



KANSAS CITY, MO. POLICE  
DEPARTMENT

DATE OF ISSUE  
03-12-09

EFFECTIVE DATE  
03-12-09

NO.  
04-6A

SUBJECT

Detaining and Questioning Persons; Arrest; Search and Seizure

AMENDS

Procedural Instruction 04-6

REFERENCE

Procedural Instruction Arrest Guidelines  
[www.moga.mo.gov/statutes/statutes.htm](http://www.moga.mo.gov/statutes/statutes.htm)  
Intranet/Juvenile webpage  
Pocket Reference Guide, Form 321 P.D.

RESCINDS

## I. PURPOSE

To amend Procedural Instruction 04-6 entitled, "Detaining and Questioning Persons; Arrest; Search and Seizure."

## II. PROCEDURE

1. Members will remove pages E-1 and E-2 of Annex E from Procedural Instruction 04-6 entitled, "Detaining and Questioning Persons; Arrest; Search and Seizure."
2. Members will insert amended pages E-1 and E-2 of Annex E to Procedural Instruction 04-6 entitled, "Detaining and Questioning Persons; Arrest; Search and Seizure."

James D. Corwin  
Chief of Police

Adopted by the Board of Police Commissioners this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

Terry J. Brady  
President

**DISTRIBUTION:** All Department Personnel  
Post on all bulletin boards for two weeks  
Public View Master Index – Internet  
Department Master Index – Intranet

## SEARCH OF PREMISES

## A. Consent to Search

- \*1. A valid consent to search may be given by a person who has apparent rights to the premises. Any individual who possesses common authority over the premises or personal effects contained therein may give consent to search. This consent is valid even when the non-consenting individual with whom authority is shared, is absent. Consent to search must be obtained from the person who has apparent exclusive control over a portion of the premises or a particular container which is not commonly controlled. When multiple persons who possess common authority are present, **and one person does not agree to the search, a search based on consent cannot be conducted.**

**NOTE:** Officers will keep in mind that a signed Consent to Search, Form 155 P.D., is the preferred method of documenting consent.

2. If a signed Consent to Search, Form 155 P.D., is obtained:
  - \*a. The original Consent to Search, Form 155 P.D., will be scanned into the Intellivue system as a supplemental to the original report. If no original report exists a report will be completed in ARS using the Nature of Call "GEN-Consent to Search."
  - b. The copy of the Consent to Search, Form 155 P.D., will be given to the consenting person.
3. If the person chooses not to sign the Consent to Search, Form 155 P.D., after giving prior verbal consent to a search, this would not be viewed as a revocation of the verbal consent and the officer(s) may search the premises. The officer will articulate in the applicable report(s) the verbal consent and where any items recovered or person(s) taken into custody were found.
4. The following should be kept in mind by officers who conduct a search by consent:
  - \*a. The U.S. Supreme Court has ruled that police at the scene of a crime may not conduct a search for evidence unless a search warrant has been obtained or the owner or person in apparent lawful possession of the premises has given permission for the search.
  - \*b. The owner does not need to be present to give permission.

- c. The person giving consent must have the apparent legal capacity to consent, i.e., possess common authority or exclusive control to grant consent. The consent must be voluntary. It must be given without force, duress, or compulsion of any kind.
  - d. The extent of the search must be limited to:
    - (1) The places where the items may reasonably be found.
    - (2) The area specifically consented to.
  - e. The consenting person is not required to remain at the scene, once consent has been given.
  - f. The consent may be revoked by the consenting person at any time during the process of the search. If the consent to search is revoked, officers must discontinue the search immediately, unless another legal basis exists to continue the search or a search warrant is obtained.
- B. If the search of a non-public area (without consent) is dictated or desired, the officer will contact the appropriate investigative element to determine if a warrant will be obtained. If so, the procedures described in the directive entitled, "Execution of Search Warrants," will be followed.
- C. If the crime scene is a place fully accessible to the general public, a search warrant for evidence is not needed.
- \*D. An officer may seize items in plain view when:
- (1) The officer views the object from a place where he has a legal right to be;
  - (2) The officer can lawfully obtain access to the object;
  - (3) The incriminating nature of these items must be immediately apparent, which means that the serial numbers or other identifying characteristics must be visible to the officer without moving, turning over or opening the object in question for further inspection.