



POSITION STATEMENT

Adopted by NPJS Board of Directors ~
June 29, 2018

PERSONAL SEARCHES

focused on searches impacting a person's body

Statement of the Issue

Personal searches are one way juvenile justice facilities ensure the safety and security of both staff and juveniles. Personal searches are used as a means to stop the flow of contraband into a facility and to help prevent self-harm and suicide. Personal searches include all searches where physical contact or visual examination of a person occurs. For the purposes of this standard, the NPJS is applying the definition of a strip search as established in the standards for the Prison Rape Elimination Act as a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia. When examining the issue of searches, juvenile justice facilities face unique challenges and are often tasked with finding a delicate balance between preserving the dignity and personal privacy rights of the child, while ensuring the safety of the facility and staff.

Nature of the Issue

- The issue of how and when to conduct personal searches is important in the juvenile arena due to the general vulnerability of the age group in question. The courts have referred to more intrusive searches as “demeaning,” “dehumanizing,” and “terrifying” for juveniles. “Youth...is a...condition of life when a person may be most susceptible to...psychological damage.” Not only are youth more susceptible to psychological damage, many of the juveniles that come into contact with the system have already been traumatized either physically, sexually, or by witnessing violence.
- The Supreme Court has established that there are fundamental differences between juveniles and adults in how they should be treated in the justice system, and the court has also acknowledged there are vast developmental social and cognitive differences. Although there are no Supreme Court Case decisions directly guiding the use of personal searches in a juvenile corrections setting, the course of action for dealing with juveniles can be guided from lower court rulings regarding searches in adult corrections and school settings.
- Despite the concerns about the psychological and emotional impacts of personal searches, lower Court rulings have laid a foundation for establishing a higher standard of responsibility for juvenile facilities to protect the resident population from exposure to weapons or drugs.
- Regarding adult corrections settings, the most recent (2012) ruling by the Supreme Court allows for blanket strip searches upon admission of all inmates being introduced into general population.ⁱⁱ
- In the public school setting, the Supreme Court has allowed searches of a student's outer clothing with reasonable suspicion. However, if the search is more intrusive than the outer clothing, special justification must be present. Searches in the school setting must be “reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and nature of the infraction”.ⁱⁱⁱ Generally schools must have a moderate suspicion that they will find evidence of wrongdoing to justify any type of personal search.^{iv}

- Decisions among the lower courts regarding personal searches in juvenile corrections facilities have been varying in their conclusions and justifications. The decisions have run the gamut from allowing strip searches based only on type of charge^v to the most recent decision by the Third Circuit Court approving blanket searches upon admissions of juveniles into lockdown facilities.^{vi}

Position Statement

The National Partnership for Juvenile Services advocates that all searches conducted on justice involved juveniles should be conducted:

- respecting the youth's gender identity in a professional manner and in alignment with federal and state laws,
- in the least intrusive manner possible, and
- consistent with security needs.

In the event a more intrusive (strip) search is performed, it should be performed;

- with individualized approvals from management based on objective information,
- with one juvenile at a time,
- in a private location,
- away from any camera that might allow unauthorized staff to view the search,
- with documentation covering each of the bulleted areas above along with outcomes.

All staff should receive training on how and in which manner to perform searches. In addition, staff in juvenile facilities must be educated about how personal searches of juveniles might affect them. Further, they should be trained in how to and expected to limit any negative or potentially traumatic experiences occurring from searches whenever possible. Written policy and procedures should be made available to staff detailing exactly when, how, by whom and under what circumstances searches will be conducted.

Prior to a search, juveniles should be informed of their rights and the conditions under which searches will be conducted. Searches should be conducted in a manner which minimizes potential negative impacts (including: humiliation, embarrassment, unwarranted physical exposure, etc.). No juvenile facility should allow cross-gender searches unless in an exigent circumstance.

Additional training should be provided to prepare staff for any search that may fall under the Prison Rape Elimination Act (PREA).

ⁱ Eddings v. Oklahoma 1982

ⁱⁱ Florence v. Board of Chosen Freeholders 2012

ⁱⁱⁱ TLO v New Jersey 1985

^{iv} Safford Unified School District v Redding 2009

^v Mashburn v. Yamhill County 2010

^{vi} Lancaster County v JB 2015

Gabbard and Moyle v. Contra Costa Co.