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Pat Down Searches

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Table of Contents

Pat Down Searches	3
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Pat Down Searches

Reference Number: CTAS-1355

Pursuant to state regulations, each jail must have a written policy and procedure providing for searches of facilities and inmates to control contraband. Each newly admitted inmate must be thoroughly searched for weapons and other contraband immediately upon arrival in the jail, regardless of whether the arresting officer has previously conducted a search. A record must be maintained on a search administered to a newly admitted inmate. The procedure must differentiate between the searches allowed (pat down, strip, or orifice) and identify when these may occur and by whom such searches may be made. Inmates must be searched by jail personnel of the same sex except in emergency situations. Rules of the Tennessee Corrections Institute, Rule 1400-1-.07(2) through (6).

While the Fourth Amendment generally requires that the issuance of a warrant, supported by probable cause, precede any search, the Supreme Court has recognized several exceptions to the warrant requirement, including so-called "stationhouse" searches of individuals arrested by the police. See *Illinois v. Lafayette*, 462 U.S. 640, 645-46, 103 S.Ct. 2605, 77 L.Ed.2d 65 (1983); *Mary Beth G. v. City of Chicago*, 723 F.2d 1263, 1270 (7th Cir.1983). As this Court has stated, however, "custodial searches incident to arrest must still be reasonable ones.... This type of police conduct must [still] be tested by the Fourth Amendment's general proscription against unreasonable searches and seizures." *Id.* at 1270-71 (quotations omitted).

Stanley v. Henson, 337 F.3d 961, 963 (7th Cir. 2003).

The United States Supreme Court has held "that searches and seizures that could be made on the spot at the time of arrest may legally be conducted later when the accused arrives at the place of detention." *United States v. Edwards*, 415 U.S. 800, 803, 94 S.Ct. 1234, 1237, 39 L.Ed.2d 771 (1974). The police may search an arrestee and inventory his personal effects at the station house following an arrest, prior to confining him. *Illinois v. Lafayette*, 462 U.S. 640, 103 S.Ct. 2605, 77 L.Ed.2d 65 (1983).

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