

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

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SUPERSEDES: 3/1/04

SUBJECT: OFFENDER PAT-DOWN, STRIP DOWN AND PLAIN VIEW SEARCH

AUTHORITY: TEX. GOV'T CODE ANN. §§ 508.112, 508.143, 508.144, 508.154, 508.221;
ACA STANDARD 2-3160

PURPOSE: To establish procedures regarding pat-down and plain view search of an offender's property or person by Parole Division (PD) employees.

DEFINITIONS

Body cavity search: A search of a person's pelvic or rectal areas.

Contraband: Any item, property, possession, or substance that is defined in the Texas Penal Code as unlawful to possess, or any such prohibited item that would constitute a violation of one or more of the offender's conditions of release.

Imminent Danger: A reasonable fear of physical harm to oneself or a third party.

Offender: Any person currently under the legal authority or supervision and subject to the rules and conditions of TDCJ-PD and the Texas Board of Pardons and Paroles (Board).

Plain View Search: The technique of using a complete, visual observation of the person(s), the environment, and any item(s) in plain view of the officer without having to move or otherwise disrupt any item obstructing the officer's general line of vision.

Pat-Down Search: The technique of using the open hand(s) to pat the outer clothing and person of an offender to search for contraband.

Reasonable Cause: Reasonable cause includes information received from a reliable source, observation of suspicious behavior, or any other objective evidence that the offender may possess contraband.

Seizure: Taking possession of any property or item deemed as illegal contraband. **(Law Enforcement ONLY)**

Strip search: A search requiring the removal of the primary layer of clothing. The primary layer of

clothing refers to those items directly worn over underclothing (e.g., shirt, slacks, shoes, etc).

I. PLAIN VIEW SEARCH

Each time an officer has contact with an offender, the Parole Officer shall conduct a plain view search of the offender, the residence, and/or the environment (e.g., residence, job site, etc.). If the plain view search occurs outside of the office, the Parole Officer shall exercise extreme caution so as not to create a hostile situation.

- A. If, while conducting a plain view search, the officer observes that the offender is in possession of contraband, or observes any item that the Parole Officer reasonably believes demonstrates evidence of high-risk behavior in relation to the offender's offense or pattern of offending, the officer shall immediately:
 - 1. Terminate the contact with the offender without arousing suspicion;
 - 2. If the contraband is a **violation of law** (e.g., drugs, child pornography, firearms, etc.), notify the local law enforcement authority and inquire if they will take possession of the item(s); and
 - 3. Notify the Unit Supervisor of the situation.
- B. If law enforcement arrives and takes possession of the contraband, the Parole Officer shall request a case number and also request an emergency warrant as outlined in Section III of this policy. The Parole Officer shall also complete the Offender Search Report (SP-0401) indicating the items seized within one (1) workday.
- C. If the contraband viewed constitutes a violation of the offender's conditions of release, the Parole Officer shall submit a Violation Report in accordance with Parole Division policy 4.1.1, *Processing Violations of Rules and Conditions of Release*. The Parole Officer shall also complete the Offender Search Report within one (1) workday and indicate the items viewed while conducting a plain view search.
- D. The Parole Officer conducting the search shall fully document all aspects and outcomes of the search in the Contacts comment section in the Offender Information Management System (OIMS).

II. PAT-DOWN SEARCH

- A. In situations where an officer believes that there is reasonable cause for a search, the Parole Officer shall contact the Region Director through the chain of command for approval to proceed with a pat-down search. Only the Region Director or designee has the authority to give approval for a pat-down search.

If authorized by a Region Director, a pat-down search of an offender may be conducted based on reasonable cause that the offender is in possession of contraband.

B Conducting a Pat-Down Search

1. After obtaining authorization from the Region Director or designee, but prior to conducting the search, the offender shall be advised of the reason for the search. Confidential sources of information shall be protected, however. The offender shall be given an opportunity to voluntarily remove and surrender any contraband and to consent to a search.
 2. A Parole Officer of the same gender as the offender shall conduct the search in a private room. A second officer of the same gender shall be present as a witness.
 3. The offender shall be requested to place loose items from pockets and clothing on a table or desk for inspection. To facilitate the pat-down search, the officer shall first have the offender remove all articles from his pockets and remove any secondary outer clothing (e.g., coat, sweater worn over shirt or blouse, shoes, head coverings, etc.) worn over the primary clothing.
 4. The search officer shall wear latex gloves and use an open hand to pat down the primary layer of clothing and the offender. The search officer shall request that suspicious findings be exhibited. The procedure shall be conducted in a non-aggressive manner, protective of the safety of the officer and respectful of the personal dignity of the offender. The Parole Officer shall remain cautious of the danger of contact with needles, weapons, or sharp objects contained on the offender's person.
 5. Should staff believe than an offender who is residing at a TDCJ contracted facility is concealing contraband, a pat search may be conducted when authorized by the facility director. The above pat search - techniques and process shall be adhered to by facility staff.
- C. The Parole Officer shall notify law enforcement authorities of any illegal items that are discovered.
- D. If law enforcement arrives and takes possession of the contraband, the Parole Officer shall request a case number and also request an emergency warrant as outlined in Section III of this policy.
- E. If the contraband viewed constitutes a violation of the offender's conditions of release, the Parole Officer shall submit a Violation Report in accordance with Parole Division policy 4.1.1, *Processing Violations of Rules and Conditions of Release*.
- F. Regardless of the outcome of the search, an Offender Search Report (SP-0401) shall be submitted within 24 hours to the Region Director, describing the conduct of the search and the findings.

III STRIP SEARCHES

1. Strip searches shall not be authorized or conducted by Parole Division staff.

2. Strip searches for offenders residing in TDCJ contracted facilities are permissible and will be conducted by facility personnel only. Strip searches will be conducted by two (2) staff members of the same gender, upon determining good cause for search, and upon receiving authorization from the facility director. Staff members conducting this type of search will be thorough, yet not offend the dignity of the resident being searched. District Parole Officers assigned to TDCJ contracted facilities may observe only and will not actively participate. Observers will be of the same gender as the offender being searched.

3. Body cavity searches shall not be authorized.

IV. IMMINENT DANGER PRE REVOCATION WARRANT PROCEDURE

If a Parole Officer, while in the normal course of duty, suspects that he or a third party are in imminent danger of physical harm by an offender; OR observes that the offender is in possession of any object that constitutes a law violation; OR observes any item or behavior that the officer reasonably believes demonstrates evidence of high-risk behavior with relation to the offender's offense or pattern of offending behavior; the Parole Officer shall immediately:

- A. Get away from the threat of danger.
- B. Call the Warrant Section Command Center at (512) 406-5390 and request emergency warrant issuance.
- C. If local law enforcement is not present, call the local law enforcement agency to advise them of the situation, including any indefensible third party present, and inform them of the warrant in effect.
- D. Call the Unit Supervisor to inform him of the incident.
- E. Within 24 hours, the Parole Officer shall complete a Violation Report in accordance with Parole Division policy 4.1.1, *Processing Rules and Violations of the Conditions of Release*, and complete or gather any other necessary documentation (e.g., incident report).

V. REFUSAL OF CONSENT TO SEARCH

- A. If the offender refuses to give consent to any type of search listed above, the Parole Officer shall IMMEDIATELY contact his supervisor for further instructions on how to proceed.
- B. Any such violation shall be processed in accordance with Parole Division policy 4.1.1, *Processing Violations of Rules and Conditions of Release*.

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