

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

NUMBER: PD/POP-3.6.10

DATE: 11/14/18

PAGE: 1 of 6

SUPERSEDES: 12/04/12

SUBJECT: SPECIAL CONDITION “X” SEARCH GUIDELINES

AUTHORITY: TEXAS GOV’T CODE ANN. §§ 508.112, 508.143, 508.144, 508.154; 508.221

PURPOSE: To establish procedures regarding search of an offender’s property or person by Parole Division employees when the search component of Special Condition “X” is in effect.

The Parole Division has adopted the Containment Approach in the supervision of sex offenders. This approach consists of a philosophy that values public safety, victim protection, and focuses on the prevention of future victimization. This policy seeks to hold offenders accountable for rules and special conditions through the combined resources of the parole officer and law enforcement authorities.

DEFINITIONS:

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 (1) 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 the Texas Department of Criminal Justice-Parole Division (TDCJ-PD) and the Texas Board of Pardons and Paroles (BPP).

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.

Plain View Search: The technique of using a complete, visual observation of the person, 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.

Reasonable Cause: 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 (by law enforcement only).

Warrantless Search: The technique of a parole officer thoroughly searching, without a warrant, an offender's person, motor vehicle, and/or place of residence, or any property to which the offender has been given permission to use by the offender's parole officer or any authorized representative of the TDCJ-PD. Law enforcement may assist, if necessary.

PROCEDURE:

I. NOTICE OF SPECIAL CONDITION "X" SEARCH COMPONENT

Upon imposition of Special Condition "X" (Sex Offender Program), the parole officer shall select the necessary components for effective supervision. In the event the Search Component is in effect and reasonable cause exists to believe the offender is in possession of contraband, a warrantless search of the offender, his residence, motor vehicle, property, or any property to which the offender has been given permission to use, may be conducted in accordance with this policy.

II. IMMINENT DANGER PRE-REVOCAION WARRANT PROCEDURE

While in the normal course of duty, if a parole officer suspects that he or a third party are in imminent danger from an offender of physical harm, observes the offender in possession of any object that constitutes a law violation, or observes any item or behavior 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. Remove himself from the threat of danger.
- B. Call the local law enforcement agency to advise them of the situation, including any indefensible third party present.
- C. Call the Warrants Section Command Center at (512) 406-5390 and request an emergency warrant.
- D. Call and inform the unit supervisor of the incident.
- E. Update the Violation Report (VR) within 24 hours in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*, and complete or obtain any other necessary documentation (e.g., incident report).

III. REFUSAL OF CONSENT TO SEARCH

- A. If the offender refuses to give consent to any type of search listed in this policy, the parole officer shall immediately contact his unit supervisor for further instruction on how to proceed.

- B. Any such violation shall be processed in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*.

IV. PLAIN VIEW SEARCH

The parole officer shall conduct a plain view search of the offender, the residence, and/or the environment (job site, etc.) during every contact. When conducting a plain view search, the parole officer shall use extreme caution to avoid a hostile situation.

- A. If the parole officer observes the offender to be in possession of contraband or observes any item the parole officer reasonably believes demonstrates evidence of high-risk behavior in relation to the offender's offense or pattern of offending, the parole officer shall immediately:
 - 1. Terminate the contact with the offender without arousing suspicion;
 - 2. Notify the local law enforcement authority and inquire if they will take possession of the item(s) if the contraband is a violation of law (e.g., drugs, child pornography, firearms, etc.); and
 - 3. Notify the unit supervisor of the situation.
- B. If law enforcement arrives and takes possession of the illegal contraband, the parole officer shall:
 - 1. Request a case number;
 - 2. Contact the Warrants Section Command Center at (512) 406-5390 and request an emergency warrant; and
 - 3. Complete the Offender Search Report (SP-0401) and list the items seized within one (1) business day.
- C. If the contraband viewed would constitute a violation of the offender's conditions of release, the parole officer shall submit a VR in accordance with PD/POP-4.1.1, *Processing Violations of Rules and Conditions of Release*. The parole officer shall also complete the SP-0401 form within one (1) business day, indicating the items viewed while conducting a plain view search.
- D. The parole officer shall document all aspects and outcomes related to a plain view search within one (1) business day in the Offender Information Management System (OIMS) as an Investigative Contact, if illegal contraband is found.

V. WARRANTLESS SEARCH

- A. During a warrantless search, a parole officer has the authority to move, disrupt, or open items, but should respect the integrity of the search area by disrupting the premises as little as possible.
- B. A warrantless search shall only be conducted when:
 1. The offender has previously been provided notification that the search component of Special Condition "X" is in effect;
 2. There is reasonable cause based on observations during the plain view search, or information received from a reliable source suggests a warrantless search is appropriate; and
 3. The unit supervisor has given the parole officer permission to conduct the search.
- C. Prior to executing a warrantless search:
 1. The parole officer shall complete the Request/Approval Information section of the SP-0401 form and submit it to the unit supervisor for review and approval with the following information included:
 - a. Offender's name and TDCJ number
 - b. Circumstances leading to reasonable cause
 - c. Date, time, and location of the proposed search
 - d. Type of contraband to be sought
 - e. Parole officer or community safety issues

In the event the parole officer initiates the request while in the field, the SP-0401 form may be completed upon the parole officer's return to the office; however, all pertinent information necessary to obtain approval shall be communicated verbally to the unit supervisor.
 2. On weekends or after hours, the supervising parole officer shall:
 - a. Contact the unit supervisor for approval.
 - b. Contact the Warrants Section Command Center at (512) 406-5390 (with unit supervisory approval) and follow the procedure outlined in PD/POP-4.1.8, *Safety Guidelines for Non-Standard Business Hour Investigations*, immediately prior to conducting the search.

- c. If an attempt to contact a supervisor is unsuccessful, the supervising parole officer shall contact the Warrants Section Command Center at (512) 406-5390 to establish contact with region or division management. The Command Center will report back to the supervising parole officer of the decision that was approved or denied to conduct a search. The supervising parole officer shall not conduct the search on his own.
3. The unit supervisor shall work with the supervising parole officer to make arrangements for law enforcement, another parole officer, and/or unit supervisor to be present during the warrantless search.
4. At the time of the warrantless search, the supervising parole officer shall:
 - a. Inform the law enforcement authority, if assisting with the search, that the offender has a condition in effect that allows the officer to conduct a warrantless search of the premises.
 - b. Notify the offender of the search. Explain to the offender that denying permission for the search may constitute grounds for a parole violation based upon the imposition of the search component. Parole officers shall use extreme caution to avoid a hostile situation.
 - c. Request the offender to voluntarily disclose any hazardous or illegal items in the search area and relinquish any contraband to law enforcement if present.
 - d. Conduct a complete physical search of the residence, vehicle, and/or other property, regardless of any disclosures.
 - e. Complete the SP-0401 form within one (1) business day, detailing all events during the search. The report shall be submitted to the unit supervisor for review. Once reviewed, the unit supervisor shall distribute the SP-0401 form to the parole supervisor, Assistant Region Director, Region Director, and Deputy Director of Field Operations for immediate discussion with the Division Director.
5. After completing the search and exiting the search location, the parole officer shall contact the approving supervisor and Warrants Section Command Center at (512) 406-5390 (if after hours or on weekends) to report the end of the search.
6. Within one (1) business day, the parole officer shall fully document the search in the OIMS as an Investigative Contact.
7. If present, law enforcement officers are expected to:
 - a. Ensure the security of the premises.
 - b. Contain and protect against third-party interference in the search.

- c. Provide security and safety for all TDCJ-PD representatives at the location.
- d. Act as a witness as to the integrity of the search and as a witness to any prohibited item(s) discovered.
- e. Take custody of any illegal contraband.
- f. Arrest persons as a result of any illegal contraband seized during the search or as a result of aggressive behavior displayed during the search.
- g. Aid in the search only by giving procedural advice or consultation, but not physically engage in any search functions, unless the law enforcement officer finds legal grounds for a reasonable cause search or obtains a legal search warrant for the location.

VI. PAT-DOWN SEARCH

Only the Region Director or designee has the authority to give approval for a pat-down search. Pat-down searches shall be in accordance with PD/POP-1.2.6, *Offender Pat-Down, Strip Down and Plain View Search*.

Pamela Thielke
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