



# BELOIT POLICE DEPARTMENT POLICY MANUAL

PD-901

## CUSTODIAL SEARCHES

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Special Instructions/Attachments/Sources

### 901.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants, or weapons into the Beloit Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors, and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

#### 901.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs, and folds on the clothing, to remove all weapons, dangerous items, and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search in which a detainee's genitals, pubic area, buttock or anus, or a female detainee's breast, is uncovered and either is exposed to view or is touched by a person conducting the search (Wis. Stat § 968.255 (1)(b)).

### 901.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search. Searches shall not be used for intimidation, harassment, punishment, or retaliation.

### 901.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

## **901.4 SEARCHES AT POLICE FACILITIES**

Custody searches shall be conducted on all individuals in custody upon entry to the Beloit Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, the Supervisor shall be notified, and a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the facility's safety and security.

### **901.4.1 PROPERTY**

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Beloit Police Department identification number, and information regarding how and when the property may be released.

### **901.4.2 VERIFICATION OF MONEY**

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate clear plastic envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in a clear plastic envelope with the amount indicated, but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall notify the Supervisor and enter the amount below the original entry, and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

## **901.5 STRIP SEARCHES**

No person may be the subject of a strip search unless he/she is arrested or detained, in accordance with Wis. Stat. § 968.255(1).

No person held at any Beloit Police Department facility shall be subjected to a strip search unless there is specific and articulable facts establishing probable cause to believe the person has or is concealing a weapon, a thing which may constitute evidence of the offense for which he or she is detained, or contraband.

Factors to be considered in determining probable cause include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  1. A felony arrest charge and/or being under the influence of a controlled substance should not suffice as probable cause, absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts)

- (d) The individual's actions or demeanor
- (e) Criminal history (i.e., level of experience in a custody setting)

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

#### 901.5.1 STRIP SEARCH PROCEDURES

Strip searches at Beloit Police Department facilities shall be conducted as follows (28 CFR 115.115; Wis. Stat. § 968.255):

- (a) Written authorization from the Supervisor shall be obtained prior to the strip search. In regards to searches conducted by members of the Special Operations Division (SOD), the Captain of SOD or designee, unless absent from duty, will fulfill the responsibilities of the Supervisor as noted in this policy.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating or assisting in the search. The search shall not be reproduced through a visual or sound recording. Cell #3 is the designated location for a strip search absent extraordinary circumstances.
- (d) Whenever possible, a second member of the same sex should assist with the search for security and as a witness to the finding of evidence
- (e) The primary member conducting the search shall prepare a written report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The written authorization for the search, obtained from the Supervisor, containing the following information:
    - (a) The name of the individual who was searched.
    - (b) The name and sex of the members who conducted the search.
    - (c) The time and date of the search.
    - (d) The place at which the search was conducted.
    - (e) A list of the items, if any, that were recovered.
    - (f) The probable cause upon which the member based his/her belief that the individual was concealing a weapon, evidence, or contraband.
- (f) No member should view an individual's private underclothing, buttocks, genitalia, or female breasts while that individual is showering, performing bodily functions, or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower, or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's

consent and/or otherwise protect his/her privacy and dignity.

- (g) A copy of the written authorization shall be retained and given to the individual who was searched. The original report shall be forwarded to the Records Bureau, and a copy sent to the Office of the Chief.

#### 901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Supervisor authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search and the individual cannot be adequately secured for transport.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Supervisor authorization does not need to be in writing.

#### 901.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Wis. Stat. § 968.255):

- (a) No individual arrested or detained in accordance with Wis. Stat. § 968.255(1)(a) shall be subjected to a physical body cavity search without the written approval of the Supervisor, and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, physician's assistant, or registered nurse may conduct a physical body cavity search.
- (c) Except for the physician, physician's assistant, or registered nurse conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
  1. The facts that led to the decision to perform a physical body cavity search of the individual.
  2. The reasons less intrusive methods of searching were not used or were insufficient.
  3. The Supervisor's approval and completion of the same Department Strip Search/Body Cavity Search Form, as utilized in Section 901.5.1 (e) (3).
  4. A copy of the search warrant.

5. The time, date, and location of the search.
  6. The medical personnel present.
  7. The names, sex, and roles of any department members present.
  8. Any contraband or weapons discovered by the search.
- (f) A copy of the written authorization shall be retained and a copy shall be provided to the individual who was searched or other authorized representative upon request. The original shall be forwarded to the Records Bureau, and a copy sent to the Office of the Chief.

### **901.7 SEARCHES OF PERSONS WITH PHYSICAL DISABILITIES**

A search of a person who requires an assistive device for mobility including, but not limited to, a wheelchair, brace, crutch or artificial limb shall be conducted in a careful manner. If the search of a physically disabled person requires the removal of an assistive device or involves a person lacking sensation in some portion of his/her body, the search shall be conducted with extreme care by a member who has had training in handling physically disabled persons (Wis. Stat. § 968.256(2)).

The Rock County Jail has staff trained in conducting searches of physically disabled persons. Officers shall either direct transport to the Rock County Jail in these instances, unless a trained jail officer is able to conduct the search on scene, or transport the person to Beloit Memorial Hospital where trained personnel can assist.

### **901.8 TRAINING**

The Assistant Chief or designee shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.

Members who may conduct a strip search as part of their duties shall also be given annual training on this policy and any related department procedures (Wis. Stat. § 968.255).