

Oakland strip-search law ruled unconstitutional

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The Oakland Police Department's strip-search policy is unconstitutional because it provides too low a threshold for officers seeking to check for contraband on suspects in public places, a federal judge said in a ruling made public Friday.

Under a department policy implemented in 2004, officers are allowed to search people if they have a "reasonable suspicion" to believe the people are hiding something illegal, such as drugs, or would destroy or ingest it unless it was immediately recovered.

But attorneys for a group of men claiming they were wrongfully searched said the policy is unconstitutional because the standard is lower than that of probable cause, the standard police must meet before arresting someone.

U.S. District Judge Marilyn Hall Patel agreed.

"While reasonable suspicion is adequate to justify a strip search in the context of a detention facility when institutional security is a concern ... it is insufficient to justify a strip search in the field," Patel wrote. The police policy "is unconstitutional to the extent that it allows strip searches of any kind in the field to be performed on less than probable cause."

The judge also found that an earlier version of the policy, enacted in 1998, was unconstitutional because it didn't require that more invasive body-cavity searches be conducted by medical personnel.

A spokesman for City Attorney John Russo had no immediate comment.

Patel's ruling did not address individual claims outlined in seven suits filed on behalf of about 30 men. "Each case still has to be assessed for individual liability," said one of the plaintiffs' attorneys,

Ben Nisenbaum.

"This is a big step on the road to justice for all of them," said another attorney, Michael Haddad.

"We're looking forward to working with Oakland police to create lawful policies that will meet their legitimate needs and will protect the civil rights of everyone."

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/03/29/BAA6VSAJT.DTL>

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