has been completed.
2. The Sergeant or Watch Commander shall attempt to convince the inmate to submit to the search, notifying the inmate that he/she shall be forcibly strip searched if he/she does not comply.
3. If the inmate continues to refuse to submit to the strip search, the Sergeant or Watch Commander shall direct deputies, to do one of the following:



- a. Forcibly strip search the inmate immediately
  - b. Place the inmate alone in a holding cell, still restrained
  - c. Allow one hour for the inmate to decide if he/she will cooperate
4. If it becomes necessary to use force to execute a strip search:
- a. Take the inmate to the area designated for the search (e.g., a Safety cell).
  - b. Place the inmate in a position most advantageous to the deputies conducting the strip search.
  - c. Remove the inmate's clothing, one piece at a time, physically searching each piece as it is removed.
  - d. Visually inspect the inmate's body. (At no time shall the deputies touch the inmate's breasts, buttocks, or genitalia.)
  - e. Allow the inmate to get dressed and house him/her based on behavior and classification.
5. In all cases, personnel shall comply with General Order 1.05, "Use of Force," regarding the application and reporting of the use of force.
6. A report documenting the forcible strip search and efforts made to obtain the inmate's compliance shall be written. All contraband recovered will be noted in the report. The information will be provided to the Classification Unit for inclusion on the Contraband Log. Evidence will be processed pursuant to D&C Policy and Procedure 8.21, "Evidence Processing." A presumptive test on all recovered drugs or narcotics will be conducted before placement into an evidence envelope. The deputy will mark and secure the evidence in an evidence locker.

**N. LOCATION WHERE STRIP SEARCHES MAY BE CONDUCTED:**

1. Strip searches will be conducted in an area that is blocked from view of the public, Agency members of the opposite sex, and other inmates. Reasonable accommodations shall be made to address the personal hygiene needs of inmates on their menstrual cycles.
  2. Strip searches will not be administered to inmates held in ITR pending release to citation, own recognizance or bail, absent exigent circumstances. Watch Sergeant or Watch Commander approval is required.
- O. Personnel will limit physical contact with inmates during a search to that necessary to conduct a pat search, retrieve contraband, or assist an inmate who is unable to comply with the search procedure due to mental or physical problems.

P. DISPOSITION OF DISCOVERED EVIDENCE AND CONTRABAND:

1. Personnel who discover a weapon, drugs or other hazardous evidence that may lead to new criminal charges against an inmate will maintain a strict chain of custody.
2. The deputy assigned to process the evidence will package the evidence in compliance with D&C Policy and Procedure 8.21, "Evidence Processing." Drugs or narcotics will be tested for identification before being packaged. The deputy will mark and secure the evidence in an evidence locker.
3. A report will be written and submitted to the District Attorney's Office for complaint.
4. The Classification Unit will be notified of found contraband for inclusion on the Contraband Log.

Q. SEARCH CONDITIONS:

1. Deputies will take all reasonable measures to minimize the extent to which strip searches intrude on a prisoner's privacy.
2. Strip searches shall be conducted in a designated location in the housing areas, not ITR, such that persons not participating in the search cannot observe the person being searched.
3. The prisoner will be supplied with jail clothing immediately after the search.

R. DOCUMENTING SEARCHES:

1. Classification forms containing the original "intake" search documentation shall be routed to the Classification Office for filing and retention.
2. Completed Strip Search Authorization forms will be forwarded to the Classification Sergeant for review and retention, in a separate file, for three years. If an incident report is written, attach a copy of the report to each Strip Search Authorization form.

S. AUDITS

1. A monthly audit of the strip search process will be conducted by Classification. Minimally, the audit will include:
  - a. A review of thirty randomly selected intake classification sheets at the SRJ and ten randomly selected classification sheets at the GEDDF to validate the search determinations of new book (pre-arraignment) inmates.

- b. A review of ten Strip Search Authorizations from the SRJ and five Strip Search Authorizations from the GEDDF to validate the search determination and confirm supervisory approval.
2. The results of the audit will be documented in a report to the D&C Administration Captain and facility Commanding Officers of the SRJ and the GEDDF.
3. The D&C Administrative Captain will submit a copy of the audit, including any corrective action recommendations/plans, to the D&C Division Commander within 30 days of the completion of the audit.

ATTACHMENTS:

1. Alameda County Strip/Visual Body Cavity Search Form
2. Intake Classification Form Housing