

# ELIZABETH POLICE DEPARTMENT GENERAL ORDERS



**VOLUME: 3**

**CHAPTER: 8**

**# OF PAGES: 8**

**SUBJECT: STRIP AND BODY CAVITY SEARCHES**

**EFFECTIVE DATE:**

**October 6, 2020**

**ACCREDITATION STANDARDS:**

**3.1.4**

**BY THE ORDER OF:**

**Chief Giacomo Sacca**

**BY AUTHORITY OF:**

**Police Director Earl J. Graves**

**SUPERSEDES ORDER #:**

**PURPOSE** The purpose of this general order is to maintain procedures concerning strip and body cavity searches and to codify the guidelines for the appropriate conduct of such searches.

**POLICY** Under certain narrowly defined conditions, strip and body cavity searches may be necessary. Recognizing the intrusiveness of these searches on individual privacy, it is the policy of the Elizabeth Police Department to be in strict compliance with N.J.S.A. 2A: 161A-1, et seq., Department of Corrections Regulations N.J.A.C. 10A: 34-1, et seq., and the New Jersey Attorney General Guidelines with due recognition and deference for the human dignity of those being searched.

## PROCEDURES

### I. DEFINITIONS

- A. Body cavity search is defined as the visual inspection or manual search of a person's anal or vaginal cavity (N.J.S.A. 2A: 161A-3b).
- B. Contraband includes any item, article, or material that is, in and of itself, unlawful to possess, found in the possession of or under the control of a person who has been detained or arrested. It shall also include any article that may be harmful or presents a threat to the security and orderly operation of a municipal detention facility. Items of contraband shall include, but are not limited to:
1. Firearms or ammunition of any type;
  2. Explosives of any type;
  3. Knives, tools or other implements;
  4. Hazardous or poisonous chemicals, gases, or substances;
  5. Unauthorized drugs and medications;
  6. Prescription or over-the-counter medications, not specifically authorized by a physician licensed to practice medicine in the State of New Jersey;
  7. Intoxicants, including, but not limited to liquor or alcoholic beverages;
  8. Electronic communications devices;
  9. Any article that can be fashioned as a weapon or implement of escape;
  10. Currency, stamps, tobacco products, and matches/lighters.
- C. Crime means an indictable offense or equivalent in another state.
- D. Electronic communication device means a device or related equipment or peripheral that is capable of electronically receiving, transmitting or storing a message, image or data. Examples of such electronic devices include, but are not limited to, all types and sizes of a computer, telephone, cell telephone, Blackberry®, two-way radio, camera or video/audio player/recorder, fax machine, pager or beeper, personal data assistant, hand-held e-mail system, or any other device containing a means of internet access or receiving, transmitting or storing information electronically by means of audio, visual or recorded data.
- E. Exigent circumstance means the probable cause to believe that the person is concealing a weapon, contraband or evidence of crime, and circumstances prevent obtaining a search warrant.
- F. Lawfully confined means custodial confinement in a municipal detention facility, county correctional facility, or a New Jersey Department of Corrections facility.

- G. Licensed medical professional means an appropriately licensed health care provider who is a physician, registered nurse, nurse practitioner, or physician assistant.
- H. Municipal detention facility means a holding or lockup facility, located in and operated by a municipal police agency, which receives and temporarily detains for no more than 24 hours, excluding holidays or weekends, persons who have been arrested and who are awaiting release or transfer to other authorities.
- I. Offense other than a crime means a non-indictable offense or equivalent in another state.
- J. Pat search (a New Jersey Department of Corrections term) means a thorough search of a fully clothed arrestee, including the clothing and personal property in the inmate's possession. A pat search is conducted when someone is under arrest and should not be confused with a 'pat down' conducted under a Terry frisk situation.
- K. Probable cause means reasonable ground(s) of suspicion, supported by circumstances sufficiently strong to warrant a cautious person to believe that criminal activity is taking place.
- L. Reasonable suspicion means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion.
- M. Scanning/testing device means a mechanical and/or electronic instrument used to identify or to detect certain substances and materials and may include a hand-held device or a walk-through device.
- N. Scanning/testing device search means a search of a person or object by exposure to a mechanical and/or electronic instrument used to detect certain substances and materials.
- O. Strip search is defined as the removal or rearrangement of clothing for the purpose of visual inspection of the person's undergarments, buttocks, anus, genitals or breasts. The term does not include any removal or rearrangement of clothing reasonably required to render medical treatment or assistance, or the removal of articles of outer clothing such as coats, ties, belts or shoelaces (N.J.S.A. 2A:161A-3a). Strip search shall also include the direct observation by a police officer or matron of an arrestee defecating, urinating, or changing a sanitary napkin or tampon.

**II. STRIP SEARCH WITHOUT CUSTODIAL CONFINEMENT** (Person soon to be released from municipal detention facility)

- A. A person arrested for the commission of an offense or crime not requiring incarceration, or the commission of an offense or crime requiring incarceration, but who will be released on his/her own recognizance or by the posting of bail within a reasonable time, shall **not** be subjected to a strip search unless:
  - 1. The desk lieutenant expressly authorizes the search;

2. The search is:
  - a. Conducted under authority of a search warrant; or
  - b. Conducted pursuant to a valid consent; or
  - c. Supported by:
    - 1) Probable cause to believe that the person is concealing a weapon, contraband, or evidence of a crime; and
    - 2) Exigent circumstances which prevent obtaining a search warrant or the approval of the desk lieutenant.

**III. STRIP SEARCH WITH CUSTODIAL CONFINEMENT – OTHER THAN A CRIME**  
(Person to be detained within municipal detention facility or to be committed to a county, state, or federal detention facility for offense other than a crime)

- A. A person who has been detained or arrested for the commission of an offense other than a crime **and** who is confined in the municipal detention facility shall **not** be subject to a strip search unless:
  1. The search is authorized by a warrant or valid documented consent;
  2. A recognized exception to the warrant requirement exists and the search is based on probable cause that a weapon, controlled dangerous substance, contraband, or evidence of a crime will be found and the officer authorized to conduct the strip search has obtained the authorization of the desk lieutenant;
  3. Exigent circumstances prevent obtaining a search warrant or authorization of the desk lieutenant and such exigent circumstances require the officer to conduct a strip search in order to take immediate action for purposes of preventing bodily harm to the officer, person subjected to the search, or others.

**V. STRIP SEARCH WITH CUSTODIAL CONFINEMENT – CRIME** (Person to be confined in municipal detention facility or to be committed to a county, state or federal detention facility for commission of a crime)

- A. A person lawfully confined for commission of a crime can be strip searched when the desk lieutenant authorizes confinement in the municipal detention facility or transfer to an adult county correctional facility, the officer authorized to conduct the strip search obtains the authorization of the desk lieutenant **and** one of the following exists:
  1. A search warrant or valid documented consent; **or**
  2. A reasonable suspicion that the person is concealing a weapon, controlled dangerous substance, contraband, or evidence of a crime.
  3. A strip search may also be conducted in any of the following circumstances:

- a. When the desk lieutenant authorizes the search; and
  - b. Before placement under psychological observation or suicide watch, or
  - c. After a contact visit (e.g., attorney, EMS, etc.).
4. Under the provisions of NJAC 10A: 34-2.17d, when a person charged with a **crime** is confined to a municipal detention facility, an authorized strip search shall also include a check for:
- a. Body vermin;
  - b. Cuts or bruises;
  - c. Needle scars or tracks;
  - d. Other injuries, where appropriate.

## VI. STRIP SEARCHES – GENERAL REQUIREMENTS

- A. All strip searches must be conducted:
1. By a person of the same sex; **and**
  2. In private where the search cannot be observed by unauthorized persons (The desk lieutenant may authorize another officer of the same sex as the person being searched to be present during the search, but not able to directly observe the search, if there are heightened security concerns; **and**
  3. Under sanitary conditions; **and**
  4. In a professional and dignified manner.
- B. Officers shall file a written report(s) in accordance with Section IX of this general order.

## VII. BODY CAVITY SEARCHES

- A. A person arrested or detained for the commission of a crime or offense and is **not** being committed to the Union County Jail shall not be subject to a body cavity search unless authorized by a search warrant or valid documented consent.
1. Applications for search warrants must contain the required probable cause and must be reviewed by an assistant prosecutor in accordance with [Attorney General Directive 2002-2](#).
  2. Requests for valid consent must be based on reasonable and articulable suspicion that the person is in possession of evidence or contraband.
  3. Officers may conduct a scanning/testing device search to develop probable cause to justify an application for a search warrant or reasonable suspicion to justify a request for consent.

4. The person shall be escorted immediately to a licensed medical facility.
  5. The body cavity search shall be conducted:
    - a. Under sanitary conditions;
    - b. At a location where the search cannot be observed by unauthorized persons;
    - c. In the presence of only those officers, who are of the same sex as the person being searched, deemed reasonably necessary by the desk lieutenant; and
    - d. In a professional and dignified manner, with the maximum courtesy and respect for the person being searched.
    - e. If the person is being detained for an offense other than a crime, by a licensed medical professional who must be of the same sex as the detained or arrested person;
    - f. If the person is being detained for a crime, by a licensed medical professional of either sex.
  6. The person being searched may:
    - a. Remove the object in the presence of the licensed medical professional and the officer of the same sex as the person; or
    - b. Be examined by the licensed medical professional, who may remove the object in a medically accepted manner and environment without the use of force.
  7. In the event it is determined that a foreign object, which contains metal is present in the body cavity of the person, such object may be removed only by the licensed medical professional in a medically accepted manner and environment, with or without the use of force if the desk lieutenant has authorized a body cavity search based on a duly authorized search warrant or a valid documented consent of the person involved.
  8. In the event the officer or the licensed medical professional has determined that nonmetal contraband is being concealed in the body cavity of the person who has been detained or arrested, and officers are not able to obtain a search warrant for the search, and that person refuses to permit contraband removal, the person may be placed in isolation. During isolation, that person shall be treated in a medically accepted manner and environment as deemed necessary by the licensed medical professional and may be kept under visual surveillance to detect removal or elimination of the contraband.
- B. A person who has been detained or arrested for the commission of a crime or offense and is being committed to the Union County Jail:

1. Officers with reasonable suspicion or probable cause to believe that a person is concealing any weapon, controlled dangerous substance, contraband or evidence in a body cavity shall notify the intake official at the Union County Jail.
2. Officers with such reasonable suspicion or probable cause shall execute all necessary reports or forms deemed necessary by the intake official to support any request for consent or application for a search warrant.

## VIII. RESPONSIBILITIES

- A. Unless under exigent circumstances, the officer requesting to perform a strip search must notify the desk lieutenant and articulate the reasons for the request.
- B. The officer requesting to perform a body cavity search must notify the desk lieutenant and articulate the reasons for the request.
- C. The desk lieutenant must review the facts and circumstances and either approve or deny the request.
- D. When applicable, the desk lieutenant shall assist the officer in obtaining the requisite search warrant or consent.
  1. Applications for a search warrant must conform to current administrative and judicial requirements, including prosecutorial review, in accordance with *General Order V3C5 Search Procedures*.
  2. Likewise, any consent to search must also adhere to the procedures outlined in *General Order V3C5 Search Procedures*. All consents for strip searches must be in writing. The consent must be voluntary and the subject must know their right to refuse.
- E. Desk lieutenants are responsible to ensure that all strip and body cavity searches are conducted in strict accordance with this general order.
- F. If officers of the same sex as the person designated for a strip/body cavity search are not on duty, the desk lieutenant shall:
  1. Contact a bordering law enforcement agency to see if it can supply an officer; or
  2. Contact the Union County Police Department to see if it can supply an officer; or
  3. Contact the Union County Sheriff's Office to see if it can supply an officer.

## IX. REPORTING REQUIREMENTS

- A. The officer requesting a strip search must clearly articulate the reasons for the search on his/her *Incident Report*. The report must include:
  1. A statement of facts indicating the probable cause or reasonable suspicion for the search;

2. A copy of the search warrant, if appropriate;
  3. A copy of the consent form, if appropriate
  4. The name of the desk lieutenant who authorized the search;
  5. The specific location where the search occurred;
  6. The name(s) of the agency personnel present during the search and the reason for their presence;
  7. The name(s) of the person(s) conducting the search;
  8. An inventory of any item(s) found during the search;
  9. The reason for use of force, if necessary; and
  10. An explanation of the exigent circumstances that required immediate action for the search to be conducted as an exception to the regulations including the reason(s) why a search warrant could not be obtained.
- B. When conducting a body cavity search, the following additional reporting requirements include, but are not limited to:
1. The name(s) and sex of the licensed medical professional(s) conducting the search;
  2. A statement from the licensed medical professional that the body cavity search was conducted in a medically accepted manner;
  3. If the person searched was placed in isolation, the duration of that isolation.
- C. If appropriate, additional charges for the contraband or evidence must be initiated.
- D. All reports pertaining to strip and body cavity searches are **not** considered public records. These reports shall be made available, upon request, only to:
1. The person subject to the search;
  2. The Union County Prosecutor or his/her designee;
  3. The Attorney General or his/her designee;
  4. Commissioner of the Department of Corrections or his/her designee.