

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

NUMBER: PD/POP-1.2.6

DATE: September 1, 2021

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SUPERSEDES: August 21, 2018

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

AUTHORITY: TEXAS GOV'T CODE §§ 508.112, 508.143, 508.144, 508.154, 508.221

PURPOSE: To establish procedures regarding pat-down and plain view searches of a client and their property by Parole Division (PD) employees.

DEFINITIONS:

Client – A person currently under the legal authority or supervision and subject to the rules and conditions of Texas Department of Criminal Justice-PD and the Texas Board of Pardons and Paroles.

Contraband – An item, property, possession, or substance that is statutorily regarded as unlawful to possess or any prohibited item that would constitute a violation of one or more of a client's conditions of release.

Imminent Danger – A situation that presents a reasonable fear or expectation of immediate serious physical harm including death.

Pat-Down Search – The technique of using the open hand(s) to pat the outer clothing and body of a client to search for contraband.

Plain View Search – Visually observing a client, their environment, and any items in plain view of a parole officer (PO) without moving or disrupting any item obstructing the PO's general line of vision.

Reasonable Cause – Information received from a reliable source, observation of suspicious behavior, or any other objective evidence the client may possess contraband.

Seize – Confiscate property or items regarded as contraband. (Law Enforcement ONLY).

Strip search – Visually inspecting a client with their primary outer layer of clothes removed.

NOTE: Refer to PD/POP-3.6.10, *Special Condition "X" Search Guidelines* for any clients with Special Condition "X" imposed.

PROCEDURES:

I. PLAIN VIEW SEARCH

A PO shall conduct a plain view search of a client at every contact with the client. If the contact occurs outside of the office, at the client's residence for example, the PO shall exercise caution to avoid creating a hostile situation.

If the PO determines that a client possesses contraband or an item that indicates evidence of high-risk behavior relating to the client's offense or pattern of offending or violates conditions of their release, the PO shall immediately:

- A. Terminate the contact with the client without arousing suspicion; and
- B. Notify the unit supervisor about the situation.

II. PAT-DOWN SEARCH

A. Pat-Down Search Approval

1. If a PO believes there is reasonable cause for a search, the PO shall contact the region director (RD) through the appropriate chain of command for approval to proceed with a pat-down search. Only the RD or designee may approve a pat-down search.
2. If approved by a RD or designee based on reasonable cause or suspicion that a client possesses contraband, the PO may conduct a pat-down search of the client.

NOTE: Regardless of the outcome of a search, the PO shall submit a completed SP-0401 to the RD within 24 hours describing the process of the search and the findings.

B. Conducting a Pat-Down Search

1. The PO shall advise the client of the reason for the search. Confidential sources of information shall be protected. The client shall be given an opportunity to voluntarily remove and surrender any contraband and to consent to a search.
2. A PO of the same gender as the client shall conduct the search in a private room. An additional PO of the same gender shall be present as a witness.
3. The PO shall request the client to remove all loose items from their pockets and clothing and place them on a table or desk for inspection then remove secondary outer clothing worn over the primary clothing, such as a coat, sweater worn over shirt or blouse, shoes, and head coverings.
4. The PO shall:
 - a. Wear disposable protective gloves and use an open hand to pat down the client and their primary layer of clothing;

- b. Request to inspect anything they deem suspicious;
- c. Conduct the search in a non-aggressive, respectful manner, while maintaining the safety of the officers and client; and
- d. Remain alert and aware of the danger of contacting needles, weapons, or sharp objects that the client may possess.

III. STRIP SEARCHES

- A. Parole Division staff shall not conduct strip searches.
- B. A client residing at TDCJ contracted facilities may be strip searched by facility personnel only, using the contract guidelines of the facility. A PO assigned to TDCJ contracted facility may only observe and not actively participate. The PO who observes must be the same gender as the client being searched.

NOTE: A body cavity search is not authorized.

IV. WHEN CONTRABAND IS DISCOVERED DURING A SEARCH

- A. The PO shall notify law enforcement of any illegal items they discover.
- B. If law enforcement responds and seizes the contraband, the PO shall request a case number from the responding law enforcement officer.

NOTE: Regardless of the outcome of a search, the PO shall submit a completed SP-0401 to the RD within 24 hours describing the process of the search and the findings.

- C. If the contraband seized constitutes a threat to public safety, the PO shall contact the Warrant Section Command Center immediately to request an emergency warrant.
- D. If the contraband does not constitute a threat to public safety but violates the conditions of release, the PO shall submit a VR according to PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*.
- E. The PO conducting the search shall fully document all aspects and outcomes of the search in the Offender Information Management System (OIMS).

V. IMMINENT DANGER PRE-REVOCAION WARRANT PROCEDURE DURING SEARCH

- A. If a PO in the normal course of the search suspects they or anyone else in the area are in imminent danger of serious physical harm by a client, observes the client possesses any item that violates the law, or reasonably believes the client possesses an item or behaves in a way that demonstrates evidence of high-risk behavior, the PO shall immediately:
 - 1. Terminate the contact;

2. Contact the Warrant Section Command Center to request an emergency warrant;
 3. Advise local law enforcement of the situation and that an emergency warrant is in effect; and
 4. Notify a supervisor about the incident.
- B. Within 24 hours, the PO shall complete a VR according to PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*, and include all other pertinent documentation.

V. REFUSAL OF CONSENT TO SEARCH

If a client refuses to consent to any type of approved search contained in this policy, the PO shall immediately contact their supervisor to determine the most appropriate action.

René Hinojosa
Director, Parole Division