I. PURPOSE

The purpose of this policy is to delineate what type of searches and seizures staff may conduct of youth offenders and youth offender areas in the community and provide guidelines for processing contraband and potential evidence.

II. DEFINITIONS

**Comprehensive Search:** A search that consists of visually inspecting the unclothed body of a youth offender, and physically searching the youth offender’s clothing and possessions.
Contraband: Any article or thing which a youth offender is prohibited by statute, rule, policy, Juvenile Parole/Probation Agreement, or order, from obtaining, possessing, or which the youth offender is not specifically authorized to obtain or possess, or which the youth offender alters without authorization.

Frisk Search: A search that consists of physically searching a youth offender by patting down the youth offender’s clothed body.

Juvenile Justice Information System (JJIS): The Juvenile Justice Information System (JJIS) is a statewide-integrated electronic information system designed, developed, and implemented to support a continuum of services and shared responsibility among all members of the juvenile justice community. In a collaborative partnership between the Oregon Youth Authority (OYA) and Oregon’s county juvenile departments, JJIS is administered by the State of Oregon through OYA.

Probable cause: A determination based on facts or circumstances that would cause a reasonable person to believe it is more likely than not that the youth offender to be searched has a prohibited item.

Reasonable belief: A belief based on facts or circumstances sufficient to cause a reasonable person to believe that the youth offender to be searched has prohibited item.

Sexually-explicit material: Lurid or sensational material, including but not limited to, photographs, videos, films, magazines, CD-ROMs, or books that graphically depict actual or simulated sexual activities, or whose primary purpose is to cause sexual arousal.

III. POLICY

Security and safety risks to youth offenders, staff, or the community may increase when youth offenders possess contraband items. OYA staff may conduct searches of youth offenders and youth offender areas to ensure youth offenders do not have contraband items. Every search must be carried out as thoroughly as possible using techniques to protect the safety and dignity of the persons involved. In all cases, searches and disposition of contraband or possible evidence will comply with OYA standards.

OYA contract administrators must ensure contracts for residential treatment providers support the development of local standards and procedures in line with this policy.

IV. GENERAL STANDARDS

A. Guidelines for searches

1. OYA contract administrators must ensure contracts for residential providers only allow residential providers to conduct searches of a youth offender’s living area, not of a youth offender’s person.
Contract administrators are responsible for ensuring residential providers have policies and practices in place that support this policy.

2. OYA staff must be trained by the Juvenile Justice Training Academy (Training Academy) prior to conducting any type of youth offender search.

3. OYA staff may conduct searches when probable cause or a reasonable belief exists that a youth offender possesses contraband items, there is need to control contraband within programs, to determine a youth offender’s compliance with court orders, or for safety prior to transporting a youth offender.

   a) Juvenile parole/probation officers (JPPOs) will ensure court orders or Juvenile Parole/Probation Agreements (YA 3001) specify prohibited items, including but not limited to:

      (1) Gang-related items;
      (2) Intoxicants, controlled substances, and paraphernalia;
      (3) Weapons;
      (4) Sexually-explicit material; and
      (5) Other designated items.

   b) OYA staff may conduct random and scheduled searches of youth offenders or youth offender property to find contraband items, within the parameters defined by this policy.

   c) OYA staff must conduct searches in a professional manner, using techniques that avoid unnecessary force or indignity to persons involved in the search while maintaining the integrity of the search.

      (1) OYA staff will be cognizant of the emotional effect searches may have on youth offenders, and recognize such events may be especially traumatic for youth offenders who have been victims of abuse.
      (2) OYA staff must be trained in search techniques designed to protect persons involved and preserve evidence.
      (3) All local field offices must have a search kit that contains gloves, evidence bags, receipts, and other items (such as a small mirror or flashlight) that will assist staff in conducting searches.
4. Whenever weapons, explosive devices, controlled substances, biohazard material or other potentially dangerous items are the subject of the search, staff must involve law enforcement in the search.

B. Frisk searches of youth offenders

1. Trained OYA staff may conduct frisk searches within the community -
   a) Whenever staff have a reasonable belief that a youth offender may be in possession of contraband items; or
   b) In preparation for a youth offender transport or transition.

2. The frisk search consists of physically searching a youth offender by patting down the youth offender's clothed body. The youth offender must not be touched any more than is necessary to conduct a complete search.
   a) Frisk searches must be conducted by a same-gender staff unless a same-gender staff is not available.
   b) Garments and articles must be searched carefully, including pant cuffs, sleeve cuffs, and waistbands.
   c) The youth offender will be asked to remove outer clothing, such as coat, hat, and shoes.
   d) The youth offender will be asked to empty his/her pockets.
   e) The contents of pockets and personal effects, such as wallets, must also be searched.
   f) The mouth, nose, ears, and hair must be visually searched.
   g) Staff may ask the youth offender to run the youth offender's fingers through the youth offender's hair to facilitate the search.

C. Comprehensive searches

1. OYA staff are prohibited from conducting comprehensive searches of youth offenders who are on supervision in the community.

2. Staff should be aware of secure residential treatment programs serving youth offenders in OYA custody may conduct such searches as defined by service contracts or law.
D. Area searches

1. OYA staff may conduct youth offender area searches.

2. In coordination with residential providers and OYA foster parents, rooms youth offenders have access to may be searched on unannounced and irregular schedules.
   a) Such searches will be conducted in a systematic manner that allows for adequate searching of an area but leaves such area in an orderly fashion upon completion of the search.
   b) Staff must remove youth offenders from the area being searched. Staff must search a youth offender’s assigned room before it is initially occupied by the youth offender.

3. Staff may search youth offender areas in residences (at-home placements) according to probation conditions or parole agreements.
   a) Staff must have parent/guardian permission to access the residence for a youth offender area search.
   b) The youth offender’s parent/guardian must be present during the search.

4. Searching youth offender correspondence
   a) If staff find a youth offender’s correspondence (mail or letters) during an area search, staff may inspect the correspondence by quickly scanning its contents for criminal or prohibited activity according to the youth offender’s probation conditions or parole agreement.
      Staff must adhere to professional standards by not divulging personal information they may glean while inspecting the correspondence, unless the information is criminal or prohibited according to the youth offender’s probation conditions or parole agreement.
   b) Staff must protect an offender’s attorney-client privilege when inspecting correspondence between an offender and an attorney or agency that provides legal services by not reading or photocopying the correspondence.

E. Search refusal

Staff may need a court referral to initiate further legal action if a youth offender or parent/guardian refuses a search.
F. Preservation of Evidence

1. OYA staff who find contraband that may be used as possible evidence in court proceedings must preserve the chain of evidence using the following guidelines:

   a) Ensure two people witness the collection of items;

   b) Wear gloves whenever searching or handling evidence;

   c) Handle evidence as little as possible;

   d) Photograph evidence whenever possible. Evidence should be photographed in place prior to collection;

   e) When counting evidence, always count twice for accuracy;

   f) Air-dry and place bloody or wet items in a paper bag. Do not place bloody or wet items in a plastic bag; and

   g) Do not collect any items involving dangerous weapons, explosive devices, controlled substances, or biohazard material. These items must be collected by law enforcement.

2. When labeling evidence, the following guidelines must be followed.

   a) With exception of evidence placed in a paper bag, the following information must be placed inside a transparent container and sealed with the evidence:

      (1) Description of the evidence;

      (2) Date and time found and by whom;

      (3) Location found;

      (4) Name(s) of youth offender(s) or staff involved; and

      (5) Staff signature.

   b) Evidence placed in a paper bag must have the following information written with pen on the paper bag and sealed with evidence tape:

      (1) Description of the evidence;

      (2) Date and time found and by whom;

      (3) Location found;

      (4) Name(s) of youth offenders(s) or staff involved; and
(5) Staff signature over the evidence tape.

3. Staff must secure the evidence in a designated secure location at the field office.

4. If the evidence will definitely be used in a court hearing, OYA staff must contact local law enforcement or the district attorney’s office regarding the continued location and storage of the evidence.

5. Staff must document their findings in a written report according to local protocol. The report will contain the following information:

   a) Description of the evidence;
   b) Date and time found and by whom;
   c) Location found;
   d) Name(s) of youth offender(s) or staff involved;
   e) Explanation of the circumstances surrounding the incident; and
   f) All transfers of evidence from one staff member to another to document the legal chain of custody.

G. Field documentation of searches and confiscation of contraband or evidence

1. A record of all searches will be kept in the youth offender JJIS notes and include the following information:

   a) Date, time, and type of search conducted;
   b) Area searched;
   c) Name of person conducting the search and others present;
   d) Name of supervisor authorizing search, if applicable;
   e) Specific reason for the search;
   f) Itemized description of items confiscated;
   g) Location confiscated items were found;
   h) Identification of items that will be held as evidence;
   i) All transfers of evidence to document legal chain of custody; and
j) Any other information related to the search.

2. Confiscated items will be -

   a) Preserved in an evidence bag and stored in a secure place, if such items will be used as evidence in court proceedings. Staff must follow chain of evidence procedures if the item is to be used as evidence;

   b) Contained in a location designated by the local field office if it is nuisance contraband; and

   c) Documented in a contraband log;

3. Local field offices will keep confiscated items only so long as necessary to support criminal charges or facilitate program sanctions against the youth offender, including the grievance process. All other items will be destroyed or returned to the youth offender or youth offender’s family in accordance with OYA policy I-B-4.2 (Reimbursement for Personal Property [Offenders]).

   a) Staff should not store items that will be returned to the youth offender and must coordinate storage with the youth offender’s family. If the family is unresponsive to requests to store items, the item may be stored or destroyed at the discretion of the supervisor.

   b) Items that will not be returned to the youth offender will be destroyed at the discretion of the local supervisor. The date, method, and reason for the destruction must be noted in JJIS.

   c) Under no circumstances will confiscated contraband items become the property of staff or contracted providers.

V. OYA GENERAL PROCEDURE REQUIRED: YES

The OYA general procedure addresses the following:

A. Conducting searches;

B. Storage and disposal of evidence or contraband;

C. Returning confiscated items to youth offenders;

D. Preservation of evidence;

E. Documentation of all searches, storage and disposition of contraband or evidence in JJIS; and

F. Staff training.
VI. LOCAL OPERATING PROTOCOL REQUIRED: YES

Each field office must have a local protocol to address search, seizure and preservation of chain of evidence. The local protocol must include:

A. Development of a search kit that contains gloves, evidence bags, receipts, and other items (such as a small mirror or flashlight) that will assist in conducting searches;

B. Notification of local law enforcement regarding search and seizure or collection of evidence (which agency; under what circumstances);

C. Logging, tagging, storing and purging of confiscated property and evidence; and

D. Designation of location at the field office to secure confiscated property and evidence.
Frequently Asked Questions: Searches of Youth Offenders and Areas - Community

1. **What is my legal authority to search a youth offender on parole?**

   As a condition of their parole, youth offenders must submit to searches of their person and property. The ability to search youth offenders on parole stems from the signed Juvenile Probation/Parole Agreement. JPPOs and JPPAs are allowed to conduct frisk searches and area searches. Comprehensive searches are prohibited by policy.

2. **What is my legal authority to search a youth offender on probation?**

   The answer to this question depends on the *type* of search and the *reason* for the search.

   Performing a frisk search for safety reasons prior to transporting a youth offender you have taken into custody is perfectly reasonable and an acceptable practice.

   However, searching a youth offender’s bedroom or property on probation requires due caution. Although completing a Juvenile Probation/Parole Agreement may be a standard of practice with youth offenders on probation to establish conditions of supervision and behavioral guidelines for the youth offender, it is important that one of two things is in place in order to perform a search.

   1) The Juvenile Probation/Parole Agreement must be incorporated into the court order.

   OR

   2) The court order must give the probation officer the authority to search the youth offender and the youth offender’s property.

   If neither number 1) nor 2) is in place, it is imperative that the JPPO requests a modification to the order so searches may be done.

3. **What are the specific circumstances defined by policy that I may conduct a search?**

   You may search a youth offender if you have probable cause or a reasonable belief that the youth offender possesses contraband items; there is a need to control contraband within programs; to determine a youth offender’s compliance with court orders; or for safety prior to a transport. Provided the Juvenile Probation/Parole Agreement is signed by a youth offender (for parolees) or the court order incorporates the agreement or gives staff the authority to search a youth offender’s home or property, the following are examples of circumstances where it is appropriate to search.

   - A parent of a youth offender on parole reports she is sure her daughter has drug paraphernalia in her room and gives permission for staff to search the room.

   - Searching a youth offender’s property before delivering the property to a residential program.
Frequently Asked Questions: Searches of Youth Offenders and Areas - Community

- A JPPO is informed a youth offender is carrying a knife and the JPPO searches the youth offender.

- A JPPO is transporting a youth offender to detention. The JPPO conducts a frisk search of the youth offender prior to the youth offender entering the car.

4. **What type of search can I conduct?**

OYA staff may conduct frisk searches of youth offenders when they have taken the youth offender into custody. Staff may also search a youth offender’s property for safety reasons when transporting the youth offender to a residential program or foster home.

Parental/guardian consent is required before searching a youth offender’s bedroom within the parent/guardian’s private residence. If the parent/guardian does not grant you permission to search the youth offender’s room, you will need to bring the matter to court to gain permission to search.

JPPOs and JPPAs are restricted from conducting comprehensive searches.

5. **Under what circumstances should I notify law enforcement when I have conducted a search and found contraband?**

Local law enforcement should always be contacted when firearms, suspected controlled substances, or other potentially dangerous items are believed to be possessed by the offender or if they are found during a search. When property is found that is suspected to be stolen, law enforcement should be consulted to determine what to do with the evidence.

6. **What should I do if the contraband I have found does not require contacting law enforcement?**

A record of the search needs to be documented. Both policy and procedure outline a process where the contraband is to be placed, labeled, logged, and stored.

7. **What if the contraband I have found will be used as evidence in a court hearing?**

It is vital that the chain of evidence is preserved. Section F of the policy describes how this is done. It includes guidance regarding the type of bags used to contain evidence and the documentation requirements for the evidence. It also details the necessary elements of the written report regarding the confiscated evidence. The district attorney or local law enforcement agency should be contacted regarding the location and storage of the evidence if it will be used in a court hearing.