



MONTGOMERY COUNTY, MARYLAND DEPARTMENT OF POLICE

CONSENT TO SEARCH REQUESTS

DIRECTIVE NO:

FC 0710

EFFECTIVE DATE:

December 2, 2024

CANCELS:

FC 0710, dated February 10, 2023

ACCREDITATION STANDARDS:

CALEA Standards: 6th Edition, 1.2.3, 1.2.4, 1.2.5, and 1.2.8, 41.3.8

PROPONENT UNIT:

Patrol Services Bureau and Investigative Services Bureau Administrations

AUTHORITY:

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If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61).

I. POLICY

The Montgomery County Department of Police (MCPD) shall conduct all searches of persons and property in compliance with **the U.S. Constitution**, existing law, and departmental policy. At the police officer's discretion, consent to search may be solicited.

II. PROCEDURES

- A. When a police officer obtains consent to conduct a warrantless search from a person, the person may be giving up a constitutionally protected right. The police officer must show that such consent was given voluntarily and not due to duress or intimidation by the police.
- B. **If the place to be searched is a vehicle or real property, and consent is the sole basis for the search, officers must establish that the person has actual or reasonably apparent authority to grant such consent before conducting the search.**

- C. The police officer does not have to show probable cause for a search or seizure if the search or seizure was done with consent. However, because of the intrusive nature of a consent search, police officers **should have reasonable articulable suspicion to request one.**
- D. When requesting a search based solely on consent, the police officer(s) **will record** the advisement of rights, the person(s) acknowledgment, and verbal approval/disapproval on a body-worn camera system **(BWCS) and/or mobile video system (MVS).**
- E. **Officers will utilize the Field Interview FI/Consent Search Application on their department-issued phone to verbally and in text:**
1. Advise the person(s) involved that they have the right to refuse a **search based on consent, AND;**
 2. **Have the person verbally acknowledge that advisement, AND;**
 3. **Have the person Decline or Approve the consent search.**
- F. **The MCP Form 120 (Consent to Search Request) will be utilized only when the Field Interview (FI)/Consent Search application is not functioning.**
- G. **For every consent search request, the officer will** clearly articulate the circumstances under which consent to search was requested **and capture, on the FI/Consent application, at a minimum:**
1. the subject's name, Incident **type and** Number, **Case Reporting (CR) Number if applicable,** and clearance code.
 2. all **the subject's** demographic data, regardless of consent type.
 3. **a list of all property/contraband/data seized.**
 4. **any other applicable data requested in the FI/Consent application.**
- H. **Once submitted, the FI/Consent Application will automatically email a copy of the Application to the submitting officer, the Policy and Planning Division (PPD), and the appropriate Supervisor Review email account.**
1. **If a paper copy of the MCP Form 120 is utilized,** the police officer obtaining consent to search will forward a copy of the completed MCP Form 120 (**Request for Consent to Search**) to **their supervisor and** the Policy and Planning Division (PPD) via email MCP.PolicyandPlanning@montgomerycountymd.gov, before the end of their shift.
- I. The Policy and Planning Division (PPD) will maintain **the data from the FI/Consent application and any** completed MCP Form 120 (**Request for Consent to Search**) for data collection and analysis consistent with county record retention policies.

- J. The person giving the consent to search can place limitations or conditions on the consent search or withdraw consent at any time.
- K. Any items seized must be properly recorded as required by FC 0721 "Evidence/Recovered Property."
- L. **In every instance where a person grants consent to search as the result of a traffic stop, within five (5) working days of the interaction, an executive staff member in the involved officer's chain of command will review the interaction and data collection to ensure compliance with practice and policy.**
 - 1. Any issues will be brought to the attention of the respective Bureau Chief.
 - 2. In all cases, the reviewing executive will notify the Policy and Planning Division (PPD) at MCP.PolicyandPlanning@montgomerycountymd.gov that a review has been completed and any additional notes.
 - 3. The review includes:
 - a. Review the requesting officer's BWCS and/or mobile video system (MVS) from the beginning of the recording to the end of the consent search.
 - b. Review of the FI/Consent application data for completeness
 - c. Review of event reports if completed