



Policy 1013

Subject

STRIP SEARCHES AND BODY CAVITY SEARCHES

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By Order of the Police Commissioner

POLICY

The purpose of this policy is to provide members of the Baltimore Police Department (BPD) with guidelines for determining if and under what conditions the use of Strip Searches and Body Cavity Searches of persons in police custody are necessary and to establish guidelines to protect the privacy interests of persons searched. Members should understand the privacy interests at stake in conducting Strip Searches and Body Cavity Searches. As many courts have stated, Strip Searches and Body Cavity Searches are deeply degrading, even when carried out in the least intrusive manner possible. This policy is intended to balance at all times the interests of public safety with the deeply personal, constitutional privacy interests of every person in BPD custody.

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CORE PRINCIPLES

Privacy. The BPD recognizes the intrusiveness of these searches on individual privacy and will use the least intrusive means possible to achieve its law enforcement purpose. As such, it is imperative that BPD members consider the importance of individual privacy when determining the necessity for an allowable Strip Search or Body Cavity Search under the Fourth Amendment. Such searches shall be conducted with due recognition and deference for the human dignity of those being searched and only with proper authority and justification in accordance with BPD policy.

Safety. The use of Strip Searches and Body Cavity Searches may, under the rarest of conditions, be necessary to protect the safety of BPD members, public, and others in police custody.

Evidence. The use of Strip Searches and Body Cavity Searches may, under the rarest of conditions, also be necessary to detect and secure evidence of criminal activity.

Probable Cause should be founded on specific and objective facts or observations about how a person behaves, what the person is seen or heard doing, and the circumstances or situation in regard to the person that is either witnessed or known by the member.

DEFINITIONS

Body Cavity Search — Any visual or manual inspection of a person's body cavity beyond cursory visual inspection without manipulation to include: mouth, nose, ear canal, anus, genital region, and, in rare instances, organs such as the stomach, with or without physical contact with, or intrusion, into a body cavity.

NOTE: The visual inspection or minor manual manipulation of a person's ear, nose or mouth are exempt from the supervisory approval, warrant and reporting requirements for Body Cavity Searches.

Field Strip Search — A Strip Search in a location other than a district station, police facility, or under sanitary conditions in a location protected from public view such as an ambulance or authorized medical facility.

Cross-Gender Search — Any search of a person conducted by a BPD member of a different gender than the person being searched is or identifies as.

Probable Cause — (Justifying a Search Warrant or Exception) — Where facts and circumstances, known to the member and taken as a whole, would lead a reasonable member to believe that, based on their training and experience, either contraband or evidence of a crime will be found in a particular location.

Strip Search — The search of a person requiring the removal or rearrangement of some or all clothing to permit the visual inspection of the person's groin/genital area, buttocks, female breasts, or undergarments covering these areas.

NOTE: The following does not constitute a Strip Search or Body Cavity Search: (a) the removal or rearranging of clothing reasonably required to render medical treatment or assistance; (b) the removal of articles of outer clothing, such as coats, ties, belts, shoes; or (c) a weapons pat-down that includes minor manipulation at or around the waistband of the pants, including the untucking and shaking out of a person's shirt, which may expose the waistband of a person's undergarments only.

DIRECTIVES

Strip Searches

Justification

1. In order to conduct a Strip Search of an arrestee, the member shall have Probable Cause that a person is concealing evidence of a crime, contraband or a dangerous weapon in the area to be searched and the Strip Search shall be conducted in accordance with the procedures outlined below.
2. A Strip Search is much more invasive than a standard search incident to arrest. A search incident to arrest, which is conducted at the time of custodial arrest, shall include a weapons pat-down and search of all pockets, and could include a search of any articles of property found on the person, and manipulation of clothing that does not permit the visual inspection of the person's groin/genital area, buttocks, female breasts, or undergarments (with the exception of the waistband). (See Policy 1109, *Warrantless Searches*).

Prior to conducting a Strip Search

3. Members may only perform Strip Searches on persons in police custody.
4. Members shall perform less intrusive means, such as standard searches incident to arrest, pat-downs, metal detectors (where available), and clothing manipulation and searches, instead of a Strip Search wherever possible.
5. All Strip Searches, except the exigent and limited category of Field Strip Searches for deadly weapons identified below, shall be approved prior to the search by a permanent-rank supervisor, lieutenant or above. In seeking approval, members shall:
 - 5.1. State to the permanent-rank supervisor the particularized factual basis for Probable Cause, including identifying the nature of the item the person is concealing (e.g., firearm, edged weapon);
 - 5.2. Record the statement on the member's body-worn camera (BWC); and
 - 5.3. Document the supervisor who provided approval in the designated fields and narrative of the Incident Report.
6. Prior to conducting the Strip Search, the member shall explain to the person why they are being Strip Searched, inform the person of their *Miranda* rights and give the person the opportunity to voluntarily produce the suspected item, if safety permits. The person may be allowed to voluntarily produce the item only if the member and permanent-rank supervisor, lieutenant or above, believe that the item can be produced without compromising member safety or risking destruction of evidence.
 - 6.1. Under no circumstances may a member tell an arrested person that they will conduct a Strip Search unless they already have Probable Cause to conduct such a search, have received permission from a permanent-rank supervisor, lieutenant or above, to conduct such a search, and have actual intent to conduct such a search.

7. Prior to beginning the Strip Search, members shall ensure their BWC is activated and advise the person to be searched that they are being recorded. Members shall:
 - 7.1. Ask the person to be searched if they want the search to be recorded on the BWC, or if the person wishes the BWC to be turned away (recording audio only) during the search.
 - 7.2. Comply with the wishes of the person.
 - 7.3. If the person wishes the BWC to be turned away:
 - 7.3.1. The searching member will announce the reason and deactivate their BWC.
 - 7.3.2. The recording member will turn the camera of their BWC away while the searching member conducts the search.
 - 7.3.3. The searching member will inform the subject that they are no longer being captured on video but that audio recording is continuing.
 - 7.3.4. To the extent practical, a member should narrate what is occurring.
 - 7.3.5. Once the search is completed and the individual is fully clothed, the searching member will return the BWC to its standard position to record the rest of the encounter.
 - 7.4. Document in the Incident Report whether the person requested that BWC not capture the search.

NOTE: If the person requests that BWC be turned away from the search and the recording member cannot effectively both witness visually and record audio on BWC, a third member may be required to serve as visual witness for the search.

Conducting a Strip Search

8. Members shall conduct Strip Searches of detainees only under the following circumstances:
 - 8.1. All Strip Searches shall be conducted in a setting that ensures the privacy of the person searched, away from public view, under sanitary conditions and in a professional, dignified manner.
 - 8.2. A Strip Search for anything other than a deadly weapon shall be conducted in a private location either in a district station or at headquarters.
 - 8.3. All members involved in a Strip Search shall take reasonable steps to minimize the potential embarrassment or discomfort to the party being searched.
9. When authorized, members shall conduct Strip Searches by the fewest number of personnel necessary, in privacy, and by members who have been specifically trained in how to conduct a Strip Search.

10. Members shall not conduct any Cross-Gender Strip Searches.

EXCEPTIONS: On the rare occasion when: (1) the member has Probable Cause to believe the arrestee is concealing a deadly weapon or life-threatening item and (2) waiting on a member of the same gender identity as the arrestee would pose an imminent risk to the safety of the arrestee, a member, or others.

- 10.1. The gender identity of the arrestee being Strip Searched may be determined by asking the arrestee being Strip Searched their gender identity.
 - 10.2. If the arrestee expresses a preference about the gender identity of the member who will conduct the Strip Search, that request should be honored. In the absence of a stated preference, the gender identity of the arrestee being Strip Searched shall be consistent with the gender identity of the member conducting the Strip Search, except on the rare occasion explained above.
 - 10.3. All Cross-Gender Strip Searches and the justification for same shall be documented in the narrative of the Incident Report.
11. A Field Strip Search can only be conducted where the member has Probable Cause to believe that the person is concealing a deadly weapon, the person is a threat to themselves or others, and the person cannot be transported safely to conduct the Strip Search in an appropriate location.
12. A Field Strip Search for anything other than a deadly weapon is not permitted. Members shall obtain express approval for any Field Strip Search from a permanent-rank supervisor, lieutenant or above, unless taking the time needed to obtain approval would pose an imminent threat to the safety of the arrestee, a member, or the public.
13. Members shall articulate in the Incident Report the threat to life justifying a Field Strip Search.
14. A Field Strip Search shall not be done to look for evidence. Before a Field Strip Search may be conducted, the member shall:
- 14.1. Already be aware of concrete facts demonstrating that the person has a deadly weapon; and
 - 14.2. Already know, generally, where the deadly weapon is located.
 - 14.3. These specific facts and the underlying threat to safety shall be clearly articulated in the Incident Report.
15. If a youth must be Strip Searched in the field, members shall provide enhanced protection and privacy. "[A]dolescent vulnerability intensifies the patent intrusiveness of the exposure [of a strip search]." *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 375 (2009). (See Policy 1202, *Interactions with Youth*).
16. Where Probable Cause exists to conduct a Strip Search, and prior approval has been obtained, the arresting member shall document the approval in the designated field and narrative of the Incident Report. The basis for the member's Probable Cause for the Strip Search shall be clearly defined in the narrative. The member shall document in the designated fields and narrative of the Incident Report:

- 16.1. Date, time, duration, and location of the search.
- 16.2. Identity of the member(s) conducting the search.
- 16.3. Identity of the person searched.
- 16.4. Identity of any other persons(s) present during the search.
- 16.5. A detailed description of the nature and scope of the search.
- 16.6. List of item(s) seized as a result of the search.
- 16.7. If the search was recorded on BWC.
- 16.8. Any wounds, scars or abrasions on the person's body in the areas being searched.
17. The Incident Report shall be submitted by the member and reviewed by a command level official within 48 hours of the Strip Search. The command level official shall review the Incident Report and all BWC footage pertaining to the Probable Cause for the Strip Search.
18. Following a Strip Search, if the person was not arrested, the member shall provide the individual with a Baltimore Police Contact Card per Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*.

Prohibited Actions

19. Members shall not conduct a Field Strip Search for anything other than a life-threatening item. As provided in Section 11 above, Search Incident to Arrest a member may not conduct a Field Strip Search for a life-threatening item unless the member has Probable Cause to believe the arrestee is concealing a life-threatening item, the arrestee is a threat to himself or others, and the arrestee cannot be transported safely to conduct the Strip Search in a district station or headquarters.
20. Members shall not conduct any Cross-Gender Strip Searches. (See #10 above for directives).

Body Cavity Searches

Justification

21. Body Cavity Searches are extremely invasive in nature, and as such must require the high legal standard of Probable Cause in order to justify a Body Cavity Search. A Body Cavity Search can only be conducted if the member has Probable Cause to believe that a person has attempted to hide evidence of a crime, weapons, or contraband pertinent to the investigation in a Body Cavity. This type of search requires a search and seizure warrant and must be performed by a medical professional under sanitary conditions.
22. Though the visual inspection or even minor manual manipulation of a person's ear, nose or mouth are considered searches of a body cavity, these searches are exempt from the supervisory approval, warrant and reporting requirements for Body Cavity Searches.

Prior to conducting a Body Cavity Search

23. Body Cavity Searches may only be performed on persons in police custody.
24. Other than the visual inspection or even minor manipulation of a person's mouth, nose or ears, members shall conduct Body Cavity Searches only upon obtaining a search and seizure warrant.
25. Members shall seek a search and seizure warrant, or conduct a visual inspection or minor manipulation of a person's mouth, nose or ears, only if they have Probable Cause that a person has attempted to hide weapons, contraband, or evidence pertinent to an investigation, and there is Probable Cause to believe the evidence is being concealed within the person's body cavity.
26. Members shall consult with their immediate supervisors to determine whether Probable Cause exists to seek a search warrant for a Body Cavity Search.

NOTE: The decision to seek a search warrant shall recognize that a Body Cavity Search is highly invasive of personal privacy rights and is reasonable only where the suspected offense is of a serious nature and/or poses a threat to the safety of members or others.

27. If Probable Cause exists for a Body Cavity Search, members shall prepare an application and affidavit for a search warrant. See Policy 1007, *Search and Seizure Warrants*, for guidance on how to request a search and seizure warrant.
 - 27.1. The affidavit shall clearly define the nature of the alleged offense and the basis of the Probable Cause for a Body Cavity Search of the suspect; and
 - 27.2. The member shall specify in the search warrant that the Body Cavity Search will be conducted by **a licensed medical professional under sanitary conditions**.
28. While the search and seizure warrant for a Body Cavity Search is being obtained, the member shall transport the person to the appropriate medical facility to perform the impending search and in case a medical emergency should arise.

Conducting a Body Cavity Search

29. Body Cavity Searches shall be performed with due recognition of privacy and hygienic concerns. For safety and security reasons, the search shall be conducted by a licensed medical professional under sanitary conditions like an ambulance or other authorized medical facility in a room designated for this purpose. BPD members SHALL NOT conduct the search.
30. The person shall be under constant visual surveillance by a member until the Body Cavity Search is conducted.
31. A member shall be present during the search by a licensed medical professional.
 - 31.1. The gender identity of the present member should either 1) be the gender identity preferred by the person being searched; or 2) in the absence of a stated preference, the gender identity of the person being searched shall be consistent with the gender identity of the member present during the search. The gender identity of the person being searched should be determined by asking the person being searched their gender identity.

32. The member present during the search shall be responsible for preparing the necessary documentation.
33. Following a Body Cavity Search, the member shall submit an Incident Report that contains in the designated fields, or in the narrative if no relevant fields exist, the following:
 - 33.1. Date, time, duration, and location of the search.
 - 33.2. Identity of the licensed medical professional conducting the search.
 - 33.3. Identity of the person searched.
 - 33.4. Identity of the member witnessing the search.
 - 33.5. References to the search warrant, including warrant number.
 - 33.6. List of item(s) seized as a result of the search. See Policy 1401, *Control of Property and Evidence*, for guidance on how to handle all evidence seized.
 - 33.7. Whether the subject made any complaints of injury.
 - 33.8. An attached legible copy of the search warrant.
34. The Incident Report shall be submitted by the member and reviewed by a permanent ranked Captain or above within 48 hours of the search.
35. Following a Body Cavity Search, if the person is not charged and is released from police custody, the member will provide a Baltimore Police Contact Card and a copy of the search and seizure warrant. (See Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches* and 1007, *Search and Seizure Warrants*).

REQUIRED ACTIONS

Sergeant Responsibilities

36. Sergeants shall approve/disapprove search and seizure warrant applications for Body Cavity Search requests made by subordinates. See Policy 1007, *Search and Seizure Warrants*, for further supervisory guidance.
37. Sergeants shall ensure only same-gender searches, or searches where the person's preference regarding the member's gender is honored, are conducted unless the same-gender search is not possible under the circumstances detailed in paragraphs #10 and 20.
38. Sergeants shall collect and forward before the end of their shift all Incident Reports involving Strip Searches and Body Cavity Searches to Lieutenants to review.

Lieutenant Responsibilities

39. Lieutenants shall approve/disapprove requests by subordinates to conduct Strip Searches with particular attention to:
 - 39.1. The Probable Cause justification that the person is concealing contraband or a dangerous weapon when a request to perform or a Field Strip has been performed;
 - 39.2. Whether the member exhausted less intrusive means to seize the evidence and gave the person the opportunity to voluntarily produce the suspected item; and
 - 39.3. Whether exigency exists to the point that the member must conduct a Strip Search.
40. Lieutenants shall consult with subordinates to determine whether Probable Cause exists to seek a search warrant for a Body Cavity Search when the member believes such a search may be necessary.
41. If a sergeant is unavailable, lieutenants shall approve/disapprove search and seizure warrant applications for Body Cavity Search requests made by subordinates. Refer to Policy 1007, *Search and Seizure Warrants*, for further supervisory guidance.
42. Lieutenants shall review all Incident Reports and BWC footage pertaining to Strip Searches and Body Cavity Searches within 48 hours of the Search. After the review is completed, forward Incident Reports relating Body Cavity Searches to the commanding officer to review.
43. For Body Cavity Searches, lieutenants shall ensure an after-action discussion is completed with involved members to address any questions or concerns that arose, to identify gaps in training or to discuss ways to reduce conflict or embarrassment in the future.

Commanding Officer Responsibilities

44. If a lieutenant is unavailable, the commanding officer shall approve/disapprove requests by subordinates to conduct Strip Searches with particular attention to:
 - 44.1. The Probable Cause justification that the person is concealing contraband or a dangerous weapon.
 - 44.2. Whether the member exhausted less intrusive means to seize the evidence and gave the person the opportunity to voluntarily produce the suspected item.
 - 44.3. Whether exigency exists to the point that the member must conduct a Strip Search.
45. If a lieutenant is unavailable, review all Incident Reports and BWC footage pertaining to Strip Searches and Body Cavity Searches within 48 hours of the Search.
46. Commanding officers shall receive and review reports reviewed by lieutenants that are related to any Body Cavity Searches within 96 hours of the search.
47. For Body Cavity Searches, the commanding officer shall ensure an after-action discussion is completed with involved members to address any questions or concerns that arose, to identify

gaps in training or to discuss ways to reduce conflict or embarrassment in the future.

Considerations for Youth

48. If the arresting member and/or BPD Juvenile Booking Facility (JBF) member reasonably believes a Body Cavity Search is needed for a youth arrestee, and the youth is in BPD custody, the member shall consult with their BPD permanent-rank supervisor to determine whether Probable Cause exists to seek a search and seizure warrant for a Body Cavity Search.
49. Upon receipt of a search and seizure warrant for any youth in BPD custody subjected to a Body Cavity Search, regardless of whether they are transported to JBF, the member shall transport the youth to the hospital to be Searched.
50. A supervisor shall be present for execution of the search and seizure warrant. Refer to Policy 1007, *Search and Seizure Warrants*, for further supervisory guidance.

BPD Juvenile Booking Facility Supervisor Responsibilities

51. The BPD JBF Supervisor approving a Body Cavity Search or a Strip Search shall be a permanent ranking officer.
52. The BPD JBF Supervisor shall only approve Body Cavity Searches and Strip Searches under exigent circumstances where Probable Cause exists.
53. The BPD JBF Supervisor shall ensure only same-gender searches, or searches where the person's preference regarding the member's gender is honored, are conducted unless exigent circumstances exist. (See directives above).
54. The BPD JBF Supervisor shall ensure a Form 95, Administrative Report, is written and attached to the youth's file.
55. The BPD JBF Supervisor shall ensure all Body Cavity Searches and Strip Searches are documented on the Incident Report associated with the youth's incident, and a copy is attached to the youth's file.
56. The BPD JBF Supervisor shall collect, review, and approve reporting.

ASSOCIATED POLICIES

- Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, Queer/Questioning (LGBTQ) Individuals*
Policy 824, *Body-Worn Camera*
Policy 1007, *Search and Seizure Warrants*
Policy 1109, *Warrantless Searches*
Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*
Policy 1202, *Interactions with Youth*
Policy 1401, *Control of Property and Evidence*

RESCISSION

Remove and destroy/recycle Policy 1013, *Strip Searches and Body Cavity Searches*, dated 9 February 2021.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

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