



Best Practices for

Cross-Gender, Transgender, and Intersex Searches

This guidance complements ICE Detention Standards, ICE policy 11087.1: *Operations of ERO Holding Facilities*, and the U.S. Department of Homeland Security *Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities* (DHS PREA).

Physical Searches in Detention Facilities, Holdrooms, and Staging Facilities

- **All** searches shall be performed in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and agency policy, including consideration of officer safety. ICE Detention Standard *Searches of Detainees**, ICE policy 11087.1: *Operations of ERO Holding Facilities* and DHS PREA §115.15 and §115.115
- **ALL strip and visual body cavity searches shall be documented.** ICE Detention Standard *Searches of Detainees**, ICE policy 11087.1: *Operations of ERO Holding Facilities* and DHS PREA §115.15 and §115.115
- **Juvenile visual body cavity searches** will only be done by medical practitioners. ICE policy 11087.1: *Operations of ERO Holding Facilities* and DHS PREA §115.15 and §115.115
- **Cross-gender strip and visual body cavity searches** shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical personnel. ICE Detention Standard *Searches of Detainees**, ICE policy 11087.1: *Operations of ERO Holding Facilities* and DHS PREA §115.15 and §115.115
- Communicate each step of the search and any instructions in a clear manner.
- During searches, carefully observe for non-verbal cues which may indicate physical resistance.
- If a detainee begins to act erratically or appears upset, this could be the result of past trauma. If possible, consider halting the search and attempting to deescalate the situation.

Transgender and Intersex Searches

- At no time shall any search be conducted solely for the purpose of determining a detainee's genital characteristics or gender. ICE Detention Standard *Searches of Detainees**, ICE policy 11087.1: *Operations of ERO Holding Facilities* and DHS PREA §115.15 and §115.115
- 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 medical examination at intake or other processing procedure conducted in private, by a medical practitioner. ICE Detention Standard *Searches of Detainees**, ICE policy 11087.1: *Operations of ERO Holding Facilities* and DHS PREA §115.15 and §115.115
- Requests for transgender detainees to remove appearance-related items such as prosthetics, clothing that conveys gender identity, wigs, and cosmetics should be consistent with requirements for the removal of similar items for non-transgender detainees. ICE Memo dated June 19, 2015 *Further Guidance Regarding the Care of Transgender Detainees*
- Do not conduct "dual gender" searches, where two different gendered staff search different parts of a detainee's body.
- Whenever operationally feasible, officers conducting a search must be of the same gender, gender identity, or declared gender as the detainee being searched.

* Performance Based National Detention Standards 2011 Standard 2.11, National Detention Standards 2019 Standard 2.7



DEFINITIONS

Cross-Gender Search:

Opposite gender; i.e. male to female, and female to male.

Transgender:

A person whose assigned sex at birth does not match their internal sense of gender.

Transgender Man:

A person whose assigned sex at birth is female, but understands himself to be, and desires to and/or lives his life as a man.

Transgender Woman:

A person whose assigned sex at birth is male, but understands herself to be, and desires to and/or lives her life as a woman.

Intersex:

Having sexual or reproductive anatomy or chromosomal pattern that does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Exigent Circumstances:

Temporary and unforeseen circumstances that require immediate action.

Pat Search:

Sliding or patting of the hands over the clothed body of a detainee by staff to determine whether the individual possesses contraband. A pat search does not require the detainee to remove clothing, although the inspection includes a search of the detainee's clothing and personal effects.

Strip Search:

A search that requires a person to remove or arrange some of all clothing so as to permit a visual inspection of the person's breasts, buttocks or genitals.

Visual Body Cavity Search:

A visual inspection of the anal or genital opening. This does not include contact or penetration of either opening.

Body Cavity Search:

A search of a body cavity by use of fingers or simple instruments.

ICE Detention Facilities

Cross-Gender Search Requirements

- Cross-gender pat searches are prohibited at Family Residential Centers. *Family Residential Standards 2020 Standard 2.6*
- Cross-gender pat searches of male detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat search is required or in exigent circumstances. ICE Detention Standard *Searches of Detainees** and DHS PREA §115.15
- Cross-gender pat searches of female detainees shall not be conducted unless in exigent circumstances. ICE Detention Standard *Searches of Detainees** and DHS PREA § 115.15
- All cross-gender pat searches shall be documented (including details regarding exigent circumstances (if any)). ICE Detention Standard *Searches of Detainees** and DHS PREA §115.15

Strip and Body Cavity Search Requirements

- Strip and visual body cavity searches are prohibited at Family Residential Centers. *Family Residential Standards 2020 Standard 2.6*
- **All** strip searches shall be conducted in a manner designed to ensure as much privacy for the detainee as practicable. ICE Detention Standard *Searches of Detainees**
- An officer of the same gender as the detainee shall perform **strip searches**. 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. In these cases, staff shall document the reasons for the opposite gender search in any logs used to record searches and in the detainee's detention file. ICE Detention Standard *Searches of Detainees**
- **Cross-gender and transgender strip searches** will be done in a private area. ICE Detention Standard *Searches of Detainees**
- **Body cavity searches** shall only be conducted 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. ICE Detention Standard *Searches of Detainees**
- Staff, other than the designated qualified health personnel, of the **opposite gender** as the detainee shall not observe **a body cavity search**. ICE Detention Standard *Searches of Detainees**
- Whenever possible, **transgender** detainees shall be permitted to choose the gender of the medical professional conducting **a body-cavity search**. ICE Detention Standard *Searches of Detainees**

ICE Holdrooms and Staging Facilities

- **Cross-gender pat searches** are allowed, but where operationally feasible, an officer of the same gender as the detainee will perform the pat search. ICE policy 11087.1: *Operations of ERO Holding Facilities*



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Training Certification

By signing and dating below I certify I have received training on detention facility, holdroom and staging facility physical search requirements found in PBNDS, ICE policy 11087.1: Operations of ERO Holding Facilities and DHS PREA related to general, cross-gender, transgender, and intersex searches including:

- Search documentation
- Search parameters
- Search procedures
- Authorized search personnel
- Search personnel gender requirements

Name and Title

Date