

State of Iowa Department of Corrections

Policy and Procedures

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Applicability: CBC
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Chapter 12: COMMUNITY-BASED CORRECTIONS
Sub Chapter: HIGH RISK UNIT (HRU)
Related DOC Policies: IO-SC-08
Administrative Code Reference: N/A
Subject: SEARCH WARRANT, SEARCH & SEIZURE
PREA Standards: N/A
Responsibility: Sally Kreamer
Effective Date: June 2024
Authority:

1. PURPOSE

To specify Department guidelines and legal procedures to be followed for searching subjects and their property, for confiscating evidence, and for ensuring the integrity of the chain of custody.

2. POLICY

When necessary HRU Officers shall seize property from persons arrested or otherwise under the supervision of the Iowa Department of Corrections in order to preserve or protect evidence or seize contraband in strict accordance with the laws of the State of Iowa and the United States.

3. DEFINITIONS - As used in this document:

- A. Affidavit - A written declaration or statement of fact made under oath, or legally sufficient affirmation, before any person authorized to administer oaths within or without the state.

- B. Chain of Evidence – The continuity of the custody of physical evidence from time of original collection to final disposal that may be introduced in a judicial proceeding.
- C. Consent Search – A search conducted after the person in control of the property agrees to the search.
- D. Contraband – Property in the possession of the client, which is unlawful or a violation of the client’s supervision agreement.
- E. Electronic Device - Is any device capable of making or transmitting still or moving photographs, video recordings, or images of any kind; any device capable of creating, transmitting, or receiving text or data; and any device capable of receiving, transmitting, or recording sound. Example: computer, cell phone, tablet, video game player, video camera, etc.
- F. Evidence Room – Facility/room used by the Department to store evidence.
- G. Found Property - Any substance or material found or recovered that cannot be connected with a criminal offense and/or probation parole violation(s) and needs to be secured in HRU evidence for a proper return or destruction.
- H. Incident to Arrest Search – Inspection of the client’s person or property, property within the control of the client, or property within the immediate vicinity of the client.
- I. Frisk Search - cursory inspection of a subject for contraband which is large enough to be detected through clothing.
- J. Pat Down Search – cursory inspection of a subject for contraband, which can be detected by feel through clothing.
- K. Physical Evidence – Any substance or material found or recovered in connection with a criminal offense(s) and/or probation/parole violation(s).

- L. Plain View Search – Examination of property by staff which is in eyesight.

- M. Probable Cause – A probability determination as to the nexus between criminal activity, the things to be seized and the place to be searched. In determining whether probable cause has been established, the test is whether a person of reasonable prudence would believe a crime was being committed on the premises to be searched, or evidence of a crime could be located there.

- N. Real or Physical Evidence – Any material in either gross or trace quantities collected at a crime scene for examination and analysis; any items collected or seized as a result of new criminal charges and/or in a violation of the supervision agreement.

- O. Reasonable Grounds/Suspicion – When staff have specific and articulable cause to support a reasonable belief that violations of the supervision agreement and/or criminal activity may have occurred. This is the standard that both the U.S. and Iowa Supreme Courts have found to be necessary for staff to justify a search of the property of a client. In determining whether reasonable grounds for a search exist, staff considers the source of the information on which the determination is to be made. If the information comes from a source other than staff, they consider the following factors:
 - 1. The reliability and specificity of the information;
 - 2. The reliability of the informant (including whether the informant has any incentive to supply inaccurate information);
 - 3. The staff’s own experience with the client;
 - 4. The need to verify compliance with rules of supervision and state and federal law.

- P. Search – Inspection of the client’s person or property, property within the control of the client, or property within the immediate vicinity of the client.

- Q. Search Warrant - An order in writing, in the name of the state, signed by a magistrate, and directed to a peace officer commanding the officer to search a

person, premises, or thing, issued pursuant to the requirements of **Iowa Code Section 808.3**, or to place, track, monitor, or remove a global positioning device, issued pursuant to the requirements of **Iowa Code Section 808.4A**.

- R. Seizure – When police take custody of an individual or property.
- S. Special Needs Doctrine – Exception to the Fourth Amendment allowing searches of a client without a warrant or probable cause.
- T. Strip Search – Examination of a same sex offender and his/her clothing once clothing is removed.
- U. Supervision Agreement Search – Parole condition “60” search, Probation condition “4” search, Interstate Compact condition “12” search.
- V. Testimonial Evidence – evidence collected through interviews or interrogation.

4. PROCEDURES

A. Searches

1. Officers may conduct pat down, plain view, frisk, consent or reasonable grounds searches and seize contraband to protect evidence of violations of the supervision agreement, which may be destroyed, or to protect staff.
2. Officers may conduct searches when there is reasonable cause to believe a new law violation may have occurred or in violation with their supervision agreement.
3. In all cases, staff should consider personal safety prior to conducting a search or confiscating client possessions.

4. HRU Officers may randomly perform pat searches of clients under department supervision to ensure accountability and seize contraband.
5. HRU Officers may conduct pat down, plain view, or consent searches as authorized by the standard probation or parole agreement or by other orders of supervision from a court having jurisdiction.
6. HRU Officers shall search any person subsequent to arrest and may reasonably search the area within such person's immediate control for the purpose of:
 - a. Protecting the officer from attack;
 - b. Preventing the person from escaping;
 - c. Discovering any fruits of the crime.
7. Discovering any instruments, articles, or other things which may have been used in the commission of, or which may constitute evidence of, an offense.
8. All arrestees will be thoroughly pat searched by a member of the same sex if possible and prior to transport.
 - a. All subjects should be handcuffed prior to being searched. This does not apply to cursory searches of clients or subjects who are not under arrest.
 - b. The subject should then be placed in an unbalanced position which makes it difficult for them to move or strike the officer while being searched.
 - c. The waist area is the most likely place for a subject to have a weapon and should be searched first. Then a pat down search of the entire subject should be accomplished in a systematic manner.
 - d. Any weapons or contraband seized as a result of the search will be processed under District seizure procedures. (Please see **CBC-HRU-06 Appendix** for forms that may be utilized in conjunction with this policy; However, it is also realized each district may utilize forms as required by local authorities within their jurisdiction).

9. When probable cause is established as outlined above, HRU or Law Enforcement requests and executes a search warrant as outlined in **Iowa Code Chapter 808**. All search warrants are sent to the HRU Supervisor for review. A copy is kept in the case file. If the search warrant is denied, all search and seizure regarding the specific incident is terminated.
10. Officers conduct a frisk search subsequent to the arrest of the client and prior to transport. The immediate area under the control of the client is checked for weapons or detecting violations of the supervision agreement.
11. Prior to initiating a consent search of a third party, staff secures the signature of the person in control of the property on the *Consent to Search and Seizure form (CBC-HRU-06 F-1)*. Officers provide the person in control of the property a copy of the completed Consent to Search and Seizure form as soon as practical.
12. Officers inform the client of any search of the premises that is going to occur when they have reasonable suspicion to believe the client may be in violation of program requirements and/or the supervision agreement.
13. Whenever property is seized as a result of a search, officers provide the client or person in control of the property with a *Receipt, Storage and Disposal Record of Seized Property form* prior to leaving the premises searched.
14. Officers turn in contraband to the HRU Supervisor/Designee as soon as practical. Officers ensure a copy of the seizure receipt.
15. Collection and Processing Card is attached to any and all items seized. Officer also keeps a copy of the receipt in the client's case file.
16. HRU Officers shall not conduct strip searches unless:
 - a. Reasonable grounds exist to believe a subject is concealing weapons or contraband; and

- b. They have secured prior approval from the HRU Supervisor, unless exigent circumstances exist.
17. HRU Officers may enforce the standardized probation and parole agreement conditions which dictate that all clients will submit their person, property, place of residence, vehicle and/or personal effects to search at any time, with or without a search warrant, warrant of arrest, or reasonable cause by any Probation officer, Parole officer or Law Enforcement Officer.
- a. When considering whether to search, or when carrying out a search, officer safety is paramount.
 - b. If possible, at least two staff should be present when a place of residence search is conducted.
 - c. Staff should inform the client that a probation or parole search is going to occur.
18. When executing a search and evidence is found which establishes probable cause to believe the client has committed a criminal offense, HRU Officers shall secure the scene and may request assistance from local law enforcement.
19. If local law enforcement cannot respond, the Officer shall seize all evidence and begin the process of filing a new criminal charge(s) if warranted.
20. A crime discovered that may lead to a new felony charge may be referred to local law enforcement or the HRU Officers may proceed with charges.
21. If the search is a pat down search incident to arrest and the evidence is found on the subject's person, the search shall be completed and the subject secured.
22. HRU Officers may conduct consent searches if necessary on third party subjects.

23. HRU Officers may conduct plain view searches of third parties as long as the officer is legitimately on the premises and the items of contraband or evidence are discovered inadvertently with no pre-observation or intrusion.

B. Seizure

1. HRU Officers may seize contraband to protect evidence of violations of the supervision agreement or of a criminal offense, or to protect staff or other individuals.
2. The officer making the seizure is responsible for maintaining the integrity of the chain of evidence and for the safekeeping of the items seized.
3. Whenever personal property is seized as a result of a search, the person in control of the property shall be provided a Receipt, Storage and disposal record of Seized property, which shall include:
 - a. A written inventory of the items seized;
 - b. The name of the officer taking custody of the seized property;
 - c. The law enforcement agency seizing the property; and
 - d. The date and time of the seizure.
4. Chain of custody must be established when a seizure is made. The officer making the seizure shall package and identify all items seized and include the following:
 - a. Date and Time of Seizure;
 - b. Location of Seizure;
 - c. Client/Subject's Name;
 - d. Officer's Name; and
 - e. Short Description of the Item.

5. Property seized by HRU Officers shall, without unnecessary delay, be placed in a secure area.
 - a. All weapons and illegal drugs shall be turned over for proper evidence security to the HRU Supervisor/Designee or to local law enforcement authorities for safe keeping as soon as practical.
 - b. Local law enforcement authorities may be requested to handle any evidence which requires laboratory testing.
 - c. The Officer making the seizure shall maintain a written chain of custody.
6. HRU staff shall establish a written record of receipt of all seizures and disposals. The HRU Supervisor/Designee shall ensure contraband is destroyed appropriately and within Iowa Code guidelines.

C. Reporting

HRU Officers shall document all searches and seizures.

1. All searches will be recorded in the appropriate section of ICON when the subject is on active supervision of this Department.
2. The officer shall, as soon as possible, notify the client's supervising officer when an instance of search and/or seizure results in new criminal charges or a violation report being filed against a client on active supervision.
3. If the subject is not on active supervision, all appropriate forms required by the individual jurisdiction will be completed accurately and in a timely manner.
4. The HRU Supervisor shall review all risk assessment information (also see **CBC-HRU-06 F-5** applicable) with the involved staff to determine the risk level of the warrant service. The HRU Supervisor will also have the responsibility to coordinate service of those warrants that are categorized as high risk with a tactical team as required by the individual jurisdiction.

5. HRU Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. The officer will also complete the risk assessment form and submit it as required by local jurisdiction, along with the warrant affidavit, to the HRU Supervisor for review and classification of risk.

6. An officer who prepares a search warrant should ensure the documentation in support of the warrant contains as applicable:
 - a. Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution. No-knock warrants must be approved by the court and authorized by the District Director or authorized designee prior to execution.
 - b. A clear explanation of the affiant's training, experience and relevant education.
 - c. Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
 - d. A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
 - e. Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
 - f. A specific description of the location to be searched, including photographs of the location, if reasonably available.
 - g. A sufficient description of the items to be seized.

- h. Full disclosure of any known exculpatory information relevant to the warrant application.
7. The HRU Supervisor or the authorized designee shall coordinate the service of search warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- a. When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- b. The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- c. Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- d. Reasonable efforts are made during the search to maintain or restore the condition of the location.
- e. Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- f. Reasonable care provisions are made for children and dependent adults.
- g. A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- h. A copy of the search warrant is left at the location.
- i. The condition of the property is documented with video recording or photographs after the search.

8. Officers must be sensitive to the safety risks of all persons involved with the service of a search warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the Officer reasonably believes is necessary (see IDOC Policy **CBC-HRU-10**, *Use of Force*). As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released. Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

9. The case agent officer shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

10. The HRU Supervisor will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:
 - a. Identity of team members
 - b. Roles and responsibilities
 - c. Familiarity with equipment
 - d. Rules of engagement
 - e. Asset forfeiture procedures

11. No advance information regarding warrant service operations shall be released without the approval of the District Director. Any media inquiries or press release after the fact shall be handled in accordance with the Release of Information Policy.

12. The HRU Supervisor should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.