

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject RELIGIOUS HEAD COVERINGS	Policy Number GJ-40
		Effective Date 12-10-24
Related Information DH-3, <i>Searches and Contraband Control</i> DJ-5, <i>Request to Photograph an Inmate</i> DS-1, <i>Safe Cell Placement</i> DS-2, <i>Safe Bed Intervention</i> GE-3, <i>Property Management and Evidence Control</i> GJ-3, <i>Search and Seizure</i> GJ-35, <i>Body-Worn Cameras</i>	Supersedes (New Policy)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for law enforcement and custody related encounters involving individuals wearing religious head coverings.

POLICY

It is the policy of the Office to ensure all individuals are treated with dignity and respect during all law enforcement and custodial encounters. Efforts by Office personnel will be made to preserve an individual's religious freedoms during law enforcement contact and during incarceration. Showing respect and consideration towards the religious beliefs and practices of others enhances community partnerships and public trust.

DEFINITIONS

Inmate: An individual who has been accepted for confinement into an Office jail facility.

Prisoner: An individual deprived of their liberty and kept under involuntary restraint, confinement, or custody prior to being accepted into an Office jail facility.

Religious Head Covering (RHC): A garment worn on or around the head by an individual that represents a specific religion, faith, cultural practice, or system. A religious head covering may include, but is not limited to, a turban, kufi, hijab, or yamaka.

Sheriff's Inmate Electronic Data (SHIELD): An Office jail management system containing information about individuals who are, or have been, incarcerated or booked into an MCSO jail facility. Information is entered in this database when an individual is booked and updated throughout the term of incarceration. This includes, but is not limited to: inmate charges; holds; court dispositions; bond and fine amounts; inmate listed booked in personal property; locker assignments; housing locations; restrictions; emergency medical information; scheduled inmate appointments; and the day-to-day operations of jail facility housing unit Shift Logs.

Terry Frisk: A limited search of weapons, generally of the outer clothing, but also of those areas which may be within the subject's control and pose a danger to the deputy. A Terry Frisk requires a deputy have reasonable suspicion to support a belief the suspect is "armed and dangerous."

PROCEDURES

1. **Wearing of Religious Head Coverings:** The Office recognizes an individual's right to exercise their religious beliefs to include the wearing of a religious head covering (RHC). Reasonable accommodations will be made to respect their privacy, rights, and religious beliefs in regard to removing and searching an individual's RHC. This includes during all encounters by Office employees, including in the following circumstances:
 - A. During an investigatory detention;
 - B. An arrest;
 - C. During the booking process; and/or
 - D. During incarceration in an Office jail facility.
2. **Enforcement Operations:** In instances where law enforcement contact is made with an individual wearing a RHC, it is imperative that the individual maintains the right to wear their RHC and they are treated in a manner that is professional, respectful, and courteous.
 - A. **Body-Worn Cameras:** Unless otherwise directed by a supervisor, procedures specified in Office Policy GJ-35, *Body-Worn Cameras*, regarding Body-Worn Camera (BWC) activation/deactivation requirements shall not be affected by the deputy's activity regarding the individual and the RHC.
 1. In the event a request/demand for religious accommodation is made by the individual to not be video recorded relevant a search of their RHC, the deputy shall advise the individual that per Office Policy the BWC will remain activated.
 2. The deputy shall further advise the individual that upon any Public Records Request (PRR) received by the Office's Legal Liaison Section, the BWC video recording portion capturing the removal and search of the RHC, will be redacted prior to dissemination to members of the public.
 3. The deputy shall immediately advise an on-duty supervisor of the request.
 - B. **Search Procedures:** Procedures regarding Terry Frisks shall be followed, as specified in Office Policy GJ-3, *Search and Seizure*.
 1. When a deputy conducts a Terry Frisk of a prisoner's RHC, based upon reasonable belief that the individual may be armed and dangerous, the following considerations apply:
 - a. If safe and feasible, a deputy of the same gender shall normally conduct the frisk, unless the individual requests a deputy of a different gender. If safe and feasible, a second Office employee of the same gender as the individual should be present during the search activity. The search shall normally be conducted in private and out of public view. If the individual and employee are of the opposite gender and there is no employee of the same gender available to make the search, a discreet search shall be made for weapons, regardless of gender. A more thorough search for other contraband will be delayed until it can be accomplished by an employee of the same gender.
 - b. A frisk or pat down of a RHC involves a search for the purpose of discovering weapons. If a deputy finds a hair pin or other item that is not traditionally considered a weapon but could be used as a weapon, the deputy may remove the item.

- c. When circumstances indicate a frisk should be extended to include removing a RHC, opening, or removing the RHC, the following may be considered if circumstances allow due to the significant religious meaning and sensitivity to the removal:
 - (1) If safe and feasible, provide privacy while restricting movement of the individual from the scene of the investigatory detention.
 - (a) Deputies should inform the individual they are being detained while a crime is investigated.
 - (b) Deputies should inform the individual they are going to be frisked and, if necessary, ask if they want to move to a private area prior to the frisk and/or removal.
 - (2) If safe and feasible, explain the need to remove the RHC.
 - (3) If safe and feasible, ask if there are any weapons you should be aware of. For example, if a frisk is conducted of an individual who practices the Sikh religion, ask if they are in possession of a Kirpan (miniature sword, usually blunt tipped).
 - (4) If safe and feasible, attempts should be made to place the RHC in a clean location and not on the floor or ground.
 - (5) Any removal of the RHC shall last only as long as is reasonable, under the totality of circumstances.
 - (a) If safe and feasible, allow the individual to place their head covering on their head. Allow adequate time for the individual to properly replace their head covering.
 - (b) If unsafe or not feasible, such as the individual displaying active aggression or aggravated active aggression, or detained and handcuffed, the deputy(s) should ask the individual if they want the deputy to put the item on for them, when safe to do so.
 - (c) If safe and feasible, consideration should be given to whether it is also safe to uncuff the individual and allow the individual to replace their head covering or clothing.
 - (d) If safe and feasible, when an arrest results from an investigatory detention, the RHC should be completely searched incident to arrest before the head covering is put back on.
 - (6) When the investigatory detention ends without developing probable cause for arrest, the RHC shall be immediately returned, if not done so already. The deputy should ask if they can assist in providing privacy while the individual replaces the head covering, unless other demands do not allow time to make the offer.
 - (7) When the investigatory detention results in an arrest and specific documented facts indicate the individual's RHC will be impounded as

evidence, procedures shall be followed, as specified in Office Policy GE-3, *Property Management and Evidence Control*. Efforts shall be made to provide the individual with a personally owned or Office-issued replacement(s) as soon as possible. Office personnel may contact the Intake, Transfer and Release (ITR) facility or the MCSO Religious Services Section for an Office-issued RHC. If a similar RHC is not available, the individual should be asked if they want an alternative covering item, (clean towel, t-shirt, etc.), if available.

2. If the individual objects or shows signs of becoming offended or upset, deputies should verbally state the reason(s) for the frisk or action on their BWC. If necessary, the deputy may contact a supervisor for further guidance.
- C. Field Photographs: If photographs of the individual are taken in the field, the RHC shall normally be in place, if worn during a detention or an arrest.
3. **Detention Operations:** Any individual who is booked in and incarcerated within any Office detention facility who wears a RHC as part of their religious expression, shall be treated in a manner that is professional, respectful, and courteous.
 - A. Upon entering the ITR facility for the booking process, prisoners/inmates shall retain their RHC; however, it will be searched, as specified in this Office Policy.
 1. ITR detention personnel shall advise the prisoner/inmate the RHC must be temporarily removed and searched, and complete the following:
 - a. Remove the RHC in private by detention personnel of the same gender;
 - b. Search the RHC for contraband;
 - c. Provide an Office-issued RHC, and when applicable, provide a female inmate wearing a Muslim RHC (hijab) appropriate jail clothing that that covers the arms and legs; as part of authorized religious full body covering;
 - d. Return the personally owned RHC to the arresting officer for placement into the prisoners/inmates booked in personal property; and
 - e. Document the search, issuance of an Office-issued RHC, and the return of the personally owned RHC to the arresting officer in the Sheriff's Inmate Electronic Data (SHIELD).
 2. All Office-issued RHCs shall be searched and remain subject to search while the inmate is in custody. Anytime the RHC is searched by Office personnel, to include jail facility and transportation personnel, the search shall be documented in SHIELD.
 3. All Non-Office issued RHCs shall require the approval of the facility jail commander prior to issuance to an inmate and are also subject to an in-custody search and documentation requirements.
 - B. Booking Photographs: Booking photographs may be taken with the head covering in place only when the inmate's discernible facial characteristics are fully visible, (i.e., eyes, nose, and mouth). The following considerations shall apply:

1. Front and side view photographs will be taken with the RHC in place. These photographs may be released to the public when requested through a PRR. No photographs will be taken without an RHC in place.
 2. An entry shall be made in SHIELD detailing how the booking photographs were taken.
 3. Procedures for non-booking photographing of an inmate shall be followed, as specified in Office Policy DJ-5, *Request to Photograph an Inmate*. When this occurs, the affected jail facility shall ensure that an entry is made in SHIELD specifying how the non-booking photographs were taken. This information shall also be included in the associated *Incident Report (IR)*.
- C. Religious Services Section Notifications: Upon completion of the booking process and facility assignment, the ITR shift supervisor shall be responsible for notification to the Religious Services Section Commander or designee, of any individual who was booked in and provided with an Office-issued RHC.
1. Upon notification, Religious Services Section clergy shall meet with the newly booked in inmate within three (3) business days. This will provide the inmate an opportunity to discuss any additional religious needs such as, but not limited to, religious materials/items, religious services, or religious dietary meal requests with clergy.
 - A. Clergy are responsible to verify the sincerity of the religious belief when meeting with the inmate.
 - B. If clergy cannot verify and document that there is a sincerity in belief or their religion requires the RHC, then notification shall be made to the jail facility commander or designee. The RHC shall be confiscated from the inmate by detention personnel.
 - C. The affected jail facility commander or designee shall ensure an entry in SHIELD is completed indicating the clergy's notification, and that the action was completed by detention personnel.
 2. The Religious Services Section shall retain a list of all inmates issued and authorized to wear an Office-issued RHC or personally owned RHC.
- D. Housing Facility: Inmates wearing a RHC shall be authorized to wear their Office-issued RHC during their incarceration, inside their housing unit assignment or outside their housing unit assignment, unless otherwise indicated in this Office Policy.
1. If the issued RHC is searched for any reason, the search must be done in private with the same gender employee and documented in SHIELD. Procedures for custody searches are further specified in Office Policy DH-3, *Searches and Contraband Control*.
 2. Inmates wearing an issued RHC are authorized to wear their RHC to court/outside appointments, etc.
 3. If an inmate with an issued RHC exhibits behavior which poses a danger to themselves or others, Correctional Health Services (CHS) may require the RHC to be removed for the inmate's immediate safety.

- a. This behavior could result in a safe cell or safe bed placement of the inmate at the direction of CHS and/or detention command. Related guidelines and procedures are specified in Office Policies DS-1, *Safe Cell Placement* and DS-2, *Safe Bed intervention*.
 - b. If the RHC was removed, and once cleared by CHS, the RHC shall be returned to the inmate. Any removal and return of the RHC shall be documented in SHIELD.
- E. Inmate Requests for RHCs: If an inmate requests to be evaluated for an Office-issued RHC, they shall be directed to submit an electronic *Inmate Request Form* to the Religious Services Section.
- F. Release: Upon release from Office custody, inmates will be allowed to keep their Office-issued RHC.
- 4. **Unique Circumstances:** Office personnel facing unique circumstances regarding a prisoner or inmate's RHC shall consult with their immediate supervisor for guidance. The MCSO Chaplain, in addition to the Religious Services Section, may also provide clarifying guidance or information.