



OREGON YOUTH AUTHORITY

Policy Statement

Part III – Youth Services (Community)



Subject:

Searches of Youth and Areas; Processing Contraband or Evidence in Community Placements

Section – Policy Number:

A: General Administration – 4.0

Supersedes:

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Date of Last

Revision/Review:

None

Related Standards and References:

- [ORS 162.135 \(Definitions for ORS 162.135 to 162.205\)](#)
- [ORS 162.185 \(Supplying contraband\)](#)
- [ORS 419C.478 \(Commitment to Oregon Youth Authority or Department of Human Services\)](#)
- [ORS 420A.120 \(Suspension of parole or conditional release; rules\)](#)
- [OYA policy:](#) III-A-9.0 (Youth Personal Property in Community)
I-A-10.1 (Meeting LGBTQ+ Youth Needs)
- [OYA form:](#) YA 3001 (Juvenile Parole/Probation Agreement)
- [Attachment A:](#) Frequently Asked Questions
- [Attachment B:](#) Frisk Search Checklist

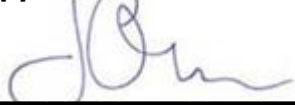
Related Procedures:

- None

Policy Owner:

Community Services Assistant
Director

Approved:



 Joseph O'Leary, Director

I. PURPOSE

The purpose of this policy is to delineate what type of searches staff may conduct of youth and youth areas in the community. The policy also provides guidelines for seizing and processing youth contraband and potential evidence.

II. DEFINITIONS

Comprehensive search: A search that consists of visually inspecting the unclothed body of a youth, and physically searching the youth's clothing and possessions.

Contraband: Any article or thing which a youth is prohibited by statute, rule, policy, Juvenile Parole/Probation Agreement, or order, from obtaining, possessing, or which the youth is not specifically authorized to obtain or possess, or which the youth alters without authorization.

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

Intersex: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

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 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 to be searched has a prohibited item.

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

Transgender: A person whose gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth.

III. POLICY

Security and safety risks to youth, staff or the community may increase when youth possess contraband items. OYA staff may conduct searches of youth and youth areas to ensure youth do not have contraband items. Searches must be carried out thoroughly, using techniques to protect the safety and dignity of the persons involved. In all cases, searches and disposition of contraband must 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's living area, not of a youth'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 prior to conducting any type of youth search using curriculum developed through the OYA Training Academy that is designed to protect persons involved.
3. OYA staff may conduct searches when probable cause or a reasonable belief exists that a youth possesses contraband items, there is need to control contraband within a program, to determine a youth's compliance with court orders, or for safety prior to transporting a youth.
 - a) Juvenile parole/probation officers (JPPOs) must ensure a probation youth's OYA commitment order designates conditions of probation that include submitting to search and seizure and specifies prohibited items. OYA parole youth must have a current Juvenile Parole/Probation Agreement (YA 3001) to specify prohibited items. Prohibited items may include but not be limited to:
 - (1) Intoxicants, controlled substances, and paraphernalia;
 - (2) Weapons;
 - (3) Sexually-explicit material; and
 - (4) Other specified items.
 - b) OYA staff must conduct searches in a professional manner, using techniques that provide for dignity and avoid unnecessary force to persons involved in the search while maintaining integrity of the search.
 - (1) OYA staff must be cognizant of the emotional effect searches may have on youth, and recognize such events may be especially traumatic for youth who have been victims of abuse or other trauma.
 - (2) All local field offices must have search kits that contains gloves, evidence bags, receipts, and other items (such as a small mirror or flashlight) that may 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.
5. Staff must not search a youth's mobile communication device or mobile data device unless the device is identified in a court order special condition as a searchable device.

6. Staff must not search a youth's personal computer. If there is reasonable belief of criminal behavior associated with the computer, staff must contact local law enforcement to investigate.

B. Frisk searches of youth

1. Trained OYA staff may conduct frisk searches within the community
 - a) Whenever staff have a reasonable belief that a youth may be in possession of contraband items; or
 - b) In preparation for a youth transport or transition.
2. The frisk search consists of physically searching a youth by patting down the youth's clothed body. The youth must not be touched any more than is necessary to conduct a complete search.
 - a) Staff must follow the Frisk Search Checklist ([Attachment B](#)) when conducting frisk searches on youth.
 - b) Frisk searches must be conducted by a same-gender staff unless a same-gender staff is not available.

If same-gender staff are not available to search, staff must document that fact in a JJIS case note. This includes searches during exigent circumstances.

- c) Transgender and intersex youth

Transgender and intersex youth may request to have staff that identify as male or female conduct their frisk searches. See OYA policy I-A-10.1 Meeting LGBTQQI+ Youth Needs for approval process.

The approval must be documented in the youth's JJIS "Alert" as "Search requires female/male (one is selected) staff." The search must be conducted by the requested-gender staff member, unless unavailable. If a requested-gender staff member is not available or able to perform the search, staff must document that fact in a JJIS case note. This includes searches during exigent circumstances.

3. An alternative to a complete frisk search when same gender or preferred gender staff are not available include the following steps:
 - a) Garments and articles must be searched carefully, including pant cuffs, sleeve cuffs, and waistbands.
 - b) The youth will be asked to remove outer clothing, such as coat, hat, and shoes.
 - c) The youth will be asked to empty pockets.

- d) The contents of pockets and personal effects, such as wallets, must also be searched.
- e) The mouth, nose, ears, and hair must be visually searched.
- f) Staff may ask the youth to run the youth's fingers through the youth's hair to facilitate the search.
- g) Staff may use a handheld metal detector wand on the youth to search for any metal items.

C. Comprehensive searches

Staff are prohibited from conducting comprehensive searches of youth who are on supervision in the community.

D. Area searches

1. Staff may conduct youth area searches.
2. In coordination with residential providers and OYA foster parents, staff may search rooms youth have access to.
 - a) Such searches must be conducted in a systematic manner that allows for adequate searching of an area but leaves the area in an orderly fashion upon completion of the search.
 - b) Staff may remove the youth from the area being searched. The search must be witnessed by another staff or substitute care provider.
3. Staff may search youth areas in residences (at-home placements) according to probation conditions or parole agreements.
 - a) For youth living with a parent/guardian, staff must have the parent/guardian's permission to access the residence for a youth area search.

The youth's parent/guardian must be present during the search, or have given permission for staff to conduct the search in their absence.
 - b) If the court-ordered probation conditions or parole agreement indicates a youth must submit to searches, the youth must be present and submit to the search.

If the youth refuses to submit to the search, the refusal is a violation and may be assessed for possible sanctions. Evidence obtained from a search where a youth did not submit may be dismissed by the court or a hearings officer.

4. Searching youth correspondence

- a) If staff find a youth's written 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's probation conditions or parole agreement.

Staff must adhere to professional standards by not divulging personal information obtained while inspecting the correspondence, unless the information is criminal or prohibited according to the youth's probation conditions or parole agreement.

- b) Staff must protect a youth's attorney-client privilege when inspecting correspondence between a youth and an attorney or agency that provides legal services by not reading or photocopying the correspondence.
- c) Staff must not search a youth's mobile communication device or data device for e-mails, texts, or other communication unless the court has specifically ordered the device may be searched.

Staff must contact local law enforcement if there is probable cause to believe the device contains evidence of criminal behavior.

E. Search refusal

Staff must not proceed with a search if a youth or youth's parent/guardian refuses to submit to a search of a personal residence. Staff may need a court referral to initiate further legal action if a youth or parent/guardian refuses a search.

F. Preservation of Evidence

- 1. Staff must contact law enforcement to investigate and possibly take evidence into custody when staff find contraband that may be evidence of criminal behavior.
- 2. Staff must use the following guidelines to preserve evidence while waiting the arrival of law enforcement:
 - a) Discontinue further searching of the area;
 - b) Secure the area being searched and remove others from the area;
 - c) May take photos of the searched area to document the item(s) found;

- d) Stay at the search area, unless it is unsafe to do so, until law enforcement arrives and is able to complete an investigation.

If law enforcement is unable to respond in a reasonable time, staff must request law enforcement direct them on how to handle the evidence to ensure the chain of custody is preserved.

G. Confiscated contraband

1. Confiscated items must be secured in a clear Ziploc-style bag or other transparent container. The following information must be enclosed and clearly visible with the confiscated item:
 - a) Description of the confiscated item;
 - b) Date and time found and by whom;
 - c) Location found; and
 - d) Name of youth and others involved.
2. Staff must affix a label to bigger items that do not fit in a clear bag or container identifying it as a confiscated item with the above-listed information.
3. Staff may photograph confiscated items. Items must be photographed in place prior to collection whenever possible. Photographs may be used as probable cause in preliminary violation hearings.
4. Each local field offices must have a designated secure storage area for confiscated contraband. All confiscated contraband must be immediately stored in this area, and must not be stored in staff work areas or in OYA vehicles.
5. Staff must immediately log confiscated items in a contraband log maintained in each field office's designated secure storage area.
6. Local field offices must keep confiscated items only as long as necessary to support violations against the youth, and possibly through the youth grievance process.

All other items must be destroyed or returned to the youth or youth's family in accordance with OYA policy III-A-9.0 (Youth Personal Property in Community).

Under no circumstances may confiscated contraband items become the property of staff.

H. Field documentation of searches and confiscation of contraband

A record of all searches must be kept in the youth JJIS notes and include the following information:

1. Specific reason for the search;
2. Date, time, and type of search conducted;
3. Area(s) searched;
4. Name of person conducting the search and others present;
5. Name of supervisor authorizing search, if applicable;
6. Itemized description of items confiscated;
7. Location confiscated items were found;
8. Identification of items secured by law enforcement and held as evidence;
9. Disposition of confiscated items (i.e. returned to youth, destroyed, etc.)
10. Any other information related to the search.

V. LOCAL OPERATING PROTOCOL REQUIRED: NO

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

Youth must submit to searches of their person and property as a condition of parole. The ability to search youth on parole comes from the signed Juvenile Probation/Parole Agreement. JPPOs and JPPAs are allowed to conduct frisk searches and area searches. Comprehensive searches are prohibited.

2. What is my legal authority to search a youth 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 you have taken into custody is perfectly reasonable and an acceptable practice.

However, searching a youth's bedroom or property on probation requires due caution. Although completing a Juvenile Probation/Parole Agreement may be a standard of practice with youth on probation to establish conditions of supervision and behavioral guidelines for the youth, 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 OYA the authority to search the youth and the youth'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 does the term "submit to search and seizure" mean in the OYA Juvenile Probation/Parole Agreement and court orders?

From a legal perspective, the term "submit" means to give permission or approve. When doing a search of a youth's area or property, it is imperative that the youth has been informed of the search and has "submitted" to the search. If a youth refuses to have their property or area searched and a court order allows for a search, this must be handled as a violation and the search discontinued. If a youth is not present or is not asked to submit to a search, confiscated items may be found as inadmissible evidence or lack probable cause for a violation.

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

You may search a youth if you have probable cause or a reasonable belief that the youth possesses contraband items; there is a need to control contraband within programs; to determine a youth's compliance with court orders; or for safety prior to a transport. Provided the Juvenile Probation/Parole Agreement is signed by a youth (for parolees) or the court order incorporates the agreement or gives staff the

authority to search a youth's home or property, the following are examples of circumstances where it is appropriate to search.

- A parent of a youth on parole reports she is sure her daughter has drug paraphernalia in her room and gives permission for staff to search the room and the youth has submitted to the search.
- Searching a youth's property before delivering the property to a residential program.
- A JPPO is informed a youth is carrying a knife and the JPPO searches the youth.
- A JPPO is transporting a youth to detention. The JPPO conducts a frisk search of the youth prior to the youth entering the car.

5. What type of search can I conduct?

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

Parental/guardian consent is required before searching a youth's bedroom within the parent/guardian's private residence. If the parent/guardian does not grant you permission to search the youth's room, you may need to present the matter to the court to get permission to search.

JPPOs and JPPAs are restricted from conducting comprehensive searches.

6. Under what circumstances will I notify law enforcement when I have conducted a search and found contraband?

Local law enforcement must always be contacted when firearms, suspected controlled substances, or other potentially dangerous items are believed to be possessed by the youth or if they are found during a search. When items are suspected to be evidence to criminal behavior such as stolen property, law enforcement must be consulted immediately to investigate and take custody of items as evidence.

7. What must I do if the contraband I have found does not require contacting law enforcement?

Items must be secured in a clear container or bag when possible, labeled, and stored in the designated secure storage area identified by the staff's field office. A record of the search must be documented. OYA policy and procedures outline a process where the contraband is to be placed, labeled, logged, and stored.

8. Can I search a youth's cell phone, email, or other mobile data devices?

OYA staff must not search a youth's cell phone or other mobile data devices unless these devices are specifically identified as searchable in a court order. The legal

authority to search cell phones and mobile data devices continues to be scrutinized at the federal and state level. Searching data on mobile data devices can seriously compromise evidence needed for criminal investigations. If there is reasonable belief that a cell phone or other mobile data device may contain evidence of a youth engaging in criminal behavior, this information must be immediately provided to local law enforcement to investigate.

9. Can I search a youth's or a youth's family personal computer?

No. Staff are not specially trained in searching computers. Searching data can seriously compromise evidence needed for criminal investigations. Staff may encourage families to set parental controls on computers and install software to limit access to restricted Internet sites. Staff may request the court restrict a youth's access to computers and the Internet. If there is reasonable belief a youth is engaging in illegal behavior on a computer, that information must be reported immediately to local law enforcement for an investigation.

1. It is recommended that you have another staff present when possible.
2. Use appropriate safety items (e.g., gloves) as necessary, which can be found in each field office or OYA vehicle kit.
3. Introduce yourself to the youth to create an environment of mutual respect and trust.
4. While facing the youth, tell them that you will be conducting a frisk search. A statement of compliance from the youth is not required.
5. Ask the youth if the youth has any contraband on their person.
6. Direct the youth to remove everything from their pockets.
7. Direct the youth to remove jackets, hats, and shoes (if any). Set the items aside and search them after searching the youth.
8. Ask the youth if the youth has anything in their possession that could cut you or hurt you in any way.
9. Visually inspect the youth's ears, nose mouth, and eyes checking carefully for contraband. During this time, you are also assessing the youth's demeanor. (Is the youth compliant? Has the mood of the youth changed [sad/happy/agitated]? Does the youth have new marks (tattoos/bruises) on their body?)
10. Direct the youth to run their fingers through their hair (beard, if they have one). Direct them to repeat the process if you are not satisfied.
11. Direct the youth to turn around (facing away from you) and stand with their arms extended shoulder level to the sides.
12. Approach the youth and place the outside edge of your right foot against heel of the youth's left foot.
13. Beginning with the neck and shoulders, squeeze the seams of the shirt feeling for anything unusual and pat down each arm to the hand.
14. Pat-down the youth's upper body paying special attention to the small of the back, under the arms, and the chest/breast area.
15. When searching the chest/breast area of a youth, use the back of the hand to go over the top and bottom portion of the chest/breast. Use the blade of the hand when going down the center of the chest/breast area. If the staff is unable to reach around the youth, the staff may ask the youth to turn and face them.
16. Direct the youth to unbutton the top button of their pants (if applicable) and roll over the waistband. Visually inspect the waistband, and then physically feel along the waistband, paying special attention to the belt loops.
17. Pat-down each leg, paying special attention to the buttocks, the front pockets, the fly area, and the sides of each calf. Use a bladed hand to search the opposite leg, ensuring the top of the bladed hand will engage the groin area, during a swipe between the buttock cheeks.
18. Step away from the youth and direct them to raise one foot at a time. Visually inspect each foot.
19. If contraband is found during the search, properly store the item in an evidence bag and log the contraband upon return to the office.