

**CITY OF OCONOMOWOC POLICE DEPARTMENT
POLICIES & PROCEDURES**

DATE: May 5, 2020

HISTORY: March 6, 1997

SUBJECT: Strip and Body Cavity Searches

POLICY NUMBER: 97-009

I. PURPOSE

The purpose of this policy is to give officers 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.

II. POLICY

This department recognizes that the use of strip searches and body cavity searches may, under certain conditions, be necessary to protect the safety of officers, civilians and other prisoner's; to detect and secure evidence of criminal activity; and to safeguard the security, safety and related interest of this agency. Recognizing the intrusiveness of these searches on an individual's privacy, it is the policy of this department that we will conduct such searches only with proper authority and justification, with due recognition and deference to the human dignity of those being searched and according to the procedural guidelines for conducting such searches as set forth by Wisconsin State Statute and this policy.

III. DEFINITIONS

- A. *STRIP SEARCH*: any 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.

- B. *BODY CAVITY SEARCH*: Any search involving not only visual inspection of skin surfaces but the internal physical examination of body cavities and, occasionally, such organs as the stomach cavity.

IV. PROCEDURES

- A. Strip Searches Traffic Violations and Selected Misdemeanor Offenses
 - 1. Any person detained for traffic violations (**except a felony**) and any misdemeanor offense (**except a misdemeanor offense under sec. 167.30, 940.19, 941.20(1), 941.23, 941.231, 941.237, 948.60, 948.605(2)(a) or 948.61**) will not be subject strip searches unless the arresting officer has probable cause to believe that the individual is concealing evidence relating or pertaining to the offense for which the person is being detained or weapons. Probable cause may be based upon, but is not limited to the following:
 - a. The nature of the offense charged.
 - b. The detainee's appearance and demeanor.
 - c. The circumstances surrounding the arrest.
 - d. The detainee's criminal record, particularly past crimes of violence and narcotics offenses.
 - e. The discovery of evidence of a major offense in plain view or during a search incident to the arrest.
 - f. Detection of suspicious objects beneath the suspect's clothing during a field search incident to arrest.

B. Felony Offenses and Selected Misdemeanor Offenses

1. Any person arrested for any felony or a misdemeanor offense pursuant to sec. 167.30, 940.19, 941.20(1), 941.23, 914.231, 941.237, 941.24, 948.60, 948.605(2)(a) or 948.61 may be subjected to a strip search, pursuant to this policy, without the requirement of demonstrating the existence of probable cause to believe the person is concealing a weapon or evidence relating to or pertaining to the offense for which the person is being detained. Probable cause however, must be present to justify the arrest and the subsequent strip search, if any, must be conducted in compliance with this policy.
2. Officers will conduct field strip searches of a person only where exigent circumstances and the life of officers or others may be placed at risk, and only in privacy with the explicit approval of a supervisory officer and in compliance with this policy.
3. When authorized by the supervisor, officers may conduct strip searches only in the following situations:
 - a. The person subject to the search is a detainee.
 - b. The person conducting the search is of the same sex as the detainee, unless the search is a body cavity search conducted under sub.(3).
 - c. The detained person is not exposed to the view of any person not conducting the search.
 - d. The search is not reproduced through a visual or sound recording.
 - e. A person conducting the search has obtained the prior written permission of the chief, sheriff or law enforcement administrator of the jurisdiction where the person is detained, or his or her designee, unless there is probable cause to believe that the detainee is concealing a weapon.
 - f. A person conducting the search prepares 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 par.(d), and provides a copy of the report to the detainee.
4. Detained under Wisconsin State Statute 968.225
 - a. Detained means any of the following:
 - (1) Arrested for any felony.
 - (2) Arrested for any misdemeanor under:
 - (a) 167.30 Use of a firearm, etc. near a park, etc.
 - (b) 940.19 Battery; substantial battery or aggravated battery.
 - (c) 941.20(1) Endangering safety by use of a dangerous weapon.
 - (d) 941.23 CCW.
 - (e) 941.231 Carrying a concealed knife
 - (f) 941.237 Carrying a handgun where alcohol beverages maybe sold and consumed.
 - (g) 948.60 Possession of a dangerous weapon by a child.
 - (h) 948.605(2)(a) Possession of a firearm in a school zone.
 - (i) 948.61 Dangerous weapons other than firearms on school premises.
 - (j) Custody of a child under 938.19 that if an adult committed, the violation would be covered by (1) and (2).
5. Where probable cause is required to conduct a strip search, the arresting officer will make a documented request for such action to the shift commander.
6. Required Reports
 - a. The officer conducting the search will prepare a report identifying the person detained, all persons conducting the search, the time, date and place of the search and written authorization required by par.(d). They will give a copy of this information to the person

being searched. This information will become a permanent part of the officer's report. The report must also verify that the strip search was done in compliance with this policy.

- b. Included in this report, but not given to the person being searched, will include the following information:
 - (1) A detailed description of the nature and extent of the search.
 - (2) Any weapons, evidence or contraband found during the search.

V. BODY CAVITY SEARCHES

1. No person other than a physician, physician assistant or registered nurse licensed to practice in this state may conduct a body cavity search. 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 Wis.Stat. 895.535.
2. 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 procedure will be followed:
 - a. The suspect will be kept under constant visual surveillance until a body cavity search is conducted or an alternate course of action taken.
 - b. The officer will consult with the Chief of Police or his designee to decide 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.
 - c. If it is believed that probable cause exists for a body cavity search, the on-call assistant district attorney will be contacted and given the facts of the situation and only when given their approval will the officer proceed.
 - d. 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.
 - e. Based on a search warrant, a body cavity search shall be done only by a physician, physician assistant or a registered nurse licensed to practice in this state.
 - f. For safety and security reasons, the search shall be conducted at the department's jail area or other authorized facility and in a room designated for this purpose.
 - g. Body cavity searches shall be done with due recognition of privacy and hygienic concerns previously addressed in this policy.
 - h. 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 section 6 of this policy.

VI. SEARCH OF PHYSICALLY DISABLED PERSON

- 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.
- 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. (968.256).

VII. EXCEPTIONS TO THIS POLICY MAY BE AUTHORIZED ONLY BY THE CHIEF OF POLICE

This policy is effective immediately
and will supersede any directives or understandings in conflict