

Subject: Probation and Parole Doc
Attachments: BPDProbationParoleQuestion.docx; BPDProbationParoleSearch.docx

From: Greenwood, Andrew <AGreenwood@cityofberkeley.info>
Sent: Tuesday, September 8, 2020 7:40 PM
To: Lee, Katherine <KLee@cityofberkeley.info>
Subject: Probation and Parole Doc

Ms. Lee,

Attached are our responses/proposals regarding Probation and Parole Searches.

The "Question" document has some revisions for emphasis.

The "Search" document is our proposal regarding probation and parole searches.

Comments are contained in both.

I look forward to seeing you tomorrow night.

Andrew Greenwood
Chief of Police
Berkeley Police Department
(510) 981-5700

Asking the Probation or Parole Question

Policy recommendation approved by the PRC Dec. 11, 2019

Provided for information only Sept. 9, 2020

BPD Proposal Response regarding asking a person if they are on probation or parole

Upon further review and consideration, this re-ordered and revised language directly addresses the issue of asking the “probation or parole” question as a matter of routine, and emphasizes the concern of how people may take offense at being asked the question.

Asking a Person if they are on Probation or Parole.

In an effort to foster community trust, officers shall not ask as a matter of routine if a person is on probation or parole when a person has satisfactorily identified themselves, either verbally or by presenting identification documents. If an officer needs to ask the question, “Are you on probation or parole?” the officer should do so while treating the person with dignity and respect, and being mindful that people may take offense at the question.

Officers may determine probation or parole status through standard records checks conducted in the course of a traffic safety or investigative stop.

Officers should only ask when necessary to: 1) protect the safety of others, the person detained, or officers; 2) further a specific law enforcement investigative purpose (for example, sorting out multiple computer returns on common names); or 3) to confirm probation and parole status subsequent to a records check.

Probation and Parole Searches

BPD Proposal Response regarding warrantless searches

This language is proposed to ensure probation or parole searches are not arbitrary, capricious or harassing, and to prohibit conducting a probation or parole search *solely* because a person is known to be on probation or parole. Probation or parole searches are to be made in connection with a specific law enforcement purpose.

Collecting RIPA data will support analysis of the conducting of probation or parole searches and the results of the searches.

Warrantless Searches of Individuals on Supervised Release Search Conditions.

In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation.

Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion.

Officers shall not detain and search a person on probation or parole solely because the officer is aware of that person's probation or parole status.

The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made in connection with a specific investigative purpose, e.g. investigating an apparent stay-away order probation violation; detaining a person on probation for theft where they appear to be prowling or casing property; or detaining a person on parole for burglary in an area where burglaries are occurring, etc.