

Outside scope of application

## Searching

### *Custody manager*

You may search or authorise the search of detained people. A search involving the removal of more than outer clothing (ie, a strip search) may only be made in accordance with Annexure A. Have the search carried out by an officer of the same sex, or someone else of the same sex acting under the lawful direction of a police officer and where possible in the presence of a senior officer (custody manager, duty officer, supervisor) not connected with the

investigation. Only in exceptional cases will a search be carried out by someone of the opposite sex.

Detained people may retain clothing and personal effects at their own risk unless you consider the items might be used to cause harm, interfere with evidence, damage property, effect an escape or they are needed for evidence. If these items are removed tell the person why. If it is necessary to remove someone's clothes, arrange replacement clothing of a reasonable standard (usually arranged through family or friends). Do not allow an interview unless adequate replacement clothing has been offered.

When you take property from a prisoner, immediately record its removal and place it in a suitable property envelope.

Include the duplicate copy of the property docket with the envelope.

In the case of bulky items such as suitcases etc, attach identifying labels to each one and make a suitable reference on the docket.

### **Documentation**

Record all property (except clothing being worn) brought to the police station with a detained person, including those articles allowed to be kept. Ask the person to check and sign the record.

Where clothing or personal effects are taken from the person record the reason. You do not have to record the reason if the items taken are ties, belts, laces, socks or other items capable of being used as a ligature, cash, or valuables.

If a search is conducted by someone of the opposite sex record this fact along with the reason/s.

Where a strip search is conducted record the reason/s.

### **Notes for guidance**

Detained people should be searched where the custody manager will have continuing duties with them or where their behaviour or the offence makes it appropriate. Where you remove money from the person count it in front of both the person and arresting/escorting police. Where, for example, it is clear someone will be kept in custody only for a brief period and will not be placed in a cell, the custody manager may decide not to search them. Endorse the custody record "not searched". Ask the person to sign the entry.

Do not give prisoners you receive from gaols any property before they return to gaol.

### **Searching officer**

Remember to practice officer safety when searching. Generally, search from the rear with a bladed body stance.

Start your search at the top of the head using the crush method. Move down through the collar, back, chest and belt areas. After the belt area search the groin and backside by using the hand as a knife edge and adopting a triangular pattern for the upper legs and groin and between the cheeks for the rear. Finish the search by returning to the crush method working down to the feet. Beware of syringe needles etc which might be secreted in clothing.

For further information about searching refer to the *Policing Issues and Practice Journal*, April 1999.

#### **Violent prisoners**

If a prisoner is violent and objects to being searched, you may use reasonable force. Do not, however, use restraints which constrict air supply or arteries/veins, such as "choke holds", neck restraints or pressure point holds applied above the neck. Use restraint in the most humane way possible.

Outside scope of application

2003(2)

Outside scope of application

**ANNEXURES****Annexure A – Strip searches**

A strip search is a search of the person which involves the removal of all clothing or the outer clothing (not jumpers, coats or similar) of the top or bottom of females or the bottom of males (ie, down to underwear).

Do not strip search as a matter of policy. You must be able to justify your decision, with reasonable grounds, in each case.

A strip search is justified only when:

- you reasonably suspect critical evidence relating to the offence might be lost
- you reasonably suspect the offender has concealed on them a thing which could present a real danger to themselves or others or a thing which might help in an escape from custody.

Generally, do not strip search unless:

- the seriousness and urgency of the circumstances require and justify such an intrusive search of the body, and
- the person has been told the reason for your search.

You do not have power to search body cavities.

Unless exceptional circumstances exist a strip search is to be conducted by officers of the same sex as the person being searched.

Whenever possible conduct the strip search out of the view of anyone not directly involved and necessary for the search. This includes other prisoners or suspects. Remember, the shedding of clothes involves the invasion of the modesty or dignity of the person being searched. You are to be professional at all times during such searches and are not to subject the person to unnecessary embarrassment or degrading treatment.

If you are going to strip search a child and a parent or guardian is present or immediately available you might consider allowing that person to be present during the strip search. Remember, if your search is being conducted on a child and is an investigative procedure under Part 10A of the *Crimes Act* the child cannot waive their right to have a support person present.

Remember, it is always open to you to consult a senior officer (supervisor, duty officer, custody manager) before undertaking a strip search. Always create a record of your search, either in your notebook (if in the field) or in the custody record (if at a police station) and include your reasons for conducting it, conversations and those present.

**Documentation**

In the case of a strip search, the custody manager will record the reasons and the result on the custody record.

2003(3)

Outside scope of application

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Outside scope of application

## Searching a person on arrest

When you arrest a person for an offence you may search the person at or after the time of arrest if you suspect on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything that:

- would present a danger to a person, or
- could be used to assist the person to escape, or
- may provide evidence of an offence.

When you arrest a person other than for an offence (for example, to undergo a breath analysis, or pursuant to any sort of warrant) you may search the person at or after the time of arrest if you suspect on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything:

- that would present a danger to a person, or
- that could be used to assist the person escape.

**NB:** Remember that if you exercise your power to search a person on arrest, you must comply with both the safeguards in section 201 of LEPR **and** the general rules relating to personal searches (see Annexure A).

Outside scope of application

## Searching

### *Custody manager*

You may search or authorise the search of detained people. The search carried out should be the least invasive kind of search practicable in the circumstances.

**NB:** When you search you must comply with the safeguards in section 201 of LEPPRA.

LEPPRA defines three types of personal searches:

### **Frisk search**

- (a) a search of a person conducted by quickly running the hands over the person's outer clothing or by passing an electronic metal detection device over or in close proximity to the person's outer clothing, and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person, including an examination conducted by passing an electronic metal detection device over or in close proximity to that thing.

### **Ordinary search**

means a search of a person or of articles in the possession of a person that may include:

- (a) requiring the person to remove only his or her overcoat, coat or jacket or similar article of clothing and any gloves, shoes and hat, and
- (b) an examination of those items.

### **Strip search**

means a search of a person or of articles in the possession of a person that may include:

- (a) requiring the person to remove all of his or her clothes, and
- (b) an examination of the person's body (but not of the person's body cavities) and of those clothes.

Any personal search must be carried out in a manner that preserves the privacy and dignity of the person being searched, as far as is reasonably practicable. Section 32 of LEPR sets out the general requirements for conducting personal searches – see Annexure A.

Any search that involves the removal of more than outer clothing should be treated as a 'strip search' and carried out in accordance with Annexure A. A strip search should only be carried out if you suspect on reasonable grounds that it is necessary to conduct a strip search of the person for the purposes of the search and that the seriousness and urgency of the circumstances require the strip search to be carried out.

Have the search carried out by an officer of the same sex, or someone else of the same sex acting under the lawful direction of a police officer and where possible in the presence of a senior officer (custody manager, duty officer, supervisor) not connected with the investigation. Only in exceptional cases will a search be carried out by someone of the opposite sex.

Detained people may retain clothing and personal effects at their own risk unless you consider the items might be used to cause harm, interfere with evidence, damage property, effect an escape or they are needed for evidence. If these items are removed tell the person why. If it is necessary to remove someone's clothes, arrange replacement clothing of a reasonable standard (usually arranged through family or friends). Do not allow an interview unless adequate replacement clothing has been offered.

When you take property from a person, immediately record its removal and place it in a suitable property envelope.

Include the duplicate copy of the property docket with the envelope.

In the case of bulky items such as suitcases etc, attach identifying labels to each one

and make a suitable reference on the docket.

## **Documentation**

Record all property (except clothing being worn) brought to the police station with a detained person, including those articles allowed to be kept. Ask the person to check and sign the record.

Where clothing or personal effects are taken from the person record the reason. You do not have to record the reason if the items taken are ties, belts, laces, socks or other items capable of being used as a ligature, cash, or valuables.

If a search is conducted by someone of the opposite sex record this fact along with the reason/s.

Where a strip search is conducted record the reason/s.

## **Notes for guidance**

Detained people should be searched where the custody manager will have continuing duties with them or where their behaviour or the offence makes it appropriate. Where you remove money from the person count it in front of both the person and arresting/escorting police. Where, for example, it is clear someone will be kept in custody only for a brief period and will not be placed in a cell, the custody manager may decide not to search them. Endorse the custody record 'not searched'. Ask the person to sign the entry.

Do not give inmates you receive from gaols any property before they return to gaol.

## **Searching officer**

Remember to comply with the safeguards in section 201 of LEPR.

Remember to practice officer safety when searching. Generally, search from the rear with a bladed body stance.

Start your search at the top of the head using the crush method. Move down through the collar, back, chest and belt areas. After the belt area search the groin and backside by using the hand as a knife edge and adopting a triangular pattern for the upper legs and groin and between the cheeks for the rear. You must not search the genital area, or females' or transgender persons' breasts, unless you believe on reasonable grounds it is necessary to do so. Finish the search by returning to the crush method working down to the feet. Beware of syringe needles etc which might be secreted in clothing.

## **Violent people**



If a detained person is violent and objects to being searched, you may use reasonable force. Do not, however, use restraints which constrict air supply or arteries/veins, such as 'choke holds', neck restraints or pressure point holds applied above the neck. Use restraint in the most humane way possible.

Outside scope of application

# Stop search and detain

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## General

Refer to sections 201, 21 and 36 of LEPRA.

This part of the Code governs your statutory powers to stop and search people or to stop and search a vehicle without an **arrest**.

Before exercising your powers you must have reasonable grounds to suspect the person or vehicle is carrying any article as set out in the sections referred to above.

In determining whether you have **reasonable grounds to suspect** consider **all** the circumstances of each situation including:

- the nature of the article
- the time and location
- the behaviour and actions of who you want to search
- antecedents - if known (do not use this as the sole grounds)

Some factual basis for your suspicion must be shown. It may be based on hearsay material or materials that may be inadmissible in evidence, but the material must have some probative value.

Do not detain someone using these powers for the purpose of questioning. Do not detain anyone or vehicle for longer than is reasonably necessary to conduct your search.

If you do not find anything or you are not going to **arrest** let the people or vehicle go.

Do not stop or detain someone against their will to find grounds on which to base your suspicion. You must have the suspicion beforehand.

Before searching you may question someone about what gave rise to your suspicion. However, they do not have to answer.

If at any time something happens to remove your suspicion do not continue with or conduct the search.

Before searching comply with the safeguards in section 201 of LEPRA. Tell the person to be searched, or in charge of the vehicle to be searched, your name, rank and station, what you are searching for, and the grounds for your search. If you are

not in uniform produce your identification. You must warn a person that refusal or failure to comply with a request whilst exercising this power, may constitute an offence.

Ensure people understand why they have been detained.

If it appears someone does not understand (language, disability etc) take reasonable steps to have the information understood. If someone accompanying can interpret, this will suffice.

Tell people searched a copy of the record of the search can be obtained through a freedom of information application.

Where possible avoid a forced search - obtain people's cooperation. If you use force it must be reasonable in all of the circumstances. The force used is not to be more than is reasonably necessary to allow the search to be conducted. Force is to be used as a last resort.

When searching a person you must comply, as far as is reasonably practicable, with the requirements of section 32 of LEPR. Refer to Annexure A.

When searching make a reasonable effort to reduce embarrassment and loss of dignity to those being searched. Conduct the search at or nearby the place where the person or vehicle was stopped.

Generally, conduct a frisk search only. A strip search cannot be conducted unless clearly justified under section 31 of LEPR, taking into account the object you are searching for. If you are considering a strip search refer to Annexure A.

Record all searches, those present, the reasons for your suspicion, all conversations and actions in your notebook. Ask the person to sign your entry.

Outside scope of application

# Annexures

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## Annexure A – Rules for conducting personal searches

### General rules for conducting all searches

Before searching, comply with the safeguards in section 201 of LEPR.

#### Section 32 of LEPR – Preservation of privacy and dignity during search

(1) A police officer or other person who searches a person must, as far as is reasonably practicable in the circumstances, comply with this section.

(2) The police officer or other person must inform the person to be searched of the following matters:

- (a) whether the person will be required to remove clothing during the search,
- (b) why it is necessary to remove the clothing.

(3) The police officer or other person must ask for the person's co-operation.

(4) The police officer or other person must conduct the search:

- (a) in a way that provides reasonable privacy for the person searched, and
- (b) as quickly as is reasonably practicable.

(5) The police officer or other person must conduct the least invasive kind of search practicable in the circumstances.

(6) The police officer or other person must not search the genital area of the person searched, or in the case of female or a transgender person who identifies as a female, the person's breasts unless the police officer or person suspects on reasonable grounds that it is necessary to do so for the purposes of the search.

(7) A search must be conducted by a police officer or other person of the same sex as the person searched or by a person of the same sex under the direction of the police officer or other person concerned.

(8) A search of a person must not be carried out while the person is being questioned. If questioning has not been completed before a search is carried out, it must be suspended while the search is carried out.

(9) A person must be allowed to dress as soon as a search is finished.

(10) If clothing is seized because of the search, the police officer or other person must ensure

the person searched is left with or given reasonably appropriate clothing.

(11) In this section:

**questioning** of a person means questioning the person, or carrying out an investigation (in which the person participates).

**transgender person** means a person, whether or not the person is a recognised transgender person:

- (a) who identifies as a member of the opposite sex, by living, or seeking to live, as a member of the opposite sex, or
- (b) who has identified as a member of the opposite sex by living as a member of the opposite sex, or
- (c) who, being of indeterminate sex, identifies as a member of a particular sex by living as a member of that sex,

and includes a reference to the person being thought of as a transgender person, whether or not the person is, or was, in fact a transgender person.

## Strip searches

A strip search means a search of a person or of articles in the possession of a person that may include:

- requiring the person to remove all of his or her clothes, and
- an examination of the person's body (but not of the person's body cavities) and of those clothes.

While a strip search, when necessary in the circumstances, may go as far as the removal of all clothing, any search requiring a person to remove clothing (other than overcoats, coats, jackets or similar items of clothing, gloves, shoes or hats) from the top or bottom of the body is regarded as a strip search under LEPRA.

Section 31 of LEPRA limits the occasions on which a strip search can be conducted. You must suspect on reasonable grounds that it is necessary to conduct a strip search of the person for the purposes of the search and that the seriousness and urgency of the circumstances require the strip search to be carried out.

You may not strip search as a matter of policy. You must be able to justify your decision in each case.

You have no power to strip search a person who is under the age of 10.

A strip search is justified only when you suspect on reasonable grounds that it is necessary to conduct a strip search for any of the purposes indicated in the dot points above and that the seriousness and urgency of the circumstances require the strip search to be carried out.

In addition to complying with the safeguards in section 201 of LEPR, and the general rules for preserving a person's privacy and dignity during searches in section 32 of LEPR, section 33 of LEPR sets out specific rules for conducting strip searches.

You must, as far as is reasonably practicable in the circumstances, comply with the following:

- the person must be informed that they will be required to remove clothes and the reason why
- the person's co-operation must be asked for
- the strip search must be conducted in a private area and as quickly as is reasonably practicable
- the search must be of the least invasive kind that is practicable in the circumstances
- you must not search the genital area of a person, or the breasts of a female or transgender person, unless you suspect on reasonable grounds that it is necessary to do so
- the search must be conducted by a police officer of the same sex or by a person of the same sex under your direction
- the search must not be carried out while the person is being questioned
- the person must be allowed to dress as soon as the search is finished
- if clothing is seized, you must ensure the person is left with or given reasonably appropriate clothing
- the strip search must not be conducted in the presence or view of a person of the opposite sex
- the strip search must not be conducted in the presence or view of a person who does need to be there
- a parent, guardian or personal representative of the person may, if it is reasonably practicable in the circumstances, be at the search with the person's consent
- a strip search of a person aged at least 10 years, but less than 18 years, or of a person who has impaired intellectual functioning, must, unless it is not reasonably practicable in the circumstances, be conducted in the presence of a parent or guardian of the person being searched or, if that is not acceptable to the child or person, some other person (not being a police officer) who is capable of representing the interests of the person and who is acceptable to the person
- a strip search must not involve a search of the person's body cavities or an examination of the body by touch

- a strip search must not involve the removal of more clothes than you believe on reasonable grounds to be necessary to be reasonably necessary for the purposes of the search.
- a strip search must not involve more visual inspection than you believe on reasonable grounds to be reasonably necessary for the purposes of the search.
- A strip search may be conducted in the presence of a medical practitioner of the opposite sex if the person being searched has no objection.

Remember, if your search is being conducted on a child and is an investigative procedure under Part 9 of LEPRA the child cannot waive their right to have a support person present.

Remember, it is always open to you to consult a senior officer (supervisor, duty officer, custody manager) before undertaking a strip search. Always create a record of your search, either in your notebook (if in the field) or in the custody record (if at a police station) and include your reasons for conducting it, conversations and those present.

### **Documentation**

In the case of a strip search, the custody manager will record the reasons and the result on the custody record.



# NSW POLICE FORCE

## Code of Practice for CRIME (Custody, Rights, Investigation, Management and Evidence)

*Version as at September 2016*



## Stop search and detain

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### General

Refer to sections 201, 21 21A and 36 of LEPR.

This part of the Code governs your statutory powers to stop and search people or to stop and search a vehicle without an **arrest**.

Before exercising your powers you must have reasonable grounds to suspect the person or vehicle is carrying any article as set out in the sections referred to above.

In determining whether you have **reasonable grounds to suspect** consider **all** the circumstances of each situation including:

- the nature of the article
- the time and location
- the behaviour and actions of who you want to search
- antecedents - if known (do not use this as the sole grounds)

Some factual basis for your suspicion must be shown. It may be based on hearsay material or materials that may be inadmissible in evidence, but the material must have some probative value.

Do not detain someone using these powers for the purpose of questioning. Do not detain anyone or vehicle for longer than is reasonably necessary to conduct your search.

If you do not find anything or you are not going to **arrest** let the people or vehicle go.

Do not stop or detain someone against their will to find grounds on which to base your suspicion. You must have the suspicion beforehand.

Before searching you may question someone about what gave rise to your suspicion. However, they do not have to answer.

If at any time something happens to remove your suspicion do not continue with or conduct the search.

Before searching comply with the safeguards in section 201 of LEPR. Tell the person to be searched, or in charge of the vehicle to be searched, your name and place of duty and the reason for the exercise of the power. If you are not in uniform produce your identification.

If you are exercising a power that involves the making of a request or giving of a direction (such as a power under section 36) you must warn the person that he/she is required by law to comply with the request or direction (unless he/she has already complied or is in the process of complying). If the person does not comply with the request or direction after being given that warning, and you believe that his/her failure to comply is an offence, you must give another warning that the failure to comply with the request or direction is an offence.

Ensure people understand why they have been detained.

If it appears someone does not understand (language, disability etc) take reasonable steps to have the information understood. If someone accompanying can interpret, this will suffice.

Tell people searched a copy of the record of the search can be obtained through a freedom of information application.

Where possible avoid a forced search - obtain people's cooperation. If you use force it must be reasonable in all of the circumstances. The force used is not to be more than is reasonably necessary to allow the search to be conducted. Force is to be



used as a last resort. If you suspect on reasonable grounds one of the things for which you are searching may be concealed in the person's mouth or hair, your search may include requesting the person to open their mouth or shake their hair. However, you may not forcibly open a person's mouth.

When searching a person you must comply, as far as is reasonably practicable, with the requirements of section 32 of LEPR. Refer to Annexure A.

When searching make a reasonable effort to reduce embarrassment and loss of dignity to those being searched. Conduct the search at or nearby the place where the person or vehicle was stopped.

Generally, conduct a frisk search only. A strip search cannot be conducted unless clearly justified under section 31 of LEPR, taking into account the object you are searching for. If you are considering a strip search refer to Annexure A.

Record all searches, those present, the reasons for your suspicion, all conversations and actions in your notebook. Ask the person to sign your entry.

### **Frisk search**

- (a) a search of a person conducted by quickly running the hands over the person's outer clothing or by passing an electronic metal detection device over or in close proximity to the person's outer clothing, and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person, including an examination conducted by passing an electronic metal detection device over or in close proximity to that thing.

### **Ordinary search**

means a search of a person or of articles in the possession of a person that may include:

- (a) requiring the person to remove only his or her overcoat, coat or jacket or similar article of clothing and any gloves, shoes and hat, and
- (b) an examination of those items.

### **Strip search**

means a search of a person or of articles in the possession of a person that may include:

- (a) requiring the person to remove all of his or her clothes, and
- (b) an examination of the person's body (but not of the person's body cavities) and of those clothes.

Any personal search must be carried out in a manner that preserves the privacy and dignity of the person being searched, as far as is reasonably practicable. Section 32 of LEPRA sets out the general requirements for conducting personal searches – see Annexure A.

Any search that involves the removal of more than outer clothing should be treated as a 'strip search' and carried out in accordance with Annexure A. A strip search should only be carried out if you suspect on reasonable grounds that it is necessary



to conduct a strip search of the person for the purposes of the search and that the seriousness and urgency of the circumstances require the strip search to be carried out.

Have the search carried out by an officer of the same sex, or someone else of the same sex acting under the lawful direction of a police officer and where possible in the presence of a senior officer (custody manager, duty officer, supervisor) not connected with the investigation. Only in exceptional cases will a search be carried out by someone of the opposite sex.

Detained people may retain clothing and personal effects at their own risk unless you consider the items might be used to cause harm, interfere with evidence, damage property, effect an escape or they are needed for evidence. If these items are removed tell the person why. If it is necessary to remove someone's clothes, arrange replacement clothing of a reasonable standard (usually arranged through family or friends). Do not allow an interview unless adequate replacement clothing has been offered.

When you take property from a person, immediately record its removal and place it in a suitable property envelope.

Include the duplicate copy of the property docket with the envelope.

In the case of bulky items such as suitcases etc, attach identifying labels to each one and make a suitable reference on the docket.

### ***Documentation***

Record all property (except clothing being worn) brought to the police station with a detained person, including those articles allowed to be kept. Ask the person to check and sign the record.

Where clothing or personal effects are taken from the person record the reason. You

do not have to record the reason if the items taken are ties, belts, laces, socks or other items capable of being used as a ligature, cash, or valuables.

If a search is conducted by someone of the opposite sex record this fact along with the reason/s.

Where a strip search is conducted record the reason/s.

### ***Notes for guidance***

Detained people should be searched where the custody manager will have continuing duties with them or where their behaviour or the offence makes it appropriate. Where you remove money from the person count it in front of both the person and arresting/escorting police. Where, for example, it is clear someone will be kept in custody only for a brief period and will not be placed in a cell, the custody manager may decide not to search them. Endorse the custody record 'not searched'. Ask the person to sign the entry.

Do not give inmates you receive from gaols any property before they return to gaol.

### ***Searching officer***

Remember to comply with the safeguards in section 201 of LEPR.

Remember to practice officer safety when searching. Generally, search from the rear with a bladed body stance.

Start your search at the top of the head using the crush method. Move down through the collar, back, chest and belt areas. After the belt area search the groin and backside by using the hand as a knife edge and adopting a triangular pattern for the upper legs and groin and between the cheeks for the rear. You must not search the genital area, or females' or transgender persons' breasts, unless you believe on reasonable grounds it is necessary to do so. Finish the search by returning to the crush method working down to the feet. Beware of syringe needles etc which might be secreted in clothing.



## Violent people

If a detained person is violent and objects to being searched, you may use reasonable force. Do not, however, use restraints which constrict air supply or arteries/veins, such as 'choke holds', neck restraints or pressure point holds applied above the neck. Use restraint in the most humane way possible.

Outside scope of application

# Police Handbook- 2019- Personal Search/Strip Search

## Extract of relevant chapters

Intranet Article Asset ID: #30314

### Custody

### Searching

#### Custody manager

You may search or authorise the search of detained people. The search carried out should be the least invasive kind of search practicable in the circumstances.

**NB:** When you search you must comply with the safeguards in [Part 15](#) of LEPR.

LEPR defines TWO types of personal searches:

#### 30 Searches generally

In conducting the search of a person, a police officer may:

- (a) quickly run his or her hands over the person's outer clothing, and
- (b) require the person to remove his or her coat or jacket or similar article of clothing and any gloves, shoes, socks and hat (but not, except in the case of a strip search, all of the person's clothes), and
- (c) examine anything in the possession of the person, and
- (d) pass an electronic metal detection device over or in close proximity to the person's outer clothing or anything removed from the person, and
- (e) do any other thing authorised by this Act for the purposes of the search.

#### 31 Strip searches

A police officer may carry out a strip search of a person if:

- (a) in the case where the search is carried out at a police station or other place of detention - the police officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search, or
- (b) in the case where the search is carried out in any other place - the police officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search and that the seriousness and urgency of the circumstances make the



strip search necessary.

Section 32 of LEPPRA sets out that personal search must be carried out in a manner that preserves the privacy and dignity of the person being searched, as far as is reasonably practicable.

Any search that involves the removal of more than just outer clothing should be treated as a 'strip search', and should only be carried out if you suspect on reasonable grounds that it is necessary to conduct a strip search (s. 31, above).

Have the search carried out by a police officer of the same sex as the person being searched, or someone else of the same sex acting under the lawful direction of a police officer, and where possible, in the presence of a senior officer (custody manager, duty officer, supervisor) not connected with the investigation. Only in exceptional cases will a search be carried out by someone of the opposite sex.

Detained people may retain clothing and personal effects at their own risk unless you consider the items might be used to cause harm, interfere with evidence, damage property, effect an escape or they are needed for evidence. If these items are removed tell the person why. If it is necessary to remove someone's clothes, arrange replacement clothing of a reasonable standard (usually arranged through family or friends). Do not allow an interview unless adequate replacement clothing has been offered.

When you take property from a person, immediately record its removal and place it in a suitable property envelope.

Include the duplicate copy of the property docket with the envelope.

In the case of bulky items such as suitcases etc., attach identifying labels to each one and make a suitable reference on the docket.

## **Documentation**

Record all property (except clothing being worn) brought to the police station with a detained person, including those articles allowed to be kept. Ask the person to check and sign the record as well as the searching officer which would indicate that all property removed from the person is noted on the prisoner's property docket. After these signatures have been asked for and/or obtained, the safe keeping of the said property is now the Custody Manager's responsibility.

Where clothing or personal effects are taken from the person record the reason. You do not have to record the reason if the items taken are ties, belts, laces, socks or other items capable of being used as a ligature, cash, or valuables.

If a search is conducted by someone of the opposite sex record this fact along with the reason/s.

Where a strip search is conducted record the reason/s.

## **Notes for guidance**



Detained people should be searched where the custody manager will have continuing duties with them or where their behaviour or the offence makes it appropriate. Where you remove money from the person count it in front of both the person and arresting / escorting police. Where, for example, it is clear someone will be kept in custody only for a brief period and will not be placed in a cell, the custody manager may decide not to search them. Endorse the custody record 'not searched'. Ask the person to sign the entry.

Do not give inmates you receive from gaols any property before they return to gaol.

### **Searching officer**

Remember to comply with the safeguards in [Part 15](#) of LEPR.

Remember to practice officer safety when searching. Generally, search from the rear with a bladed body stance.

Start your search at the top of the head using the crush method. Move down through the collar, back, chest and belt areas. After the belt area search the groin and backside by using the hand as a knife edge and adopting a triangular pattern for the upper legs and groin and between the cheeks for the rear. You must not search the genital area, or females' or transgender persons' breasts, unless you believe on reasonable grounds it is necessary to do so. Finish the search by returning to the crush method working down to the feet. Beware of syringe needles etc. which might be secreted in clothing.

### **Violent people**

If a detained person is violent and objects to being searched, you may use reasonable force. Do not, however, use restraints which constrict air supply or blood flow, such as 'choke holds', neck restraints or pressure point holds applied above the neck. Use restraint in the most humane way possible.

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## **Escorting / Transporting Prisoners**

*(Chapter reviewed and updated 13 August 2013 [D/2013/80288])*

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### **Observing detainee in police vehicle**

If transportation is delayed, maintain constant face to face observation unless exigent circumstances prohibit this. When en route conduct frequent inspections



(face to face) to ensure safety and wellbeing of detainees based upon a risk assessment and in any event every 30 minutes. Be vigilant, a detainee may:

- deteriorate rapidly (physically or mentally),
- lapse into unconsciousness,
- self harm or harm another.

Be especially aware of a detainee who has not been searched, or who may have been inadequately searched. If the person is to be searched, the search should be carried out before the person is transported.

## Searching detainees

Section 23 of the *Law Enforcement (Powers and Responsibilities) Act 2002* permits an arresting officer or officer present at the arrest to search an arrested person at or after the time of arrest, if the officer suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything:

- that would present a danger to a person, or
- that could be used to assist a person to escape from lawful custody, or
- that is a thing with respect to which an offence has been committed, or
- that is a thing that will provide evidence of the commission of an offence, or
- that was used, or is intended to be used, in or in connection with the commission of an offence

Section 24 of LEPR permits police to search a person who is in lawful custody (whether at a police station or at any other place) and seize anything found on that search.

Examples of items which may present a danger / risk of self harm include:

- braces, belts, ties, boot and shoe laces, pens, pencils, cigarette lighters, matches or any item which may be altered or adapted for the intended use.

Particular attention should be paid to the belt and waist areas, collar, shoes, socks, bands of hats and bandages, where such items may be concealed.

Outside scope of application

If the situation arises where a prisoner is unable to be searched prior to transporting, it is strongly urged that officers adopt the following procedures, if possible:

Outside scope of application

Outside scope of application

- The searching officer should undertake a search of the detained person prior to entering the main custody area.

### **At the place of detention**

All persons in custody should have been thoroughly searched prior to their arrival at a place of detention.

Outside scope of application

Outside scope of application