

GENERAL ORDER

PORT WASHINGTON POLICE DEPARTMENT

SUBJECT: STRIP SEARCHES		NUMBER:	1.7.5
		ISSUED:	5/5/09
SCOPE:	All Sworn Personnel	EFFECTIVE:	5/5/09
DISTRIBUTION:	General Orders Manual	<input checked="" type="checkbox"/> RESCINDS	1.8
		AMENDS	
REFERENCE:	WI State Statutes 968.255, 968.256	WILEAG 3 RD EDITION STANDARDS: 1.7.7	

INDEX AS: Body Cavity Search
Strip Search

PURPOSE: The purpose of this Order is to provide guidelines for determining if and under what conditions the use of strip searches and body cavity searches are legally permissible and to establish guidelines for the appropriate conduct of such searches.

This Order consists of the following numbered sections:

- I. POLICY
 - II. DEFINITIONS
 - III. GUIDELINES
 - IV. REPORTING
- I. POLICY
- A. The Port Washington Police Department recognizes that the use of strip searches and body cavity searches may, under certain conditions, be necessary to protect the safety of the officers, civilians, other prisoners, to detect and secure evidence of criminal activity, and to safeguard the security, safety and related interests of this agency's prisoner detention and holding facilities. Recognizing the intrusiveness of these searches on individual privacy, however, it is the policy of the Port Washington Police Department that such searches shall be conducted only with proper authority and justification, with due recognition and deference for the human dignity of those being searched and in accordance with the procedural guidelines for conducting such searches as set forth in this standard. §968.225(6), Wis. Stats. A law enforcement agency, as defined in §165.83(1)(b), may promulgate rules concerning strip searches, which at least meet the minimum requirements of this section.

II. DEFINITIONS

- A. **BODY CAVITY SEARCH:** Any search involving not only visual inspection of skin surfaces but the internal physical examination of body cavities and, in some instances, organs such as the stomach cavity. Body cavities are the mouth, ears, nostrils, vagina, and the rectum. No person other than a physician or registered nurse licensed to practice in this state may conduct a body cavity search.
- B. **DETAINED:** Detained means any of the following:
1. Arrested for any felony
 2. Arrested for any misdemeanor, any other violation of state law punishable by forfeiture, or any local ordinance if there is probable cause to believe the person is concealing a weapon or a thing which may constitute evidence of the offense for which he or she is detained.
 3. Any juvenile taken into custody under State Statute 938.19 and there are reasonable grounds to believe the juvenile has committed an act which, if committed by an adult, would be covered under paragraph 1 or 2 above.
- C. **PHYSICALLY DISABLED PERSON:** A person who requires an assistive device for mobility, including, but not limited to, a wheelchair, brace, crutch or artificial limb.
- D. **STRIP SEARCH:** Strip search means a search in which a detained person's genitals, pubic area, buttock or anus, or a detained female's breast, is uncovered and either is exposed to view or is touched by a person conducting the search. Before any Department member makes a strip search, he/she should be aware of the very strict requirements of sec. 968.255, Stats, governing such searches and be familiar with Department policies. Failure to conform to these requirements could well lead to serious liability lawsuits, a \$1,000 fine or imprisonment for not more than 90 days or both. A search warrant authorizing the search of a specific person does not automatically allow a strip search and § 968.255 Wis. Stats, must still be complied with.

III. GUIDELINES

- A. **Strip Searches:**
1. Individuals arrested for traffic violations and other minor offenses of a non-violent nature shall not be subject to strip searches unless the arresting officer has articulable, reasonable suspicion to believe that the individual is concealing contraband or weapons. Reasonable suspicion may be based upon, but is not limited to the

following:

- a. The nature of the offense charged.
 - b. The arrestee's appearance and demeanor.
 - c. The circumstances surrounding the arrest.
 - d. The arrestee's criminal record, particularly past crimes of violence and narcotics offenses.
 - e. The discovery of evidence of a major offense in plain view or in the course of a search incident to the arrest.
 - f. Detection of suspicious objects beneath the suspect's clothing during a field search incident to arrest.
2. Field strip searches of prisoners shall be conducted only in the rarest of circumstances under exigent circumstances where the life of officers or others may be placed at risk, and only in privacy with the explicit approval of a supervisory officer.
 3. Where articulable, reasonable suspicion exists to conduct a strip search, the arresting officer shall make a documented request for such action to the detention supervisor or other designated authority that clearly defines the basis for suspicion.
 4. When authorized by the supervising authority, strip searches may be conducted only in the following circumstances:
 - a. by specially trained and designated personnel.
 - b. in conformance with approved hygienic procedures and professional practices.
 - c. in a room specifically authorized for this purpose.
 - d. by the fewest number of personnel necessary and only by those of the same sex.
 - e. under conditions that provide privacy from all but those authorized to conduct the search.
 5. Following a strip search, the officer performing the search shall submit a written report to the supervisory authority with a copy provided to the detained person, that details, at a minimum, the following:
 - a. Date and place of the search.
 - b. Identity of the officer conducting the search.
 - c. Identity of the individual searched.
 - d. Those present during the search.
 - e. A detailed description of the nature and extent of the search.
 - f. Any weapons, evidence or contraband found during the search.

B. STRIP SEARCH OF PHYSICALLY DISABLED PERSONS (§ 968.256, Stats.)

A "physically disabled person" means a person who requires an assistive device for mobility, including, but not limited to, a wheelchair, brace, crutch or artificial limb.

A search of a physically disabled person shall be conducted in a careful

manner. If a search of a physically disabled person requires the removal of an assistive device or involves a person lacking sensation in some portion of his or her body, the search shall be conducted with extreme care by a person who has had training in handling physically disabled persons.

C. Body Cavity Searches:

Should visual examination of a suspect during a strip search and/or other information lead an officer to believe that the suspect is concealing a weapon, evidence or contraband within a body cavity, the following procedures shall be followed:

The suspect shall be kept under constant visual surveillance until a body cavity search is conducted or an alternative course of action taken.

The officer shall consult with his immediate supervisor to determine whether probable cause exists to seek a search warrant for a body cavity search. The decision to seek a search warrant shall recognize that a body cavity search is highly invasive of personal privacy and is reasonable only where the suspected offense is of a serious nature and/or poses a threat to the safety of officers or others and/or the security of the department's detention operations.

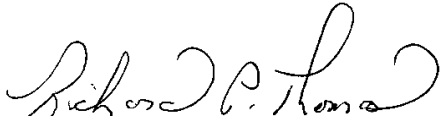
1. If probable cause exists for a body cavity search, an affidavit for a search warrant shall be prepared that clearly defines the nature of the alleged offense and the basis for the officer's probable cause.
2. On the basis of a search warrant, a body cavity search shall be performed only by an authorized agency physician or by other medically trained personnel at the physician's direction.
3. For safety and security reasons, the search shall be conducted at the department's detention facility or other authorized facility and in the room designated for this purpose.
4. Body cavity searches shall be performed with due recognition of privacy and hygienic concerns previously addressed in this policy.
5. The authorized individual conducting the search shall file a report with the requesting law enforcement agency. The witnessing law enforcement officer shall co-sign that report and comply with information requirements specified in item A-5 of this standard.

D. No person may be the subject of a strip search unless he or she is a detained person (as defined in the Definitions Section above) and :

1. Strip searches will be conducted with strict compliance to Wisconsin State Statute, 968.255.

2. No member of the Port Washington Police Department will conduct or perform a strip search.
 - a) Should the strip search of a detained person become necessary it will be conducted by Ozaukee County Sheriff's Department personnel at the Ozaukee County Jail, subsequent to the required authorizations.
3. A strip search shall only be requested by members of this department when a person has been arrested and there is probable cause to believe that the person is concealing a weapon, or an item which may constitute evidence of the offense for which s/he has been arrested **and** with the authorization of a Command Staff officer (Lieutenant) of this department.
 - a) In the absence of an on-duty Command Staff officer (Lieutenant), the Captain, or should he be unavailable, the Chief, shall be contacted to review/approve the request.
4. Upon authorization by a Command Staff officer of this department, the detained subject will be transported to the Ozaukee County jail facility where the arresting officer will complete the "*Probable Cause Strip Search*" portion of the Sheriff's Department "*Authorization For Strip Search*" form, which must then be approved by a jail supervisor or a Sheriff's Department Shift Commander before the strip search is conducted by Ozaukee County jail personnel.
5. Upon completion of the strip search, the Port Washington officer requesting the search must:
 - a) Return and file a photocopy of the completed Ozaukee County Sheriff's Department "*Authorization For Strip Search*" form with the Port Washington Police Department incident/arrest report and;
 - b) Thoroughly document within this department's incident/arrest report narrative:
 - i. The probable cause basis for the strip search request,
 - ii. The command staff officer's pre-approval or authorization of the request to include: *Command Staff Officer's rank and name, date and time of approval, the method of approval – in person or telephonically as well as;*
 - iii. The results of any such search.

APPROVED:



Chief Richard P. Thomas

DATE:

4/15/10

Revised 4/15/10