

POLICY
702

EFFECTIVE
DATE
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Eugene Police Department



SEARCHES AND INVENTORIES OF DETAINED PERSONS

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish consistent department procedures which conform to *Oregon Revised Statutes (ORS) 131.605 to 131.625* and *ORS 133.525 to 133.537*, regarding lawful searches. This policy is intended to govern searches of persons **after** they have been arrested. For details on search and seizure policy, see *Policy 322 Search and Seizure*.

702.2 DEFINITIONS

Search Incident to Arrest - This search is conducted when a suspect is under arrest for a crime where probable cause exists and the search of the person is for weapons (based on the officer's reasonable suspicion that the person is presently carrying weapons on their person), evidence of the crime for which they are being arrested, and/or means or implements of escape.

Personal Property – Property possessed by a person at the time of contact that is not evidence or contraband.

Personal Property Inventory – This administrative inventory search is conducted in the field when an officer knows he will be transporting a detained or arrested person to a custodial facility, or it occurs at the custodial facility prior to booking procedures. Inventorying involves a thorough patting down of an individual's clothing. All pockets, cuffs, etc., on the clothing are checked to locate all personal property or prohibited items enumerated in this policy. The detainee's personal property is taken and inventoried in a routine and non-discretionary manner. This policy addresses the strong governmental interest in officer safety issues related to transporting persons as well as to insulate the department from false or fictitious claims of property being lost or stolen during transport.

Strip Search or Visual Body Cavity Search - This is a search that requires a person to remove some or all of his or her clothing to permit a visual inspection of the breasts, buttocks or genitalia of such person in order to locate contraband or weapons if a reasonable belief exists the person has them hidden from view by clothing.

Physical Body Cavity Search - This is a search that includes physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of a person, and the vagina of a female person.

702.3 SEARCHES INCIDENT TO ARREST

- a. Searches incident to arrest are more fully outlined in *Policy 322 Search and Seizure*. It is the preference of the court for officers to obtain search warrants when possible and time permits. Officers should weigh the immediate need to search a closed container against the inherent delay of getting a search warrant.
- b. When any officer has probable cause to arrest a person, and that person is in the custody of police, an officer may conduct a search incident to arrest of that person, and any articles or possessions immediately possessed by that person, and the immediate surrounding area of that person in order to: discover, locate and disable weapons (based upon the reasonable suspicion the person presently possesses them), to locate evidence of the crime for which that person is under arrest, or to locate means or implements of escape. The officer may inspect the mouth of the person arrested.
- c. Once a person is in custody, the exigency of a search incident to arrest may dissipate regarding the property on the arrestee.

Absent some warrant exception, cell phones, personal data devices, laptops, electronics should be secured to preserve evidentiary value so that a warrant can be obtained. Closed container searches are limited in scope to a place where evidence of the underlying crime could reasonably be found.
- d. While a search incident to arrest is lawful without permission of the person to be searched in most instances, consent by the person to be searched should always be attempted by the officer.
- e. Whenever practical, searches incident to arrest of an individual should be conducted by an officer of the same sex as the person being searched. Absent the availability of a same sex officer, a witness officer should be present during any pat-down search of an individual of the opposite sex as the searching officer. For details see *Policy Section 322.5.g - Search and Seizure*.
- f. Whenever possible, the search of a person should be conducted in the view of an ICV system or body worn camera, see *Policy 322 - Search and Seizure*, for additional guidance.

702.4 PERSONAL PROPERTY INVENTORY

- a. An officer will inventory a detained or arrested person's personal property before the person is placed inside the temporary holding facility at Police Headquarters, lodged at any jail facility, or before he or she is transferred to another agency's custody.
- b. This inventory is administrative in nature and non-discretionary. This inventory is required for admission of the custody into the Lane County Jail, and other secure holding areas such as University District Hospital or Buckley Sobriety House. In some cases it is safer for the officer and the individual being searched for this inventory to be conducted in the field at the patrol car where it can be witnessed by another officer, captured on ICV, and before the person is seated in the patrol car. If a situation exists where it is not

safe or practical to conduct a personal property inventory in the field, a thorough pat down search may be conducted to ensure no weapons are admitted into the patrol car, and then a more thorough inventory of the transported person and his or her belongings can be conducted in the jail sally port. Whenever possible, the inventory search should be conducted within view of the ICV system, or a body worn camera, see *Policy 322 - Search and Seizure*, for additional guidance.

- c. The fact that an item ***might*** contain valuables is not justification to open them. The containers must be **objectively likely** to contain valuables or **objectively likely** to contain a specific danger to officers or the jail facility in order to justify opening them.
- d. The fact that the object contained inside might not be the same make or model as the container describes is not justification to open it.
- e. Officers should conduct the inventory by removing all items from the person's clothing and any container in the person's possession. Closed containers should be opened and inventoried only when:
 1. It is objectively likely; that the contents of the container may pose significant safety risk, such as biohazard, weapons, and the like.
 2. The person consents to or requests an inventory of the contents of the closed container.
 3. The closed container is uniquely designed or objectively likely to contain any of the items listed in *Policy 703 – Storage of Prisoner Property §703.4(a) thru (k)*:
 - Dangerous weapons including firearms, knives, explosive devices and tools
 - Hazardous materials, chemicals, or items contaminated with the same
 - Illegal drugs, drug paraphernalia or medications not properly packaged
 - Pharmaceuticals or prescription drugs
 - Perishable food items
 - Matches, lighters or other ignition sources
 - Propellants, including e-cigarettes
 - Beverage containers or containers under pressure and their contents
 - Live plants, animals or other organisms
 - Small valuables, jewelry or US currency
 - Electronics
- f. Because the following closed containers are uniquely designed to contain valuables, they **shall be opened** and their contents inventoried:
 1. Purses, wallets, backpacks, coin purses, fanny packs, computer cases, cosmetic bags, prescription drug containers, unlocked brief cases, unlocked lock boxes, ring box or jewelry box. This should be treated as an exclusive list.
 2. If an officer locates any containers inside any of the items listed above, a separate analysis of the internal containers is required.
- g. Because the following closed containers are uniquely designed to contain items identified in *Policy 703 §703.4(a)-(k)* which represent specified officer and facility safety concerns, they **shall be opened to remove the prohibited item** and the container shall be inventoried consistent with their outward appearances only. The officer or deputy

performing the inventory shall limit his/her inventory so that the object is scrutinized only to the extent necessary to complete the inventory.

1. Fishing tackle boxes for filet knives
 2. Gun cleaning bags and rugs for firearms
 3. Opened cigarette packages for lighters or matches
 4. Paper lunch sacks, lunch boxes or similar containers that are uniquely designed to contain perishable food
 5. Diaper bags for perishable food items
- h. Whenever practical, a personal property inventory of an individual should be conducted by an officer of the same sex as the person being searched. Absent the availability of a same sex officer, a witness officer should be present during any pat-down search of an individual of the opposite sex as the searching officer. For details see *Policy Section 322.5.g - Search and Seizure*.

702.5 STRIP SEARCHES

- a. If a person is to be transported from the scene of an arrest **and** to be lodged at a jail facility any required strip searches will be conducted by the Lane County Jail Staff. If a thorough inventory is completed in the field and the officer still believes that the arrested person has contraband or weapons beneath their clothing that cannot be accessed or confirmed without a strip search, the officer will transport the arrested person to jail and notify jail staff. If there is a concern for officer or custody safety during the transport, consider another officer to ride with the arrested person to observe him or her. If a person is in the custody of the Eugene Police Department, but is not immediately being lodged at the Lane County Jail, follow the protocols in 702.5.1 for strip searches to be conducted at EPD Holding Facilities.
- b. Except under the most extreme instances of public safety, and without authorization of a supervisor, no strip searches will be conducted in the field, or in the view of anyone other than a law enforcement officer.
- c. No person held at any Eugene Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the person is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:
 1. The detection of an object during a pat-down search that may be a weapon or contraband and cannot be safely retrieved without a modified strip search or strip search.
 2. Circumstances of a current arrest that specifically indicate the person may be concealing a weapon or contraband. A felony arrest charge or being under the influence of a controlled substance does not suffice as reasonable suspicion absent other facts.
 3. The person's actions or demeanor give rise to reasonable suspicion that the person is concealing a weapon or contraband on their person.

702.5.1 STRIP SEARCH PROTOCOLS

Strip searches at Eugene Police Department facilities shall be conducted only when appropriate as outlined above. They shall be conducted as follows:

- a. Authorization from the Watch Commander shall be obtained prior to the strip search.
- b. All employees involved with the strip search shall be of the same sex as the person being searched, unless the search is conducted by authorized medical personnel (28 CFR 115.115.)
- c. 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 persons not participating in the search. The search shall not be reproduced through a visual or sound recording.
- d. Whenever possible, a second officer of the same sex should be present during the search for security and as a witness to the finding of evidence.
- e. Employees conducting a strip search shall not touch the breasts, buttocks or genitalia of the person being searched.
- f. The primary employee 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 person who was searched.
 5. The name and sex of the persons 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, recovered during the search.
 10. The facts upon which the employee based his/her belief that the person searched was concealing a weapon or controlled substance.

702.6 PHYSICAL BODY CAVITY SEARCH

No person arrested shall be subjected to a body cavity search without a search warrant.

Should visual examination of a suspect during a strip search and/or other information lead an officer to believe that the suspect is concealing a weapon, evidence or contraband within a body cavity, the following procedures shall be followed:

- a. The suspect shall be kept under constant visual surveillance until a body cavity search is conducted or an alternative course of action taken
- b. The officer shall consult with their immediate supervisor to determine whether probable cause exists to seek a search warrant for a body cavity search. The decision to seek a search warrant 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, and/or the security of the Eugene Police Department's detention operations
- c. If probable cause exists for a body cavity search, an affidavit for search warrant shall be prepared that clearly defines the nature of the alleged offense and the basis for the officer's probable cause
- d. On the basis of a search warrant, a body cavity search shall be performed only by an authorized agency physician or by other medically trained personnel at the physician's direction
- e. The search should be conducted at an authorized medical facility
- f. The authorized individual conducting the search shall file a report with the requesting law enforcement agency. The witnessing officer shall co-sign that report
 1. A copy of the search warrant and the return of warrant that lists the results of any body cavity search shall be included with the related reports and made available, upon request, to the arrestee or authorized representative

702.7 TRAINING

The Lieutenant of Professional Standards in conjunction with the Department Training Section shall ensure that officers receive training in conducting minimally intrusive, but proper, thorough, and respectful searches.

PETE KERNS
Chief of Police