



CONSENT SEARCHES

FC No.: 710
Date: 02-16-04

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)

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Appendix A: MCP 120, "Consent to Search"

I. Policy

At the discretion of the police officer, the MCP 120, "Consent to Search," may be utilized when consent to search has been given and no search warrant has been obtained. (CALEA 1.2.4.a, 42.2.3.d)

II. Procedures

- A. When police obtain consent to conduct a warrantless search from a person, the person may be giving up a constitutionally protected right. The police must show that such consent was given voluntarily and not due to duress or intimidation by the police.
- B. The police do 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, requesting officers should be able to articulate their rationale for requesting the search.
- C. ***It is recommended that officers obtain written consent using the MCP Form 120. While using the MCP 120 is recommended, receiving verbal approval remains an acceptable practice.*** When an officer chooses to use the MCP 120, it will become part of the case file. The officer's report should clearly state the circumstances under which consent was obtained. ***If the officer does not have an MCP 120 available, the officer may handwrite a consent to search on a plain piece***

of paper. This will also become part of the case file.

- D. The person who gives consent must have the authority to do so.

Examples:

- 1. A homeowner/parent/**leaseholder** may give consent to the police to search all common areas of their house.
- 2. A parent can give consent to search a child's room in their house if the parent has access to the room.
- 3. In most instances, a landlord cannot give consent to search a tenant's room, nor a motel manager for a registered guest's room.

- E. The person giving the consent to search can place limitations or conditions on the consent search, or withdraw consent at any time.

- F. Any items seized must be properly recorded as required by FC 721 "Evidence/Recovered Property."

III. Proponent Unit: FSB and ISB Administrations

IV. Cancellation

This directive cancels Function Code 710, effective date 05-07-99.

A handwritten signature in black ink, appearing to read "J. Thomas Manger".

J. Thomas Manger
Chief of Police