

CLINTON TOWNSHIP POLICE DEPARTMENT		
POLICIES AND PROCEDURES		
SUBJECT: STRIP AND BODY CAVITY SEARCHES		
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PURPOSE The purpose of this policy is to establish 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 searches or body cavity searches may be necessary. Recognizing the intrusiveness of these searches on individual privacy, it is the policy of the Clinton Township 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. Unlawful drugs and medications.
 - 6. Over-the-counter medications, or prescription medications not specifically authorized by a licensed health care provider.
 - 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, vape products, cannabis products, and matches/lighters.
 - 11. Any other object, which officers may not be able to identify or determine its lawful purpose.
- 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. Gender identity is a person's internal, deeply held sense of gender. Unlike gender expression, gender identity is not visible to others.
- G. Gender expression means a person's gender-related appearance and behavior, stereotypically associated with the person's gender assigned at birth. It is the way a person represents or expresses their gender to others, such as through their behavior, clothing, hairstyles, activities, voice, or mannerisms.
- H. Gender non-conforming means a person whose gender expression does not conform to traditional gender expectations. Not all gender non-conforming people identify as transgender.
- I. Gender non-binary is a term often used by people whose gender is not exclusively male or female. The term also captures those with more than one gender or with no gender at all.
- J. Gender transition is the process during which a person begins to live according to their gender identity, rather than the gender they were assigned at birth. Gender transition looks different for every person. Possible steps in a gender transition may or may not include changing one's clothing, appearance, and name, and in some cases, changing identification documents or undergoing medical treatments. The steps each person takes depend on their individual needs and access to resources.
- K. Lawfully confined means custodial confinement in a municipal detention facility, county correctional facility, or a New Jersey Department of Corrections facility.
- L. Licensed medical professional means an appropriately licensed health care provider who is a physician, registered nurse, nurse practitioner, or physician assistant.
- M. 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.
- N. Offense other than a crime means a non-indictable offense or equivalent in another state.
- O. 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 arrestee's possession. A pat search is conducted when someone is under arrest and should not be confused with a 'pat down' conducted under a protective frisk situation.
- P. 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.
- Q. 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.
- R. 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.

- S. 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.
- T. 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.
- U. Supervisor is defined as a sworn ranking police officer responsible for the actions of police officers (i.e., OIC, sergeant, lieutenant, captain, Chief of Police).
- V. Transgender is an umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the sex they inherited at birth. People under the transgender umbrella may describe themselves using one or more of a wide variety of terms, including transgender.
 - 1. Transgender man: A term for a transgender person who was assigned female at birth but identifies as a man.
 - 2. Transgender woman: A term for a transgender person who was assigned male at birth but identifies as a woman.

II. **STRIP SEARCH WITHOUT CUSTODIAL CONFINEMENT**

- 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 their own recognizance or by the posting of bail within a reasonable time, shall **not** be subjected to a strip search unless:
 - 1. A supervisor expressly authorizes the search; **and**
 - 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 supervisor.

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; or
 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 a supervisor; or
 3. Exigent circumstances prevent obtaining a search warrant or authorization of a supervisor and such exigent circumstances require the officer to conduct a strip search to take immediate action for purposes of preventing bodily harm to the officer, person subjected to the search, or others.

IV. 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 the commission of a crime shall not be subject to a strip search unless a supervisor 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 supervisor **and** one of the following exists:
1. A search warrant or valid documented consent; **or**
 2. Reasonable suspicion that the person is concealing a weapon, controlled dangerous substance, contraband, or evidence of a crime.
- B. A strip search may also be conducted in any of the following circumstances:
1. When a supervisor authorizes the search; and
 2. Before placement under psychological observation or suicide watch, or
 3. After a contact visit (e.g., EMS, paramedic, attorney, etc.).

V. STRIP SEARCHES – GENERAL REQUIREMENTS

- A. All strip searches must be conducted:
1. By a person of the same sex/gender. If the person indicates transgender, gender non-binary, or gender non-conforming:
 - a. Officers shall respectfully ask persons for their preference with respect to the gender of the searching officer and document that preference in the investigation report and with the approval of a supervisor to perform the strip search in accordance with that preference.
 - b. If the person refuses to provide such preference, officers of the same sex will perform the strip search in accordance with the individual's gender identity, regardless of the gender that individual was assigned at birth and/or his/her anatomical characteristics.
 2. In private where the search cannot be observed by unauthorized persons; **and**
 3. Under sanitary conditions; **and**
 4. In a professional and dignified manner.
 5. Juvenile detainees are subject to strip searches consistent with the predicates and restrictions in sections II, III, and IV of this policy with the following further requirements:
 - a. Unless impracticable or under exigent circumstances, officers should seek parental/guardian approval prior to conducting a strip search.
 - b. Document all attempts to obtain parental/guardian approval in the report of the incident.
 - c. Explain to the juvenile the circumstances leading to the need for a strip search in easy-to-understand words.
 - d. Officers shall use the least coercive means among reasonable alternatives when conducting such strip searches.
- B. If there are articulable heightened security concerns, the supervisor may authorize an additional officer(s) of the same sex as the person being searched to be present during the search, but not to directly observe the search. The investigation report must clearly indicate the reasons for the presence of additional officer(s), and the names of those present.
- C. Under no circumstances shall a strip search be electronically recorded on an officer's BWC or any in-house recording system.
- D. 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.

- E. Under the provisions of N.J.A.C. 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:
1. Body vermin.
 2. Cuts or bruises.
 3. Needle scars or tracks.
 4. Other injuries, as appropriate.

VI. BODY CAVITY SEARCHES

- A. A person arrested or detained for the commission of a crime or offense and is not being committed to the Warren County Jail (or a juvenile detention facility if a juvenile) shall not be subject to a body cavity search unless authorized by a search warrant or valid documented consent.
1. A designated assistant prosecutor of the Hunterdon County Prosecutor's Office must review all applications for search warrants 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 a supervisor.
 - d. In a professional and dignified manner, with the maximum courtesy and respect for the person being searched.
 - e. By a licensed medical professional who must be of the same sex/gender as the detained or arrested person. If the person subject to the body cavity search indicates transgender, gender non-binary, or gender non-conforming:

- 1) Officers shall respectfully ask persons for their preference with respect to the gender of the searching officer and document that preference in the investigation report and with the approval of a supervisor to perform the body cavity search in accordance with that preference.
 - 2) If the person refuses to provide such preference, officers of the same sex will perform the body cavity search in accordance with the individual's gender identity, regardless of the gender that individual was assigned at birth and/or his/her anatomical characteristics.
6. Juvenile detainees are subject to body cavity searches consistent with the predicates and restrictions in this section with the following further requirements:
 - a. Unless impracticable or under exigent circumstances, officers should seek parental/guardian approval prior to conducting a body cavity search.
 - b. Document all attempts to obtain parental/guardian approval in the report of the incident.
 - c. Explain to the juvenile the circumstances leading to the need for a body cavity search in easy-to-understand words.
 - d. Medical professionals shall use the least coercive means among reasonable alternatives when conducting such body cavity searches.
7. Under no circumstances shall a body cavity search be electronically recorded on an officer's BWC or any in-house recording system.
8. 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.
9. If 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 a supervisor has authorized a body cavity search based on a duly authorized search warrant or a valid documented consent of the person involved.
10. If the supervisor 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.

11. 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.

VII. RESPONSIBILITIES

- A. Unless under exigent circumstances, the officer requesting to perform a strip search must notify a supervisor and articulate the reasons for the request.
- B. The officer requesting to perform a body cavity search must notify a supervisor and articulate the reasons for the request.
- C. The supervisor must review the facts and circumstances and either approve or deny the request.
- D. When applicable, the supervisor 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.
 2. Any consent to search must also adhere to the standard operating procedures concerning consent searches. All consents for strip searches must be in writing. The consent must be voluntary, and the subject must know their right to refuse.
- E. Supervisors are responsible to ensure that all strip and body cavity searches are conducted in strict accordance with this policy.
- F. If officers of the same sex as the person designated for a strip or body cavity search are not on duty, the supervisor or his/her designee shall:
 1. Contact a bordering or geographically proximate law enforcement agency to see if it can supply an officer; or
 2. Recall an officer of the same sex; or
 3. Contact the Hunterdon County Sheriff's Office to see if it can supply an officer.

VIII. REPORTING REQUIREMENTS

- A. The officer requesting a strip or body cavity search must clearly articulate the reasons for the search in the original investigation 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 or written consent form, if applicable.
 3. The name of the supervisor who authorized the search.
 4. The specific location where the search occurred.

5. The name(s) of the agency personnel present during the search and the reason for their presence.
 6. The name(s) of the person(s) conducting the search.
 7. An inventory of any item(s) found during the search.
 8. The reason for use of force, if necessary
 9. An explanation of the exigent circumstances that required immediate action for a strip 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 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 Hunterdon County Prosecutor or his/her designee.
 3. The New Jersey Attorney General or his/her designee.
 4. Commissioner of the Department of Corrections or his/her designee.
 5. Commissioner of the Juvenile Justice Commission or his/her designee (juvenile searches).