



MONTGOMERY COUNTY FIRE AND RESCUE SERVICE
MONTGOMERY COUNTY, MD.

**DIVISION OF COMMUNITY RISK REDUCTION SERVICES
DIRECTIVE**

Date: February 27, 2007

Number: 07-03

TO: All Fire and Explosive Investigations Section Personnel

FROM: Division Chief Michael T. Love

A handwritten signature in black ink that reads "Michael Love".

SUBJECT: Investigative Photographs

I. **Goal.** A goal of the MCFRS Fire and Explosive Investigations Section (FEI) is to use photographs of individuals as an aid to criminal investigations. Identification should be the primary reason for photographing an individual. Investigators must not take any surveillance photographs, or solicit the random photographing of any individual, based solely upon the individual's race, gender, ethnicity, religious affiliation, or based on a protected class.

II. **Who May be Photographed.**

A. Investigators conducting criminal investigations occasionally photograph individuals in the field for identification or investigative purposes. The Investigator may have reason to believe that the individual is a suspect in a crime, or may need to identify the person for other reasons related to an investigation. An individual may be photographed:

1. after an arrest;
2. after a criminal or civil citation is issued to confirm an individual's identification (i.e., for in-court identification);
3. when stopped on "reasonable suspicion" of criminal activity;
4. during a surveillance operation;
5. when a field interrogation report is written, subject to the guidelines provided in this Directive; or
6. when consent is given.

- B. An investigator cannot require an individual to submit to being photographed unless “reasonable suspicion” exists that the individual is, or has been, engaged in criminal activity.

III. When Consent is Required.

- A. Consent is required to take photographs of individuals during routine field contacts if there is no “probable cause” or “reasonable suspicion” of criminal activity.
- B. Individuals must *freely* give their consent; they must not be threatened, pressured, or coerced into giving consent. For example, Investigators must not withhold an individual’s driver’s license or other ID until consent is given.

IV. When Consent is *not* Required. Consent is *not* required to photograph a subject:

- A. for surveillance photographs;
- B. during a lawful arrest;
- C. when issuing a criminal or civil citation;
- D. when an individual is stopped for “reasonable suspicion” of criminal activity; or
- E. when an individual is detained on the premises that is the subject of a search warrant during the execution of that warrant.

V. Use of Force.

- A. Reasonable and necessary force *may be used* to compel an individual to submit to a photograph *when the individual is under arrest*.
- B. The use of physical force is *prohibited* to compel an individual to submit to a photograph, *unless* the individual is under arrest.

VI. Retention of Photographs. The FEI Section may retain photographs until the civil statute of limitations expires (usually three years), or until the conclusion of any relevant civil litigation.

- A. Photographs will be retained and used in a manner that is consistent with State and federal laws and Division Directives.

- B. Digital photographs and negatives that have evidentiary value (i.e., crime scenes, fatal accidents, etc.) will be stored as evidence, in accordance with Division evidence control guidelines.
 - C. Investigative photographs taken in conjunction with a field interrogation report must be forwarded to the FEI Section Administrative Captain, who will distribute them in accordance with FEI Section SOP.
 - D. Investigators routinely conduct photo arrays and retain photographs in case files. Those photos will remain within their case files, consistent with FEI Section SOP.
 - E. Photographs that are no longer needed for evidentiary purposes may be stored in a centralized location in the FEI facility, and may be used as fillers for photo arrays, or as part of intelligence files.
- VII. Return of Photographs.** Photographs must be returned to an individuals on written request to the FEI Section Chief when:
- A. the individual has been cleared during an investigation, and there is no valid reason to retain the photograph for investigative purposes in the case; or
 - B. the individual was photographed during a routine field interrogation in which there was no “reasonable suspicion” of criminal activity.