



Policy Name:	SEARCHING PRISONERS		
Policy #:	OP 7.6	Last Updated:	2022-03-03
Issued By:	COMMUNITY POLICING BUREAU	Approved By:	SURREY POLICE BOARD
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RELATED POLICIES

- OP 2.1 *Arrest and Detention*
- OP 3.2 *Searches of a Person*
- OP 7.1 *Booking and Fingerprinting of Prisoners*
- OP 7.5 *Responsibility for Prisoners*

1. PURPOSE

- 1.1. To ensure that all searches of prisoners conducted by Surrey Police Service (SPS) Members are done lawfully and in a reasonable manner.
- 1.2. To ensure the safety of the public, the safety of SPS Members, and the safety of persons in custody.
- 1.3. To provide SPS Members with direction on the appropriate procedures for searching persons in custody.
- 1.4. To ensure that searches conducted by Members follow the *Canadian Charter of Rights and Freedoms (Charter)*, federal and provincial statutes, common law and SPS policies.

2. SCOPE

- 2.1. This policy applies to all SPS Members.

3. POLICY

- 3.1. The search of a prisoner under this policy must:

- i. be authorized by law (common law or statute law); and
- ii. be conducted in a reasonable manner. That is, searches must not be conducted in an abusive or arbitrary fashion. The more intrusive the search the higher the justification required.

3.2. Members must consider the customs, beliefs and traditions of persons who come from diverse cultures and religions backgrounds when conducting a physical search of a person.

3.3. SPS will provide special consideration when conducting searches of prisoners who are: Young Persons; of the opposite sex of the handling Member; transgender; or non-binary.

4. PROCEDURE

Precautionary Measures

4.1. Members who search a prisoner should take appropriate precautions to protect themselves and others from possible biohazards (e.g., wearing protective gloves, masks and using appropriate search techniques).

4.2. Any Member who suffers a puncture wound or comes in contact with bodily fluids from a person suspected to be in a high-risk category will go to the hospital, and immediately report the exposure to their Supervisor.

Search Responsibility

4.3. The arresting Member is responsible for searching a prisoner (the level of the initial search may be limited based on gender) and each additional Member to whom control or custody of the prisoner is given to, prior to them being lodged in cells.

4.4. The arresting Member is responsible for searching, recovery of evidence, and cataloguing of all personal property associated to the prisoner prior to turning them over to transport. It is the responsibility of the Member who seizes property from a prisoner to account for that property.

Gender of Searching Member

4.5. A Member shall not search a prisoner of another gender, other than cursory searches of clothing, unless:

- i. there is an immediate risk of injury or escape; or
- ii. the arrested person or prisoner identifies themselves as transgender, or the Member believes that the person or prisoner is transgender, and the person or prisoner has requested that a split search be performed and may specify the gender of Members to search either the upper or lower portions of their body. For example, the transgender person may request a female Member to search the upper portions of their body and a male Member to search the lower portion of their body (or vice versa).

4.6. If a Member is required to conduct a search of the opposite gender as stated above, the Member conducting the search should make detailed notes of the manner of the search and the reasons it was undertaken.

Searches of Transgender and Non-Binary Persons

- 4.7. Where prisoners identify themselves as transgender or non-binary, or a Member has reasonable grounds to believe that the prisoner is of the opposite sex to which they appear, transporting Members shall ensure that the Surrey Cell Block NCO is notified of that information prior to lodging the prisoner in a cell.
- 4.8. If an arrested person or prisoner is to be strip searched and the searching Member is satisfied that the arrested person or prisoner is transgender or a non-binary person, the arrested person or prisoner may choose the gender of the Member who will conduct the search. The arrested person or prisoner may also choose to have a "split search" with a male Member searching areas with male genitalia and a female Member searching areas with female genitalia and breasts.
- 4.9. Members should be aware that some transgender people wear special clothing or prosthetics to perform their expressed gender. These can include chest binders, undergarments which flatten external genitals, breast forms, wigs, or penile prosthetics. Some transgender people may also have recently undergone gender-affirming genital surgery or chest augmentation which require special care or special garments. If a search of these items is necessary, then after the search the items shall be returned to the prisoner while in police custody (assuming that there are no reasonable concerns that the item could be used as a weapon or for self-harm).
- 4.10. The search of transgender persons shall be done in a reasonable manner which does not impair healing, cause unnecessary pain, and which protects the person's privacy as much as possible.

Searches of Young Persons

- 4.11. If a young person is searched incident to arrest or while in custody, the Parent or Guardian will be notified by the investigating Member of the reason and scope of the search (e.g., frisk search, strip search, internal body cavity search, etc.).
- 4.12. If no Parent or Guardian is available, notice may be given to an adult relative or other adult known to the young person (Responsible Adult) who is likely to provide assistance.

Searches of Cultural, Religious and Personal Effects

- 4.13. Persons arrested may come from diverse cultures and religions that possess unique customs, beliefs and traditions. In the course of their duties Members may be required to search arrested and detained persons in possession of cultural, religious or spiritual items. These items may pose unique considerations for Members when balancing the need to ensure safety, enforce the law and conduct criminal investigations with preserving the person's dignity and respecting the sanctity of their culture or religion (see OP 3.2 *Searches of a Person*).

Strip Searches

- 4.14. A Strip Search has a higher degree of intrusion and therefore requires a higher justification. A strip search shall only be conducted when authorized by a Supervisor (see OP 3.2 *Searches of a Person*).

Field Strip Search

4.15. Strip Searches shall not be conducted outside police buildings or detention facilities (“Field Strip Search”) unless there are exigent circumstances where a Member has reasonable grounds to believe that it is necessary to conduct the search in the field rather than at police facilities (see OP 3.2 *Searches of a Person*).

Internal (Body Cavity) Searches

4.16. Body Cavity or Internal Searches (e.g., rectal or vaginal searches) are a significant intrusion to an individual’s privacy and dignity and shall only be conducted in a medical facility by a qualified medical practitioner (see OP 3.2 *Searches of a Person*).

APPENDIX A: DEFINITIONS

“Body Cavity Search” or “Internal Search” means a search of a person’s rectum and/or vagina and shall only be conducted by a medical practitioner.

“Body Search” or “Frisk Search” means a thorough search of an arrested person’s clothing, pockets, handbags or any other object in their possession that may contain a weapon, evidence related to the offence for which they were arrested, or a means to escape. Police have the lawful authority to search all arrested persons and the area within their immediate control at the time of arrest.

“Field Strip Search” means conducting a Strip Search of a person outside police buildings or detention facilities.

“Guardian” means a person to whom guardianship or custody of a Child has been granted by a court of competent jurisdiction or by an agreement; a person with whom a Child resides and who stands in place of the Child’s parent; or guardian but does not include a caregiver, prospective adoptive parent, or director.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“Non-Binary” means an individual who identifies as non-binary and may live without gender assignment (agender) or may move between genders (gender-fluid).

“Parent” means the biological mother or father; adoptive mother or father; individual(s) with legal custody; or individual(s) with legal guardianship.

“Responsible Adult” means an adult relative or other adult known to the Young Person who is likely to provide assistance to the Young Person (e.g., Indigenous Elder).

“Split Search” means a systematic search of a transgender person in which male Members search areas near the male genitalia of the body and female Members search areas near the female breasts and female genitalia.

“Strip Search” means a thorough search of a person’s clothing and body including the removal or rearrangement of some or all the clothing of a person to permit a visual inspection of a person’s private areas, namely, genitals, buttocks, breasts or chest, or undergarments. A Strip Search has a higher degree of intrusion and therefore requires a higher justification.

“Supervisor” means a Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of SPS.

“Transgender” is an umbrella term referring to a person born with the physical characteristics of one sex who emotionally and psychologically identifies as a person of the opposite sex. The term includes but is not limited to people who identify as transgender, trans women (male-to-female MTF), trans men (female-to-male FTM), transsexual, or gender non-conforming, gender variant, gender queer, or non-binary.

APPENDIX B: REFERENCES

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982