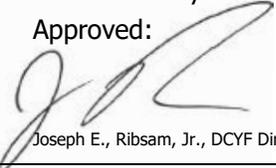


1346 SEARCH AND SEIZURE	
Chapter: Juvenile Justice Field Services	Section: Youth Supervision
 <p>New Hampshire Division for Children, Youth and Families Policy Manual Policy Directive: 18-21 Effective Date: June 2018 Scheduled Review Date:</p>	<p>Approved:</p>  Joseph E., Ribsam, Jr., DCYF Director
Related Statute(s): RSA 169-B , RSA 169-D , and RSA 170-G:16 Related Admin Rule(s): Circuit Court – Family Division Rule 3.6 and JUV 301.03 Related Court Ruling(s): State v Graca (1998) 142 NH 670 and State v Santana (1991) 133 NH 798 Related Federal Regulation(s):	Related Form(s): FORM 1346 Bridges’ Screen(s) and Attachment(s):

The Division for Children, Youth and Families is committed to ensuring [state](#) and [federal](#) constitutional safeguards for searches and seizures are maintained and in accordance with best practices in juvenile justice. JJS staff conducting searches must do so according to the provisions of this policy in support of the Division’s practice model. While not all circumstances for performing searches and seizures can be covered in policy, constitutional principles, situational awareness, and professional judgment should be the foundation for all searches.

Purpose

This policy establishes the JJS practices for search and seizure. This policy is used in conjunction with policies [1376 Arrest and Custodial Authority](#), [1377 Handcuffing](#), and [1378 Use of Oleoresin Capsicum Spray](#).

Definitions

“Contraband” means property that a youth possesses and is determined by JJS staff to be in violation of the rules of Conditional Release and/or Parole.

“DCYF” or the **“Division”** means the Department of Health and Human Services’ Division for Children, Youth and Families.

“JJS” means the Bureau of Field Services’ Juvenile Justice Services within DCYF.

“JPPO” or **“Juvenile Probation and Parole Officer”** means an employee of DCYF who is authorized by the Division to perform functions of the job classification Juvenile Probation and Parole Officer.

Policy

- I. The following conditions must be present before a JPPO conducts a search.
 - A. The youth is on conditional release (probation), parole, has a specific Court Order authorizing searches (i.e. pre-adjudication), or if the JPPO is obligated under RSA 170-G:16 while arresting a youth; and

- B. The JPPO has a reasonable belief based on their professional judgement that the youth possesses or is in control of evidence of a crime and/or contraband that would be a violation of Court Rule 3.6 - Conditional Release, Juvenile Parole Board Rule 301.03 - Conditions of Parole, or any other Court Order; or
 - C. The JPPO is administering a drug/alcohol screen; or
 - D. The JPPO is transporting a youth.
- II. Searches should be performed with two (2) JPPOs or with law enforcement present, whenever possible.
- A. One JPPO should perform the actual search while the other JPPO maintains contact with the youth and his or her family.
 - B. It is preferable that parents are present; however, there may be situations, such as when items are in plain view or there are exigent circumstances that may require immediate attention.
 - C. The JPPO must obtain parental permission to enter the residence, when applicable.
 - D. The JPPOs shall identify themselves and inform the parent and/or youth that they shall be completing a search pursuant to the youth's conditions of release, conditions of parole or a Court Order, as applicable.
 - E. The JPPOs shall wear their issued puncture resistant gloves during all searches.
 - F. For each item of evidence or contraband seized the JPPOs shall follow the procedures as noted in section IV below.
- III. JPPOs are authorized to perform the following types of reasonable searches:
- A. Room Search:
 - 1. JPPOs are authorized to search a youth's room or identified personal area.
 - 2. Sensitivity and tactical awareness are essential to performing thorough and safe searches in the youth's and his/her family's home.
 - B. Youth Search:
 - 1. Any search must be balanced for safety.
 - (a) Safety for the youth and the JPPO is paramount while conducting the search.
 - (b) It is always preferable to perform the search with sensitivity to confidentiality.
 - (c) This is not intended to delay a pat-frisk search if the JPPO has reasonable grounds to believe the youth is armed and presently dangerous.

2. A pat-frisk search is a narrow and specific protective search for evidence or contraband.
 - (a) When there is a suspicion that a youth possesses a weapon, the JPPO shall take the necessary steps to obtain assistance from local law enforcement when circumstances permit.
 - (b) There may be times when a situation occurs rapidly and the JPPO must perform a pat-frisk search without a law enforcement officer's assistance.
 - (1) It is essential to keep the youth's hands in plain view while performing a systematic and thorough pat-frisk search over the youth's outer clothing.
 - (2) The only time a JPPO can go beyond the outer clothing is if they believe, and can articulate, the person is concealing a weapon.
 - (c) The JPPO shall perform a protective pat-frisk search prior to any arrest and/or taking a youth into custody.
3. If a JPPO believes a youth has contraband in his/her mouth the JPPO may ask the youth to open their mouth to conduct a visual search.
 - (a) If contraband is found, the JPPO shall ask the youth to spit out the contraband, but shall not enter the youth's mouth to retrieve the contraband.
 - (b) If the youth swallows the contraband then the JPPO shall seek appropriate medical assistance.
4. **Strip and body cavity searches are prohibited.**
 - C. School Locker Search: All school locker searches must be done with school official's approval.
 - D. Motor Vehicle Search:
 1. Vehicles under a youth's custody, care, or control may be searched.
 2. The JPPO shall not stop a motor vehicle to perform a vehicle search.
 3. The JPPO shall instruct the youth to turn the vehicle off before performing a search.
 - E. Electronic Device Search: Electronic devices under a youth's custody, care, or control may be searched.
- IV. JPPOs may encounter situations where evidence of a crime or contraband is present and the JPPO can lawfully seize the evidence or contraband.
 - A. When evidence of a crime is discovered, the JPPO shall secure the evidence, contact the local law enforcement agency, and turn over the evidence to law enforcement personnel prior to terminating contact with the youth.

1. There may be rare occasions where the ability to contact law enforcement is hampered (e.g. no phone reception). In those cases the JPPO should secure the evidence, seize the evidence, complete a Seized Property Report Form 1346, and transport it to the local law enforcement agency.
 2. No evidence of a crime may be stored in any District/Itinerant Office.
 3. No firearms, explosives or bullets are to be stored in any District/Itinerant Office.
- B. When photographs/video recordings are necessary to document a violation or as visual evidence, the JPPO will use their Division-issued device to take the photograph/video recording.
1. Staff utilizing a state-issued smartphone camera application must adhere to policy [1080 Mobile Devices](#).
 2. Photographs and video recordings taken with a state-issued smartphone are to be transferred to the JPPO's electronic drive at the office within 48 business hours.
 3. Photographs and video recordings will be documented in Bridges case contact log, and printed or saved to a disc for filing in the case record.
- C. When contraband is identified, the JPPO shall seize, complete a Seized Property Report Form 1346, and properly secure the contraband in the District/Itinerant Office secure storage area.
1. The canary-colored copy of the Seized Property Report Form 1346 shall be provided to the youth's parent/guardian or the youth.
 2. When an item is not used to support a violation, it must be returned to the parents or destroyed according to the provisions of this policy.
 3. When contraband will be used as evidence of a Conditional Release/Parole Violation the item must be maintained in the District/Itinerant Office secure storage area.
 4. Items seized will be stored in the secure storage area as follows:
 - (a) Each item must be marked on Form 1346;
 - (b) Like items may be stored in one JJS Evidence Bag (e.g. 3 loose cigarettes may be placed in one bag together); and
 - (c) Items taken into possession on separate dates or that are unrelated must be stored in separate JJS Evidence Bags.
- D. JPPOs shall not leave seized property unattended at any time until it is:
1. Released to law enforcement;
 2. Released to the parent, guardian, or custodian; or

3. Stored in the secure storage unit located at the District/Itinerant Office.
- E. Every District/Itinerant Office shall contain a metal, locking filing cabinet for secure storage.
1. There shall be two keys to the cabinet, one with the Juvenile Probation and Parole Supervisor and one that is secured in the District/Itinerant Office and available to only JJS staff.
 2. A binder shall be maintained by the secure storage with a pink copy of Seized Property Report Form 1346 corresponding to every piece of contraband contained therein.
 3. No other property shall be stored in the locked file cabinet drawers designated for evidence/contraband.
- F. When securing contraband at the District/Itinerant Office:
1. The JPPO shall advise the Juvenile Probation and Parole Supervisor that contraband has been stored in the District/Itinerant's Office secure storage site within 24 hours.
 2. One (1) pink copy of the Seized Property Report Form 1346 shall be placed in the binder in the secure storage area.
 3. The original white copy of the Seized Property Report Form 1346 shall remain in the case file.
- G. The JPPO shall attempt to return any contraband they take possession of to the parent, guardian or custodian when appropriate.
1. If the parent, guardian or custodian, is requesting the return of property seized that is determined not to be in the best interest of the youth, family or community, the JPPO shall file a Motion to Destroy with the appropriate court.
 2. If the parent, guardian or custodian refuses to take possession of the contraband the JPPO shall obtain their signature on the appropriate section of the Seized Property Report Form 1346. The JPPO shall then file a Motion to Destroy with the appropriate court.
- H. The JPPO shall include the following on a Motion to Destroy:
1. The youth's name, docket number, a list of items slated for destruction, and the reason for requesting destruction; and
 2. The specific language: **"There are no drugs on the attached list that are identified in the State of New Hampshire Hazardous Waste Rules (NH Code Administrative Rules Env-Hw 100-1100), which implement RSA 147-A, as being subject to regulation as a hazardous waste."**
 - (a) Both the Department of Safety Forensic Laboratory and the Department of Environmental Services' Hazardous Waste Bureau are available to assist regarding the Motion statement and interpretation of Hazardous Waste requirements.

- I. Destruction of contraband:
 1. Destructions dates will be established by DCYF Administration by reserving a date and time with the Evidence and Contraband Destruction Contractor.
 - (a) DCYF Administration will notify the JPPO in advance of scheduled dates for evidence and contraband destruction.
 2. When destruction is approved, a copy of the Motion to Destroy or Court Order signed and authorized by the presiding Justice must be sent by the Juvenile Probation and Parole Supervisor to the assigned Juvenile Justice Field Administrator in advance of the destruction date.
 - (a) The Motion to Destroy or Court Order must contain a list of those items identified to be destroyed.
 - (b) If this list is not included, then the Evidence and Contraband Destruction Contractor will refuse to accept these items.
 3. The assigned Juvenile Justice Field Administrator will provide the Evidence and Contraband Destruction Contractor with signed copies of the Motion to Destroy or Court Order, and list of items slated for destruction with the youth's name and docket number redacted.
 4. The JPPO shall make arrangements to transport the contraband to the designated destruction site on the date specified.
 - (a) Due to the confidentiality rules and laws surrounding Juvenile Justice, all identifying information on evidence bags, such as the youth's name and docket number shall be blacked out, or omitted when providing those items to the Evidence and Contraband Destruction Contractor.
 5. Following the destruction of the contraband:
 - (a) The JPPO shall update the white copy of the Seized Property Report Form 1346 in the case file; and
 - (b) The JPPO shall remove and destroy the pink copy of the Seized Property Report Form 1346 from the binder in the secure storage area.
- V. The Juvenile Probation and Parole Supervisor shall audit the District/Itinerant Office secure storage on a quarterly basis to ensure contraband have been returned to the parent, guardian or custodian, or destroyed in a timely manner.
- VI. The JPPO shall justify and clearly document any deviations from this policy on the Seized Property Report Form 1346 and in Bridges.

Practice Guidance

What authority does a JPPO have to complete searches for youth on probation or parole?

- Youth on probation are subject to the rules of conditional release, which are noted in Family Court Rule 3.6 as follows:
 - Per (l) "Youth shall submit to reasonable searches as requested by your JPPO of your person, property, possessions, vehicle(s), school locker(s), bags, containers, or any other items under your custody, care, or control."
 - Per (m) "Youth shall submit to visits by your JPPO to your residence and to examinations and searches of your room in the enforcement of your conditions of release."
- Youth on Parole are subject to the conditions of parole, which are noted in the Juvenile Parole Board's Administrative Rule Juv 301.03 as follows:
 - Per (p) "The juvenile shall be subject to search by a JPPO of the juvenile's person, vehicles, lockers and residence for possessions in contravention of the juvenile's conditions of parole."

Are there types of contraband that cannot be stored in the District Office's secure storage?

- Any contraband that is evidence of a crime must be provided to and stored by law enforcement.
- Below is a list of items that are not allowed to be stored on state of New Hampshire property. If such contraband does not qualify as evidence of a crime for law enforcement to take possession, the JPPO must release the item(s) to the youth's parent, guardian, or custodian. This includes but is not limited to any:
 - BB gun;
 - Pellet gun;
 - Knife; or
 - Sword.
- If the JPPO is questioning if the contraband should be stored at the District/Itinerant Office, they should consult with their Supervisor, or Field Administrator, as necessary.

When requesting the destruction of contraband, how do I know what is subject to regulations as a hazardous waste?

- Any street drugs that need to be destroyed at an incinerator are okay to burn and are not listed as being Hazardous Waste.
- Common contraband that is acceptable for incineration includes: marijuana pipes, bongs, pill grinders, clubs, knives, rolling papers, roach clips, cigarettes, used blunts or roaches, single hit pipes and other various drug paraphernalia.
- Further, upon review of the Hazardous Waste Laws, contraband that is not acceptable for incineration includes: anything that has an explosive quality to it (such as aerosol cans), flammable items (such as lighters), projectiles (such as bullets), syringes, or firearms.

Where can I find templates for Motions to Destroy as mentioned in this policy?

- Each District Office Supervisor shall maintain electronic versions of the sample Motion to Destroy.