



IC32

SEARCH OF PERSONS

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Effective Date: 17 May 2017
Last Reviewed/Revised Date: 18 April 2024*

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POLICY

1. Searches conducted by members of the Delta Police Department (Department) shall be conducted lawfully and with consideration of and respect for a person’s gender, religion, and/or culture, in accordance with Procedures provided by the Chief Constable.

REASON FOR POLICY

2. To seek to ensure that all searches conducted by members of the Department are conducted lawfully, reasonably and respectfully.

RELATED POLICIES

- IC10 – Use of Force
- IC30 – Detention, Arrest & Post-Arrest Processing
- IC40 – Transportation of Persons in Custody
- IC50 – Cell Block Detention Facilities (Delta & Surrey)
- IC70 – Communicable Diseases
- IP40 – Property & Exhibits



DEFINITIONS

3. For the purpose of this Policy, the following definitions will apply:

Search: intrusion upon a person's reasonable expectation of bodily or locational privacy.

Safety Search: a search, incidental to investigative detention, for items that may pose a safety risk to a member, conducted from the outside of the person's clothing.

Body Search: a thorough search of a clothed person.

Strip Search: the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person's private areas, namely genitals, buttocks, breasts, or undergarments.

Split Search: the search of a transgender or gender queer/non-conforming person in which the person requests and specifies the gender of members to search either the upper or lower portions of their body.

Internal Search: a search of body cavities.

Transgender: umbrella term for individuals whose gender identity or expression differs from societal expectations of the sex they were assigned at birth. It includes diverse groups of people: pre-operative, post-operative, and non-operative people.

Gender Queer/Non-Conforming: umbrella term for someone who identifies or expresses themselves outside of the gender binary, which may include another gender, somewhere in between/beyond genders, or a combination of genders.

PROCEDURES

Search Incidental to Detention or Arrest

Note:

Members considering searching a person based on the person's consent to do so and without detaining the person, must be mindful that the person may feel detained and later in court may be found to have been detained, psychologically or otherwise.



4. Members may only conduct a search of a person incidental to the person's detention, arrest, or with consent.
5. When a person is subject only to investigative detention, members may only conduct a safety search of the person.
6. When a person has been arrested, members may:
 - a) conduct a body search;
 - b) search the person for items which may be used to harm the police, the public or other members of the criminal justice system who may be in contact with the arrestee (jail guards, court staff, etc.) or which may aid the arrestee to escape;
 - c) search the person for evidence related to the offence for which the person was arrested; and
 - d) search the immediate surroundings of the arrest location, including items or vehicles in the arrestee's possession or control.

Member Safety & Responsibility

7. Members shall make detailed notes of all searches, including the manner of the search and the reasons it was undertaken.
8. The search of a person is not always possible or practicable immediately upon arrest; however, any delay from the time of arrest to the time of the search and the reasons for the delay are to be documented by the member.
9. The member who arrested the person is responsible for the search (unless a member of another gender is required), and the person shall be searched by each additional member to whom control or custody is given.
10. Members conducting searches shall take appropriate precautions to seek to ensure their health and safety, in accordance with Policy OA30 – *Communicable Diseases*.

Gender of Searching Member

11. Other than when conducting a safety search, a person shall be searched by a member of the same gender, except in exigent circumstances (e.g., immediate risk of harm or escape, split search requested by a transgender



- or gender queer/non-conforming person), to be subsequently documented in the member's notes.
12. If a member of the same gender is not available to conduct a body search of a person, and no exigent circumstances exist, the member shall notify their supervisor, who shall facilitate having a member of the same gender attend.
 13. If a person identifies themselves as transgender or gender queer/non-conforming, or the member has reasonable grounds to believe such:
 - a) the member shall notify their supervisor and any member to whom control or custody of the person is given; and
 - b) the member shall allow the person to choose the gender of the member(s) to conduct the search (other than a safety search).
 14. If an arresting member reasonably believes the arrestee's claim of being transgender or gender queer/non-conforming to be false, the member shall advise their supervisor, who shall decide on the gender of the member(s) to conduct the search.

Handling of Cultural, Religious or Personal Items

15. If a member reasonably determines that cultural, religious, spiritual, or other personal items described in Section 16 pose a potential safety risk while a person is in custody, or if Surrey Cell Block Procedures require, the member shall take such items and have them held until the person's release.
16. Handling certain cultural, religious, spiritual, or other personal items may be offensive to their owner or compromise the item's sanctity, and members shall take reasonable measures to respect and observe these sensitivities; examples include:
 - a) Indigenous medicine bags – members shall allow the owner to open the bag, and then the member may move its contents for visual inspection, allowing the person to keep the bag in their possession or place it in a property bag;
 - b) coverings/veils (a burqa, hijab, niqab, chador, dupatta, or tichel/mitpachat) – only a female member shall search the person or verify their identity, if practicable, without males present, and thereafter the person shall be allowed to put the covering/veil back on;



- c) turbans – members shall allow the person to remove the turban themselves with as much privacy as practicable, and allow the person to replace it after inspection;
 - d) Sikhism's Five Ks (Kacha (undergarment), Kada (steel bracelet), Kanga (comb), Kes (unshorn hair), and Kirpan (sword/dagger)) – are to be respectfully inspected and handled, and returned to the person, except for a Kirpan, which is to be held until the person's release;
 - e) Jewish ritual objects (a tefillin (leather box), kippah or yarmulke (cap), and talit (shawl)) – are to be respectfully inspected and handled, and returned to the person; and
 - f) transgender or gender queer/non-conforming items/clothing (chest binders, breast forms, penile prosthetics, or gaffs (compression undergarments)) – if necessary to be removed, shall be returned to the person.
17. If members are unsure how to handle specific items, they may seek and follow direction given by their owner, unless impracticable, presenting safety concerns, or the item is to be preserved as evidence.

Strip Searches

18. A member conducting a strip search shall, if practicable and unless exigent circumstances exist, ensure it is conducted:
- a) when authorized by a Sergeant;
 - b) at Department buildings or detention facilities;
 - c) in a manner that ensures the health and safety of all involved;
 - d) by a member(s) of the same gender as the person being searched;
 - e) with as few members as necessary;
 - f) in a private area (e.g., cell block), where:
 - i) only involved members are able to observe,
 - ii) the person cannot be seen by any video camera during the search, and



- iii) the video is not viewable by other members or displayed live to a screen accessible to other members, unless necessary to ensure the security of the member(s) conducting the search;
 - g) as quickly as practicable, giving the person an opportunity to remove their own clothing, and ensuring the person is not completely undressed at any given time;
 - h) by inspecting genital and anal areas without physical contact; and
 - i) by giving the person the opportunity to remove an item from a body cavity (unless the item is a weapon).
19. Strip searches require Sergeant approval, and may only be approved if the Sergeant has reasonable grounds to suspect the person has weapons, contraband, or evidence that may be discovered by conducting such a search, taking into consideration:
- a) the reason for the arrest/charge and the legal grounds;
 - b) information received from other persons, including the arresting or transporting members, witnesses, other suspects, etc.;
 - c) the person's demeanor and behaviour;
 - d) the person's criminal history and information retrieved from police records;
 - e) information provided by the person themselves; and
 - f) the likelihood of discovering weapons or evidence related to the offence for which the person was arrested.

Internal Searches

20. Internal searches require Staff Sergeant approval, based on the same grounds listed in Section 19.
21. If an internal search is approved, members shall transport the person to the Delta Hospital (or other appropriate medical facility), and:



- a) advise the medical professional of the specific search requested and the specific grounds for the search, and ensure the search does not exceed that which is supported by the grounds; and
- b) ensure a member of the same gender as the person, or as requested by a transgender or gender queer/non-conforming person, is present.

Documentation of Strip & Internal Searches

22. Members shall provide proper and detailed documentation for all strip and internal searches, including:
- a) the reason for the search;
 - b) the manner in which the search was conducted;
 - c) the length of time to conduct the search;
 - d) the location of the search;
 - e) all members present for the search;
 - f) the Sergeant or Staff Sergeant who authorized the search;
 - g) any exigent circumstances; and
 - h) the results of the search.

*Revised Dates:
N/A