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May 12, 2004

Police Commissioner Raymond W. Kelly
New York City Police Department
One Police Plaza
Room 1400
New York, New York 10038

Re: Recommendation that the NYPD enhance its training of officers to ensure adherence to Patrol Guide strip search procedures

Dear Commissioner Kelly:

At the request of the full board, beginning in January 2004 the CCRB's Reports and Recommendations Committee reviewed cases in which the board determined that officers conducted "strip searches" in violation of Patrol Guide procedures. The board instigated a review based on the high rate at which, following a full investigation conducted by our investigative staff, the board substantiates strip-search allegations. In 2003, for example, following a full investigation the board substantiated strip-search allegations 19% of the time it reviewed such allegations, nearly twice the 10% average.

As of April 1, 2004, the board substantiated one or more strip-search allegations in 16 cases that occurred since January 2002. However, the evidence our investigators uncovered in these cases indicates that officers may be conducting searches in violation of the Patrol Guide more frequently than CCRB statistics reveal. Of concern to the board is that in most of the cases officers, often supervisors, told CCRB investigators that they or their commands routinely conducted the type of searches the board found violated the Patrol Guide. The actions and statements of these officers reflect a misunderstanding of the department's own search policies as articulated in Patrol Guide procedure 208-05, included in this letter as an addendum.

Patrol Guide procedure 208-05 delineates general search guidelines for arrested persons and describes three types of searches: 1) the frisk/field search; 2) the search at a police facility; and 3) the strip search. Under the procedure, the arresting officer is to conduct both a frisk/field search and, if the arrested individual is transported to a precinct, a search at the police facility. A strip search can only be conducted if authorized by a supervisor and under specific circumstances. The CCRB's study of substantiated strip-search cases indicates that officers do not appreciate the differences between a police facility search and a strip search.

* State and federal case law has not clearly defined what constitutes a "strip search." Courts have characterized some searches involving partial disrobing as "strip searches" requiring reasonable suspicion that the arrestee is concealing contraband or weapons that could not be discovered during a search incident to arrest. See e.g., Justice v. City of Peachtree City, 961 F.2d 188 (11th Cir. 1992) (female juvenile forced to strip down to her panties); Huck v. City of Newburgh, 712 N.Y.S.2d 149 (2nd Dept.) (woman forced to remove all outer garments and while underwear still on, lift her bra), leave to appeal denied, 95 N.Y.2d 929 (2000). The use of the term "strip search" in this letter includes complete disrobing as well as partial disrobing in which women were required to strip down to their underwear and/or bra and men to their underwear.

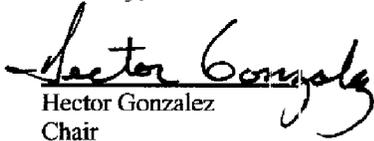
At the police facility, the Patrol Guide directs the arresting officer to make a thorough search of an arrested individual, which includes removal of outer clothing such as overcoats, jackets, sweaters, and vests, as well as hats, socks, ties, shoes, wigs, handbags, and wallets. To detect hidden contraband, evidence or weapons, the procedure specifically orders officers to grab, squeeze, and crush the clothing the arrested individual is still wearing and to slide their hands across that clothing. This procedure, however, does not authorize officers to remove clothing like pants, shorts, or underwear as part of the mandated “search at police facility.” It specifically states that the “search at police facility” is “not a ‘strip’ search.”

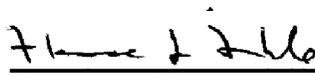
A more intrusive search than the required search at police facility falls under the provision entitled “strip search.” Consistent with state and federal law,** to conduct a strip search the Patrol Guide requires that the arresting officer have reasonable suspicion that the arrested individual is concealing weapons, contraband or evidence that may not be discovered through the search at police facility. Of the ten cases described in an addendum to this letter, in three cases (200202112, 200301986, and 200302571) officers did not appreciate the searches at issue to be strip searches. In eight of these cases (200202112, 200202125, 200208488, 200204038, 200204754, 200300403, 200301986, and 200302571), officers described strip searches as routine for those brought to the police facility in their custody and justified them based upon the need to search thoroughly for contraband. And, in three of the cases (200203437, 200203148, and 200300403), the officers justified the strip searches, in part, because the officers chose to transport the CCRB complainants from the street to the precinct with individuals who had been arrested for drug offenses. The strip searches at issue stemmed from incidents occurring in four of the five boroughs and involved officers assigned primarily to narcotics units: Queens South Narcotics District; Queens Southeast Narcotics Initiative; Queens North Narcotics Initiative; Brooklyn North Strategic and Tactical Narcotics Operations; Narcotics Borough Brooklyn North, Narcotics Division in East Harlem; 24th Precinct; 13th Precinct; 44th Precinct (Conditions Unit); and Police Service Area 8 (Gang Enforcement Unit).

Although the officers in these ten cases did not appear to have intentionally violated the Patrol Guide, in none of the cases did the officers articulate the reasonable suspicion required to conduct a strip search based upon the factors enumerated by the Patrol Guide. Officers’ failure to comply with Patrol Guide search procedures, which are carefully drawn to comply with the law, may result in: 1) violation of an individual’s constitutional rights; 2) suppression of physical evidence in criminal cases; and 3) civil liability. To ensure that officers understand the Patrol Guide search provisions, the CCRB recommends that the department enhance its training programs relating to the police facility search and the strip search, for example, in classes for cadets and newly promoted sergeants, lieutenants, and captains. The board further recommends that the department conduct in-service training of its officers, particularly supervisors and those assigned to narcotics units, regarding these search procedures.

In closing, it is our understanding that the department agrees that additional training in this regard is appropriate, and, in fact, has been preparing a training video for the past several months to address this issue. We thank you for your attention to this matter and look forward to discussing it further with you.

Sincerely,


Hector Gonzalez
Chair


Florence L. Finkle
Executive Director

encs.

c: Board members

** See, e.g., Sarnicola v. County of Westchester, 229 F. Supp.2d 259, 268-270 (S.D.N.Y. 2002); Huck v. City of Newburgh, 712 N.Y.S.2d at 151.

SUMMARY OF SELECT CASES IN WHICH THE BOARD SUBSTANTIATED ONE OR MORE STRIP-SEARCH ALLEGATIONS

Case 200202112

In the early morning hours of March 31, 2002, a young woman left a lower Manhattan nightclub and entered her car. While waiting for the car to warm up, she sat blasting her radio. Asked by two male patrol officers to lower the volume, the young woman did not respond politely or comply. When the young woman could not immediately produce her driver's license to the two officers upon request, they decided to take her into custody and transport her to the 13th Precinct to conduct a license and warrant check.

At the precinct, one of the male officers asked a female officer to conduct a search of the young woman. According to the male officer, the young woman had refused to permit a man to search her pockets. Not knowing the reasons for the young woman's arrest, the female officer took the woman into the precinct bathroom and admittedly lifted up her shirt, felt underneath her bra, and ordered her to lower her pants and underwear and squat over a toilet. During her CCRB interview, the female officer, a member of the department for eight years, told the investigator that this type of search was standard for all women arrested, not just those arrested for narcotics offenses. The officer opined that this type of search did not constitute a strip search, which would have entailed removing all of the woman's clothing.

Police ultimately released the young women from the precinct with summonses for making unreasonable noise and a missing front license plate. On January 22, 2003, the board found that the female officer's search of the young women constituted misconduct.

The department filed charges and specifications against the female officer and during December 2003, the officer pleaded guilty and forfeited ten vacation days.

Case 200202125

At approximately 10:00 p.m. on January 24, 2002, a thirty-eight year old man was on his way home when friends told him that his teenage nephew was hanging out with gang members at a nearby building. The man immediately went to the building to find his nephew. The man entered the building and walked up its stairs, but could not find his nephew and left within a few minutes. Two police officers, who had observed the man enter and leave the building within a short period of time, called to the man and questioned him about his identity and reason for being in the building. The building, a haven for narcotics activity, was enrolled in the police department's "Clean Halls Program." The owner or managing agent of the building had previously filed an affidavit with the 44th Precinct granting the police department permission to enter the building at any time for the purpose of arresting those persons found on the premises without a legitimate purpose. The man explained to the officers that he did not live in the building but had gone inside looking for his nephew. Expressing his disbelief of the man's explanation and without further investigation, the arresting officer searched and arrested the man for trespassing, a misdemeanor.

The officers transported the man to the 44th Precinct. The man told the CCRB investigator that the arresting officer ordered him to strip naked in a cell, bend over, and open his buttocks. While the arresting officer disputed the allegation that the man was forced to remove his underwear, the arresting officer admitted that with the approval of his supervising sergeant he ordered the man to remove all of his clothing but for his underwear. The officer explained to the CCRB investigator that he ordered the man to take off his clothing, including his pants and shirt, in order to uncover drugs, since the man was arrested for trespassing at a drug-prone location. The supervising sergeant, who told the CCRB investigator that he had observed the officer's strip search, said that when a person is arrested for trespassing in a drug-infested building (without accompanying charges for drug possession or sales), it is standard procedure to strip-search the arrested

individual. The strip searches are based, the sergeant reasoned, on the fact that many people secret drugs underneath their clothing, and in the sergeant's view the Patrol Guide authorizes such strip searches.

Because there was insufficient evidence to prove that the man committed criminal trespass, the Bronx District Attorney's Office declined to file criminal charges against the man. On March 20, 2003, the board substantiated allegations against the arresting officer and his supervising sergeant stemming from the strip search of the man.

As of April 1, 2004 these disciplinary cases are open at the NYPD.

Case 200208488

On December 17, 2002, detectives from Queens South Narcotics District and Queens Southeast Narcotics Initiative observed two men sitting inside a parked car in an area known for drug activity. It appeared to the plainclothes detectives that the passenger of the car dramatically reclined his seat upon spotting the detectives. The detectives approached the car and began asking questions of the passenger when the passenger's brother emerged from the house in front of which the car was parked. The man screamed and cursed at the officers to leave the passenger, his brother, alone and to get off his block. When the officers tried to arrest the man for disorderly conduct, the officers had to use force to overcome the man's resistance.

The officers charged the man with disorderly conduct and resisting arrest; he was transported to the 113th Precinct in a prisoner van filled with other individuals previously arrested for possession of marijuana. At the precinct, the supervising narcotics sergeant, aware that the man had been arrested only for resisting arrest and disorderly conduct, authorized that a subordinate officer conduct a strip search of the man. The man was asked to remove all his clothing, including his boxer shorts, and ordered to squat. Upon being interviewed, the sergeant explained to the CCRB investigator that even though he did not have reason to suspect the man of committing a drug-related offense, it is procedure for narcotics commands to strip-search all prisoners regardless of the reasons for the prisoners' arrest. Three other narcotics detectives interviewed in connection with the case expressed the same viewpoint as that of their sergeant.

On July 7, 2003, the board found that the sergeant violated the department's Patrol Guide by authorizing the strip search.

As of April 1, 2004, this disciplinary case is open at the NYPD.

Case 200203437

After finishing work on May 15, 2002, a man went to a park in Queens. According to the man, a friend who owed him money started to hand over cash to him when officers stopped and frisked him, his friend, and one other person. When the man challenged one of the detective's right to search (go inside) his pockets and took hold of the detective's hand, the detective used force against him and arrested him. According to detectives from the Queens North Narcotics Initiative, they saw two other people (neither of whom was the man) smoking marijuana and when a detective tried to seize the marijuana cigarette from an individual's hand, the man (the complainant) grabbed the detective's arm. The detective then forcibly placed the man up against a fence and frisked him. Police arrested the man for disorderly conduct and prior to placing him in a prisoner van filled with other individuals previously arrested for various narcotics offenses, searched the man; no contraband or weapons were recovered.

The man and the other prisoners were taken to the 114th Precinct. There, the sergeant in charge of the narcotics detectives directed that the detectives strip-search the man and the other prisoners. The sergeant told the CCRB investigator that he authorized a strip search knowing that the detectives had arrested the man only for disorderly conduct. Though the man asserted that he was ordered to remove all his clothing,

including his underwear, the detective who conducted the search stated that he ordered the man to remove all his clothing but for his underwear. At his CCRB interview, the sergeant explained he authorized the strip search because the man had been transported in a van with prisoners arrested for possessing and/or selling narcotics. The sergeant admitted that no other search of the man took place at the precinct before the man was strip-searched.

The man was released from the 114th Precinct with a summons for disorderly conduct. On January 22, 2003, the board substantiated the allegation that the sergeant authorized the strip search in violation of Patrol Guide search procedures.

As of April 1, 2004, this disciplinary case is open at the NYPD.

Case 200203148

On May 9, 2002, in the early afternoon, a young woman was returning to her apartment building when she saw police arresting her brother and her brother's friend inside the building. Officers from Brooklyn North Strategic and Tactical Narcotics Operations had observed the two men smoking marijuana. The young woman demanded information from the arresting officer and asked that she be permitted to enter the building. A dispute between the arresting officer and the young woman ensued, escalating into a purely physical struggle between the two during which the woman displayed no weapon. The woman sustained a bruise to her forehead; the officer a cut to his face. The officer arrested the woman for assault on a police officer (a felony), resisting arrest, and obstructing governmental administration; she was transported with the two men to the 77th Precinct.

At the 77th Precinct, the sergeant supervising the narcotics officers directed that a female officer strip-search the woman. A female officer took the woman to the bathroom where the woman shook out her top and was directed to take off her pants. The sergeant told the CCRB investigator that a strip search of the woman was appropriate because the woman had assaulted an officer and could have been carrying weapons and because she was arrested at a drug location. Additionally, since she was transported to the precinct with two men arrested for possessing marijuana, the sergeant speculated that drugs could have been passed amongst the three. The sergeant admitted that there was no specific indication that the woman possessed either weapons or drugs.

The board reviewed this case on November 18, 2002 and determined that the sergeant violated the patrol guide when he authorized that an officer conduct a strip search of the woman.

As of April 1, 2004, this disciplinary case is open at the NYPD.

Cases 200204038 and 200204754

These two cases involve the same team of officers from the Narcotics Division in East Harlem.

June 17, 2002

After an undercover officer bought phencyclidine (PCP) from three individuals, back-up officers moved in to arrest the sellers. A sister of one of the arrested individuals learned of her brother's arrest and approached the officers and her brother. She asked the officers what happened and tried to approach her brother by pushing the officers. At the same time, one of the woman's friends tried to assist her in getting her away from the officers. The officers arrested both the woman and her friend; the woman was arrested for obstructing governmental administration and resisting arrest, both misdemeanors. The male friend was charged solely with obstructing governmental administration.

The woman and her friend were transported to a precinct facility with the other narcotics suspects. There, the woman was required to remove all her clothing, squat, and cough. The man was also strip-searched.

The supervising sergeant told the investigator that “all our prisoners get strip-searched for narcotics.” Other officers interviewed concurred with the sergeant’s statement.

On October 31, 2003, the board determined that the sergeant who authorized the strip searches committed misconduct.

As of April 1, 2004, the sergeant’s disciplinary case is open at the NYPD.

July 12, 2002

Officers targeted drug sales being conducted by an employee of a carnival on East 116th Street. During the evening of July 11, 2002 the carnival employee twice sold cocaine to two different undercover officers. During the evening of July 12, 2002, at approximately 10:40 pm, an undercover officer offered to purchase cocaine from the employee; the employee asked a White woman if her boss could provide him with the cocaine. The woman said the employee could get the cocaine and the employee told the woman he needed the cocaine now. The employee asked the undercover officer for money and the undercover gave the employee \$40. The employee then approached a second man and gave him money. The two went inside a building and the employee emerged with the cocaine that he handed to the undercover officer.

At 10:45 pm, police moved in to make arrests. Officers had apprehended the second man when the second man’s Hispanic wife interfered with the arrest by jumping on the back of the apprehending officer. The wife was arrested for obstructing governmental administration and resisting arrest, both of which are misdemeanors. Transported to the precinct in a vehicle with her husband, the narcotics supervising lieutenant authorized her strip search. A female officer required the wife to pull down her underpants and bend down; she then had to lift up her shirt.

At 11:35 pm, the narcotics officers arrested the employee and the White woman.

The supervising narcotics lieutenant, who was interviewed twice at the CCRB, initially claimed that she authorized the wife’s strip search because the woman was next to her husband at the time of the sale. Interviewed a second time, the lieutenant said that she thought the wife was the woman who had been described by the undercover officer as being involved in the sale of cocaine. The narcotics sergeant and arresting officer both told the CCRB investigator that everyone whom the narcotics unit arrests is strip-searched.

On June 27, 2003, the board determined that the lieutenant committed misconduct when she authorized the strip search of the woman arrested only for obstructing governmental administration and resisting arrest.

As of April 1, 2004, this disciplinary case is open at the NYPD.

Case 200300403

On January 15, 2003 at 3:00 p.m., a 15-year-old teenager was walking home from school with three friends when officers from the Brooklyn North Strategic and Tactical Narcotics Operations and Narcotics Borough Brooklyn North stopped them. The officers gave inconsistent accounts about the reason for the stop. Some said it was a result of a transmission from an undercover officer and some said it stemmed from their own observations that the group appeared to be smoking marihuana. Undisputed was that the officers did not recover any contraband from any of the three apprehended teens following field frisks and searches. The 15-

year-old protested the officers' actions and at the directive of the supervising sergeant was arrested for disorderly conduct. He was transported to the 90th Precinct with other individuals arrested for narcotics.

At the precinct, an officer supervised by the sergeant ordered the teen to remove all of his clothing but for his underwear. The sergeant told the CCRB investigator that "all our prisoners are strip-searched" and that the teen was strip-searched because he was transported in a prisoner van with individuals arrested for narcotics offenses, who could have passed him drugs en route to the precinct. After police filed a juvenile report charging him with disorderly conduct, the teen was released from the precinct.

On March 26, 2004, the board reviewed this case and substantiated the allegation that the sergeant improperly authorized that the teen be strip-searched. To date, the sergeant's disciplinary case remains open at the department.

Case 200301986

Police Service Area (PSA) 8 Gang Enforcement Unit officers saw a 24-year-old man enter and exit a public housing building within a short period of time on March 13, 2003 at about 7:45 p.m. The man had gone inside to find a friend he was supposed to meet; at the apartment of his friend the man learned that the friend was already outside waiting for him. The officers stopped the man, questioned him, and arrested him for criminal trespass. At the PSA, the arresting officer demanded the man remove all his clothing except for his boxer shorts. Though the arresting officer and his sergeant did not recall the specific incident, they both told the investigator that such a search did not constitute a strip search. The arresting officer admitted that he requires all of his prisoners to strip to their underwear so that he can conduct a thorough search for contraband and determine if the prisoners possess any gang tattoos.

The arrested man was released from the PSA with a desk appearance ticket charging him with criminal trespass, a B misdemeanor. Lacking sufficient evidence, the Bronx District Attorney's Office declined to lodge criminal charges against the man.

On March 26, 2004, the board determined that the arresting officer's search of the man at the PSA violated the department's Patrol Guide procedure. The department has not yet resolved the officer's disciplinary case.

Case 200302571

A sergeant from the 24th Precinct stopped and frisked a man who seemed to fit the description of one of two suspects in a string of knifepoint robberies. During the encounter, the sergeant saw a second man across the street who also seemed to match one of the perpetrators' descriptions. The sergeant beckoned the second man over and asked him if he had anything on him. The second man admitted to the sergeant that he possessed a knife. The sergeant removed the knife from the second man, put it on the ground, and tried to handcuff the second man who was attempting to flee. Grappling with the second man, the sergeant ordered the first man, who had been placed up against a fence, not to move. The first man looked over his shoulder to see what was happening. When backup officers arrived, police arrested the first man for disorderly conduct and the second man for possession of a knife.

Both men were brought to the 24th Precinct; an officer took the first man (who ultimately filed the CCRB complaint) into the bathroom to search him. Unaware that the man was arrested for disorderly conduct, the officer asserted that the sergeant instructed him to conduct a strip search of the man. The man removed his clothing one article at a time; as the officer searched each piece of clothing he handed them back to the man. The man was forced to remove his underwear and squatted at the officer's instructions. When questioned by the CCRB, the sergeant told the CCRB that the man was "thoroughly searched" but not strip-searched

because he was never fully naked. The sergeant said that “thorough searches” are routine and often involve an individual pulling down his or her underwear and squatting.

Though detectives questioned the man about the robberies, the man was released from the precinct with a summons for disorderly conduct.

On February 18, 2004, the board reviewed this case and determined that the sergeant committed misconduct by authorizing the strip search.

As of April 1, 2004, this disciplinary case has not been resolved.

**PATROL GUIDE PROCEDURE 208-05¾GENERAL SEARCH GUIDELINES FOR
ARRESTED PERSONS**

ARRESTING OFFICER

1. Comply with the provisions of P.G. 208-02, "Arrests-Removal To Department Facility For Processing", P.G. 208-03, "Arrests-General Processing", P.G. 208-15, "Arrest Report Preparation At Stationhouse" and the following:

SEARCH OF ARRESTED PERSONS

To maximize security and minimize potential hazards to the arresting officer, the arrested person, and other Department personnel, the following guidelines are published for the information of all members of the service:

A. FRISK/FIELD SEARCH

A frisk, performed primarily to ensure the personal safety of the arresting officer, is a methodical external body examination of the arrested person conducted immediately after apprehension to find weapons, evidence, or contraband. The frisk should be conducted before or immediately after the subject is rear handcuffed, depending upon particular circumstances, temperament of the subject, and escape potential. A thorough external body examination is made by sliding the hand over the subject's body, feeling for weapons or other objects, with special attention to the waistband, armpit, collar, and groin areas. In an unusual object is detected, the officer will reach into or under the clothing to remove it.

B. SEARCH AT POLICE FACILITY

- (1) Upon arrival at precinct of arrest or other Department facility, the arresting officer or a designated member of the same sex as the prisoner, will conduct a thorough search of the subject's person and clothing to ensure the safety of all persons within the facility and to remove weapons, contraband, and evidence not discovered by the frisk. Other items lawfully carried but that are dangerous to life, may facilitate escape or may be used to damage Department property will also be removed from the subject.
- (2) A search at a police facility (not a "strip" search) includes the removal of outer garments such as overcoats, jackets, sweaters, vests, hats, wigs, ties, belts, shoes and socks, handbags, and wallets. All pockets are to be emptied and all clothing not removed will be examined by grabbing, crushing and squeezing the garments and by sliding the hands across the body to detect articles that may be underneath or sewn to the clothing.

C. STRIP SEARCH

- (1) The desk officer, precinct of arrest/borough Court Section supervisor will decide if a strip search should be conducted and he/she is responsible that the search is conducted properly. A strip search will be utilized when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods. Other factors that should be considered in determining the necessity for a strip search include the nature of the crime (serious violent felony), arrest circumstances, subject's reputation (extremely violent person), acts of violence and discoveries from

previous searches. In addition, contact borough Court Section supervisor and expedite appearances of prisoner and arresting/assigned officer with necessary details before the arraignment judge.

NOTE *In cases where there is a disagreement between the desk officer and an arresting officer's supervisor from an outside command, the final decision whether or not to conduct the strip search will be made by the desk officer concerned. If not in agreement with the desk officer's decision, the arresting officer's supervisor may confer with the precinct commander/duty captain.*

- (2) A strip search will be conducted by a member of the same sex as the arrested person in a secure area in utmost privacy and with no other arrestee present. It should not be necessary to touch the subject's body, except for the examination of the hair. **UNDER NO CONDITIONS SHALL A BODY CAVITY SEARCH BE CONDUCTED BY ANY MEMBER OF THE SERVICE.** If a body cavity search is considered necessary, the desk officer will be advised and his instructions complied with.
- (3) If a strip search is conducted, such information will be entered in the Command Log, arresting officer's Activity Log, and also documented in the "Narrative" section of the **ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)** or the **ARREST REPORT SUPPLEMENT (PD244-157)**. A subsequent strip search will not be conducted unless there is reasonable belief that the subject has acquired a weapon or contraband.
- (4) A strip search will not be conducted after a decision is made to void an arrest or to release the prisoner immediately upon issuance of a summons.
- (5) ALL arrested persons being processed in a facility equipped with a metal detector are required to pass through the device. These electronic metal detectors are extremely sensitive and can detect a metallic object secreted in or around a body cavity. A "reading" on a detector, which cannot otherwise be accounted for, may form the basis for a full strip search.

RELATED PROCEDURES

Arrests-Removal To Department Facility For Processing (P.G. 208-02)

Arrest-General Processing (P.G. 208-03)

Arrests-Security Measures (P.G. 208-06)

Arrest Report Preparation At Stationhouse (P.G. 208-15)

Arrests-"FINEST" Checks And "NITRO" Debriefing (P.G. 208-21)

FORMS AND REPORTS

ARREST REPORT SUPPLEMENT (PD244-157)

ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)

Outcome of CCRB Recommendation

At the recommendation of the CCRB, on **May 13, 2004**, the department issued a directive (see pages 12 and 13 of this document) read ten times at every roll call and posted in every command, reminding officers of when strip searches can be conducted. The directive informed officers that a strip search “may not be conducted routinely,” that such a search “requires express authorization from a supervisor,” and that “any search in which an individual’s undergarments ... and/or private areas are exposed ... is considered a strip search.” When the CCRB released its recommendation, the police department also issued a statement that it was developing a training videotape for officers on proper search procedures. However, in February 2005 the police commissioner informed the CCRB that the department had not yet completed the training video it is developing.

SCRN: ADMN
TERM: HL21

FINEST MESSAGE SWITCHING SYSTEM
GENERAL ADMINISTRATIVE INFORMATION
SENT 5/13/04 - 15:30.04 SER# 022884

DATE: 05/13/04
TIME: 15:32.05
FROM: HL21

MESSAGE:
TO: ALL COMMANDS
SUBJECT: STRIP SEARCHES - PATROL GUIDE 208-05

ALL MEMBERS OF THE SERVICE ARE REMINDED THAT UNDER PATROL GUIDE SECTION 208-05, A STRIP SEARCH OF A PRISONER MAY NOT BE CONDUCTED ROUTINELY IN CONNECTION WITH AN ARREST AND REQUIRES EXPRESS AUTHORIZATION FROM A SUPERVISOR PRIOR TO BEING CONDUCTED. ANY SEARCH IN WHICH AN INDIVIDUAL'S UNDERGARMENTS (BRA, UNDERWEAR, ETC...) AND/OR PRIVATE AREAS ARE EXPOSED OR IN WHICH AN INDIVIDUAL'S CLOTHING IS REMOVED, LIFTED, PULLED UP OR PULLED DOWN TO EXPOSE UNDERGARMENTS OR PRIVATE AREAS IS CONSIDERED A STRIP SEARCH FOR THE PURPOSES OF THIS PROCEDURE.

UNDER PATROL GUIDE SECTION 208-05, A STRIP SEARCH MAY ONLY BE CONDUCTED WHEN THE ARRESTING OFFICER REASONABLY SUSPECTS THAT WEAPONS, CONTRABAND OR EVIDENCE MAY BE CONCEALED UPON THE PERSON OR IN THE CLOTHING IN SUCH A MANNER THAT THEY HAVE NOT BEEN DISCOVERED BY EITHER A FRISK/FIELD SEARCH OR OTHER SEARCH AT A POLICE FACILITY. THE ARRESTING OFFICER REQUESTING AUTHORIZATION TO CONDUCT A STRIP SEARCH MUST DESCRIBE THE FACTUAL BASIS FOR THE REQUEST TO THE DESK OFFICER, PRECINCT OF ARREST OR BOROUGH COURT SECTION SUPERVISOR. A STRIP SEARCH WILL BE AUTHORIZED BY A SUPERVISOR ONLY WHEN AN ARRESTING OFFICER HAS ARTICULATED A REASONABLE SUSPICION, BEYOND PROBABLE CAUSE FOR THE ARREST, THAT THE INDIVIDUAL IS CONCEALING CONTRABAND OR A WEAPON. THE DESK OFFICER, PRECINCT OF ARREST/BOROUGH COURT SECTION SUPERVISOR, BASED ON THE FACTS PRESENTED, WILL DETERMINE IF A STRIP SEARCH SHOULD BE CONDUCTED. THE SUPERVISOR AUTHORIZING THE STRIP SEARCH IS RESPONSIBLE FOR ENSURING THAT THE SEARCH IS CONDUCTED PROPERLY.

OTHER FACTORS THAT MAY BE CONSIDERED IN DETERMINING WHETHER AN APPROPRIATE BASIS EXISTS FOR A STRIP SEARCH INCLUDE THE NATURE OF THE CRIME (SERIOUS VIOLENT FELONY), ARREST CIRCUMSTANCES, SUBJECT'S REPUTATION (EXTREMELY VIOLENT PERSON), ACTS OF VIOLENCE, UNACCOUNTED FOR "HITS" ON MAGNETOMETERS OR WALK-THROUGH METAL DETECTORS, AND INFORMATION FROM PREVIOUS SEARCHES OF THE SAME INDIVIDUAL OR OTHERS ARRESTED WITH HIM/HER.

A STRIP SEARCH WILL BE CONDUCTED BY A MEMBER OF THE SAME SEX AS THE ARRESTED PERSON IN A SECURE AREA IN UTMOST PRIVACY AND WITH NO OTHER ARRESTEE PRESENT. IT SHOULD NOT BE NECESSARY TO TOUCH THE SUBJECT'S BODY, EXCEPT FOR THE EXAMINATION OF THE HAIR. UNDER NO CONDITIONS SHALL A BODY CAVITY SEARCH BE CONDUCTED BY ANY MEMBER OF THE SERVICE.

MEMBERS OF THE SERVICE WHO HAVE ANY QUESTIONS REGARDING THIS MESSAGE ARE DIRECTED TO CALL THE LEGAL BUREAU AT 646-610-5400.

** TO BE READ AT TEN (10) CONSECUTIVE ROLL CALLS & POSTED AT ALL COMMANDS **

SCRN: ADMN
TERM: HL22

FINEST MESSAGE SWITCHING SYSTEM
GENERAL ADMINISTRATIVE INFORMATION
SENT 5/13/04 - 17:52.43 SER# 026942

DATE: 05/13/04
TIME: 17:54.45
FROM: HL22

MESSAGE:

TO: ALL COMMANDS

SUBJECT: ADDENDUM TO TODAY'S FINEST MESSAGE RE: STRIP SEARCHES

AT 1542 HOURS TODAY, FINEST MESSAGE # 022884, 'STRIP SEARCHES -
PATROL GUIDE 208-05' WAS TRANSMITTED.

THE FOLLOWING INFORMATION IS PROVIDED AS
CLARIFICATION REGARDING WHICH SUPERVISOR(S) MAY
AUTHORIZE A STRIP SEARCH.

STRIP SEARCHES MAY ONLY BE CONDUCTED WITH THE
KNOWLEDGE AND APPROVAL OF THE PRECINCT, POLICE
SERVICE AREA OR TRANSIT DISTRICT DESK OFFICER OR
THE BOROUGH COURT SECTION SUPERVISOR.

ALL OTHER PROVISIONS OF THE EARLIER FINEST MESSAGE
REMAIN IN EFFECT.

TO BE READ AT TEN (10) CONSECUTIVE ROLL CALLS AND
POSTED IN ALL COMMANDS.

AUTHORITY: CHIEF OF DEPARTMENT

OPERATOR: PRAA L. PARDO 17:51 HOURS.

PRIORITY: 1 ROUTING: APRT HIGH Q30P DOM1 _____