

Hooded, handcuffed, and 'violated': South Dakota's use of forced catheterization

[usatoday.com/story/news/crime/2017/04/07/hooded-handcuffed-and-violated-south-dakotas-use-forced-catheterization/100000158/](https://www.usatoday.com/story/news/crime/2017/04/07/hooded-handcuffed-and-violated-south-dakotas-use-forced-catheterization/100000158/)

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4/7/2017



Dirk Sparks discusses being force catheterized when Pierre police suspected he had used meth. (Joe Ahlquist / Argus Leader)

(Photo: Joe Ahlquist / Argus Leader)

PIERRE — A mesh bag blurred Dirk Sparks' vision.

He lay hooded and handcuffed as four police officers pinned him to a hospital exam table.

Through the patterned light, he saw a fifth officer filming the procedure.

His pants were loosened and pulled below his waist.

Then, pain.

A nurse at Avera St. Mary's Hospital in Pierre inserted a pencil-sized tube into Sparks' urethra to drain his bladder. Moments later, an officer with the Pierre Police Department held a cup of Sparks' urine that soon would be sent off for drug testing.

"It was degrading," Sparks said. "I was angry. I felt like my civil rights were being violated."

Hours earlier, police responded to a domestic dispute at Sparks' home. When officers observed him acting "fidgety,"



they asked for a urine sample. When Sparks refused, police sought a warrant from a Hughes County judge to obtain a urine sample by "medically accepted means."

In Pierre, those means have repeatedly included forcibly catheterizing people who refuse or are unable to provide a sample. Officers subjected a 3-year-old boy to a similar procedure in February as part of a child welfare investigation, according to the American Civil Liberties Union.

"Quite frankly, it's cruel and barbaric to forcibly catheterize anyone, let alone a 3-year-old child, and this process raises serious constitutional concerns," said Heather Smith, executive director of the ACLU of South Dakota.

The Pierre Police Department and Avera Health declined repeated requests for interviews. The police department deferred questions to the Hughes County State's Attorney's office, which also did not respond to multiple phone calls.

The use of catheters to forcibly extract urine samples from criminal suspects has drawn lawsuits in others states, though courts have generally sided with the police. South Dakota Attorney General Marty Jackley said the practice is appropriate in some situations.

Not all police departments in South Dakota use the method. In Sioux Falls, law enforcement leaders view the practice as overly invasive and an inefficient use of officers' time for lower-level crimes in which suspects are unlikely to face more than probation if convicted.

Physical, emotional tolls

Sparks was arrested in March 2016 after his urine sample tested positive for traces of marijuana and methamphetamine. He pleaded no contest to possession of marijuana and ingestion of a controlled substance and was released from jail on time served with a suspended sentence.

The pain Sparks felt when going to the bathroom lasted for weeks, he said. And the emotional toll proved even more lasting.

He still has nightmares about the incident, he said. His fear of the Pierre police prompted him to move 50 miles east to Highmore.

"I didn't actually think they were going to go through with it," Sparks said. "Even when we went to the hospital, I thought it was a threat."

The Pierre Police Department would not answer questions, and state court officials said they have no way of tracking how often catheters are used on suspects. After Argus Leader Media [reported on the practice last summer](#), multiple people contacted the news organization to say police had threatened or put them through the practice.

Kirsten Hunter said her 3-year-old son, Aksel, was forcefully catheterized at the Avera hospital in Pierre in late February after her boyfriend failed a urine analysis. Authorities wanted to have her and her two children tested to see if they also had drugs in their system.

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Dirk Sparks

Pierre police officers and a Department of Social Services employee showed up at her home and said if her kids couldn't produce urine, they would be taken from her. Hunter said her son isn't potty-trained. So while she and her 5-year-old daughter were able to provide a urine sample, her young son couldn't.

He was held down and forcibly catheterized by nurses.

“They just shoved it right up there, and he screamed so bad,” Hunter said. “He’s still dealing with a staph infection, and we are still giving him medication.”

The ACLU reviewed Hunter's case and [wrote a letter](#) to the Department of Social Services condemning the incident. Smith said the state subjected a vulnerable child to trauma and injury to gather information to charge his parents. Her letter asked the department to stop catheterizing children and provide an explanation why procedure was permitted.

“The process runs afoul of the Fourth Amendment’s protection against unlawful search and seizure where there are other, less intrusive means available to gather the information,” Smith said.

The Department of Social Services did not immediately respond to a request for comment this week.

► [Read the letter the ACLU sent state officials in March](#)



Urinary catheter (Photo: drawdrawdraw, Getty Images/iStockphoto)

Jason Riis, 34, also of Pierre, was arrested in March 2016 on suspicion of driving while under the influence of drugs. Court documents say officers warned Riis about a broken license plate light and that he was “speaking very rapidly” and gesturing “wildly” with his arms.

Riis failed a field sobriety test and was arrested, but police officers wanted a urine sample as well.

“They put me in a holding cell for 15 minutes and kept asking me if I wanted to take a voluntary pee test,” Riis said in an interview. “I told them ‘no’ because they didn’t have probable cause.”

Authorities returned to his jail cell the next day with a warrant for a sample of his urine, Riis said, and told him he would be taken to a hospital and catheterized. Riis said he changed his mind and volunteered to provide a sample,

but he was told it was too late.

“One cop held my penis, and a doctor shoved a catheter in me,” Riis said. “It hurt for a week. I couldn’t pee.”

Authorities found trace amounts of methamphetamine, marijuana and benzodiazepines in his system, according to court documents. Riis eventually pleaded guilty to driving under the influence and unauthorized ingestion of a controlled substance. He was given credit for the day he spent in jail and placed on probation.

He recalled telling his mother about what happened. They both held each other and cried, he said.

What's legally, medically appropriate?

All three cases shared with Argus Leader Media occurred at Avera St. Mary’s Hospital in Pierre. Avera would not comment on the incidents and declined repeated interview requests, instead issuing a two-sentence statement in response to questions.

“Avera has long recommended that care never be forced on anyone. However, the facts of any given circumstance dictates how some might respond to a directive from law enforcement or a judge,” spokesman Jay Gravholt wrote.

Sanford Health said in a statement that it does not participate in the police procedures.

“At Sanford, it is not only our experience, but also our philosophy, that when we work with a patient, we are able to secure the sample without force,” wrote Cindy Morrison, Sanford's chief marketing officer.



Dirk Sparks Thursday, Jan. 19, 2017, in Highmore, S.D. Sparks said while living in Pierre, S.D., he was held down by four Pierre police officers while a female nurse force catheterized him to test his urine for drugs. (Photo: Joe Ahlquist / Argus Leader)

A spokesman for Rapid City Regional Hospital declined to comment.

Sioux Falls Police Capt. Blaine Larsen said the department does not see the procedures as a productive use of resources, especially considering most charges would result in probation only.

“We wouldn’t do this process for a drug possession, but we may pursue this avenue in say a 'vehicular homicide' case,” Larsen said. “But even that would be obtained by applying for a warrant and having a judge review the order before we pursued that.”

Attorney General Marty Jackley, who oversees the South Dakota Division of Criminal Investigations, said agents would only pursue forced urine samples in “exceptional” circumstances, such as a fatal vehicular homicide case in which drugs are suspected to be a factor.

“That [request] needs to be made directly to a judge, and it needs to be specific [that] we may be using this method,” Jackley said.

Sixth Circuit Judge John Brown, who signed the warrant authorizing police to take Sparks' urine, through a court administrator declined to comment on whether he knew the sample would be collected through forced use of a catheter.

The form used to issue urine and blood sample warrants in South Dakota does not mention the use of force or catheters. The document says urine and blood should be collected in a "medically appropriate manner."



Dirk Sparks and Stefanie Salvas walk Jade the dog Thursday, Jan. 19, 2017, in Highmore, S.D. According to Sparks, he was held down by four Pierre police officers while a female nurse catheterized him to test his urine for drugs against his will. (Photo: Joe Ahlquist / Argus Leader)

In Sparks' case, the doctor who oversaw the procedure, Peter Maningas, is also a reserve officer for the Pierre Police Department and is a member of the department’s SWAT team, according to court records. Maningas could not be reached for comment this week.

Members of the state's legislative judiciary committees last summer said [they didn't see a need](#) for legislation to curb forced collection of urine samples.

Barry Friedman, a professor at New York University School of Law and director of the Policing Project, said he's seen cases across the country where police had the procedure done without a warrant. He said the use of catheters for forcibly collecting urine samples should be reserved for extraordinary situations, and the reasons must be transparent.

"There's no way law enforcement should be doing this without telling a judge what they are going to do," Friedman said. "The Supreme Court has made it clear that bodily invasions are serious. Catheterization is painful and humiliating."

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