I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to clarify officer authority and establish consistent procedures for conducting searches, and arrests pursuant to the 4th Amendment.

III. APPLICABILITY

This policy applies to employees of the Division of Parole and Community Services (DPCS), especially those whose duties include the supervision of offenders.

IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the policies page on the Ohio Department of Rehabilitation and Correction (ODRC) Intranet at the following:

Definitions Link
- Approved Residence
- Conditions of Supervision
- Contact Officer
- Control Officer
- Evidence Officer
- Exigent Circumstances
- Notice
- Ohio Community Supervision System (OCSS)
- Plain View
- Post Release Control (PRC)
- Probable Cause
- Reasonable Grounds

DRC 1361 (Rev. 12/17)
• Search Incident to Arrest
• Security Sweep
• Staffing
• Vehicular Pursuit

V. POLICY

It is the policy of the ODRC to exercise its supervisory and enforcement authority to protect the community within the scope of statutory duties while properly respecting the rights of offenders under Adult Parole Authority (APA) supervision and others with whom they may have contact.

VI. PROCEDURES

A. Search and Arrest Planning

During a search or arrest, officers shall display and maintain a professional and courteous demeanor throughout any contact related to a potential detention, arrest, entry, or search.

1. Limitations – The arrest authority of a parole officer is generally limited to those offenders currently under APA supervision.

2. Whenever possible, any arrest or search should be staffed prior to the deployment of APA personnel. The following information shall be included in any staffing:

   a. The supervisee’s background information including crime committed, sentence served, and propensity for violent behavior.

   b. Any current violations the supervisee has committed or is suspected of having committed.

   c. Physical description of the supervisee. A recent photograph of the supervisee should be made available to APA officers and any other law enforcement officers included in the search/arrest, when possible. An APA officer who can positively identify the supervisee by sight should accompany the search/arrest team when practical.

   d. A description of the premises, if known. Factors to be considered include fences, side and back doors, other means of entry and exit, street access, neighborhood, animals, and other persons likely to be present.

   e. Officer roles and assignments shall be determined at the staffing. The unit supervisor/designee shall determine who the lead officer is at the time of staffing. At a minimum, the contact officer, control officer, and evidence officer shall be designated at the staffing. All staffing officers must know who the lead officer is.

   f. The appropriate local law enforcement agency shall be contacted by the unit, preferably by the lead officer, and informed of the APA’s intent and plan of action when an arrest or search is in the field.
g. If at the scene or during the arrest / search, unforeseen events occur, additional direction from the unit supervisor /designee or law enforcement backup shall be requested on the scene. In any event, all APA staff at the scene shall exercise sound judgment and safe tactics during arrests and searches.

B. Security Sweeps

Security sweeps shall be conducted prior to any contraband search and during any fugitive search. The sweep shall proceed until all possible hiding areas have been cleared. Only armed officers shall conduct security sweeps.

C. Warrantless Searches

1. To search without a warrant, officers must have reasonable grounds, consent, or an exception to the warrant requirement must apply (e.g., protective sweep, search incident to arrest, or exigent circumstances).

2. Search of the Individual under Supervision
   a. Pat down – If an officer has reasonable grounds to believe that the individual under supervision has a weapon, drugs, contraband, or other items in violation of the conditions of supervision, then officers may conduct a limited protective search of the individual’s outer layer of clothing.
   b. Lift search – If a pat down provides probable cause that the individual is concealing evidence of the commission of a criminal offense, including fruits or tools of a crime, contraband, or a deadly weapon that could not otherwise be discovered, officers may perform a lift search only by lifting clothing or requesting the individual being searched to lift their clothing.

3. Approved Residence, Personal Property, and Other Property
   a. There is a lowered expectation of privacy in the approved residence of a supervisee as a consequence of accepting that supervisee into the residence.
   b. If the search/arrest location is the supervisee’s approved residence, the supervisee’s personal property, or property that the supervisee has been given permission to use, then the officer may search the property without a warrant if consent or reasonable grounds exist or if conducting a search incident to arrest, a security sweep, or exigent circumstance exist.
   c. If relying upon reasonable grounds to search, the officer must be able to articulate the reasonable grounds for believing that the supervisee is not abiding by the law or otherwise not complying with the conditions of their supervision.
D. Warrant Searches

Unless consent to search is obtained or exigent circumstances exist, to search a home that is not the supervisee’s residence, a search warrant shall be obtained and executed in accordance with Ohio Revised Code (ORC 2933.23), Criminal Rule 41, any applicable local rules and practices.

A copy of the warrant shall be given to the occupant of the premises being searched. The warrant shall be returned to the judge who issue said warrant or to whomever they designate.

E. Consent

Occupants of premises where the supervisee does not reside have a higher expectation of privacy and freedom from unreasonable intrusion. If the search/arrest location is not the offender’s approved residence, the officer may enter and search the premises only with a warrant, consent from the occupant, or exigent circumstances.

1. For consent to be valid, it must be voluntary, with knowledge, and free from duress.

2. Consent to search must be given by a person authorized to give consent, such as an adult occupant. Someone the officer reasonably believes has authority to consent to the entry is sufficient.

   a. An apartment manager or landlord may assist in the entry of a supervisee’s apartment only when the tenant has vacated the premises and is no longer living there or the tenant has been evicted and the landlord has filed a forcible entry and detainer action and a judgment on behalf of the landlord; however, the lead officer on the scene must take all reasonable and available precautions to safeguard the safety of the apartment manager or landlord who assists in the entry.

   b. A landlord who lives in the home and rents out a portion of the home may consent to a search of areas under their exclusive control and any common areas.

3. Two (2) officers should be present when consent to enter is sought. The verbal grant of consent should be noted in the OCSS.

4. The officer must realize that the occupant has every right to decline entry to the officer if a warrant has not been issued. Any express or implied threat of retaliatory action is inappropriate and may render any subsequent consent invalid.

   In the event of a clear refusal of consent, the officers must determine if sufficient probable cause exists to seek a search warrant, or if sufficient exigent circumstances exist to justify a warrantless search. If these circumstances do not exist, the officers shall vacate the premises promptly.

5. The scope of the entry can be limited by the person giving consent in terms of areas to be searched and duration of the search. If a premises is shared with another person, then an individual can grant consent to search only over those areas over which the person
exercises sole control, such as a bedroom, or areas of “mutual use,” “joint access or control,” and “common authority.”

6. Consent to search can be withdrawn at any time.

7. In the event of an initial refusal of consent, and subsequent grant of consent, the person giving consent should acknowledge the grant of consent in writing.

8. Consent to enter a home or apartment is not consent to search.

F. Forcible Entry
An APA officer may make forcible entry into a premises only when exigent circumstances exist and if, after notice of their intention to arrest or execute a warrant, they are refused admittance, pursuant to ORC 2935.12. Unless precluded by the seriousness of the exigent circumstances, the lead officer on the scene must obtain law enforcement assistance prior to making the forced entry and must secure approval for the forced entry from an APA regional administrator/designee.

G. Third Party Considerations
1. In arrest and search situations, the APA officer will likely encounter persons not under supervision of the APA. In such contacts, APA officers shall act pursuant to this policy, and in recognition of the higher expectations of Constitutional protection among persons not under supervision.

2. In search/arrest situations, persons not under APA supervision may be contained and controlled by APA officers to the extent necessary to ensure the safety of the officers, occupants, and the supervisee, for the limited duration necessary to affect the search or arrest of the supervisee.

3. The amount of force used to control third parties shall be the minimum amount necessary and consistent with ODRC Policy 104-TAW-02, APA Use of Force. Those being restrained for safety purposes shall be so advised and that they are not under arrest. Those being restrained for safety purposes shall be patted down for weapons and a search of that person’s immediate vicinity may be performed.

4. If a person being contained for safety purposes purposely prevents, obstructs, delays, hampers, or impedes an APA officer from the performance of a search or arrest, the officer may detain that person until local law enforcement arrives and places that person under arrest for obstructing official business, ORC 2921.31. The APA officer shall be knowledgeable regarding the elements of that offense and be willing to follow through with any actions necessary for the prosecution of that person.

H. Post-Search Activity
Any material evidence of a crime or contraband confiscated during a search shall be accurately inventoried using the Property Tag/Chain of Custody (DRC3446). The completed copy of this form shall be issued to an occupant of the premises or left in a conspicuous place at the scene. An accurate chain of custody shall be established at the scene of the search or arrest. All handling of
evidence and contraband shall be made pursuant to ODRC Policy 100-APA-01, APA Evidence and Contraband.

I. Arrest and Reports

1. Initial Arrest and Tracking

   a. The parole officer shall document the initial arrest as soon as possible but within two (2) business days of knowledge of the arrest in the custody workflow section of OCSS. All custody follow ups shall be completed in the custody workflow section of OCSS. The unit supervisor/designee shall review and acknowledge all custody documentation in OCSS. The parole officer shall check the status of in-custody cases with an APA holder weekly and document the status in the custody section of OCSS.

   b. When a PRC offender is indicted on a new felony that occurred while under supervision, the unit shall send a PRC Violator Notification (DRC3463) to the prosecutor’s office in the county of the new charge within ten (10) days of the indictment. For exceptions regarding waivers of PRC Violator Notification (DRC3463), refer to ODRC Policy 100-APA-14, Sanctions for Violations of Conditions of Supervision.

2. Arrests Outside the Supervising Officer Geographic Area

   a. If an offender is being held in an area that is outside of the supervising officer’s jurisdiction and the supervising officer needs assistance serving the offender with paperwork or getting additional information, the supervising officer can contact an APA unit that covers the area where the offender is being held for assistance.

J. Vehicular Pursuit

No employee while operating a motor vehicle shall engage in a vehicular pursuit.

Referenced ODRC Policies:

100-APA-01 APA Evidence and Contraband
100-APA-14 Sanctions for Violations of Conditions of Supervision
104-TAW-02 APA Use of Force

Referenced Forms:

Property Tag/Chain of Custody DRC3446
PRC Violator Notification DRC3463