
PURPOSE

To ensure the safety of youth, staff, and visitors through consistent practices in the searches of youth conducted in a professional and respectful and least-intrusive manner possible consistent with security needs.

DEFINITIONS***Body Cavity***

The interior of the human body not visible by normal observation, being the stomach or rectal cavity of a person and the vagina of a female person. MCL 764.25b(a).

Body Cavity Search

A physical intrusion into a body cavity for the purpose of discovering any object concealed in a body cavity. MCL 764.25b(b).

Exigent Circumstances

Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility. 28 CFR 115.5.

Intersex

A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development. 28 CFR 115.5.

Medical Practitioner

A health professional who, by virtue of education, credentials, and experience is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A *qualified medical practitioner* refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims. 28 CFR 115.5.

Pat Down Search

Running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband. 28 CFR 115.5.

Strip Search

A search which requires a person to remove his or her clothing to expose underclothing, breasts, buttocks or genitalia. MCL 764.25a & 28 CFR 115.5.

Transgender

A person whose gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth. 28 CFR 115.5.

See [JRG, JJ Residential Glossary](#).

**RESPONSIBLE
STAFF**

Facility staff who conduct body searches.

SEARCHING YOUTH

Each facility must develop and implement standard operating procedures relative to body searches. At a minimum, the standard operating procedures must contain the following requirements:

**Searches of
Transgender or
Intersex Youth**

Staff must not search or physically examine a youth identifies as transgender or intersex for the sole purpose of determining a youth's genital status (28 CFR 115.315(e)). If a youth's genital status is unknown, it may be determined during conversations with the youth, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Any searches of youth who identify as transgender and intersex must be conducted in a professional, respectful and least intrusive manner possible, consistent with security needs. It is never appropriate for a youth who identifies as transgender or intersex to be searched by both male and female staff, with the male staff searching the parts of the youth's body that are anatomically male and the female staff searching the parts of the youth's body that are anatomically female.

Facility staff have three options for conducting searches of youth who identify as transgender or intersex:

- Searches conducted only by medical staff.
- Asking the youth to identify the gender of staff with whom they feel most comfortable conducting the search.
- Searches conducted in accordance with the gender with which the youth identifies.

A case-by-case determination of the most appropriate staff member to conduct the search is necessary and should take into consideration the gender identity of the youth.

Metal Detectors/Wands

State operated, contracted and private juvenile justice residential facilities may use metal detectors and/or metal detector wands as one of the least intrusive ways to search a youth.

Pat Down Search

All state operated and private, contracted juvenile justice residential facility staff may conduct a pat down search of youth under any of the following circumstances:

- The youth is completing the admission process.
- There are objects missing that the youth had access to or a reasonable basis to believe that the youth possesses contraband.
- The youth returned to the facility from an off site-activity (such as home pass, school or work).
- The youth returned to the facility from being AWOLP/escape or jail.
- The youth has been placed on suicide watch.

Staff that conduct the pat down searches must have the same gender identity as the youth being searched. The second person witnessing or involved in the pat down search must have the same gender identity as the youth being searched.

Exception: Exigent circumstances as defined in this policy.

Pat-Down Documentation

Document a pat-down search in MiSACWIS incident reports using the *Incident Type Search*. The incident report must contain all of the following:

- The name, sex and gender identity of the youth being searched.
- The name, job title, sex and gender identity of the person who conducted the search.
- The name, sex and gender identity of any witnesses present at the search.
- Reason for conducting the pat down search.
- A list of all items recovered from the youth who was searched.

Documentation of any cross-gender strip search must be made readily available during a PREA audit.

Inventory

Facility staff must:

- Inventory any contraband taken from the youth. Items obtained from the search must be documented in MiSACWIS, *Admissions, Personal Inventory* tab.
- Provide the youth an opportunity to sign the inventory form and provide the youth a copy of the form.
- Process all illegal items and dispose of them as directed by local law enforcement.
- Return or otherwise account for all legal inventoried items upon the youth's release.

Strip Search

Pursuant to the Code of Criminal Procedure, MCL 764.25a, a youth arrested or detained for a misdemeanor offense, or an offense which is punishable only by a civil fine shall not be strip searched unless both of the following occur:

- The arrested youth is court ordered into a detention facility **or** there is reasonable cause to believe that the youth is

concealing a weapon, a controlled substance or evidence of a crime.

- The strip search is conducted by a person with written authorization from the chief law enforcement officer or designee of the law enforcement agency conducting the search or if the search is conducted in the detention facility, the search is conducted by a person who has prior written authorization from the facility director or designee.

A strip search performed by an authorized person who is not a law enforcement officer, must be of the same sex or gender identity as the youth being searched. A law enforcement officer who assists in the strip search shall be of the same sex as the person being searched. A strip search shall be performed in a place that prevents the search from being observed by a person not conducting the search.

Any witness or involved staff in the strip down search must be of the same gender as the youth.

The facility director or facility staff who conducts or authorizes a strip search in violation of MCL 764.25a is guilty of a misdemeanor.

Body Cavity Search

Detention Facility

Pursuant to MCL 764.25b, when a youth is placed in detention **prior** to a court adjudication or conviction, a search warrant is needed to conduct a body cavity search.

If a youth is placed following court adjudication or conviction, a search warrant is not required prior to conducting a body cavity search. MCL 762.25b. Written authorization from the facility director or designee is required.

Residential Treatment Facility

If a youth is placed post adjudication in a state operated or private, contracted juvenile justice residential treatment facility and a body cavity search is necessary then a search warrant is needed. Only law enforcement may request the search warrant.

All authorized cavity searches must also be:

- Conducted only with prior written authorization from the facility director or designee. If the facility director designates this authority, that designation must be in writing.
- Performed only by a licensed physician or a physician's assistant, licensed practical nurse, or registered professional nurse acting with the approval of a licensed physician. If the body cavity search is conducted by a person of the opposite sex of the youth, the search must be done with a witness who is of the same sex as the youth being searched.

Strip Search and Body Search Documentation

Document a strip search or body cavity search in MiSACWIS incident reports using the *Incident Type Search*. The report must contain the following information:

- The name, sex and gender identity of the youth being searched.
- The name, job title, sex and gender identity of the staff who conducted the search.
- The name, job title, sex and gender identity of the staff who assisted or witnessed the search.
- The date, time and place of the search.
- The justification for conducting the search.
- A list of all items recovered from the youth who was strip searched.
- Notice sent to the legal parent(s)/guardian(s) and attorney (if applicable) of the search.
- A copy of the proper written authorization to conduct the search. This must be uploaded with the incident report under documents.
- A copy of authorized search warrant. This must be uploaded with the incident report under documents.

A copy of the incident report must be given to the youth who has been searched.

Note: Documentation for any cross-gender searches must be made readily available during a PREA audit.

Inventory

Facility staff must:

- Inventory any contraband taken from the youth. Items obtained from the search must be documented in MiSACWIS, *Admissions, Personal Inventory* tab.
- Provide the youth an opportunity to sign the inventory form and provide the youth a copy of the form.
- Process all illegal items and dispose of them as directed by local law enforcement.
- Return or otherwise account for all legal inventoried items upon the youth's release.

TRAINING

Staff must be trained in how to conduct searches of youth who identify as transgender and intersex in a respectful, professional and least intrusive manner possible, consistent with security needs. 28 CFR 115.315.

See to [JRM 170, Staff Training and Development](#) for more information on required training.

DOCUMENTATION

Pat Down Search

Document a pat-down search in MiSACWIS incident reports using the *incident type search*. The incident report must contain the following:

- The name, sex and gender identity of the youth being searched.
- The name, job title, sex and gender identity of the person who conducted the search.
- The name, sex and gender identity of any witnesses present at the search.

- Reason for conducting the pat-down search.
- A list of all items recovered from the youth who was searched.

Make documentation of any cross-gender strip search readily available during a PREA audit.

Inventory

Facility staff must:

- Inventory any contraband taken from the youth. Document items obtained from the search in MiSACWIS, *admissions, personal inventory* tab.
- Provide the youth an opportunity to sign the inventory form and provide the youth a copy of the form.
- Process all illegal items and dispose of them as directed by local law enforcement.
- Return or otherwise account for all legal inventoried items upon the youth's release.

Strip Search and Body Cavity Search

Document a strip search or body cavity search in MiSACWIS incident reports using the *incident type search*. The report must contain the following information:

- The name, sex and gender identity of the youth being search.
- The name, job title, sex and gender identity of the staff who conducted the search.
- The name, job title, sex and gender identity of the staff who conducted the search.
- The name, job title, sex and gender identity of the staff who assisted or witnessed the search.
- The date, time and place of the search.
- The justification for conducting the search.

- A list of all items recovered from the youth who was strip searched.
- Notice sent to the legal parent(s)/guardians(s) and attorney (if applicable) of the search.
- A copy of authorized search warrant. Upload the search warrant with the incident report under *documents*.

Give a copy of the incident report to the youth who has been searched.

Documentation for any cross-gender searches must be made readily available during a PREA audit.

Inventory

Facility staff must:

- Inventory any contraband taken from the youth. Document items obtained from the search in MiSACWIS, *admissions, personal inventory* tab.
- Provide the youth an opportunity to sign the inventory form and provide the youth a copy of the form.
- Process all illegal items and dispose of them as directed by local law enforcement.
- Return or otherwise account for all legal inventoried items upon the youth's release.

RECORD RETENTION

All documents shall be retained for no less than seven (7) years after the youth has discharged. Mich Admin Code, R 400.4167.

LEGAL BASE

Federal

Prison Rape Elimination Act (PREA) National Standards for Juvenile Facilities, 28 CFR 115.5.

Provides the definition of exigent circumstances, intersex, medical practitioner, pat-down search, strip search and transgender.

Prison Rape Elimination Act National Standards, Subpart D- Standards for Juvenile Facilities, 28 CFR 115.315.

Prohibits facility staff from conducting cross-gender body searches and conducting searches on transgender or intersex youth for the sole purpose of determining the youth's genital status. Requires facility staff to train direct care staff in how to conduct searches in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.

State**1927 PA 175, Code of Criminal Procedure, MCL 764.25a.**

Provides the definition of strip search and guidelines around conducting a strip search.

1927 PA 175, Code of Criminal Procedure, MCL 764.25b.

Requires facility staff to obtain a written authorization from the facility director or designee in order to conduct a body cavity search. Outlines who can conduct a body cavity search and provides guidelines for conducting a body cavity search and a definition.

**Michigan
Administrative
Code****Mich Admin Code, R 400.4167.**

Requires youth records to be maintained in a uniform and organized manner for not less than seven (7) years after the youth has discharged.

POLICY CONTACT

Facility supervisors or managers may submit policy clarification questions to: Juvenile-Justice-Policy@michigan.gov.