



DEPARTMENTAL GENERAL ORDER

R-02: SEARCHES OF INDIVIDUALS ON PROBATION OR PAROLE

Effective Date: XX Jul 18  
Coordinator: Training Division

Individuals on probation with certain court-imposed search clauses and individuals on parole/PRCS (Post-Release Community Supervision) may be subject to warrantless searches by law enforcement. One role of Law Enforcement is to act as an arm of the probation and parole/PRCS systems by ensuring that probationers and parolees are conforming to the conditions of their release.

COMMAND INTENT

The intent of this policy is to enhance the effectiveness of Oakland Police Officers while also reminding them to use their best judgment on when to use probation and parole/PRCS searches. The Department values the abilities of Oakland Police Officers to make sound judgments when using law enforcement tools available to them, such as probation and parole/PRCS searches. At the same time, the Department recognizes that those searched and other community members can view searches as intrusive. Accordingly, the Department seeks to build community trust through transparency of Department operations by requiring officers to document articulable facts supporting a decision to search.

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A. PROBATION OR PAROLE SEARCHES AND THE COMMUNITY

A - 1. Purpose of Probation and Parole/PRCS Searches

Probation and parole/PRCS searches must further a legitimate law enforcement or rehabilitative interest. Such searches shall not be:

- 1. Arbitrary;
- 2. Capricious; or
- 3. Harassing

A - 2. Procedural Justice Considerations

Law enforcement contact with individuals on probation, parole, and PRCS provides an opportunity to practice the tenets of procedural justice: voice, neutrality, respect, and trustworthiness. Probation and parole/PRCS contacts can be used as a means of providing counseling, referral to rehabilitative resources, and a deterrent against recidivism.

A - 3. Inquiring About Probation or Parole/PRCS Status

Inquiring about an individual's probation or parole/PRCS status, especially at the beginning of an interaction, or without an apparent basis for the inquiry, can be viewed as unjustly assuming that the individual has a criminal history. Officers should refrain from immediately asking whether a person is on probation or parole/PRCS. Any subsequent inquiries about probation or parole/PRCS status should be framed in a respectful manner.

## B. REQUIREMENTS FOR PROBATION OR PAROLE/PRCS SEARCHES

### B - 1. Knowledge of Searchable Probation or Parole/PRCS Status

Officers must know that an individual is on searchable probation or parole/PRCS, with a clause which allows the search the officer seeks to conduct, before the search. This information may be obtained/confirmed via:

1. Prior knowledge of the individual's searchable probation or parole/PRCS status;
2. Check of law enforcement databases such as AWS, CRIMS, CLETS, and CORPUS; in case of discrepancies:
  - a. CRIMS should be used to confirm probation terms.
  - b. CLETS should be used to confirm parole or PRCS status.
3. The individual's confirmation of his or her searchable probation or parole/PRCS status.<sup>1</sup> In such cases, officers should confirm the status of the individual with a records check. In cases where the individual is mistaken concerning status, the officer should provide the correct information to the individual and document the results in the appropriate report.

### B - 2. Rationale for Probation or Parole/PRCS Searches

Probation and parole/PRCS searches should be conducted in consideration of the totality of the circumstances surrounding the encounter. In those instances where a cursory search is justified and the individual is on probation or parole/PRCS, a full search should be conducted.

Individuals contacted or detained who are found to be on searchable probation or parole/PRCS for **weapons-related** or **violent** crimes should be searched pursuant to the terms of their supervised release conditions to ensure officer, community, and subject safety.

For individuals on probation or parole/PRCS for **non-weapons-related** or **non-violent** crimes, officers should consider articulable fact(s) which tend to show that the individual is connected in some way to criminal activity, that the individual is a threat to officer or citizen safety, or that a probation or parole/PRCS search would further a rehabilitative interest. The mere fact that a person is on probation or parole/PRCS is not in itself a connection to criminal activity.

Some examples of facts that could support a search include, **but are not limited to**, the following:

- The individual is a known gang member or affiliate

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<sup>1</sup> See In re Jeremy G. (1998) 65 Cal.App.4th 553, 556 (officer reasonably relied on minor's statement that he was on probation or parole; "[t]he fact that the minor was in error is immaterial").

- The individual has been identified as a person of interest in a crime
- The individual is in the company of another who is a person of interest in a crime
- The individual is connected to a crime-reduction strategy (such as Ceasefire or a specific crime-reduction plan)
- The individual is a person of interest in, or uncooperative witness to, an ongoing criminal investigation

**C. MEMORIALIZING FACTS OF THE SEARCH**

**C - 1. Required Documentation**

Officers conducting a probation or parole/PRCS search shall at a minimum document the following in the appropriate report:

1. The circumstances of the encounter/detention;
2. How it was determined that the individual was on searchable probation or parole/PRCS;
3. How searchable probation or parole/PRCS status was verified including, if verified via the MDT, a paste of this information from the MDT to the body of the report (if feasible);
4. Any articulable fact(s) which informed the decision to search; and
5. The type(s) of search completed and disposition.

By order of

Anne E. Kirkpatrick  
Chief of Police

Date Signed: \_\_\_\_\_