



CITY OF MADISON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



Probation and Parole Searches

Eff. Date **11/19/2019**

Purpose

Wisconsin law (2013 Act 79) provides law enforcement officers with broad authority to search people who are on probation, parole or extended supervision. MPD officers are only authorized to conduct searches as authorized in the MPD Search Procedure and this standard operating procedure. Searches conducted pursuant to the authority granted by Act 79 may only be performed as outlined in this document.

Procedure

The authority granted by Act 79 only applies to:

- Persons on probation for a felony.
- Persons on probation for a misdemeanor violation under Chapters 940, 948, or 961.
- Persons on parole.
- Persons on extended supervision.

The person's status must be a result of a Wisconsin conviction and the person must have been placed on probation or released to parole/extended supervision after December 14, 2013.

Prior to considering any search under this authority, the officer must verify that the person's status is one of those listed above and that they were placed on that status after December 14, 2013.

Authority

Officers may search a probationer, parolee, or person under extended supervision (as limited above) if they have a reasonable suspicion that the person is committing, has committed, or is about to commit a crime or violation of their probation/parole/extended supervision. Reasonable suspicion must be based on specific and articulable facts that are documented in a report.

Searches may extend to any personal property under the control of the probationer, parolee, or person under extended supervision at the time of the search. This would include purses, backpacks, etc. It could also include a vehicle being driven by the person at the time of the encounter, though it would not include other subjects in the vehicle or property belonging to others in the vehicle.

Searches may also extend to the residence of the probationer, parolee, or person under extended supervision, with limitations:

- Any effort to effect a search of a residence under Act 79 authority must be approved by a supervisor (unless it is impractical to do so).
- If the probationer, parolee, or person under extended supervision lives with someone else, any search must be limited to common areas or those under the control of the probationer, parolee, or person on extended supervision.
- Officers may not use force to breach or damage a residence to gain entry to perform a search under Act 79 Authority.
- If there is a reasonable belief that there is a person or person(s) inside the residence to be searched pursuant to Act 79, the Searches SOP regarding Entry to Residence to Make an Arrest must be followed.

Searches conducted under this authority must not be conducted in a way that is arbitrary, capricious, or harassing. The search itself must be reasonable, and the scope of the search must be related to the reasonable suspicion possessed by the officer.

Notification/Documentation

Any searches performed under Act 79 authority must be documented in an MPD report. Also, the Department of Corrections (DOC) must be notified of the search as soon as practicable. This notification must be done by email (as described below) and it is the responsibility of the primary searching officer to make the notification. A copy of the email to DOC must be sent to the MPD Assistant Chief of Operations.

DOC EMAIL NOTIFICATION

A TIME system response will include a five digit agent number. The first number determines the region to which the agent is assigned. For example, Agent 58233 is assigned to Region 5. Consequently, the email would be sent to Region 5. Please put "Act 79 Search Notification" in the subject line of the notification email. In the body of the email, indicate the offender's name and date of birth as well as a brief description of the search and its results. The email address for each region is listed below.

Region 1: DOCDCCRegion1Office@wisconsin.gov
Region 2: DOCDCCReg2DOC44@wisconsin.gov
Region 3: DOCDCCReg3Intake@wisconsin.gov
Region 4: DOCDCCReg4@wisconsin.gov
Region 5: DOCDCCReg5WorkFolder@wisconsin.gov
Region 6: DOCDCCReg6@wisconsin.gov
Region 7: DOCDCCReg7@wisconsin.gov
Region 8: DOCDCCReg8WorkFolder@wisconsin.gov

The MPD report should include the time/date that the notification to DOC was made.

Original SOP: 09/29/2014
(Revised: 11/19/2019)
(Reviewed Only: 02/22/2016, 01/09/2017, 12/26/2017, 02/04/2022, 02/05/2024)