



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **STRIP SEARCHES**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statutes: 948.50, 968.255,
968.256, 895.535

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INDEX AS: Body Cavity Search
Strip Search

PURPOSE: The purpose of this Policy & Procedure is to provide guidelines for members of the Portage Police Department for determining if and under what conditions the use of strip searches are legally permissible and to establish guidelines for the appropriate conduct of such searches.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. GUIDELINES
- IV. BODY CAVITY SEARCHES
- V. REPORTING
- VI. TRAINING

I. POLICY

- A. The Portage 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 the Department.

Recognizing the intrusiveness of these searches on individual privacy, however, it is the policy of the Portage 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 policy.

II. DEFINITIONS

- A. **BODY CAVITY SEARCH:** A search involving the digital or instrumental intrusion into the orifices of the body cavities. Body cavities include the mouth, ears, nostrils, vagina, and rectum. No person other than a physician, physician assistant, or registered nurse licensed to practice in this state may conduct a body cavity search.

Note....a Nurse Practitioner is an advanced Registered Nurse and is therefore included in this definition.

- B. **DETAINED:** Detained means any of the following:

1. Arrested for any felony.
2. Arrested for any misdemeanor under WI. State Statutes: 167.30(1), 940.19, 941.20(1), 941.23, 941.231, 941.237, 948.60, or 948.61.
3. Taken into custody under WI. 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 1 or 2 above.
4. Arrested for any misdemeanor not specified in 2 above, or 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.

- 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. **PRIVATE AREA:** means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

- E. **STRIP SEARCH OF A PUPIL:** Means a search in which a person's private area is uncovered and either is exposed to view or is touched by a person conducting the search.

F. STRIP SEARCH: The intentional search for the purpose of locating weapons and/or contraband in which a detained person's genitals, pubic area, buttock, or anus, or a detained female person's breast(s) is uncovered and either exposed to view or is touched by a person conducting the search. No Portage Police Department personnel are authorized to conduct strip searches. Strip searches will only be conducted by trained personnel of the Columbia County Sheriff's Office.

III. GUIDELINES

A. No Portage Police Department personnel are authorized to conduct strip searches. If there is probable cause to believe that a detained person is concealing a weapon or contraband in an area which would necessitate a strip search to locate the items, the detainee shall be transported to the Columbia County Jail. The transporting officer will brief the jail supervisory staff on the events and the articles of probable cause they feel exist to justify the need for a strip search. Columbia County Jail protocol will be followed in the determination of whether a strip search will be conducted and follow the Jail protocol on the conduct of the strip search. 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 if:

1. The jail staff member conducting the strip search is of the same sex as the person detained;
2. The detained person is not exposed to the view of any person not conducting or directly involved in the search;
3. The search is not reproduced through a visual or sound recording;
4. The officer requesting the strip search has obtained the prior written permission of the Chief of Police or the Chief's designee, unless there is probable cause to believe that the detained person is concealing a weapon; and
5. The officer requesting the strip search shall prepare a report identifying the person detained, all persons conducting the search, the time, date, and place of the search, and the written authorization required by Paragraph 4; and provides a copy of the report to the person detained.

B. 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; also refer to Policy & Procedure 7.01: Search/Transport of Detainees.

C. No person other than a physician, physician's assistant, or registered nurse licensed to practice in the State of Wisconsin may conduct a body cavity search.

- D. A detained person that is hiding evidence in the mouth shall be secured, transported to a medical facility, and turned over to medical staff for removal of the evidence. Officers shall not attempt to dislodge or remove the evidence from the mouth by use of some level of force, unless there is an imminent and immediate threat to the detained person's life.
- E. Per State Statute 948.50, no official, employee or agent of any school or school district is permitted to conduct a strip search of any pupil. This does not apply to any law enforcement officer conducting a strip search under State Statute 968.255: Strip Searches.

IV. BODY CAVITY SEARCHES

- A. 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:

1. The suspect shall be kept under constant visual surveillance until a body cavity search is conducted or an alternative course of action taken.
2. The officer shall consult with his/her 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.

3. 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.
4. On the basis of a search warrant, a body cavity search shall be performed only by a physician, physician assistant or registered nurse licensed to practice in this state.
 - a) A physician, physician assistant, or registered nurse acting under this section, the employer of any such person, and any health care facility where the search is conducted have immunity from civil or criminal liability under WI. State Statute 895.535.
5. For safety and security reasons, the search shall be conducted at the Department's detention facility or other authorized facility and in a room designated for this purpose. An officer of the same sex as the suspect may stand by while medical staff performs the search for evidentiary and security purposes.

6. Body cavity searches shall be performed with due recognition of privacy and hygienic concerns previously addressed in this Policy & Procedure.
7. 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.

V. REPORTING

- A. All person(s) involved in the search will be required to prepare a supplemental report under the original report number.
- B. It will be the responsibility of the officer conducting the search to fill out the Portage Police Department "Strip Search Authorization Form", identifying the time, date, location, persons conducting the search, detainee, and the person authorizing search.
- C. It shall then be the responsibility of the officer conducting the search to provide a copy of the "Strip Search Authorization Form" to the person detained.

VI. TRAINING

- A. To comply with WI. State Statute 968.255(6), any employee of the Department who may conduct a strip search shall receive annual training regarding the policy and procedures for strip searches.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

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