



DIRECTIVES

Oak Creek Police Department

Effective Date:
September 15, 1993

Reviewed Date:
November 8, 2019

Sign-Off Date:
April 4, 2023

Title: STRIP SEARCH POLICY	Directive Number: 7-300		Critical Policy <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Open Record <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Total Pages: 5	Applicability: All Employees

*State Statute §968.255 – Governing strip searches

I. PURPOSE AND OBJECTIVE

It is the purpose and objective of this policy to establish a procedure that will protect the constitutional rights of all citizens under the Fourth Amendment and to fulfill the requirements under Wisconsin State law. All employees should have a clear understanding of the criminal and civil liability resulting from unauthorized searches. All employees also need to protect themselves from the health hazards related to searches.

II. POLICY STATEMENT

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

III. DEFINITIONS

- A. *Strip Search* – (State Statute Definition) - A search in which a detained person’s genitals, pubic area, buttock or anus, or a detained female person’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, in some instances, organs such as the stomach cavity. The visual inspection of an individual’s mouth, under their tongue, nose or ears is not considered a body cavity search.
- C. *Detained* – will be defined as:
 - 1. arrested for any felony;
 - 2. arrested for any misdemeanor under §167.30 (1)—*use of firearms, etc., near park, etc.*; §940.19—*battery, substantial battery, aggravated battery*; §941.20(1)—*endangering safety by use of a dangerous weapon*; §941.23—*carrying a concealed weapon*; §941.231 – *Carrying a concealed knife*; §941.237—*carrying handgun where alcohol beverages may be sold and consumed*; §948.60—*possession of a dangerous weapon by a person under 18*; or §948.61—*dangerous weapons other than firearms on school premises*;

III. DEFINITIONS - *Continued*

C. *Detained – Continued*

3. taken into custody under §938.19 (*taking a juvenile into custody*) and there are reasonable grounds to believe the juvenile has committed an act which, if committed by an adult, would be covered under sub. (1) or (2);
4. arrested for any misdemeanor not specified in sub. (2), any other violation of state law punishable by forfeiture or any local ordinance if there is probable cause to believe a weapon or a thing which may constitute evidence of the offense for which he or she is detained.
5. A person arrested or otherwise lawfully detained or taken into custody, if the person will be incarcerated, imprisoned, or otherwise detained in a jail or prison with one or more other persons. Subject to sub. (3), for the purpose of this subdivision, "detainee" does not include a juvenile who is taken into custody under §938.19 and held in custody under §938.209.

IV. PROCEDURES

A. Strip Searches

1. No person may be the subject of a strip search unless he or she is a **detained person**.
2. Individuals arrested for traffic violations and other minor offenses of a nonviolent nature shall not be subject to strip searches unless the arresting officer has articulable, probable cause to believe that the individual is concealing contraband or weapons. Probable cause may be based upon, but is not limited to, one or more of the following criteria:
 - 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 crimes of violence and narcotics offenses.
 - e. The discovery of evidence of a major offense (i.e., carrying concealed weapon, drugs, felony) in plain view or in the course of a search incident to arrest.
3. 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 the officer has probable cause to believe the detained person is concealing a weapon. The officer can conduct the search only with the **explicit approval of a supervisory officer**. This search shall still adhere to the following guidelines:
 - a. The person conducting the search is of the same sex.
 - b. The detained person is not exposed to the view of any person not conducting the search.
 - c. The search is not reproduced through visual or sound recording.

IV. PROCEDURES – *Continued*

- d. The person conducting the search has obtained the prior written permission of the chief, or his or her designee, unless there is probable cause to believe that the detainee is concealing a weapon.
 - e. The person conducting the search prepares a report identifying the person detained, all persons conducting the search, the time, date, and place of search and provides a copy of the report to the person detained. (Reference Section IV, Item A[10]).
4. 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. Any strip search conducted at the Oak Creek Police Department shall be done in the block of cellblocks identified for the same sex as the subject being searched. The cellblock to be used shall be in the furthest northeast cellblock of each group of cellblocks (for men—cell #2 [Room #227], and for women—cell #3 [Room #224]) and shall be unoccupied. If the designated strip search cellblock is occupied, the occupant shall be removed to the bullpen while the search is conducted.
 5. If the person required to be searched is a juvenile, then the juvenile shall be transferred to the cellblock that corresponds to the detained juvenile's sex. (males—cell #2 [Room #227] and females—cell #3 [Room #224]). All adults must be removed from the surrounding cells in that group of cells and placed in the bullpen prior to any juvenile being searched.
 6. Where articulable, probable cause exists to conduct a strip search, the arresting officer shall make a written request for such action to the shift commander that clearly defines the probable cause.
 7. Placement in the Department jail facility is not sufficient cause to conduct a strip search.
 8. When authorized by the supervisor, strip searches may be conducted only:
 - a. by trained and designated personnel;
 - b. in conformance with approved hygienic procedures and professional practices;
 - c. in a room specially authorized for this purpose (men in cell #2 [Room #227] and women in cell #3 [Room #224]);
 - d. only by an officer of the **same sex**;
 - e. under conditions that provide privacy from all but those authorized to conduct the search; (The detained person shall **not be exposed to the view of any person not conducting the search**. It is recommended that the one officer of the same sex who is conducting the search stand in or near the cell door, while one or two back-up officers stand by in the cellblock hallway maintaining visual contact with the searching officer but not viewing the individual being searched.); and
 - f. the search is not reproduced through a visual or sound recording.
 9. Following a strip search, the officer performing the strip search shall submit a written report (Incident Report) that details, at a minimum, the following:
 - a. probable cause for the search;
 - b. date, time, and length (duration) of search and place conducted;

IV. PROCEDURES – *Continued*

- c. identity of the officer conducting the search;
- d. identity of the individual searched;
- e. those present during the search. (The detained person should not be exposed to the view of any person not conducting the search);
- f. a detailed description of the nature and extent of the search; and
- g. who authorized the search.

A strip search or body cavity search is so intrusive that, before an arrestee can be subjected to a strip search, there must be **probable cause** to believe that either weapons or contraband will be found during the search.

10. A copy of the Incident Report shall be provided to the person detained {as specified by State Law §968.255(2)(e)}.
11. The officer conducting the search will then be responsible for filling out an open records request form (indicating the Incident number) with the detained subject's name and all pertinent information required on the open records form, and mark the box to have a copy mailed to the detained individual. This form should be forwarded to the Public Records Clerk for processing.

B. Body Cavity Searches

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

1. The officer shall consult 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 nature and/or poses a threat to the safety of officers or others, and/or the security of the Department jail.
2. If probable cause exists for a body cavity search, an affidavit for search warrant shall be prepared that clearly defines the nature of the alleged offense and the basis for the officer's probable cause.
3. On the basis of a search warrant, a body cavity search shall be performed only by medically trained personnel under a physician's direction. (Wis. State Statute §968.255(3) – *No person other than a physician, physician's assistant or registered nurse licensed to practice in this state may conduct a body cavity search.*)
4. Body cavity searches shall be performed with due recognition of privacy and hygienic concerns previously addressed in this directive.
5. Following an authorized body cavity search, the officer requesting this search shall submit a written report that details, at a minimum, the following:
 - a. Date and place of the search.
 - b. Identity of the authorized individual conducting the search.

IV. PROCEDURES – *Continued*

- c. Identity of the individual searched.
- d. Complete listing of those present during the search.
- e. Detailed description of the nature and extent of the search, including any evidence recovered during the search.
- f. The officer should attempt to secure copies of any medical reports, notes, or other evidentiary items available to him/her.

V. DISCLAIMER:

The Strip Search Policy developed by the Oak Creek Police Department is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety and care in an evidentiary sense with respect to third party claims. Violations of the Strip Search Policy can only be the basis of a complaint by this department, and then only in a non-judicial administrative setting.

REFERENCE:

- Municipal Lockup Facility Policy #11-100
- Arrest Procedures Policy #7-100
- Wis. State Statute §968.255 – State Statute governing strip searches



David R. Stecker
Chief of Police

(Attachments)

- Request For Search Form
- Public Records Request Form
- Circuit Court Search Warrant

DRS/tp

**Oak Creek Police Department
REQUEST FOR SEARCH**

Type of Search:			
<input type="checkbox"/> Strip Search		<input type="checkbox"/> Body Cavity Search	
Date:	Time:		
	Start: _____	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Completed: _____
Place (address):		Room:	
Subject Name (Last, First, Middle):		Sex:	D.O.B:
		<input type="checkbox"/> M <input type="checkbox"/> F	
Subject Address:		City:	State: Zip:
Officer/Personnel Conducting Search:		Medical Technician Conducting Search (name and title):	
Witnesses present:			
PROBABLE CAUSE FOR SEARCH			
Detailed reason for search:			
Authorized By (Supervisor's Name):			
Results of Search:			

Signature of officer requesting search: _____

Signature of officer conducting search: _____

Assisting officer/personnel: _____

Doctor/Nurse/Medical Technician: _____

- Photo ID provided at the time of report pick-up.
- R.R.F.

Oak Creek Police Department
OPEN RECORDS REQUEST

Requestor's Name: (Please print) _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Telephone #: _____ Home Cell

Specific records requested (include dates & report #, if available): **NOTE: You will be charged for copies of records requested.**

SIGNATURE: _____ **Date:** _____

*This form is not needed if request is sent in on company letterhead.

Request received by: _____ Date: _____

Notified to pick up copies by: _____ Date: _____

Request filled by: _____ Date: _____

Copies distributed via: Postal Service In-Person Fax E-Mail VIEW ONLY

List of information released (include I#'s, citations, etc.): _____

NOTES: _____

Charges:

Photocopies: _____ pages @ 10¢/ea (B/W) _____ pages @ 15¢/ea (color).....\$ _____

Electronic Copies (less than 1GB @ \$1 / 1GB-less 5GB @ \$5 / 5GB+ @ \$10): _____ (size)\$ _____

CD's/DVD's: _____ @ 40¢/ea\$ _____

Accident Reports: _____ @ \$1/ea.\$ _____

Location Fees: _____ # hrs. x _____ wage rate\$ _____

+ postage, if applicable: \$ _____

TOTAL COST:

\$ _____

Request Denied Reason: _____

SEARCH WARRANT

CIRCUIT COURT
FIRST JUDICIAL DISTRICT

MILWAUKEE, WISCONSIN

STATE OF WISCONSIN }
 } § In the Circuit Court of the First Judicial District of Wisconsin
COUNTY OF MILWAUKEE }

The State of Wisconsin, to any Sheriff, or any Law Enforcement officer of the State of Wisconsin:

WHEREAS, 1. oral testimony has this day been presented to the Circuit Court Branch _____ of the First Judicial District and recorded by a stenographic reporter, and/or

WHEREAS, 2. has this day complained by attached affidavit to this court upon oath,

Showing probable cause that on _____, in the County of Milwaukee, there is now located and concealed upon a person by the name of _____, located within the City of _____ in Milwaukee County, weapons and contraband, to-wit:

Describe object(s) of search:

which thing(s) (were used in the commission) or (may constitute evidence) of a crime, to-wit:

Describe crime(s):

committed in violation of section(s) _____ of the Wisconsin Statutes.

Describe nature and specific anatomical area of search:

Now, THEREFORE, in the name of the State of Wisconsin, you are commanded forthwith to search the said premises and/or the said person(s) for said things, and take possession thereof, if found.

You are further commanded to return this warrant within forty-eight (48) hours after execution before the Assistant Chief Deputy Clerk of the Circuit Court, Crime, Misdemeanor, Traffic Division, or his designee, to be dealt with according to law.

Witness, the Hon. _____, Circuit Judge of the First Judicial District of Wisconsin, at _____ a.m./p.m. on _____, 20 _____.

Judge of the Circuit Court
Branch: _____