

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISION: C 1734
STRIP SEARCHES OF
DEPARTMENT MEMBERS**

DATE: May 13, 2022

APPROVED

Memo# 2022-017

BACKGROUND

On March 1, 2022, the CNA Corporation presented a report to the City Council entitled, [21st Century Policing Assessment of the San José Police Department \(link\)](#).

Recommendation #1.3.9 in this report reads, “Revise the Duty Manual to reserve strip searches for criminal matters, and only in accordance with strict criteria and with the approval of the Chief or Deputy Chief.”

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

C 1734 STRIP SEARCHES OF DEPARTMENT MEMBERS ~~IN ADMINISTRATIVE MATTERS:~~

Revised 05-13-22

No ~~d~~Department member will be subjected to a strip search for administrative investigative purposes. *No Department member will be subjected to a strip search for criminal investigative purposes* unless there is a reasonable suspicion that evidence will be uncovered during the strip search. A reasonable suspicion that evidence will be uncovered exists when the person responsible for the search is aware of specific articulated facts, and inferences from those facts, which support such a suspicion.

When determining if reasonable suspicion to conduct a search exists, the ~~d~~Department member responsible for investigating the incident will consider such factors as the likelihood of *an individual citizen* making a false accusation against an arresting officer, the existence of independent or neutral witnesses, the gravity of the alleged violation, the frequency with which the alleged contraband is encountered, etc.

Only the Chief of Police or their designee may authorize the strip search of a Department member.

When it is determined that a strip search of a ~~d~~Department member is to be conducted, the following procedure will be followed:

- The search is conducted according to the standards set forth in Duty Manual section L 2911 STRIP SEARCH PROCEDURE – GENERAL.

~~The search is conducted by a department member of the same sex as the department member being searched. Members of the opposite sex will not be present in the room during a strip search.~~

- The search is conducted under the supervision of an IA investigator or a ~~d~~Department member with the rank of Captain or higher.
- The ~~d~~Department member is advised that they ~~he/she has~~ have the right to representation prior to answering any questions regarding the incident.

L 2911

STRIP SEARCH PROCEDURE - GENERAL:

No Change – Included for Continuity

All strip searches, visual and physical body cavity, shall be conducted at the San Jose Police Department's Pre-Processing Center (PPC), unless prior authorization is obtained from the watch commander. Strip searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. In addition, only an officer of the same sex may strip search a suspect.

However, if the arrestee is transgender or intersex, officers will follow the SJPDP Pre-Processing Manual policy and procedures applicable to transgender or intersex arrestees which are as follows:

All strip searches of transgender or intersex arrestees will be done in the order of the following parameters:

1. By two officers of the gender requested by the transgender or intersex arrestee.
2. If the arrestee does not specify a preference, then the search will be done by two officers of the same gender as the transgender or intersex arrestee's gender expression, (e.g., a transgender man arrestee expressing no preference should be searched by two male officers).
3. If gender expression or identity is not clear to the officer(s), the arrestee will be searched by one female and one male officer, until such time as the gender expression or identity becomes clear. At that point, the search will be done by two officers of the same gender as the transgender or intersex arrestee's gender expression or identity.

Under no circumstances is any officer to touch the breasts, buttocks or genitalia of the person being searched.

ALL DEPARTMENT PERSONNEL

SUBJECT: DUTY MANUAL REVISION: C 1734 STRIP SEARCHES OF DEPARTMENT MEMBERS

May 13, 2022

Page 3

- Persons are considered to be participating in the search if their official duties requires them to be present at the time the search is conducted (California Penal Code §4030(l)).
- Pursuant to Penal Code §4030(m), any person who knowingly and willfully authorizes or conducts a strip search, visual or physical body cavity, in violation of California Penal Code §4030 is guilty of a misdemeanor.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:CM