

**SAN BERNARDINO COUNTY  
PROBATION DEPARTMENT PROCEDURE**

**Home Calls and Searches in the Field**

Inter-Bureau Procedure #05-11-118

**Authority:**

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**Purpose:**

To set forth the guidelines for home calls and searches of persons and property conducted pursuant to the terms conditions of probation/wardship. The Probation Officer is to remain aware that search and seizure activities often involve the development of unforeseen circumstances and that the safety of the probation officer and others involved is always the primary consideration.

**Definitions:**

Home Calls: A Home Call may be initiated for a variety of reasons, including but not limited to: furthering the purposes of rehabilitation, familiarizing the officer with the probationer's home environment, checking on the individual's progress, and ensuring that the probationer is complying with his/her terms and conditions. Home Calls shall be made with a minimum of two officers, unless specific permission has been given by a Supervisor to conduct a Home Call without a second officer. The primary difference between a Home Call and a Home Search is the probationer's residence or personal property is not searched on a Home Call. Continued evaluation is important as a change in circumstances may lead to the need for additional personnel for higher risk situations, such as searches or arrest.

Home Searches: A Home Search requires pre-existing knowledge of an active search term, and may be initiated for several reasons, including but not limited to: furthering the purposes of rehabilitation, monitoring compliance with specific probation terms and conditions, confirming the individual's progress while on probation, or verifying the existence of probation violations. A Home Search shall be made with a minimum of two officers. A Home Search may be conducted without reasonable suspicion of criminal activity but shall not be arbitrary, capricious or harassing, and must be reasonable in scope and intensity.

Tape recorder: A recorder or Dictaphone which uses a tape or mini-cassette tape or micro-cassette tape to record conversation and voice, rather than a digital voice recorder. The tape is then retained physically, rather than being recorded over.

Digital recorder: A recorder or Dictaphone which records conversation and voice digitally rather than using tape, and which is then downloaded (saved) onto a computer for retention.

Probable Cause: A reasonable amount of suspicion, supported by circumstances sufficiently strong to justify a prudent and cautious person's belief that certain facts are probably true. Probable cause is a stronger standard of evidence than reasonable suspicion and is the legal standard for arrests and warrants, but weaker than what is required to secure a criminal conviction.

Protective Sweep: A check of rooms, closets, underneath beds or other areas, which a reasonable person would consider to be potential locations for a person wishing to avoid detection to be likely to hide. A protective sweep is a home search, although limited in scope.

Reasonable Suspicion: A legal standard of proof in United States law that is less than probable cause, but more than an inchoate and unparticularized suspicion or hunch. Reasonable suspicion must be based on specific and articulable facts, taken together with rational inferences from those facts.

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### Responsibilities:

#### I. Home Calls

##### A. Probation Officer (PO)

1. Shall review Caseload Explorer entries and documents for the names, status, and pre-existing conditions (including mental and physical conditions) of all persons living in the residence to be searched, including any information on these parties previously reported to the probation office.
2. Shall record the contact (by digital or tape recorder) and save the recording for 45 days or indefinitely if there is any indication it may be needed later, as when an incident occurs or a citizen complaint may be made. It is the responsibility of the employee to ensure the recorder is operational prior to going into the field.
3. Shall identify himself/herself and explain the purpose of the visit.
4. Shall conduct himself/herself in a professional manner, aware they represent the department.
5. Shall ensure that adequate staff members are present to meet the safety needs of the home call.
6. Shall notify dispatch of the location of the home call and the final disposition (for example: 98-NAT) and remain alert to additional radio traffic (for example: status checks) while on the scene.
7. Shall document the home call and final disposition in Caseload Explorer as soon as possible, but in all cases by the end of shift.
8. May ask all persons at the residence to display a form of legitimate photo identification.
9. May conduct a Home Call without a second officer after receiving permission from their Supervisor.

##### B. Supervising Probation Officer (SPO)

1. Shall ensure that Probation Officers comply with this procedure.
2. Shall routinely accompany Probation Officers on home calls in the field to verify compliance with this procedure and identify any training issues.
3. May permit an officer to conduct a Home Call without a second officer, when deemed appropriate.

#### II. Home Searches

##### A. Probation Officer (PO)

1. Shall verify the status of the case and the presence of an active search term that includes the residence when planning a Home Search, using available resources to include:
  - a. Juvenile – Caseload Explorer to confirm that the minor has been declared a Ward of the Court or is subject to probation supervision by other means such as Deferred Entry of Judgment or Interstate Compact, and that probation supervision is active. Officers should also consider checking JNET system to confirm CE records.
  - b. Adult – Caseload Explorer to confirm that probation supervision is active and the probation expiration date has not passed or to verify that the probationer is subject to probation supervision by other means such as Courtesy Supervision or Interstate Compact. The search must be conducted before the expiration date of probation. Officers should also consider checking the OTS system to confirm CE records.
2. Shall confirm the presence and assess the scope of an active search term that includes the probationer's residence. The searching officer must be aware of the search term at the time of the search.
  - a. Before entering a residence to conduct a probation search, the PO shall have Probable Cause indicating that the probationer actually lives there, whether permanently or temporarily. Various resources may be utilized to help make this determination. The resources include but are not limited to the following: the last reported address to the Probation Department as documented in Caseload Explorer; recent records of the San Bernardino County Sheriff's Department or other State and Federal Law Enforcement Agencies, the Department of Motor Vehicles, the Court, the Department of Human

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- Services/Welfare, School Officials, the Postal Inspector, information from utility companies, the probationer's family, employer, landlords/motel managers, or neighbors, etc.
- b. Shall have reasonable suspicion that the room or property to be searched is owned, controlled or possessed by the probationer (those portions of the residence over which the officer has probable cause to believe the probationer has either exclusive or joint control).
  - c. Searches shall not be arbitrary, capricious or harassing, but reasonable in scope and intensity.
3. When conducting a Home Search the PO shall adhere to the following:
- a. Advance notice to the probationer of the PO's intent to search is not required.
  - b. Shall have sufficient resources and officer safety equipment available to control the situation and safely conduct the search. To maximize officer safety, searches shall be conducted with two or more officers present.
  - c. Shall notify dispatch of the location and the final disposition of the call (for example: 98-NAT) and remain alert to additional radio traffic (for example: status checks) while on the scene.
  - d. Shall record the search (by digital or tape recorder) and save the recording for 45 days or indefinitely if there is any indication it may be needed later, as when an incident occurs or a citizen complaint may be made. It is the responsibility of the employee to ensure the recorder is operational prior to going into the field.
  - e. Shall identify himself/herself, explain the purpose of the visit, conduct himself/herself in a professional manner, and determine which areas or properties are to be searched.
  - f. Refusal by the probationer to admit officers to his/her residence is not justification for forced entry without the presence of exigent circumstances (refer to the Forced Entry procedure). It may be the foundation of a probation violation and subsequent arrest, dependent upon their terms and conditions of probation.
  - g. Shall obtain consent to conduct a search of the property of a person not known to be on probation.
  - h. Shall make a reasonable effort to leave the residence location in the same general condition as it was found and shall process evidence or property confiscated (refer to the Evidence procedure).
  - i. Shall document the home call and search, with the final disposition in Caseload Explorer as soon as possible but in all cases by the end of shift.
  - j. Shall document in accordance with current departmental procedures all use of force incidents, physical restraints, forced entry, searches, complaints, asset seizure, and property damage.
  - k. Shall document the search in Caseload Explorer as a "Search Done" as soon as possible but in all cases by the end of shift.
  - l. Shall review Caseload Explorer entries and documents for the names, status, and pre-existing conditions (including mental and physical conditions) of all persons living in the residence to be searched, including any information on these parties previously reported to the probation office.
4. The PO may:
- a. Conduct a protective sweep of all rooms if he/she reasonably believes there may be someone on the premises who poses a threat to his/her safety. The protective sweep is limited to rooms, closets, or other areas in which a person may be hiding.
  - b. Ask all persons at the residence to display a form of legal photo identification, such as a driver's license. The PO has the discretion to run any person whether confirmed by identification or not through dispatch or by computer to check for outstanding warrants or verify parole or probation status, either while at the residence or when the PO returns to the office.

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- c. May conduct a pat-down search of all persons on the premises if the PO has reason to believe that the person(s) may be armed and dangerous or that his/her safety or the safety of others may be in danger.
- B. Supervising Probation Officer (SPO)
1. Shall ensure that PO's comply with this procedure.
  2. Shall routinely accompany PO's on searches in the field to verify compliance with this procedure and identify any training issues.

### Guidelines:

- A. Strip Search/Body Cavity Search: Under no circumstances shall a strip search or body cavity search be conducted by an Officer unless an active and valid search warrant for the subject's body has been obtained, and even then only with the approval of department Administration. If the subject is known or believed to have something concealed in their body, a hospital/medical check should be conducted.
- B. Minors in the home during a Home Call/Home Search: The PO may conduct a search, regardless of the age of the probationer or the age of those present at the time of the search. In the event the PO arrives at a residence and finds a minor under the age of ten years who is unsupervised by an adult, he/she shall assess the circumstances and may contact Child Protective Services unless other arrangements can be made to ensure the safety of the minor.
- C. Incident reports shall include an attached copy of the recordings taken during the incident.
- D. Recordings shall be saved for a minimum of 45 days from the date of recording, unless an incident has occurred or there is reason to suspect a citizen complaint may be made. If there is an incident, suspicion of a citizen complaint, or other indication of risk or liability to the department, unit or officer, the recording shall be saved indefinitely.

### Inspections:

#### Internal

An SPO shall routinely accompany PO's on home calls and searches in the field to verify compliance with this procedure and identify any training issues.

#### External

The Professional Standards Unit, or a designated representative, shall facilitate an inspection of this procedure once every three years. A written report documenting compliance and/or recommending modifications to the procedure shall be forwarded to the Office of the Chief Probation Officer and kept on file in the Professional Standards Unit.

### Foundation:

Penal Code Sections 830.5, 844, 1203.2, 1531  
U.S. Constitution, 4<sup>th</sup> Amendment  
People v. Bravo, 43 Cal. 3<sup>rd</sup> 600 (1987)  
U.S. v Howard, 9th Cir. 2006  
People v. Woods, 21 Cal. 4<sup>th</sup> 668 (1999)  
Terry v. Ohio, 392 U.S. 1 (1968)  
Maryland v. Buie, 494 U.S. 325 (1990)  
Griffin v. Wisconsin, 483 U.S. 868 (1987)  
U.S. v. Knights, 534 U.S. 112 (2001)  
People v. Reyes, 19 Cal. 4<sup>th</sup> 743; 968 P.2d 445 (1998)  
People v. Ledesma, 106 Cal. App. 4<sup>th</sup> 857 (2003)  
US v. Hauk, 412 F.3D 1179 (10<sup>th</sup> Cir. 2005)  
People v. Matelski, 82 Cal. App. 4<sup>th</sup> 837 (2000)  
Moreno v. Baca, 400 F.3d 1152 (9th Cir. 2005)

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U.S. v. Davis, 932 F.2d 752, 758 (9<sup>th</sup> Cir. 1991)

Motley v. Parks, F.3d, 2005 WL 3556971 (9th Cir.), 2006 Daily Journal DAR 76.

Samson v. California, 547 U.S. 843 (2006)

People v. Medina, (2007), Cal. App. 4<sup>th</sup>

**References:**

Department Policy

#3 Employee Responsibility

#9 Safety

#13 Training

Community Corrections Bureau Procedure

#97-05-200-C Evidence

#97-05-201-C Evidence-Storage and Disposition

#97-05-203-C Arrest

#97-05-210-C Use of Force Incidents

#99-03-212-C Revised Field Contacts

#99-06-025-C Clandestine Laboratory

#99-10-129-J Field Notes and Case History

Inter-Bureau Procedure

#98-07- 61 Vehicle/Officer Safety Equipment and Inspection of County Vehicles

#00-01- 79 Incident Reports Related to Damage of County Property and Theft of County Funds

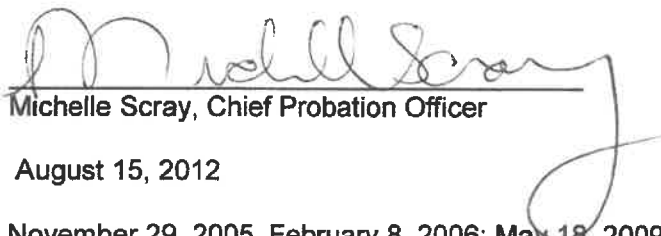
#05-11-119 Arrest Warrants: Requesting and Serving

#05-11-120 Forced Entry

**Replaces:**

CCB #97-05-202-C Home Calls, Entries, Searches and Arrests

Issued by:



Michelle Scray, Chief Probation Officer

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