

## STANDARD 2.7

### SEARCHES OF DETAINEES

#### I. POLICY

This detention standard protects detainees and staff and enhances facility security and good order by detecting, controlling, and properly disposing of contraband.

Various terms used in this standard are defined in the Definitions Appendix.

#### II. STANDARDS AND PROCEDURES

##### A. Written Policy and Procedures

The facility shall have written policy and procedures for the following:

1. Body searches, including pat searches (“pat downs”), strip searches, body cavity searches, and x-rays;
2. Close observation in “dry cells” to detect contraband;
3. Employing the least intrusive method of search practicable, as indicated by the type of suspected contraband and the method of suspected introduction or concealment;
4. Avoiding unnecessary force during searches and preserving the dignity of the detainee being searched;
5. Handling of contraband; and
6. Preservation of evidence.

##### B. Staff Training

All staff who conduct searches of housing, work areas, or of a detainee’s body shall receive initial training regarding search procedures prior to entering on duty and shall receive annual, updated training in authorized and effective techniques thereafter.

Security staff shall be trained in proper procedures for conducting pat searches, including cross-gender pat searches and searches of transgender and intersex detainees.

## **C. Body Searches of Detainees**

### **1. Pat Search**

#### **a. Description**

A pat search (or “pat down”) is a sliding or patting of the hands over the clothed body of a detainee by staff to determine whether the individual possesses contraband.

All pat searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs including consideration of officer safety.

Officers shall be trained in proper procedures for conducting pat searches, including opposite gender pat searches and searches of transgender and intersex detainees.

#### **b. Gender of Officer**

Opposite gender pat-down searches of male detainees shall not be conducted unless, after reasonable diligence, male staff is not available at the time the pat-down search is required, or in exigent circumstances. Opposite gender pat-down searches of female detainees shall not be conducted unless in exigent circumstances.

All opposite gender pat-down searches shall be documented.

### **2. Strip Search**

#### **a. Description**

A strip search is a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breasts, buttocks, or genitalia. Staff shall not routinely require a detainee to remove clothing or require a detainee to expose private parts of his or her body to search for contraband. To the extent reasonably possible, the inspector shall refrain from touching the skin surface of the detainee; however, the inspector may request that the detainee move parts of the body to permit visual inspection. A strip search is more intrusive than a pat search and shall be conducted in a manner designed to ensure as much privacy to the detainee as practicable.

If items are discovered that protrude from a body cavity, the removal of those items is governed by the procedures applicable to body-cavity searches, addressed below.

The facility shall not search or physically examine a detainee for the sole purpose of determining the detainee’s genital characteristics. If the detainee’s gender is unknown, it may be determined during conversations with the detainee, by

reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner.

b. Gender of Officer

An officer of the same gender as the detainee shall perform the search. Special care should be taken to ensure that transgender detainees are searched in private.

In the case of an emergency, a staff member of the same gender as the detainee shall be present to observe a strip search performed by an officer of the opposite gender.

When an officer of the opposite gender conducts a strip search which is observed by a staff member of the same gender as the detainee, staff shall document the reasons for the opposite-gender search in any logs used to record searches and in either the detainee's detention file or a retrievable electronic format.

c. Guidelines

Facilities may perform a strip search when an articulable and reasonable suspicion exists that contraband is concealed on the detainee's person. Facilities may also conduct strip searches as a matter of course when a detainee is entering or re-entering the facility or in accordance with the facility's contact visitation procedures as outlined in Standard 5.5 "Visitation." All strip searches will be documented. Where a strip search is based on reasonable suspicion, the articulable facts supporting that conclusion will also be documented.

d. Reasonable Suspicion

"Reasonable suspicion" is based on the existence of specific and articulable facts that would lead a reasonable officer to believe that a specific detainee is in possession of contraband. It must be based on specific and articulable facts, along with reasonable inferences that may be drawn from those facts.

The lack of identity documents alone does not ordinarily constitute reasonable suspicion.

### **3. Body Cavity Searches**

A body cavity search is an inspection for contraband or any other foreign item, in a body cavity of a detainee, by use of fingers or simple instruments, such as an otoscope, tongue blade, short nasal speculum, and simple forceps. A body cavity search is the most intrusive type of search. A body cavity search must be performed by a medical professional and take place in an area that affords privacy from other detainees and from facility staff who are not involved in the search.

- a. A body cavity search may only be conducted by authorized medical personnel, upon approval of the facility administrator or acting facility administrator, and only if there is reasonable suspicion that contraband may be concealed in or on the detainee's person.
- b. The articulable facts supporting the conclusion that reasonable suspicion exists shall be documented.
- c. The detainee's health and welfare shall be considered prior to performance of any digital or simple instrument search.
- d. Although a detainee's written consent should be obtained prior to conducting a digital or simple instrument search, such written consent is not required.
- e. Whenever possible, transgender detainees shall be permitted to choose the gender of the staff member conducting a body-cavity search.
- f. If located, the contraband or foreign item may be removed immediately by medical staff, if such removal can easily be affected by use of fingers or simple medical instruments.
- g. IHSC staff is not authorized to collect or participate in the collection of specimens or other information that will be used for forensic purposes, including for toxicology studies, rape kits, and DNA testing.

Staff shall document all body cavity, digital, and simple instrument searches, the authorizations, and the reasons for the searches, in any logs used to record searches and in the detainee's detention file or retrievable electronic format.

#### **D. Close Observation in a "Dry Cell"**

##### **1. Description and Authorization**

When an officer has reasonable suspicion to believe that a detainee may have ingested contraband or concealed contraband in a body cavity, and the methods of search specified above are inappropriate or likely to result in physical injury to the detainee, the facility administrator or designee may authorize that the detainee be placed in a room or cell to be closely observed by staff until the detainee has voided or passed the contraband or until sufficient time has elapsed to preclude the possibility that the detainee is concealing contraband.

##### **2. Requirements for "Dry Cells"**

One or more rooms or cells may be identified as dry cells; such rooms must meet the following requirements:

- a. The room shall be free of hiding places and be equipped with only a bed.
- b. Doors shall have proper observation panels to protect staff and to allow unobstructed observation.
- c. If the designated area is equipped with a toilet and/or sink, the water to the cell shall be shut off for the duration of the dry cell process.
- d. Prior to a detainee's placement in dry cell status, the room to be used shall be completely searched and determined to be free of contraband.

### **3. Advising the Detainee**

The supervisor responsible for initiating the dry cell placement shall advise the detainee of the conditions and what is expected and shall document the notification on an Administrative Segregation Order. The detainee shall be advised of the reasons he or she is being placed in a dry cell, the purpose of this placement, the conditions he or she can expect, and the means by which he or she can request items and services including, but not limited to, food and water, medical care, hygiene products, and bedpans. This information shall be communicated in a language or manner that the detainee understands.

### **4. Conditions of "Dry Cell" Status**

- a. For the detainee's safety, he or she shall be required to provide a urine sample within two hours of placement under close observation. A second urine sample shall be required prior to releasing the detainee from close observation.
- b. The detainee shall have regular access to potable water.
- c. The detainee may be provided telephone access.
- d. The detainee may not be allowed to come in contact with other detainees.
- e. Personal hygiene items shall be provided as necessary and controlled by staff.
- f. The detainee shall not be permitted to leave the cell or room, except in case of extreme emergency.
- g. The detainee shall be served the same meals as the general population, unless medically advice dictates otherwise. All meals are to be inspected for contraband prior to delivery to the detainee, and any food remaining after the meal, as well as the utensils and tray, are to be thoroughly inspected before their return to food service.

- h. Only medications prescribed and administered directly to the detainee by medical personnel may be given to the detainee.
- i. When the detainee needs to urinate and/or defecate, he or she shall be furnished an empty hospital bedpan, which shall afterward be closely inspected to ascertain whether any contraband is present.
- j. Since the detainee is in administrative segregation status even if not actually housed in the Special Management Unit (SMU), the requirements for medical and supervisory and staff visits in Standard 2.9 “Special Management Units” apply.
- k. Dry cells must be cleaned in accordance with Standard 1.1 “Environmental Health and Safety.”

## **5. Post Orders**

The facility shall have post orders for closely observing a detainee in dry cell status. A video camera shall be used whenever possible and as appropriate.

## **6. Requirements for Close Observation**

The detainee shall be constantly observed and supervised by a staff member of the same gender. Opposite gender observation shall only occur in in exigent circumstances, the occurrence of which must be documented.

It is the observer’s responsibility to ensure the detainee does not dispose of any concealed item, and to prevent activity which would allow the detainee access to the concealed item, thereby jeopardizing the security and good order of the facility, staff, and detainees. Any questions, emergency, or other situation that arises shall immediately be brought to the attention of the shift supervisor.

- a. Detainees in dry cells shall be monitored by medical staff for changes in medical and mental health status.
- b. A daily log and SMU record shall be maintained on each detainee in dry cell status.
- c. The shift supervisor shall provide periodic staff relief to the observer and at any other time the observer must leave the area. The detainee must not be left unattended.
- d. Trash may not be allowed to accumulate, and each item shall be thoroughly searched before final disposal.
- e. Periodic searches shall be conducted as follows:

- 1) A strip search of the detainee when he or she is placed in the dry cell, after which the detainee shall be issued a jump suit (or other suitable loose-fitting clothing);
  - 2) A strip search of the detainee at least once each shift, if necessary; and
  - 3) A search of the dry cell at least once each shift.
- f. Staff shall notify the shift supervisor when contraband is found, secure the contraband in a properly documented evidence bag, and maintain the chain of custody for the evidence.

## **7. Length of Observation**

The length of close-observation status must be determined on an individual basis. The facility administrator or designee, in consultation with qualified health personnel, shall determine when termination is appropriate.

- a. The status of a detainee under close observation for as long as three days must be reviewed by the facility administrator or designee and medical staff in accordance with Standard 2.9 “Special Management Units.”
- b. Since the objective of dry cell status is likely to be achieved within seven days, maintaining a detainee under close observation beyond seven days requires prior approval of the facility administrator and medical staff.

## **E. X-Ray**

### **1. Medical**

The facility physician may authorize use of an x-ray for medical reasons and only with the consent of the detainee.

### **2. Security**

Only the facility administrator, upon approval by ICE/ERO, may authorize the facility physician to order a non-repetitive x-ray examination for the purpose of determining whether contraband is concealed in or on the detainee (e.g., in a cast or body cavity).

Such approval and authorization shall be based on the facility administrator and physician’s determination that:

- a. An x-ray examination is necessary for security, safety, good order, or health of the detainee;
- b. No reasonable alternative exists; and

- c. The examination is not likely to result in serious or lasting medical injury or harm to the detainee, based on the determination of qualified medical staff.

Staff shall place documentation of the examination, the authorizations, and the reasons for the examination in the detainee's detention file or other retrievable electronic format, as well as in the medical file.

An x-ray examination may not be performed on a detainee without the detainee's consent. Staff shall solicit the detainee's consent and cooperation prior to the x-ray examination. Force may not be used to gain consent and cooperation. If the detainee does not provide consent and fails to cooperate, an x-ray examination shall not be performed.

**F. Major Instrument, Fluoroscope, or Surgical Intrusion**

Only a physician may authorize use of a fluoroscope, major instrument (including an anoscope or vaginal speculum), or surgical intrusion. Such use must be for medical reasons only, and only with the detainee's consent.