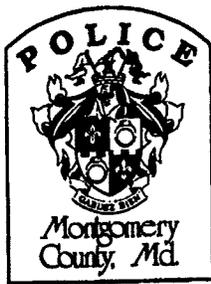


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HEADQUARTERS MEMORANDUM 95-07

File With: FC 510

Distribution: All

Date: 05-15-95

Subject: Request for Identification by Police Officers

The County Attorney's Office recently handled a civil rights case involving the application of Section 32-15 of the Montgomery County Code which provides as follows:

"It shall be unlawful for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed police officer or of a properly identified police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety requires such identification."

This section does not provide police officers with absolute authority to detain citizens for the purpose of requesting identification. The United States Supreme Court has stated that when a police officer detains an individual for the purpose of requesting identification, a seizure has occurred, and the police officer must have "a reasonable suspicion, based on objective facts, that the individual is involved in criminal activity."

An officer will not enforce Section 32-15 unless he/she has a **reasonable suspicion** based on objective facts, that the individual is involved in criminal activity, and that the criminal activity is threatening the public safety. An officer must be able to articulate the basis of his/her reasonable suspicion of the criminal activity that threatened the public safety. The statute will be enforced only in those situations that affect the "public peace" (i.e., assault and battery, disorderly conduct, and disturbing the peace). Officers will also issue a citation or effect a physical arrest for the underlying offense that violated the "public peace" in addition to the violation of Section 32-15.

The foregoing is not intended to discourage officers from investigating situations or requesting any citizen involved in suspicious activity to identify themselves. However, it is necessary to be aware of the above requirements that must be met to charge an individual with a violation of this section.

Carol A. Mehrling

Carol A. Mehrling
Chief of Police