

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

ELECTRONIC DEVICES/COMMUNICATIONS: SEARCH AND SEIZURE

Authority:

Michelle Scray Brown, Chief Probation Officer

Purpose:

To establish a protocol for the search and seizure of electronic devices and communications.

Definitions:

Authorized Possessor: The person who is the owner of the device or has been authorized to possess the device by the owner of the device.

Electronic Communication: Transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system including, but not limited to facsimiles, removable storage, mobile devices, file hosting services, web based systems and the internet.

Electronic Device: Device that stores, generates, or transmits information in electronic form. An electronic device does not include the magnetic strip on a driver's license or an identification card issued by this state or a driver's license or equivalent identification card issued by another state.

Specific Consent: Consent provided directly to the officer seeking the information.

Electronic Forensic Investigator: Is the Department's subject matter expert on the search and seizure of electronic devices and communications, and is solely responsible for analyzing electronic devices.

Exigent Circumstances: For the purpose of this procedure, exigent circumstances exist when there is a reasonable belief that a search or GPS "ping" of a cellular device will assist a person who has been seriously injured or is threatened with imminent injury.

Responsibilities:

- I. Probation Officer (POI/II/III)/Probation Corrections Officer (PCO):
 - A. When seizing an electronic device that belongs to the authorized possessor:
 1. Must have probable cause to believe the electronic device(s) or its contents are related to a violation.
 - B. Will only search the device if any of the following conditions are met:
 1. Consent from the authorized possessor and a signed Consent to Search Electronic Device form (Attachment A).
 2. Authorized possessor has:
 - a. An active probation/Post Release Community Supervision (PRCS) case with a specific term authorizing the search of electronic devices.
 3. Search warrant.
 4. Exigent circumstances.
 - C. Will collect information for forensic analysis.
 1. Obtain mobile phone number, pass codes, pattern lock or PIN. Officers shall retain the information to submit to the Electronic Forensic Investigator.

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2. Attempt to identify the type of electronic device (Smart phone or watch, computer, drone, gaming console) including make and model.
 3. Shall attempt to isolate the device from the network by switching the phone to airplane mode.
 4. If the phone is locked and the officer is unable to obtain pass codes or set phone to airplane mode, turn phone off or remove battery.
 5. Document the physical condition of the electronic device and/or accessories (note any damage, color, or identifying marks).
 - a. May contact the Department's Electronic Forensic Investigator to determine the feasibility of seizing the device and/or searching the device absent consent or exigent circumstances.
- D. When an officer takes possession of property or evidence, the officer will provide a Property Receipt to the authorized possessor.
1. The receipt will be filled out completely prior to obtaining a signature.
 2. The "white" copy is to be given to the authorized possessor.
 3. Complete additional paperwork as requested by the Electronic Forensic Investigator.
- E. Request a Department Report (DR) number from dispatch.
1. Advise dispatch of the items being taken and what for:
 - a. Found property.
 - b. Safekeeping.
 - c. Violation (probation/new law).
- F. Package the items as directed by the Evidence Processor Procedure.
1. Submit Property Receipt with electronic device.
 2. Complete Evidence/Property Report (CR3 form).
 3. Include signed Consent to Search Electronic Device form if verbal consent was given by authorized user.
 4. Include a copy of Terms and Conditions if electronic device search term was ordered by the court.
 5. Include an Interoffice Memo with reason for probation contact, circumstances of seizure, and instructions for Electronic Forensic Investigator.
 6. Ensure all documentation is completed prior to submission to the Evidence Officer and noted in Caseload Explorer (CE).
- G. The device will be logged into Property Evidence Tracking System (PETS).
- H. The Evidence Officer will transport the device to the Electronic Forensic Investigator as directed.
- II. Electronic Forensic Investigator:
- A. Will be responsible for providing training to staff as it pertains to the seizure and searching of electronic devices and communications.
 - B. Will be available to give recommendations to the feasibility of seizing and searching of electronic devices.
 - C. Upon determining that there is cause to search the electronic device, will complete a search warrant when needed.
 - D. Will be responsible for conducting all electronic forensic searches.
 - E. Will submit the findings of the forensic examination to the arresting officer.
 - F. If a new law violation is found during the course of the examination, will be responsible for completing the investigation of the crime if authorized by the Supervising Probation Officer of the Criminal Intelligence Unit.
 - G. Will adhere to all PETS protocols and accepted standards of electronic forensic investigations.
 - H. Will maintain an activity log of all electronic devices and matters referred to them.

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I. Will notify authorized possessor electronic device was searched.

III. Supervising Probation Officer (SPO) Criminal Intelligence Unit:

- A. Will ensure Electronic Forensic Investigators are current on forensic training, laws, investigation protocols and trends.
- B. Will review search warrants and new crime reports generated by the electronic forensic investigators.

Guidelines:

- A. General Probation and Mandatory Supervision search conditions do not permit a search of an electronic device as described in this procedure. A specific electronic device search term is needed for a Probation Officer to search an electronic device of a person under Probation supervision who is the authorized possessor of that device.
- B. The search incident to arrest exception does not exist for electronic devices (i.e. cell phones) unless there is a specific electronic device search term for the arrested offender.
- C. Officers may examine a cell phone's physical aspect to ensure that it will not be used as a weapon (i.e. cell phone case or battery compartment). However, if the data on the cell phone does not pose a danger, then it should not be examined without considering the details in this procedure.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

Riley v. California, 134 S. Ct. 2473
PC1546-1546.4

References:

Procedures:

Home Calls and Searches

Asset Forfeiture

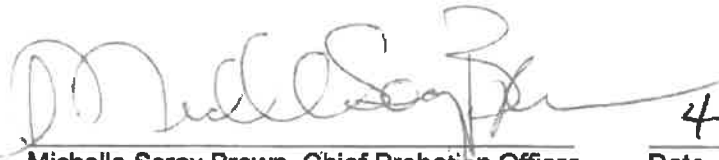
Arrest

Evidence Processor

Evidence Storage and Disposition

Electronic Recordings

Issued by:


Michelle Scray Brown, Chief Probation Officer

4-15-20
Date

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Attachments:

Attachment A – Consent to Search Electronic Device



CONSENT TO SEARCH ELECTRONIC DEVICE

Date: _____

Name: _____ DOB: _____ PIN#: _____

I hereby give my specific consent to search the below described electronic device(s), which I am an authorized possessor of, to duly appointed representatives of the San Bernardino County Probation Department. I understand that the search is for the purpose of ensuring my compliance with my terms and conditions of supervision.

Electronic device(s) to be searched (describe):

Print Name: _____

Signature: _____

Date: _____

Probation Officer (print name): _____

Probation Officer (signature): _____

Date: _____