



LEGAL BULLETIN #2002-06 OFFICE OF LEGAL AFFAIRS

STRIP SEARCHES



Legal Flag: (1) Strip searches require prior written approval of the watch commander and (2) must be supported by a reasonable suspicion that the search will uncover a weapon or contraband.

WHAT IS A STRIP SEARCH?

A strip search is the removal or rearrangement of some or all of the clothing of an arrestee to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments, 725 ILCS 5/103-1(d).

WHEN CAN A STRIP SEARCH BE CONDUCTED?

A strip search is conducted when there are specific factors that establish a reasonable suspicion that the search will uncover a weapon or contraband. In other words, a strip search may not be “used as a means of discovering whether an arrestee possessed contraband or weapons. There must be reasonable suspicion that some form of contraband/weapon is indeed hidden” before conducting the search.¹

In determining whether a particular type of search is reasonable, the courts generally consider four (4) factors:

1. The scope of the particular intrusion.
2. The manner in which the search is conducted.
3. The justification for initiating the search.
4. The place in which it is conducted.²

The United States Constitution, Illinois law and Department General Orders preclude police (or

¹ *Kraushaar v. Flannigan*, 45 F3d 1040 (7th Circuit, 1995)

² *Bell v. Wolfish*, 441 U.S. 520 (1979)

prison officials) from conducting a strip search of an individual arrested for any offense unless there is reasonable suspicion that the person is concealing contraband or weapons.³

WHO MAY AUTHORIZE A STRIP SEARCH?

Strip searches require prior written approval of the Watch Commander using the Report of Strip Search (CPD-11.521). When a request is made to conduct a strip search of an arrestee, eight (8) items must be documented in both the narrative portion of the arrest report and in the Watch Commander’s Log:

1. The name of the arrestee.
2. The name of the officer(s) making the request.
3. A list of specific factors justifying the strip search (reasonable suspicion).
4. Whether or not the search was approved.
5. The name of the person approving or disapproving the search.
6. If approved, the name of the person(s) conducting the search.
7. The time, date and place of the search.
8. What was discovered as a result of the search.
- 9.

WHERE SHOULD THE STRIP SEARCH BE CONDUCTED?

³ *Helton v. U.S.*, 191 F.Supp. 2d 179 (D.D.C., 2002)

Strip searches are ordinarily conducted in the police lockup. The search must be conducted by a member of the same sex, in a secure area, and out of the view of anyone not conducting the search. Members are not permitted to touch any body cavity other than the mouth without a search warrant. The body-cavity search will be performed under sanitary conditions either by or under the supervision of a physician licensed to practice medicine in the State of Illinois.

In those rare instances where a strip search must be conducted outside of a lockup facility, but within a police facility, prior written approval must be obtained from the Watch Commander in the district station or from the unit commander if the search is not conducted in a district station. If the unit commander is not available, the area coordinator may give the approval. In either case, the watch commander in the district where the facility is located, must be contacted so that all of the necessary information can be put in the Watch Commander's Log.

When it is imperative that a strip search be conducted in the field, a field supervisor must be contacted for approval. The field supervisor approving or disapproving the search must immediately notify the district Watch Commander and complete a Report of Strip Search.

For further clarification regarding conducting a strip search in the field, please consult the Department Directive entitled "Processing Persons Under Department Control."

WHEN CAN A PERSON WHO IS NOT UNDER ARREST BE SUBJECTED TO A STRIP SEARCH?

A member may only conduct a strip search on a person who is not under arrest when a search warrant is being executed. The officer requesting approval for the strip search must have probable cause (not merely reasonable suspicion) to believe that the subject is concealing either a weapon or items of evidence described in the search warrant.

A person may not be strip searched merely because he/she is present on the premises at the time the search warrant is executed. The approval process

established for conducting a strip search in the field should be followed.

IMPORTANT REMINDER

Members are reminded that Department regulations do not allow any body cavity, other than the mouth, to be touched without a search warrant. Body cavity searches must be conducted either by or at the direction of a physician licensed to practice medicine in Illinois.

SUMMARY

1. Strip Searches require prior written approval of the Watch Commander.
2. The person requesting the strip search must be able to articulate reasonable suspicion for believing that the strip search of this suspect will produce either contraband or weapons.
3. The search must be conducted by a person of the same gender and out of the view of others not conducting the search.
4. The guidelines outlined in the General Order must be followed both by the Watch Commander approving the search and the person requesting and conducting the search.
5. A strip search may be conducted on a person who is not under arrest only when a search warrant is being executed and the officer has probable cause to believe that the search will reveal weapons or articles described in the search warrant.

This Bulletin was prepared by Ms. Sandy Brode, a staff attorney in the Office of Legal Affairs.

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