

Search and Seizure

612.1 PURPOSE AND SCOPE

Both the federal and state constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Riverside County Probation (RCP) personnel to consider when dealing with search and seizure issues.

612.2 POLICY

It is the policy of RCP to respect the fundamental privacy rights of individuals. Officers of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The department will provide relevant and current training to officers as guidance for the application of current law, local community standards, and prosecutorial considerations regarding specific search and seizure situations. Additionally, officers will have access to properly supplied search kits and applicable equipment, as identified in departmental training.

612.3 SEARCHES GENERALLY

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions to the rule that permit a warrantless search.

Examples of probation supervision activities that are exceptions to the general warrant requirement include but are not limited to searches pursuant to:

- Authorization under the terms or conditions of a person's release or supervision.
- Valid consent.
- Incident to a lawful arrest.
- Vehicle searches under certain circumstances.
- Exigent circumstances.

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each officer of this department is expected to act in each situation according to current training and the member's familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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Planned searches (non-cursory) shall be conducted in accordance with state and federal law, with adequate back up, and after a Riverside County Probation Department Operation Package (attached) has been approved.

612.4 SEARCH PROTOCOL

Although conditions will vary, and officer safety and other exigencies must be considered in every search situation, these guidelines should be followed whenever circumstances permit:

- (a) All searches should be conducted according to departmental training.
- (b) Officers of this department will strive to conduct searches with dignity and courtesy.
- (c) Officers should explain to the person being searched the reason for the search.
- (d) All personnel shall wear identifying gear that may include name tags, jackets, identification vests, badges, etc.
- (e) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (f) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations, or access codes when a search of locked property is anticipated.
- (g) Whenever practicable, a search (beyond a pat-down or cursory search), should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.
- (h) When the person to be searched is of the opposite gender as the searching officer, when necessary a reasonable effort should be made to summon an officer of the same gender as the subject to conduct the search, unless it is not safe or practicable to do so.

612.5 DOCUMENTATION

Officers are responsible for documenting any search and/or seizure in the client management system and if necessary, an incident report. Furthermore, they are to ensure required reports have been properly completed and submitted. Information contained in the report shall include, but is not limited to the following:

Date, time, and location where the search was conducted.

Information of the individuals searched (including if the search resulted in an arrest).

Information of the officers involved in the search.

Reason for the search.

Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys).

If the person searched was of opposite gender, a rendition of efforts to summon an officer of the same gender and/or a supervisor, and name of the witness officer(s), or the reason the same gender search was necessary.

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What, if any, injuries or damage occurred.

All steps taken to secure property.

The results of the search, including a description of any property or contraband seized.

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented, and that current legal requirements and department policy have been met.

Any property or contraband seized during a search shall be recorded and logged as outlined in the Property and Evidence policy.

In the event of forced entry, injuries or damage to property, an incident report shall also be completed by all involved or witnessing officers. If damages were allegedly caused by probation to a person or property, staff shall provide a Claim for Damages to Person or Property form and coversheet (attached) to the aggrieved.

Date last reviewed: 07/07/2022

Date(s) revised: 07/07/2022; 12/29/2021; 01/20/2016; 07/12/2006; 04/29/1997; 01/10/1996; 05/14/1994; and, 12/08/1993.

Created: 10/01/1989

Attachment(s):

1. [Riverside County Probation Department Operation Package](#)
2. [Riverside County Claim Form for Damages](#)