

# STRIP SEARCH

Attorney General's Strip Search and Body Cavity Search Requirements and Procedures  
for Police Officers

Issued February 1993  
Revised June 1995

TO: ALL COUNTY PROSECUTORS

DATE: February 3, 1993

Enclosed for dissemination to all county and local law enforcement agencies within your jurisdiction are the Attorney General's Strip Search and Body Cavity Search Requirements and Procedures for Police Officers. These guidelines are being promulgated pursuant to N.J.S.A. 2A:161A-8b, which authorizes the Attorney General to issue guidelines governing the performance of strip and body cavity searches, as well as guidelines for the release and confinement of persons arrested for offenses other than crimes. While the statute addresses non-indictable offenses, the Attorney General's guidelines cover strip search and body cavity search procedures for crimes as well.

The enclosed guidelines are effective immediately.

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## Strip Search and Body Cavity Search Requirements and Procedures

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Attorney General's  
Strip Search and Body Cavity Search  
Requirements and Procedures for Police Officers  
N.J.S.A. 2A:161A-1 et seq.

### I. Definitions

#### A. Strip Search

1. Removal or rearrangement of clothing to permit visual inspection of a person's
  - a. undergarments
  - b. buttocks
  - c. anus
  - d. genitals
  - e. breasts
2. The following does not constitute a strip search:
  - a. removal or rearranging of clothing reasonably required to render medical treatment or assistance, or
  - b. removal of articles of outer clothing, such as coats, ties, belts or shoelaces.

#### B. Body Cavity Search

1. Visual inspection or manual search of a person's
  - a. anal cavity
  - b. vaginal cavity

### II. Search Requirements

#### A. Detention or arrest without custodial confinement

1. Strip Search
  - a. NO exigent circumstances:
    - (1) Search warrant or consent, and
    - (2) Authorized by officer in charge of the station house.
  - b. Exigent circumstances:

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- (1) Probable cause to believe that the person is concealing a weapon, contraband or evidence of crime, and
- (2) Exigent circumstances prevent obtaining a search warrant or approval of officer in charge.

### 2. ***Body cavity search is not appropriate without custodial confinement***

#### B. Custodial Confinement

##### 1. Strip Search

- a. Officer in charge authorizes confinement in municipal detention facility or transfer to adult correctional facility, and
- b. Officer in charge authorizes search, and
- c. One of the following:
  - (1) Search warrant, or
  - (2) Consent, or
  - (3) Reasonable suspicion to believe that the person is concealing a weapon, contraband or Controlled Dangerous Substances.

##### 2. Body Cavity Search

- a. Officer in charge authorizes confinement in municipal detention facility or transfer to adult correctional facility, and
- b. Officer in charge authorizes search, and
- c. One of the following:
  - (1) Search warrant, or
  - (2) Consent

### III. Procedures

#### A. Strip Search

1. Conducted by person of same sex, and
2. Conducted in private, and
3. Conducted under sanitary conditions, and

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4. Conducted in a professional and dignified manner, and
  5. In custodial confinement, conducted in accordance with Department of Corrections regulations
- B. Body Cavity Search
1. Conducted by licensed physician or registered nurse of same sex, and
  2. Conducted in private, and
  3. Conducted in a medically acceptable manner and environment, and
  4. Conducted under sanitary conditions, and
  5. Conducted in accordance with Department of Corrections regulations.
- IV. Reporting Requirements
- A. Officer who performs strip search or has body cavity search conducted must report the reason for this search on the record of arrest. The report must include:
1. A statement of facts indicating the reasonable suspicion or probable cause for the search.
  2. A copy of the search warrant, if appropriate.
  3. A copy of the consent form, if appropriate.
  4. The name of the officer in charge who authorized the search.
  5. The names of the persons conducting the search.
  6. An inventory of any items found during the search.
- B. If exigent circumstances were the basis for the search, the officer who conducted the strip search must file a separate written report stating the reasons for the immediate search.
- V. Requirements and Procedures for Officer in Charge of Station House
- A. The arrested person should be processed in accordance with R. 3:4-1, a summary of this court rule is attached, and, if applicable, with standard operating procedure adopted by the county prosecutor.

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- B. Where appropriate, a person arrested in accordance with R. 3:4-1 shall be released or have bail set without unnecessary delay but in no event later than 12 hours after arrest.
  - C. Unless authorized by search warrant or consent, a strip search should not be conducted if the arrested person will be released without custodial confinement or will soon be released on bail or own recognizance.
  - D. The officer in charge shall assure that a consent to a strip search or body cavity search is in writing whenever possible.
  - E. The officer in charge shall assure that all strip searches and body cavity searches are conducted in private and that these searches cannot be observed by persons not physically conducting the search.
  - F. When a body cavity search is conducted, the officer in charge shall request a sworn statement from the licensed physician or registered nurse who conducted the search stating that the body cavity search was conducted pursuant to statutory and medical requirements.
  - G. All reports pertaining to strip searches or body cavity searches are not public records. These reports shall be made available, upon request, only to the person searched, the county prosecutor, the Attorney General or the Commissioner of the Department of Corrections.
- VI. Procedure For The Processing of Suspects Arrested Without a Warrant
- A. Always consult with county prosecutor for local procedures
  - B. A Summary of New Jersey Court Rule 3:4-1
    - 1. A person arrested without a warrant for any offense shall be taken to the police station where a complaint shall be prepared forthwith.
    - 2. A person arrested without a warrant for one of the following criminal offenses: murder, kidnapping, aggravated manslaughter, manslaughter, robbery, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, second degree aggravated assault, aggravated arson, arson, burglary, violations of Chapter 35 of Title 2C that constitute first or second degree crimes, any crime involving the possession or use of a firearm, or conspiracies or attempts to commit such crimes, shall be taken to a police station. The police officer shall comply with the criteria of Paragraph 5 below.
    - 3. A person arrested without a warrant for an offense not listed in Paragraph 2 above, shall be taken to the police station where the

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officer in charge shall:

- a. Complete all post-arrest identification procedures required by law;
  - b. Prepare a complaint-summons (CDR-1);
  - c. Issue the complaint-summons to the person arrested, and
  - d. Release the arrested person in lieu of continued detention.
4. The officer in charge has discretion not to prepare a complaint summons if the officer determines that any of the following conditions exist:
- a. The person has previously failed to respond to a summons;
  - b. The officer has reason to believe that the person is dangerous to himself, to others or to property;
  - c. There is one or more outstanding arrest warrants for the person;
  - d. The prosecution of the offense or offenses for which the person is arrested or the prosecution of any other offense of offenses would be jeopardized by the immediate release of the person;
  - e. The person cannot be satisfactorily identified; or
  - f. The officer has reason to believe the person will not appear in response to a summons.
5. If the officer determines that one of the conditions in Paragraph 2 or 4 above applies, the officer shall:
- a. Immediately prepare a complaint-warrant (CDR-2), and
  - b. Take the person arrested without unnecessary delay before the nearest available committing judge to have bail set. Bail shall be set no later than 12 hours after the arrest.
  - c. The officer shall present the matter to the appropriate judicial officer authorized to set bail who shall determine whether there is probable cause to believe that the defendant committed the offense.