

Rules and Procedures

Rule 318D

December 13, 2005

Rule 318D - STRIP SEARCH, VISUAL BODY CAVITY SEARCH, AND BODY CAVITY SEARCH PROCEDURES

This rule is issued to establish guidelines, regulations and procedures outlining when and how strip searches, visual body cavity searches, and body cavity searches may be performed. It is effective immediately, superseding all previously issued rules, regulations, orders and other directives concerning the procedures to be used when searching prisoners. Officers shall conduct these searches with due recognition and deference for the human dignity of those being searched.

Sec. 1 GENERAL CONSIDERATIONS/PURPOSE:

The purpose of this Rule is to clarify Department policy relative to custodial strip searches, visual body cavity searches, and/or body cavity searches authorized by a warrant.

A search conducted incident to arrest may be made only for the purposes of seizing fruits, instrumentalities, contraband, and other evidence of the crime for which the arrest has been made, in order to prevent its destruction or concealment; and removing any weapons that the arrestee might use to resist arrest or effect his escape (M.G.L. C. 276, s. 1).

A search incident to a lawful arrest can progressively extend into a strip search, or visual body cavity search, only if the officer has probable cause to believe that the prisoner has concealed such items on his/her person or his/her clothing that cannot otherwise be discovered by the usual search incident to arrest. Before an officer may command removal of an arrested person's last layer of clothing, he/she must have probable cause to believe that he/she will find a weapon, contraband, or the fruits or instrumentalities of the crime that he/she could not reasonably expect to discover without forcing the arrested person to discard all of his/her clothing. This Rule will provide guidelines for conducting a strip search and/or visual body cavity search.

This Rule also clarifies the Department's policy governing body cavity searches. When an officer has a high degree of probable cause to believe that an arrestee has secreted contraband and/or weapon(s) in any body cavity, that officer must seek a warrant pursuant to [G.L. c. 276](#) to authorize a qualified medical professional to perform a "body cavity

search[.]" This requirement must be strictly adhered to even if an object is observed partially protruding from the body cavity. (Note: The exigent circumstances exception to the warrant requirement will apply if a suspect attempts to swallow contraband in the presence of the officer).

Sec. 2 DEFINITIONS:

- Strip Search: A search that refers to an inspection of a naked individual without any scrutiny of his/her body cavities. It is a search in which a detainee is commanded to remove the last layer of his/her clothing.
- Visual Body Cavity Search: A search that extends to a visual inspection of the anal and genital areas. The mouth is not considered a body cavity.
- Body Cavity Search: A search conducted pursuant to a warrant that authorizes a physician to conduct an internal manual inspection of any human body cavity.

Sec. 3 ROLE OF DUTY SUPERVISOR:

It shall be the responsibility of the Duty Supervisor to make the determination whether or not a strip search and/or a visual body cavity search should be conducted. It shall also be the responsibility of the Duty Supervisor to make the determination whether to seek a warrant for a body cavity search.

The Duty Supervisor will ensure that every provision of this Rule is complied with in those cases where a strip search and/or visual body cavity search is to be performed.

Sec. 4 STRIP SEARCH AND/OR VISUAL BODY CAVITY SEARCH

Strip searches and/or visual body cavity searches MAY NOT be conducted as a routine part of the booking procedure.

A strip search and/or a visual body cavity search may **ONLY** be conducted if the DUTY SUPERVISOR finds that the suspect is in

custody, and the officer has PROBABLE CAUSE to believe that the suspect has a weapon, contraband, or the fruits or instrumentalities of the crime that he could not reasonably expect to discover without forcing the suspect to discard all of his/her clothing.

After such a finding is made, the Duty Supervisor shall ensure that the following procedures are followed:

1. The search will be performed by an officer who is the SAME GENDER as the prisoner, and will be conducted in an area that affords COMPLETE PRIVACY.
2. The strip search and/or visual body cavity search shall be recorded on the incident report. The incident report shall include the facts supporting the probable cause determination, the name of the officer performing the search, and the location where the search is conducted.
3. Any evidence or property discovered shall be seized, recorded and secured in the normal manner, and recorded on the incident report as well as on the booking sheet. If no evidence is found, the reporting officer shall make a notation to that effect on the incident report.
4. Arrestees may be requested to manipulate their own body parts. Police officers may not touch or prod any body part. In the event that the strip search and/or visual body cavity search is not accomplished, due to a lack of cooperation on the part of the arrested person, the Duty Supervisor shall determine whether or not the arrested person is placed in a cell or kept under guard.

Police officers are prohibited from conducting a strip search and/or visual body cavity search outside the confines of the District Station, except in cases of an authorized search warrant for a dwelling, building, or other place that specifies a search of a specific person and/or "any person present."

In no event shall force be applied to accomplish a strip search and/or visual body cavity search unless authorized by a warrant. If the warrant specifies the search of "any person present" and the superior officer in charge of the search has probable cause to believe that a person present has a weapon, contraband, or the fruits or instrumentalities of the crime that he/she could not reasonably expect to discover without forcing the person present to discard all of his/her clothing, he/she may conduct a strip search and/or visual body cavity search. All

responsibilities listed for the Duty Supervisor in this section shall be transferred to the superior officer in charge of the search.

Sec. 5 BODY CAVITY SEARCH:

Body cavity searches may only be conducted when authorized by a warrant. It shall be the responsibility of the Duty Supervisor to make the determination whether a warrant should be sought authorizing a body cavity search.

NOTE: Precautions should be taken by police officers when handling evidence recovered in this fashion, such as wearing protective gloves.

Body Cavity Search Procedure

1. Under no circumstances shall a body cavity search be conducted by a police officer.
2. If an officer has a high degree of probable cause to believe that a weapon, contraband, or the fruits or instrumentalities of the crime may be secreted in a body cavity of the arrested person, a search warrant shall be sought. This applies even when an item may be viewed partially protruding from the body cavity. If the arrested person personally extracts any items from their own body cavity, no such warrant will be necessary
3. The Duty Supervisor, or his designee, shall make application for the warrant in accordance with established Department procedures (See Special Order 95-5).
4. Only a judge may issue such a warrant.
5. Only a qualified medical professional, pursuant to a warrant, may conduct an intrusion of a body cavity, or extract any items from the body cavity. After the warrant is issued, the arrested person shall be transported to a medical facility so that a qualified medical professional may extract any items from the body cavity. The Duty Supervisor shall ensure that the arrested person is constantly monitored during this trip to the medical facility until such time that the body cavity search is completed.
6. The body cavity search shall be recorded on the incident report, including the name of the physician conducting the search, the name of the officer seizing the evidence or property, the name of the authorizing Duty Supervisor, and the facts contributing to the high degree of probable cause determination. The arrested person shall then be transported back to the station where the evidence or property discovered shall be seized, recorded and secured in the normal manner, and recorded on the incident

report as well as on the booking sheet. If no evidence is found, the reporting officer shall make a notation to that effect on the incident report.

Note: Although not considered a body cavity search, in the event that an arrested person creates an exigent circumstance by endangering his or her own health by swallowing an item, the arrested person shall be immediately transported to a medical facility for treatment. The Duty Supervisor shall ensure that the arrested person is constantly monitored during the trip to the medical facility until such time that the treatment is completed. Any evidence or property recovered by medical personnel shall be seized, recorded and secured in the normal manner, and recorded on the incident report, as well as on the booking sheet. A search warrant is not necessary in those cases where medical personnel perform an operation necessitated by good medical practice, for medical reasons, and only incidentally results in the recovery of evidence for police use.

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Police Commissioner