

Search and Seizure

612.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines and consistent department procedures for Riverside County Probation Department personnel to consider when dealing with search and seizure issues.

612.1.1 DEFINITIONS

Definitions related to this policy include:

Visual Search - A superficial search of a vehicle, property or a residence involving plain sight observation.

Pat-down Search - The search used by officers to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the person being searched or others in the vicinity. This does not include searching inside pockets. Personal items such as handbags or backpacks can be separated from the person but shall not be searched.

Planned Search - A thorough search that is conducted with appropriate assistance and adequate back up, with reasonable suspicion, and in accordance with conditions of supervision.

Protective Search - A search of a detained person conducted to protect the safety of an arresting officer and to preserve evidence. This search includes pat-down searches of persons and areas within their immediate control.

Protective Sweep - A sweep of an area for people who may pose a threat to the safety of an officer. The sweep is limited to a cursory inspection of places where a person may hide, and last no longer than is necessary to dispel the reasonable suspicion of danger.

Reasonable Suspicion - A legal standard of proof in United States law that is less than probable cause, the legal standard for arrests and warrants, but more than an early and unparticularized suspicion or hunch. It must be based upon specific and articulable facts, taken together with rational inferences from those facts.

Forced Entry - The breaking open of a closed door or window to enter a room, residence, structure or vehicle.

Exigent Circumstance - A situation in which immediate action may prevent great bodily injury, loss of life or destruction of relevant evidence.

612.2 AUTHORITY AND REFERENCES

- Executive Committee

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612.3 POLICY

It is the policy of the Riverside County Probation Department to respect the fundamental privacy rights of individuals. Employees of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

In accordance with the Training Policy, the Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

612.4 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of probation activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- (a) Valid consent (verbal or written)
- (b) Incident to a lawful arrest
- (c) Searches authorized by conditions of supervision
- (d) Visual searches
- (e) Exigent circumstances
- (f) Protective searches and sweeps

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each employee of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

612.4.1 SEARCH KITS

Each officer should maintain or have access to a properly supplied search kit which shall be used when conducting a search. It is recommended that each search kit contain the following supplies, based upon availability:

- (a) Latex/nitrile gloves
- (b) Puncture resistant leather search gloves

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- (c) Flashlight
- (d) Syringe disposal tubes
- (e) Evidence bags
- (f) Property receipt forms
- (g) Property evidence tags/labels
- (h) Disinfectant solution/packets
- (i) Digital camera
- (j) First aid kit
- (k) Urine testing kits
- (l) Controlled substance presumptive tests
- (m) Nylon bag for storage of search kit materials

612.5 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Employees of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) When enforcing a search condition where the subject is not present, officers should advise those present that a probation search is being conducted.
- (d) All personnel shall wear identifying gear that may include name tags, jackets, identification vests, badges, etc.
- (e) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (f) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
 - 1. Another officer or a supervisor should witness the search.
 - 2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.
- (g) Officers shall exercise due diligence to ensure case information, including addresses, is current and as accurate as possible before conducting a search.
- (h) When operating with other law enforcement agencies in a support capacity, officers shall be mindful of the policies and procedures of the department, and articulate any differences to the lead agency conducting the operation. Any deviations should be

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discussed with the unit supervisor in advance of the operation whenever possible. In all cases, deviations shall be discussed with the unit supervisor as soon as possible.

- (i) As the case agent in an operation with other law enforcement agencies, officers shall articulate to assisting agencies the objective of the search, as well as relevant information regarding the client and location to be searched.
- (j) In any search involving more than one officer, all participants shall be aware of and understand their designated roles in the search.
- (k) The procedures described in the Hazardous Material Response policy shall be followed in any case where an officer encounters a suspected hazardous substance or device while conducting a search.

612.5.1 PAT DOWN SEARCHES

When any officer has reasonable suspicion to believe that a person being lawfully detained may possess weapons or other dangerous items, or in such circumstances the officer reasonably believes that the individual may present a threat to officer safety, that officer may conduct a pat-down search of that individual.

Prior to detaining any individual in a probation vehicle, an officer shall conduct a pat-down search of that individual. Transport vehicles shall also be searched pursuant to the Seat Belt and In-Custody Transportation policy.

612.5.2 FORCED ENTRY

Forced entry is only permitted when exigent circumstances exist and shall be reported to the unit supervisor as soon as possible.

Prior to leaving the location of a forced entry, the involved officer is required to ensure the residence, vehicle or other structure is reasonably secured. Any damages sustained during the entry shall be recorded, photographed and reported to the unit supervisor as soon as possible. The owner or occupant shall be informed of damages as soon as possible and advised of their right to seek compensation through the Riverside County Risk Management department.

612.5.3 PLANNED SEARCHES

Planned searches shall be conducted in accordance with state and federal law, with adequate back up, [REDACTED]

[REDACTED].

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Information regarding the time of departure, time of arrival, the location(s), participant(s) and the probable time of return shall be communicated to base and/or the unit supervisor. If delayed, updated information shall be communicated.

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612.6 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- (a) Officers involved in the search.
- (b) Reason for the search.
- (c) Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys).
- (d) What, if any, injuries or damage occurred.
- (e) All steps taken to secure property.
- (f) The results of the search, including a description of any property or contraband seized and whether an arrest was made related to the search.
- (g) If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer.

In the event of forced entry, injuries or damage to property, an incident report shall also be completed.

Any property or contraband seized during a search shall be recorded and logged as outlined in the Property and Evidence policy.

612.7 DAMAGE TO PERSON OR PROPERTY

In cases where damages are allegedly caused to a person or property, staff shall provide a Claim for Damages to Person or Property form and coversheet (attachment) to the responsible party.

Date(s) revised:

01/20/2016

07/12/2006

04/29/1997

01/10/1996

05/14/1994

12/08/1993

Created: 10/01/1989

Attachments:



[2. Claim for Damages to Person or Property form and coversheet.pdf](#)

Attachments

Claim for Damages to Person or Property form and coversheet.pdf



COUNTY OF
Riverside
HUMAN RESOURCES
Winner IPMA Award for Excellence

BARBARA A. OLIVIER, SPHR
*Asst. County Executive Officer/
Human Resources Director*

Risk Management Division

*Post Office Box 1210, Riverside, CA 92502-1210 (951) 955-3540 Fax
(951) 955-5855*

Attached is a claim form for filing claims against the County of Riverside. The various requirements for filing claims against the County of Riverside for any State cause of action is contained in the California Government Code. The statute of limitations for any Federal action is generally two years, subject to certain exceptions. This contact with you will not extend or toll any statute of limitations under California or Federal Law.

Should you have any questions, please contact the Risk Management Division of the Human Resources Department for the County of Riverside at (951) 955-3540.

COUNTY OF RIVERSIDE

CLAIM FOR DAMAGES TO PERSON OR PROPERTY



INSTRUCTIONS:

1. Read claim *thoroughly*.
2. Fill out claim as indicated; attach additional information if necessary.
3. This office needs the original completed claim form and clear readable copies of attachments (if any) if originals are not available.
4. This claim form *must* be signed.

OFFICE USE ONLY

DELIVER OR U.S. MAIL TO: CLERK OF THE BOARD OF SUPERVISORS
 ATTN: CLAIMS DIVISION
 P.O. BOX 1628, 4080 LEMON ST, 1ST FL.
 RIVERSIDE, CA. 92502-1628 (951) 955-1060

TIME STAMP HERE

1. FULL NAME OF CLAIMANT		8. WHY DO YOU CLAIM THE COUNTY IS RESPONSIBLE?	
2. MAILING ADDRESS (STREET/P O BOX)			
CITY		STATE ZIP CODE	
HOME TELEPHONE ()		BUSINESS TELEPHONE ()	
3. WHEN DID DAMAGE OR INJURY OCCUR (PLEASE BE EXACT)		9. NAMES OF ANY COUNTY EMPLOYEES (AND THEIR DEPARTMENTS) INVOLVED IN INJURY OR DAMAGE (IF APPLICABLE).	
		NAME:	DEPARTMENT:
4. WHERE DID DAMAGE OR INJURY OCCUR?		NAME:	
		DEPARTMENT:	
STREET CITY STATE ZIP CODE		10. WITNESSES TO DAMAGE OR INJURY: LIST ALL PERSONS AND ADDRESSES OF PERSONS KNOWN TO HAVE INFORMATION:	
5. DESCRIBE IN DETAIL HOW DAMAGE OR INJURY OCCURRED:		NAME	PHONE
		ADDRESS	
		NAME	PHONE
		ADDRESS	
		NAME	PHONE
		ADDRESS	
6. WERE POLICE OR PARAMEDICS CALLED? <input type="checkbox"/> YES <input type="checkbox"/> NO		11. LIST DAMAGES INCURRED TO DATE (attach copies of receipts or repair estimates)	
7. IF PHYSICIAN/HOSPITAL WAS VISITED DUE TO INJURY, INCLUDE DATE OF FIRST VISIT AND HOSPITAL'S NAME, ADDRESS AND PHONE NUMBER:			
DATE OF FIRST VISIT	PHYSICIAN'S/HOSPITAL'S NAME		
PHYSICIAN'S/HOSPITAL'S ADDRESS	PHONE:	<u>TOTAL DAMAGES TO DATE</u>	<u>TOTAL ESTIMATED PROSPECTIVE DAMAGES</u>
()	()	\$ _____	\$ _____

THIS CLAIM MUST BE SIGNED TO BE VALID. NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (PENAL CODE SECTION 72.)

WARNING:

- CLAIMS FOR DEATH, INJURY TO PERSON OR TO PERSONAL PROPERTY MUST BE FILED NOT LATER THAN SIX (6) MONTHS AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)
- ALL OTHER CLAIMS FOR DAMAGES MUST BE FILED NOT LATER THAN ONE (1) YEAR AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)
- SUBJECT TO CERTAIN EXCEPTIONS. YOU HAVE ONLY SIX (6) MONTHS FROM THE DATE OF THE WRITTEN NOTICE OF REJECTION OF YOUR CLAIM TO FILE A COURT ACTION. (GOVERNMENT CODE SECTION 945.6)
- IF WRITTEN NOTICE OF REJECTION OF YOUR CLAIM IS NOT GIVEN, YOU HAVE TWO (2) YEARS FROM ACCRUAL OF THE CAUSE OF ACTION TO FILE A COURT ACTION. (GOVERNMENT CODE SECTION 945.6)

12. CLAIMANT OR PERSON FILING ON HIS/HER BEHALF		13. PRINT OR TYPE NAME		DATE	
SIGNATURE		RELATIONSHIP TO CLAIMANT			