

Policy Considerations: Personal Searches

The field of juvenile justice has made significant advances in the care and treatment of youth at various touchpoints in the system – i.e., probation, detention, community programs, secure juvenile justice facilities, etc. Informed by research, juvenile justice agencies have improved outcomes by developing and implementing formal policies and programs that mirror research-proven practices. Conducting personal searches is one area that juvenile justice professionals must continue to align with best practices.

The Council of Juvenile Justice Administrators' (CJJA) Behavioral Health Committee (BHC) offers the following policy considerations for conducting personal searches. For the purposes of this document, a *personal search* is any inspection, examination, or search of a youth's physical person by a staff member. Personal searches do not include room searches, area searches, perimeter searches, or other searches that do not involve the individual youth's person. To ensure the safety and well-being of youth in custody, jurisdictions are encouraged to consider the role of trauma and special sub-populations within the juvenile justice system when conducting personal searches. Specific recommendations are provided below.

Context:

Research shows juvenile justice youth have more extensive trauma histories (i.e., more exposure to traumatic events) when compared with youth in the general population (Dierkhising et al., 2013). One study by Abram et al., (2004) found that 92% of justice-involved youth reported exposure to at least one type of trauma and many of the youth reported exposure to multiple traumatic events. Juvenile justice research has also identified high prevalence rates of mental health disorders, substance abuse issues, and academic challenges among juvenile justice youth. It is incumbent upon juvenile justice practitioners to adopt a trauma-informed lens through which all practices and interactions are filtered. Additionally, agencies must develop policies and procedures to support trauma-informed responses. Adopting this perspective and acting accordingly will prevent youth from being re-traumatized and ultimately, will create a safer work environment for staff and youth.

In addition to trauma histories, it is also critical that agencies consider how to adapt personal search practices to better meet the needs of specialized populations. The Prison Rape Elimination Act (PREA), the Office of Juvenile Justice Delinquency Prevention (OJJDP), and numerous advocacy groups have published standards and guidelines for addressing sexual orientation and gender identities of youth in custody. Similarly, there is a growing recognition that programming and personal searches of youth with intellectual disabilities must be modified to better meet the needs of these youth. In addition, interacting with youth in a way that reflects cultural responsiveness is a vital component to creating a safe and healthy facility environment. The special populations described do not represent the sum total of special populations served and therefore, jurisdictions should put structures in place to gather information about the unique needs of youth. Having a detailed and clearly written policy; specific procedures; and a robust staff training curriculum and protocol for conducting personal searches is crucial to an agency's success.

The following are considerations for agencies to use when conceptualizing and developing personal search policies and procedures. These considerations serve as a minimum set of recommendations and are not intended to override existing jurisdictional policies and procedures. However, these considerations do represent a solid foundation from which jurisdictions can evaluate their existing policies, procedures, and practices to better ensure alignment with best-practices research.

General

- The Policy or Procedure (P/P) states all searches will be conducted in a respectful way and will protect the dignity of the person being searched.
- The P/P states searches will be conducted when safety concerns arise, such as the suspected presence of contraband may warrant a personal search.
- The P/P should clearly state staff are prohibited from conducting personal searches using unnecessary force and without proper authorization.
- The P/P states searches will never be conducted as a way of punishing youth or as a consequence for a youth's negative behavior.
- The P/P requires all youth to be informed of the search procedures at intake and again, prior to performing the particular search at any point in the youth's stay.
- The P/P for personal searches has a clear statement that describes the importance and intent of the P/P and/or how it relates to and supports the agency's mission. This statement should link the practice of personal searches to the agency's fundamental principles and philosophies (e.g., the need to establish an environment which is physically safe for the benefit of both youth in care and staff).
- When writing policy and procedures for searches, it is important that each jurisdiction operates within the rules, regulations, laws and statutes, etc., under which they are bound.
- The P/P clearly defines the different types of personal searches that the agency/jurisdiction authorizes as well as associated key terms and concepts in language that can easily be understood by staff and youth. These definitions may include types of searches, such as: pat search (staff makes physical contact over clothing), comprehensive personal search (aka "strip" search, where staff visually scan the youth's person when unclothed, electronic search (use of an electronic scanning device), body cavity search (visual or other inspection of a body cavity or orifice), as well as other important terms and concepts: e.g., LGBTQ(I), contraband, exigent circumstances, etc.
- The P/P includes provisions for authorization and/or supervisory notification/approval for all non-routine personal searches. ANY search that requires the youth to partially or fully disrobe should require supervisory notification/approval.
- The term Comprehensive Personal Searches (or similar term) is used in lieu of the term "Strip" Search and is defined in light of the various types of personal searches that an agency/jurisdiction authorizes. "Comprehensive Personal Search" is a neutral term that is less stigmatizing and invasive than "Strip" Searches. A change in nomenclature further

aligns with the recognition of the impact of trauma and the needs of special populations of justice involved youth. It also potentially has the ability to shift or change facility culture around this issue.

- The P/P requires that for any search where the youth is expected to fully or partially disrobe, the youth will be provided a smock and be allowed to disrobe under the smock and to wear the smock during the search. This procedure should be employed whenever possible (in the absence of an emergency), as this search procedure will allow observation of the youth's person without the youth required to be fully disrobed.
- The P/P will acknowledge and respond to the specific needs of special youth populations in justice care with respect to personal searches. Youth who have experienced trauma, LGBTQI youth, youth with intellectual disabilities, and youth who are members of indigenous communities are all examples of populations for whom particular forethought and care during personal searches is warranted. P/P should make clear why and how specific procedures will be employed with these and other special populations to reduce or eliminate unnecessary distress and re-traumatization whenever possible.
 - Two examples of trauma-sensitive personal search policy language:
 - The P/P renames searches that require the youth to disrobe to consider the dignity and experience of the youth. As noted above, for example, “strip” search becomes “comprehensive personal search.”
 - The P/P require staff to use neutral trauma-sensitive language (e.g., “lean forward” instead of “bend over”) when directing youth through the search.
- P/P should require that searches are discussed with all youth as part of the orientation process. LGBTQI youth should be asked if they have preference for the gender of staff who will conduct searches with them. Whenever possible, these preferences should be respected and adhered to.
 - *NOTE:* Searches of transgender and intersex youth who have indicated a preference of having a staff member of another gender conduct the search does not count as a “other-gender” search (as long as the youth's preference is formally documented – see *Transgender and Intersex Searches section below*)
- The P/P should prohibit other-gender pat down searches and other-gender comprehensive personal searches except in exigent or emergency circumstances. Emergency or exigent circumstances should be defined in the P/P with the caveat that it is not an all-inclusive definition.

Staff Training and Quality Assurance:

- The P/P mentions how staff will be trained on relevant topic areas – both new employee training and ongoing refresher training.
 - The P/P require staff be trained to document all personal searches and directs staff where and how to document this information.

- The P/P provide clear guidance on what to do with contraband that is found (or refers to another policy about how to handle contraband and document the findings).
- The P/P requires staff be formally trained on how to conduct proper searches including searches of special populations such as transgender and intersex youth.
- The P/P requires mandatory *annual* training on conducting searches including searches of special populations such as transgender and intersex youth.
- The P/P requires training to include a skills proficiency component in which staff must demonstrate how to properly search all youth (ranging from pat searches to comprehensive personal searches for any/all youth populations).
- The P/P clearly describes an effective quality assurance process to monitor effective implementation (e.g., quarterly case file reviews, annual onsite audits, interviews with youth, regular performance evaluations from supervisors, staff skills assessments and training.)
- The P/P includes a description of how the agency will use quality assurance data to ensure it is meeting targets required by the policy and/or procedure area (e.g., indicators of success, how often these data will be reviewed, how the data will be used and by whom).
- The P/P requires upper-level managers and/or quality assurance staff to review reports detailing the number of other-gender searches (under exigent/emergency circumstances) and comprehensive personal searches that were conducted and the justifications for such searches a minimum of monthly.
- The P/P requires that immediate action be taken to address any violations of agency policy related to physical searches of transgender and intersex youth (e.g., supporting/retraining staff; developing a facility improvement plan; staff discipline).

Authorization and Circumstances

- The P/P clearly states which staff may conduct and authorize searches and under which circumstances:
 - Only staff who have been formally trained on search procedures and who have permission/authorization to do so, may conduct personal searches.
 - Agencies/jurisdictions must clearly state the authorized justifications for personal searches. Some personal searches may be conducted on a random or routine basis for the purposes of ensuring safety and security, to control contraband, or to recover missing property.
 - Jurisdictions may consider the use of medical personnel (nursing staff) for the observation of comprehensive personal searches. However, jurisdictions should be cautious in assigning the task of *conducting* comprehensive personal searches to medical staff as it is inconsistent with their relationship with youth as a medical care provider.
- The P/P clearly outlines in which circumstances staff are required to conduct which type of searches.

For example, P/P may indicate that comprehensive personal searches may be conducted:

- When a youth initially arrives to the facility or when youth are transferred from another institution as part of the intake process.

- When there is reasonable suspicion that a resident is in possession of contraband and a pat search did not uncover the item.
- When the youth has been assessed to be a danger to self or others and the youth is being placed on an enhanced supervision protocol (e.g., suicide watch).

For example, P/P may indicate that pat searches or electronic searches may be conducted:

- Following all in-person visitation sessions.
 - Prior to and following youth return from all off-campus activities.
 - Prior to conducting a urinalysis test.
- The P/P specifically identifies for staff which circumstances require prior supervisory approval to conduct different types of personal searches and details the process for obtaining approval. For example:
 - Comprehensive personal searches, K-9 searches, and body cavity searches may require prior verbal and written authorization from the Facility Superintendent or specified designee of a particular facility; while pat searches as youth enter their living quarters from another area may not.

Approach to Conducting Youth Searches: General and Special Populations

- The P/P describes the process for conducting each type of personal search – i.e., pat search, comprehensive search, electronic search, K-9, body cavity search. The written policies and procedures need to be highly detailed and specific to conducting the particular personal search.

Statements like the following can provide clear direction to staff and lend themselves toward specific training and supervisory standards. These statements are offered as examples only and are not intended to be all inclusive:

- *Pat search (example statements):*
 - Staff must wear gloves when conducting all pat searches.
 - Staff must face the youth and direct youth to place his/her feet apart and arms out from his/her sides.
 - Staff will check the juvenile’s hair, ears, nose and mouth, including under the tongue.
 - Staff checks the youth’s shirt collar, sleeves, shoulders, underarms, chest and back.
- *Comprehensive personal search (example statements):*
 - A minimum of two staff members are required to perform a comprehensive personal search, one to observe and one to conduct the search.
 - The comprehensive personal search will be conducted in a way that is sensitive to the individual youth’s current and historical experiences. Searches must be conducted in a way that minimizes unnecessary distress and re-traumatization and maintains dignity and privacy of the youth, while not compromising the safety or the integrity of the search.

- Staff are not permitted to touch the youth.
- Searches must be conducted in private and only be observed by those staff who are directly involved in the search.

Comprehensive Personal Searches (formerly “strip” search):

For all youth:

- The P/P clearly explains in which circumstances pat searches and comprehensive personal searches will be conducted with youth (e.g., at intake; upon reasonable suspicion youth is in possession of a weapon, suspicion of possession of illegal substances or contraband).
- The P/P requires comprehensive personal searches to be conducted in a professional respectful manner for all youth. Comprehensive personal searches are one part of an overall program intended to control contraband within a facility and ensure youth and staff safety.
- As noted above, for any search where the youth is expected to fully or partially disrobe, the youth will be provided a smock and be allowed to disrobe under the smock and to wear the smock during the search. This procedure should be employed whenever possible (in the absence of an emergency), as this search procedure will allow observation of the youth’s person without requiring the youth to be fully disrobed.
- The P/P may allow frequent unannounced/random searches of a youth’s living area, but prohibit random comprehensive personal searches of youth (i.e., staff must have “reasonable suspicion” to conduct a comprehensive personal search).
- The P/P requires all comprehensive personal searches to have two staff present during the search – i.e., a primary staff member who directly observes and instructs the youth being searched and a secondary staff member who observes the primary staff but who is not able to see youth.

For Transgender or Intersex Youth:

- The P/P provides specific instructions on how to conduct transgender and intersex searches properly.
- The P/P prohibits transgender and intersex youth from being searched or physically examined for the sole purpose of determining the youth’s anatomical sex.
- As noted above, the P/P allows transgender and intersex youth the option to request either a male or female staff member conduct a pat-down or comprehensive personal search at intake or during routine searches.
 - The P/P requires intake staff to document the transgender or intersex youth’s search preference and directs staff where to document this information.
 - The P/P directs staff how to communicate this sensitive information to protect youth while also sharing this information with staff for the purpose of ensuring youth safety and accommodating youth’s search preference.
 - The P/P allows transgender and intersex youth change their search preference throughout their stay.

- The P/P directs staff to document and communicate with staff any changes to youth's search preference within 24 hours of the change.
- The P/P permits searches of transgender and intersex youth by a staff member not of the youth's search preference only in exigent or emergency circumstances.
- The P/P instructs staff where to document any deviations from the youth's preferred staff (gender) when undergoing a pat search, comprehensive personal search, and/or a drug test (e.g., incident report; searches logbook).
- The P/P instructs staff how and when to communicate to designated staff any deviations from the youth's search preference.
- The P/P requires staff document any emergency other-gender searches and the circumstances surrounding the event and directs staff where/how to document this information.

For Youth from Indigenous Communities:

- The P/P requires facilities to gather information about local indigenous communities and use this information (along with information obtained from the youth) to adapt personal searches as warranted. It is important to note, cultural considerations can vary significantly from region to region so it's important that each jurisdiction engage in these conversations with leaders from their local indigenous communities.
- The P/P requires staff be formally trained (initially and ongoing) on how to conduct personal searches in a culturally-appropriate and sensitive manner.

For Youth with Intellectual or Developmental Disabilities

- The P/P explains that when staff are conducting a search, they may or may not be aware if a youth has an intellectual or developmental disability. Therefore, the P/P directs all staff to use the considerations listed in this section when interacting with all youth.
- The P/P directs staff to explain the process for conducting the search prior to beginning the search in a way in which a youth will understand the information. This may include, but not be limited to:
 - Speaking in clear, short sentences.
 - Avoiding long, complex sentences.
 - Avoiding using jargon or slang.
 - Asking one question or making one request at a time.
 - Pausing after each question or giving youth the time to process what you are saying and to respond appropriately.
 - Asking the youth to repeat back, in their own words, what was said if you are unsure that the youth understands the question or request.

References

- Abram, K. M., Teplin, L. A., Charles, D. R., Longworth, S. L., McClelland, G. M., & Dulcan, M. K. (2004). Posttraumatic stress disorder and trauma in youth in juvenile detention. *Archives of General Psychiatry*, *61*, 403-410.
- Dierkhising, Carly B., Ko, Susan J., Woods-Jaeger, Briana, Briggs, Ernestine C., Lee, Robert, & Pynoos, Robert S. (2013). Trauma histories among justice-involved youth: findings from the National Child Traumatic Stress Network, *European Journal of Psychotraumatology*, *4*:1, 200274, DOI: [10.3402/ejpt.v4i0.20274](https://doi.org/10.3402/ejpt.v4i0.20274).