YOUTH COMMUNITY CORRECTIONS BUREAU
STANDARD OPERATING PROCEDURES

Procedure No.: YCC 60-5	Subject: **SEARCHES OF YOUTH, VEHICLES, RESIDENCE AND CONFISCATED PROPERTY**
Chapter 60: CASE MANAGEMENT / SUPERVISION STANDARDS	Page 1 of 7
Applicable ACA Standards: 2-7162	Revision Date: 02-10-04, 01-09-06, 11-23-07, 08-17-09, 05-24-10
Signature: */s/ Karen Duncan* Signature: */s/ Steve Gibson*	Effective Date: 12-31-02

I. BUREAU DIRECTIVE:

Youth Community Corrections (YCC) Bureau employees will follow established procedures to hold youth accountable for their conduct. Should a Juvenile Parole Officer (JPO) determine that reasonable suspicion exists indicating that a youth has violated their Juvenile Parole Agreement, a search may be performed without a warrant. The JPO may conduct, assist, or authorize the search of a youth's person, residence, or vehicle.

A JPO should request the assistance of another officer or law enforcement officer in accomplishing such a search. Consideration shall be given to "third party rights" of those who reside with the youth and are not subject to the limited liberty status of a youth on parole.

The JPO will be responsible for following evidence procedures when property is confiscated from a youth.

At the time of the signing of the Juvenile Parole Agreement, the JPO will ask the parent/guardian to read and sign the "Notification to Search", YCC 60-5 (A).

This procedure will be reviewed annually and updated as needed.

II. DEFINITIONS:

Evidence Kit - a collection of materials maintained by the juvenile parole officer that includes evidence tape, identification labels and tags, evidence envelopes and bags, latex or non-latex gloves, and YCC 60-5 (B) Receipt and Log for Confiscated Property. The evidence kit should be kept in the officer's state vehicle trunk for easy access.

Reasonable Suspicion - an officer can point to specific, objective facts and rational inferences that the officer is entitled to draw from those facts in light of the officer's experience. Moreover, the officer's suspicions must be individualized, i.e., specifically directed to the person who is targeted. A reasonable suspicion is something stronger than a mere hunch, but something weaker than probable cause and the officer must be able to substantiate and/or clearly articulate the suspicion.

Secure Locker/Vault - a law enforcement property locker or locked storage unit or room maintained by the Youth and/or Adult Community Corrections Bureau.

Tag Number - is a labeling process to identify confiscated items. The tag number system used is the officer's initials followed by the youth's initials and finally, systematic numbers based on the total number of items confiscated. An example would be Officer Joe Parole confiscated four items from John Criminal. The tag identification numbers utilized on the evidence tags and confiscated receipt is: **JP-JC-1 of 4; JP-JC-2 of 4; JP-JC-3 of 4 and JP-JC-4 of 4.**

Third Party Right to Privacy - a person who enjoys full constitutional protections of a search only with a lawful warrant.

III. PROCEDURES:

A. Search of Youth's Property

1. When an officer believes reasonable suspicion exists indicating a youth has violated the conditions of his/her parole status, the officer may perform, assist, or authorize a search.

2. The search may include inspection of the youth's person, vehicle, residence, or place of self-employment.

3. Officers are encouraged to request assistance from local law enforcement prior to performing a search. If a law enforcement officer or another officer is not available, the search should be delayed until proper witnesses are available. Unassisted searches are initiated only for officer safety or other exigent circumstances.

4. In situations where law enforcement requests to search with or without an officer present, the officer must still have independent reasonable suspicion to believe the search will reveal evidence of a violation.

5. When an officer is conducting a search and discovers what appears to be evidence of a serious crime that may result in prosecution, the officer shall contact the YCC Bureau Chief or designee, law enforcement and/or the county attorney before taking any further action. Officers must not disturb or otherwise compromise potential evidence or the crime scene.

6. The officer can search any area of the youth's residence to which the youth has access.

7. All body searches must be performed by same-sex officers.

8. Officers must have reasonable suspicion that the youth is violating the terms and conditions of their parole status before they can conduct a search of the person, residence or vehicle without a warrant.

B. <u>Control and Storage of Confiscated Property</u>

1. The Department shall identify staff in each office where confiscated property is stored who will be responsible for receiving, receipting, and storing confiscated property. No other staff shall be granted access to the storage area or the keys to the storage area.

2. Confiscated property will be placed in secure storage and will be maintained in a way that preserves a chain of custody. The property will be accurately inventoried by the officer and labeled with an evidence tag to include:

   a. the name of the officer confiscating the property;
   b. the date the property was confiscated;
   c. the time the property was confiscated;
   d. the youth's name;
   e. the youth's address;
   f. the youth's telephone number, if available;
   g. an item number;
   h. the alleged offense, and
   i. an accurate description of the property.

3. A log will be maintained indicating when property arrives for storage and the staff responsible for placing the property in storage.

4. Whenever possible youth will be issued a receipt for evidence seized. In all cases when a search warrant is served, a receipt will be issued for seized property and given to the youth, or left in plain view at the location where the warrant is served. The receipt will include a description of all property seized and will be signed by the officer confiscating the property. (Refer to YCC 60-5 (B) Receipt and Log for Confiscated Property.)

5. **Dangerous drugs** seized by an officer will be sealed in a tamper proof container, labeled with an approved evidence tag, and taken to law enforcement for processing as evidence. The evidence tag will include the initials of another officer, or Police Officer/Deputy Sheriff, to verify the validity of the evidence in the container.

6. **Currency** seized and held in custody by the officer will be placed in a tamper proof container and labeled with an approved evidence tag indicating the exact amount of currency confiscated. The evidence tag will include the initials of another officer, or Police Officer/Deputy Sheriff, to verify the validity of the evidence and amount of currency.

7. **Firearms** seized and held in custody by the officer will be unloaded. The bolt or slide on rifles or semi-automatic pistols will remain open. The cylinder on revolvers will remain open. The firearm(s) will be labeled with an approved evidence tag indicating make, model and serial number (if available). Ammunition or shell casings for the firearm will be marked indicating where they originated, packaged in a tamper proof container, labeled with an approved evidence tag and attached to the firearm. The evidence tag will include the initials of another officer, or Police Officer/Deputy Sheriff, to verify the validity of the evidence. Weapons/firearms seized will never be removed from the evidence room without a court order or approval of the YCC Bureau Chief. Department employees will not use confiscated weapons/firearms for any reason. Weapons/firearms will be disposed of when they are no longer needed as evidence.

8. **Urine samples** will be labeled with an approved evidence tag, packaged in a tamper proof container, and refrigerated. The youth giving the sample and the officer taking custody of the evidence will initial the container.

C. <u>Removal, Destruction or Disposition of Confiscated Property from Storage</u>

1. **Removal**

Officers needing access to confiscated property for use as evidence in court, to return to the rightful owner, or for any other legitimate purpose will first gain permission from his/her supervisor. Once permission is granted, the staff responsible for secure confiscated property shall retrieve the evidence from the storage area and have the person sign their name, and note the date, time and purpose of the removal from the area on a form designated for that purpose. Property will be returned to the storage area using the same procedure. Property returned to the rightful owner will be signed for by the owner on an inventory sheet kept in the storage area.

2. **Destruction/Disposition**

a. When the court and the YCC Bureau Chief, or designee, determines the confiscated property no longer has evidentiary value, the property can be

destroyed or disposed. Approval is granted by the court, the YCC Bureau Chief or the Youth Services Division Administrator. The YCC Bureau Chief will determine if it is necessary to petition the court for approval to dispose of confiscated property other than firearms.

b. Firearms will require a petition to the court and an order from the court before they can be disposed. The court will be advised using YCC 60-5 (C), Request for Destruction/Disposal of Confiscated Property that the Forensic Sciences Division in Missoula will accept confiscated firearms. Unless the court orders otherwise, firearms will be sent to the Forensic Sciences Division. Upon receipt of a court order to transfer the firearms to the Forensic Services Division, the YCC Bureau Chief or designee shall ensure the firearm is transferred in a timely manner.

c. Within ten days following the transfer, destruction or other disposition of the firearm, a return notice must be filed with the court, indicating the date and method the order was carried out.

d. Steps for confiscated property destruction/disposal are identified below in III.D.

e. A list of all items to be destroyed shall be prepared using form YCC 60-5 (B), Receipt and Log of Confiscated Property and this form is forwarded to the YCC Bureau Chief for approval and signature. If approval has been granted for destruction of the items outside the office, the items will be placed in a box or other container and sealed. A minimum of two staff will transport the items and witness the destruction/disposal. If the items are being destroyed or disposed in the office, a minimum of two staff shall carry out the destruction/disposal. Miscellaneous confiscated property will never be removed from the evidence room without a court order or approval of the YCC Bureau Chief or Youth Services Division Administrator.

D. STEPS:	**RESPONSIBILITIES:**
1. Determine whether reasonable suspicion exists to support a search of a youth without a warrant. If it is unclear, contact the YCC Bureau Chief or designee.	JPO
2. If reasonable suspicion exists, coordinate a plan to carry out the search. Be prepared to articulate elements of the basis for reasonable suspicion.	JPO

3.	At the time of the search, notify the youth (when possible), of the intent to search, execute search, with consideration given to officer safety and in the least demeaning and non-disruptive manner to youth and others such as those with third party rights to privacy.	JPO
4.	If, during the course of the search evidence discovered may lead to a new offense, officer shall contact the YCC Bureau Chief or designee; consult with law enforcement and/or county attorney, before taking any further action. Do not disturb or otherwise compromise the potential evidence or the crime scene.	JPO
5.	The officer will use their evidence kit for seizing property and begin the documentation process. The confiscated items will be placed into an appropriate container i.e. Ziploc bag, envelope or paper bag. The container will then be sealed with evidence tape and a completed evidence tag will be securely fastened to the container. The items will be labeled using the Tag Number system.	JPO
6.	Any property confiscated by the JPO shall be documented using YCC 60-5 (B) Receipt and Log for Confiscated Property. A receipt shall be given to the youth, or others, for items seized in the search after the items are tagged, labeled, and sealed, and both the youth and officer have signed the form.	JPO
7.	Confiscated items will be given to the Identified Evidence Person for further processing and storage. The officer will keep a copy of YCC 60-5 (B) Receipt and Log for Confiscated Property and the original will be given to the evidence person.	JPO

8.	The confiscated items will be logged using form YCC 60-5 (E) Confiscated Property Storage Log. The items will be placed into the locked evidence room or unit. Only identified evidence personnel will be given access to the secure storage area.	JPO II or Identified Evidence Person
9.	Request destruction/disposal of confiscated property to the county attorney or YCC Bureau Chief/designee if it is no longer needed as evidence using YCC 60-5 (C), Request for Destruction/Disposal of Confiscated Property.	JPO
10.	Dispose/Destroy property upon receipt of court order or approval from the YCC Bureau Chief/designee.	JPO
11.	If the property was disposed or destroyed at the order of the court, send notice to the court within ten days regarding how the property was disposed or destroyed	JPO

IV. CLOSING:

Questions concerning this procedure shall be addressed to the Youth Community Corrections Bureau Chief.

V. REFERENCES:

53-1-203, M.C.A. *Power and Duties of Department of Corrections*
DOC 3.1.17 *Searches and Contraband Control*
Griffin vs. Wisconsin
State vs. Roth/Burke

VI. ATTACHMENTS:

YCC 60-5 (A) Notification of Search
YCC 60-5 (B) Receipt and Log for Confiscated Property
YCC 60-5 (C) Request for Destruction/Disposal of Confiscated Property
YCC 60-5 (D) Pat Search Procedures
YCC 60-5 (E) Confiscated Property Storage Log