

	<p style="text-align: center;">ITHACA POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution	General Order Number
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<p>Order Title:</p> <p>STRIP AND BODY CAVITY SEARCHES</p>	<p>Accreditation Standard: NY 2.2; 32.1; 32.5; 33.1; 64.1</p>		Section
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		<p>Section Title</p> <p>DEPARTMENT ROLE AND AUTHORITY</p>	
<p>Rescinds:</p>	 <p>Dennis Naylor, Chief of Police</p>		

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for conducting Strip and Body Cavity searches that are authorized by state law.

II. POLICY

Ithaca Police Department (“Department”) officers shall observe the rights of citizens under the Fourth Amendment to the United States Constitution which guarantees the right of people to be free from unreasonable searches and seizures of their homes, persons, and property. The 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 prisoners; to detect and secure evidence of criminal activity; and to safeguard the security, safety, and related interests of the Department’s prisoner detention and holding facilities.

III. DEFINITIONS

Strip Search: The process of having an arrested person remove or arrange some or all of his or her clothing; or, if an arrested person refuses to remove or arrange his or her clothing, having a peace officer or employee of the police department remove or arrange the clothing of the arrested person so as to permit a visual inspection of the genitals, buttocks, anus, female breasts, or undergarments used to clothe said anatomical parts of the body.

IV. PROCEDURE

A. Strip Search and Body Cavity Searches

1. Such searches shall be conducted only with proper authority and justification, with due recognition and deference for the human dignity of those being

searched, in accordance with the procedural guidelines for conducting such searches as set forth in this policy.

2. A “**strip search**” is defined as having an arrested person remove or rearrange some or all of his clothing to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments used to cloth these parts of the body. No one arrested for a motor vehicle violation or a misdemeanor shall be strip searched unless there is reasonable belief that the person is concealing a weapon, a controlled substance, or contraband. Strip searches must be conducted by a person of the same sex as the suspect and in an area where the search cannot be observed by persons not physically conducting the search or not absolutely necessary to conduct the search.
3. Any officer conducting a strip search shall:
 - a) obtain the written authorization of a Lieutenant or a Deputy Chief of Police if no Lieutenant is available; and
 - b) prepare a report of the search.
4. A “strip search” and a “body cavity” search are distinct and different. No search of any **body cavity other than the mouth** may be conducted without a search warrant, which requires probable cause. The warrant must specify that the search be performed under sanitary conditions and be conducted either by or under the supervision of a person licensed to practice medicine.

B. Training

1. All sworn officers shall receive training regarding strip and body cavity searches. Training shall include that which was received through a New York State Municipal Police Training Council certified academy, during the Field Training and Evaluation Program, and from roll call and in-service training. Such training shall include instruction on the proper, safe, legal, and professional manner in which to conduct a strip search. The Department shall provide officers with refresher training on this section regarding strip and body cavity searches.

C. Use of in-Custody Search

1. Because strip searches of arrestees are not routinely warranted, it is important for officers to rely on pat-down searches performed in the field and prior to arriving at booking to disclose any weapons or contraband that an arrestee might be hiding on his/her person. The importance of these searches cannot be overemphasized. They are essential to officer safety during initial arrest of a suspect, during prisoner transportation, and may be the only opportunity to prevent the introduction of weapons or contraband into the police facility or the destruction of evidence at the station. Field and booking custody searches

are often the primary means of establishing reasonable suspicion necessary for conducting a later strip or body cavity search.

D. New York State Law

1. A person wrongfully searched is not prohibited from seeking or obtaining civil or injunctive relief.

E. General Guidelines

1. While safety and security are recognized as legitimate concerns of law enforcement personnel, they are not solely sufficient grounds for conducting strip searches given the highly intrusive nature of these procedures and the privacy interest of arrestees. As a result, the arresting officer plays a major role in determining whether an arrestee should be strip-searched based on his/her knowledge of the facts surrounding the arrest and of the individual arrested. Officer input is critical at booking, or during temporary detention, to establish clear justification for conducting or not conducting such searches.
2. The following procedures shall be followed when conducting strip and body cavity searches.

a. Authority – with and without – a Warrant

No persons arrested for motor vehicle violations or misdemeanors shall be subjected to a strip search unless there is reasonable belief of concealment of a weapon or controlled substance or contraband. Reasonable belief may be based upon, but is not limited to the following:

- (1) ***The nature of the offense charged:*** Violent felony offenses and those related to drug possession often provoke suspicion that the offender is concealing weapons or evidence. However, the fact that an individual is arrested on a felony charge alone does not, without reasonable suspicion, always support the use of a strip search.
- (2) ***The duration of the detention:*** The duration of the detention can also serve as an aid in determining if a strip search is warranted. Arrestees being held for a short period of time, and who will be continuously restrained, may not warrant a strip search unless there are other factors present.
- (3) ***The arrestee's appearance and demeanor:*** An arrestee, who presents an unusual and inordinately nervous demeanor, conducts himself/herself in a manner that suggests he/she is

attempting to conceal something, or acts in a generally suspicious manner, may add to an officer's reasonable suspicion.

- (4) ***The circumstances surrounding the arrest:*** The circumstances under which the arrest was made may also constitute a factor in determining reasonable belief. Such circumstances include the area/location in which the arrest was made, (e.g., in an established drug house or area known for the sale/distribution of narcotics or street violence); the individuals with whom the arrestee was associating, (e.g., known felons with violent criminal histories); and the degree of resistance offered by the arrestee, (e.g., indicating the possibility of the arrestee possessing a weapon, evidence, or contraband.)
- (5) ***The arrestee's criminal record:*** An individual with a lengthy criminal record, particularly crimes of violence and narcotics offenses, possession and/or use of firearms, or other deadly weapons, and prior involvement in illegal drugs, are pertinent in establishing reasonable belief.
- (6) ***The discovery of evidence:*** The discovery of evidence of a major offense in plain view or in the course of a search incident to the arrest.
- (7) ***Information/Actions:*** Information or actions of the arrestee indicating the likelihood that evidence, contraband, or a weapon are being concealed.
- (8) ***Suspicious objects:*** The detection of suspicious objects beneath the suspect's clothing during a field search incidental to the arrest.
- (9) ***Whether other reasonable alternatives exist:*** Use of metal detectors or a pat-down of an arrestee may be employed in lieu of a strip search when to do so can meet the safety and security needs of the Department. Temporary segregation from other arrestees may also serve as an acceptable alternative to a strip search.

b. Provisions for Privacy and Search by Gender

When strip searches are conducted, the following provisions regarding privacy shall apply:

- (1) Only sworn officers of this Department are authorized to

perform a strip search of arrestees being detained at the Ithaca Police Department. If there is no officer of this Department available to conduct a strip search of an arrestee of the same sex, then the Supervisor shall make arrangements to have a sworn officer of the same sex, from another law enforcement agency, perform the search.

- (2) Searches shall be conducted in conformance with approved hygienic procedures and professional practices. Officers shall wear protective gloves and take all other universal precautions as required. To maintain proper hygiene, protect the dignity of the arrestee, and reduce liability and other allegations of wrongdoing, officers shall attempt to avoid contact with an arrestee during the strip search.
- (3) Searches shall be conducted in a room specifically authorized for this purpose by the Supervisor, taking precautions to prevent any unauthorized viewing or intrusions into the area.
- (4) Searches shall be conducted by the fewest number of personnel necessary and only by those of the same sex. Usually the number of necessary personnel will be no more than two officers, unless the arrestee is violent or other unusual circumstances exist.
- (5) Searches shall be conducted under conditions that provide privacy from all but those authorized to conduct the search.
- (6) When a strip search of a prisoner identifying as transgender or gender non-conforming becomes necessary, and when feasible, the strip search process will be explained to them and they shall be afforded the opportunity to select the gender of the officer who is to conduct the search.
- (7) Field strip searches of prisoners are generally prohibited, except 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 written approval of a Supervisor authorized herein to be an agent of the Chief of Police.

F. Reporting Requirements

1. Written authorization of a Lieutenant or Deputy Chief of Police (when no Lieutenant is available) is required to perform a strip search. Where articulable, reasonable belief exists to conduct a strip search for weapons or

contraband, the arresting officer shall make a documented request for such action to the supervisor, by filling out the [Strip Search Authorization and Report](#) form, which shall clearly state the basis for suspicion. A completed copy of this form will be given to the arrestee. This form shall also include the following information:

- a. The time and place of the search;
 - b. The identity of the individual searched and the name of the officer conducting the search, plus any other person(s) who are present; and
 - c. A detailed description of the nature and extent of the search.
2. When a strip search is conducted, any weapons, evidence, or contraband found during the search should be fully documented and secured as evidence for possible criminal charges. Any problems encountered or items confiscated should be brought to the attention of a supervisor. The officer's police report shall also include any other pertinent information regarding the search.

G. Body Cavity Searches

1. An inspection of the suspect's mouth may not require a search warrant. A search of any other orifice, opening or cavity of the body, however, requires a search warrant. Because body cavity searches are particularly intrusive, they must meet a higher standard in order to be deemed justifiable, and to conform to the requirements of reasonableness in the manner in which they are performed. The requirements of privacy, hygiene, and the training of those who perform such searches are of importance in the context of body cavity searches.
2. Per New York case law, a warrantless body cavity search made incident to an arrest is valid under the Fourth Amendment only if: (1) the officer has a "clear indication" that incriminating evidence will be found within the body of the arrestee; (2) exigent circumstances justify the absence of a warrant; and (3) the method used to extract the evidence is reasonable, and the extraction method is performed in a reasonable manner.
3. 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:
 - a. The suspect shall be kept under constant visual surveillance until a body cavity search is conducted or an alternative course of action taken;

- b. The officer shall consult with a 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, the arrestee, others, and/or the security of the Department's detention operation;
- c. 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. The warrant shall be specific as to sanitary conditions and conducted either by or under the supervision of a physician.
- d. On the basis of a search warrant, a body cavity search shall be performed by an authorized physician or by other medically trained personnel at the physician's direction;
- e. For safety and security reasons, the search shall be conducted at a medical facility, or at another authorized facility, and in a room designated for this purpose; and
- f. The authorized individual conducting the search shall file a report with the Department, which shall be included in the police report. Officers witnessing this search shall complete a supplemental police report containing all pertinent information.