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Inventory Searches

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Pursuant to state regulations, cash and personal property must be taken from the prisoner upon admission, listed on a receipt form in duplicate, and stored securely pending the prisoner's release. The receipt must be signed by the receiving officer and the prisoner, the duplicate given to the prisoner and the original kept for the record. If the prisoner is in an inebriated state, there must be at least one witness to verify this transaction. As soon as the prisoner is able to understand what he is doing, he must sign and be given the duplicate of the receipt. Rules of the Tennessee Corrections Institute, Rule 1400-1-.14(5).

The constitutional propriety of inventory searches of arrestees is not novel. In *Illinois v. Lafayette* (1983), 462 U.S. 640, the Supreme Court of the United States addressed the question of whether it was constitutionally permissible under the Fourth Amendment to the United States Constitution to inventory the personal effects of a person arrested prior to incarceration without a warrant. The court held such warrantless routine inventory process proper as an incident to booking and incarceration of the arrested person. The justification was determined to rest not on probable cause but upon consideration of orderly police administration. The court stated at page 646 the following:

"At the station house, it is entirely proper for police to remove and list or inventory property found on the person or in the possession of an arrested person who is to be jailed. A range of governmental interests supports an inventory process. It is not unheard of for persons employed in police activities to steal property taken from arrested persons; similarly, arrested persons have been known to make false claims regarding what was taken from their possession at the station house. A standardized procedure for making a list of inventory as soon as reasonable after reaching the stationhouse not only deters false claims but also inhibits theft or careless handling of articles taken from the arrested person. Arrested persons have also been known to injure themselves--or others--with belts, knives, drugs, or other items on their person while being detained. Dangerous instrumentalities--such as razor blades, bombs, or weapons--can be concealed in innocent-looking articles taken from the arrestee's possession. The bare recital of these mundane realities justifies reasonable measures by police to limit these risks--either while the items are in police possession or at the time they are returned to the arrestee upon his release. Examining all the items removed from the arrestee's person or possession and listing or inventorying them is an entirely reasonable administrative procedure."

State v. Raines, 1988 WL 125031, *2 (Ohio App. 1988). See also *State v. Crutcher*, 989 S.W.2d 295, 301 (Tenn. 1999) (noting that law enforcement authority in cases of incarceration "extends to performing a detailed 'inventory search' of all personal effects in the arrestee's possession") (citing *Illinois v. Lafayette*, 462 U.S. 640, 648, 103 S.Ct. 2605, 77 L.Ed.2d 65 (1983)).

Both the arrestee and the property in his immediate possession may be searched at the jail, and if evidence of a crime is discovered, it may be seized and admitted in evidence. Likewise, the arrestee's clothing or other belongings may be seized upon arrival at the jail and later may be subjected to laboratory analysis, and the test results may be admissible at trial. *United States v. Edwards*, 415 U.S. 800, 803-804, 94 S.Ct. 1234, 1237, 39 L.Ed.2d 771 (1974).

[O]nce the accused is lawfully arrested and is in custody, the effects in his possession at the place of detention that were subject to search at the time and place of his arrest may lawfully be searched and seized without a warrant even though a substantial period of time has elapsed between the arrest and subsequent administrative processing, on the one hand, and the taking of the property for use as evidence, on the other. This is true where the clothing or effects are immediately seized upon arrival at the jail, held under the defendant's name in the 'property room' of the jail, and at a later time searched and taken for use at the subsequent criminal trial. The result is the same where the property is not physically taken from the defendant until sometime after his incarceration.

Id. at 807-808, 94 S.Ct. at 1239.

The Tennessee Court of Criminal Appeals has held that no warrant is necessary to search a defendant after he is arrested and transported to jail. *State v. McDougle*, 681 S.W.2d 578, 584 (Tenn. Crim. App. 1984), citing *United States v. Edwards*, 415 U.S. 800, 803, 94 S.Ct. 1234, 1237, 39 L.Ed.2d 771 (1974). In *Morelock v. State*, 1996 WL 454996, *4 (Tenn. Crim. App. 1996), the court noted that this "type of inventory or booking search has been routinely upheld in many courts on grounds that those arrested have no privacy interest in items taken from them incident to arrest." See also *State v. Cothran*, 115 S.W.3d 513, 526 (Tenn. Crim. App. 2003), citing *State v. Crutcher*, 989 S.W.2d 295, 301 (Tenn. 1999)

(noting that law enforcement authority in cases of incarceration "extends to performing a detailed 'inventory search' of all personal effects in the arrestee's possession"). *Cf. United States v. McCroy*, 102 F.3d 239, 241 (6th Cir. 1996); *United States v. Akins*, 995 F.Supp. 797, 811 (M.D. Tenn. 1998).

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