

Custodial Searches

902.1 PURPOSE AND SCOPE

Best Practice

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 City of Galveston 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.

902.1.1 DEFINITIONS

Best Practice MODIFIED

Definitions related to this policy include:

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 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.

902.2 POLICY

Federal

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.

902.3 FIELD AND TRANSPORTATION SEARCHES

Best Practice MODIFIED

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 unless exigent circumstances exist..

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902.4 SEARCHES AT POLICE FACILITIES

Best Practice **MODIFIED**

Custody searches shall be conducted on all individuals in custody, upon entry to the City of Galveston 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 unless exigent circumstances exist..

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.

902.4.1 PROPERTY

Best Practice

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property Room Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's City of Galveston Police Department identification number and information regarding how and when the property may be released.

902.5 STRIP SEARCHES

Federal

No individual in temporary custody at any City of Galveston Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention, or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

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- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

902.5.1 STRIP SEARCH PROCEDURES

Federal **MODIFIED**

Strip searches at City of Galveston Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) 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.
- (b) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by those not participating in the search.
- (c) 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.
- (d) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (e) 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 name of the individual who was searched.
 4. The name and sex of the members who conducted the search.
 5. The name, sex and role of any person present during the search.
 6. The time and date of the search.
 7. The place at which the search was conducted.
 8. A list of the items, if any, that were recovered.
 9. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (f) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is performing bodily functions or changing clothes,

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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.

902.6 PHYSICAL BODY CAVITY SEARCH

State **MODIFIED**

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without approval of the Watch Commander and only upon a search warrant or approval of legal counsel. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and search warrant return.
- (b) Only a physician may conduct a physical body cavity search.
- (c) Except for the physician 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:
 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.

902.7 TRAINING

Federal

The Training Supervisor 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.