

MISSOULA POLICE DEPARTMENT POLICY MANUAL



Subject:

STRIP, BODY CAVITY AND BODY TRACE EVIDENCE SEARCHES

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6.40

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Search and Seizure/warrant; MPD Policy #: 6.45

I. Purpose

The purpose of this policy is to provide officers with 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, body cavity searches and trace evidence 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 holding facilities. 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

Strip Search: Any search of an individual requiring the removal or rearrangement of some or all clothing to permit the visual inspection of any genital areas, buttocks or female breasts.

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.

Sensitive Area: Any person's genitals, buttocks or a female's breasts.

Swab: The collection of DNA or trace evidence from a person's body by use of a cotton swab.

IV. Procedures

A. Strip Searches

1. Individuals arrested for traffic violations and other minor offenses of a non-violent nature shall not be subject to strip searches unless the arresting officer has articulable, reasonable suspicion to believe that the individual is concealing contraband or weapons. Reasonable suspicion may be based upon, but is not limited to the following:
 - 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 past crimes of violence and narcotics offenses.
 - e. The discovery of evidence of a major offense in plain view or in the course of a search incident to the arrest.
 - f. Detection of suspicious objects beneath the suspect's clothing during a field search incident to arrest.
2. 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 only in privacy with the explicit approval of a supervisory officer.
3. Where articulable, reasonable suspicion exists to conduct a strip search, the arresting officer shall make a documented request for such action to the detention supervisor or other designated authority that clearly defines the basis for suspicion.
4. When authorized by the supervising authority, strip searches may be conducted only in the following:
 - a. In conformance with approved hygienic procedures and professional practices.
 - b. At a detention facility, in a room where arrestees normally change their cloths and put on clothing provided by the jail.
 - c. By the fewest number of personnel necessary and only by those of the same sex.
 - d. Under conditions that provide privacy from all but those authorized to conduct the search.
5. Following a strip search, the officer performing the search shall submit a written report to the supervisory authority that details, at a minimum, the following:
 - a. Date and place of the search.
 - b. Identity of the officer conducting the search.
 - c. Identity of the individual searched.
 - d. Those present during the search.

- e. A detailed description of the nature and extent of the search.
- f. Any weapons, evidence or contraband found during the search.

B. Body Cavity Searches

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:

1. The suspect shall be kept under constant visual surveillance until a body cavity search is conducted upon the basis of a search warrant or an alternative course of action taken.
2. The officer shall consult with 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 serious nature and/or poses a threat to the safety of officers or others and/or the security of the detention center's operations.
3. 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.
4. On the basis of a search warrant, a body cavity search shall be performed only by a licensed physician or another qualified person under the supervision and direction of the physician.
5. For safety and security reasons, the search shall be conducted at the detention facility or other authorized facility and in the room designated for this purpose.
6. Body cavity searches shall be performed with due recognition of privacy and hygienic concerns previously addressed in this policy.
7. The physician, or other qualified person, conducting the search shall submit a verbal or written report concerning the results of the search.

C. Obtaining Trace Evidence with a Swab

1. The search must be a legal search via search warrant or valid exception to a warrant.

2. A buccal swab or a swab from a non-sensitive area may be collected by a qualified law enforcement officer or qualified evidence technician.
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4. Any search for trace evidence, in a sensitive area, must be completed within the guidelines of MPD Policy #: 6.45 Suspect or Person of Interest Evidence Collection.