

Woman Alleges Police Illegally Strip Searched Her

A California woman is filing suit against Imperial County and a sheriff's sergeant for what she alleges was an improper strip search. Earlier this year, plaintiff Ana Hicks alleged in court documents that she was falsely arrested and subjected to the inappropriate search during booking at the Imperial County Jail. At the time of the alleged incident, Hicks was being charged with a misdemeanor for public drunkenness.

The arrest occurred on the night of Dec. 26, 2010, after Hicks ran to the aid of her husband who had been stabbed multiple times. Hicks claims she had not had a drop of alcohol that night.

Whether Hicks was improperly strip searched—or strip searched at all—is a question for the court. But her case highlights the confusion many have surrounding the proper protocol that authorities must follow when subjecting citizens to extremely invasive searches.

“Legally, there has to be a good cause for a strip search,” says Thomas Carr, an attorney at Tully Rinckey. “It’s not like they can just pull someone over for a DWI and bring them back to the station and strip search them. There’s a pretty high standard that police have to meet.”

Reasonable Suspicion

That standard is known as reasonable suspicion. Legal experts admit it is a very vague standard that depends heavily on the facts of the case.

“The good part of the law is that it is ever-evolving, and it grows and changes with society” says Matthew O’Connor, an attorney in Kansas City, Mo. “The bad part is that constitutional principles, which should be fairly immovable, also get shifted a little bit. What was reasonable 20 years ago may not be reasonable today and vice versa.”

This shifting line between what is reasonable and what is not is confusing even to law enforcement officials. That is why they often rely on permission from a supervising officer before conducting the strip search. And even when the search is taking place, most police departments have rules in place that require two officers to be present.

“As a matter of good policy, there should be one officer who is conducting the search and another who is observing,” O’Connor says. “It’s protective for both the citizen and the law enforcement officers.”

Because the establishment of reasonable suspicion is based so much on the facts of a case, it is difficult to provide concrete examples. However, attorney Thomas Simeone says that generally, an officer conducting a strip search is looking for some form of contraband, such as a firearm or drugs.

“Even if you have a report that someone has a gun or a knife or you smell drugs on the individual but you can’t find them, you must still have some evidence that makes it reasonable

to suspect the individual has the contraband some place on their body,” Simeone says

Strip Search Protocol

Besides establishing reasonable suspicion, officers are required to conduct strip searches in a specific manner. If they fail to abide by these standards, the department and the offending officer could face civil, and potentially criminal, charges.

First, generally a male suspect must be strip searched by a male officer, and a female suspect must be strip searched by a female officer.

“Courts tend to look down upon you as unreasonable if you do not abide by the gender rule,” Simeone says.

Next, the search must be conducted in private, away from the view of others.

Finally, many police departments have their own internal policies regarding how strip searches are conducted. These policies should be followed as well. However, a violation of an internal policy does not necessarily mean a law has been broken.

“If a station doesn’t follow its own policies, that doesn’t mean they are in violation because it may have standards that go above the law,” Simeone says. “However, it certainly doesn’t look good if you don’t follow your own procedures.”

Filing a Complaint

If you believe that an officer has violated your rights by either conducting a strip search without reasonable suspicion or by conducting a strip search improperly, you should first notify a representative at the police department, such as a member of internal affairs.

“The first thing to do is speak to someone higher up rather than the officer conducting the search,” Carr says. “This will ensure there is a record of your objection.”

After this, you should contact an attorney, who can help assess your situation to gauge if you have a case against the department or the municipality.

“Generically, you’ll want to look for a civil rights attorney,” Simeone says. “You’re likely going to sue for something like inappropriate touching or intentional infliction of emotional distress. So try to find a lawyer who does work arising from incidents of police misconduct.”

Your attorney will help you retrieve any evidence that may support your case, such as audio and video recordings of your arrest and of your interactions with the officers before, during and after the search.

However, one of the greatest challenges with these types of cases is the assessment of damages. Because often the only damage is the infliction of emotional distress, juries can vary widely with what they feel is a reasonable award.

“These cases are hard to value,” Simeone says. “You put the facts of a single case in front of 10 different juries, and you may get very different amounts.”