



## Detaining and Questioning Persons; Arrest; Search and Seizure

AMENDS

REFERENCE

RSMo, Chapter 84 & Chapter 544, D.M.- Language Interpreting Services, P.I.- Juvenile Apprehension Procedures, Recovered Property – Towing / Protective Custody of Vehicles and Contents, Use of Force, Pursuits and Emergency Vehicle Operations, Miranda Warning and Miranda Waiver

RESCINDS

Procedural Instructions 96-11 & 96-11B

### I. PURPOSE

To establish guidelines and procedures pertaining to legal limitations and restrictions on the detaining and questioning of persons; arrest; search and seizure.

### II. DEFINITIONS

- A. **Body Cavity Search** - The inspection of a person's anus or genitalia, including but not limited to inspections conducted visually, manually, or by means of any physical instrument. {Section 544.193 of the Revised Statutes of Missouri (RSMo)}
- \* B. **Content Inventory** - A content inventory is required for the towing and protective custody of any vehicle. Is a list of all items that are contained in a vehicle when it is towed that are not recovered. The content inventory permits opening closed compartments and containers to determine content. **Any materials or items of contraband or of evidentiary nature discovered may be admissible evidence in court.**
- C. **Custodial Search/Search Incident to Arrest** - The thorough examination of a person's clothing, including the inside of pockets and other compartments, e.g., coats, hats, belts, shoes, socks, etc. However, such searches must adhere to the limitations of Section 544.193 (RSMo), "relating to strip searches and /or body cavity searches."
- D. **Exigent Circumstances** - An emergency demanding immediate action by an officer with insufficient time for the officer to obtain a search warrant or court order. This authority is normally invoked when human life is endangered by accidents, sudden illnesses, or criminal activity. Exigent circumstances include those circumstances which make obtaining a warrant impossible or ill advised in light of the urgent need for immediate action. Officers should thoroughly articulate the circumstances in case reports.
- E. **Frisk** - A limited search by an officer, based on reasonable suspicion to believe that a person may be armed and dangerous, of the outer clothing of a person in an attempt to discover weapons which might be used to assault the officer.
- \* F. **Fresh Pursuit** – As it applies to both vehicle and foot pursuits, shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

{Section 544.155 (RSMo)} To show fresh pursuit a police pursuit must be initiated within the peace officers' jurisdiction, must be immediate and without unreasonable delay, consistent with reasonable police safety practices, and should be conducted for the purpose of stopping the vehicle or apprehending the person.

- \* G. **Pickup** - A pick up is issued for a person when there is adequate probable cause to arrest for the commission of a state statute offense classified as a felony or misdemeanor, or issued on a vehicle which has been used during the commission of a crime. A person may be arrested pursuant to an issued Pick-up Order at anytime when the person named in the Pick-up Order is in a public place. A pickup order is not a warrant and cannot be enforced in a private place unless an officer is lawfully on the private property.
- H. **Plain Touch Exception** – Evidentiary exception applying to items that are immediately apparent while conducting a frisk to be contraband to the officer by sense of touch. However, if the officer must squeeze, slide or otherwise manipulate the object, the “plain touch exception” will not apply.
- I. **Plain View Doctrine** - If an officer is at a place where he/she has a right to be and observes in plain view objects which he/she has probable cause to believe, and are immediately apparent as contraband or fruits or instrumentalities of crime, those items may be seized without a warrant.
- J. **Probable Cause** - A set of facts and circumstances available to the officer upon inquiry which warrants a person of reasonable prudence and caution to believe that certain items may be contraband, stolen property, or subject to seizure as evidence of a crime or that a crime has been committed and that the suspect has committed the crime.
- \* K. **Questioning Advisory – Do Not Arrest** - Is issued by an investigative element. A questioning advisory, in and of itself, will not serve as the basis for an arrest and subsequent booking of an individual. No probable cause exists to affect an arrest or involuntarily detain the subject. The subject should be informed of the measures required to satisfy the questioning advisory, the location to respond to voluntarily, etc. The officer may take the party to the appropriate investigative element if the person so desires. Force or coercion cannot be used to obtain cooperation of the subject. The appropriate investigative element shall be notified by the contacting officer. **\*\*A QUESTIONING ADVISORY SHALL BE AUTOMATICALLY PURGED AFTER 90 DAYS\*\***
- L. **Reasonable Suspicion** - Circumstances when a police officer may justifiably approach a person for purposes of investigating possible criminal behavior even though there is no probable cause for arrest. The officer must be able to point to specific and articulable facts, which, taken together with rational inferences from those facts, reasonably warrants intrusion.
- M. **Reliable Source** - The individual has in the past provided reliable information to the officer which aided in the arrest for, or prosecution of, a crime. Present information should be accompanied by facts and circumstances to show the

individual had a means to observe or come by the information to show present reliability.

- N. **Search** - A visible and/or physical examination of a person's house, place, or thing where the right of privacy is expected, or of the person, with the intent to discover contraband, illicit or stolen property, or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which the person is charged.
- \* O. **Significant Passage of Time** - Constant visual contact is not required so that if a vehicle or person goes momentarily out of sight but immediately comes back into sight, (i.e. going over a hill) the officer would not have "lost contact" within the meaning of the statute. However, a significant passage of time could be as little as a minute or two, if the pursuing officer lost contact and was not in view of the vehicle or person being pursued.
- P. **Strip Search** - The removal or rearrangement of some or all of the clothing of a person so as to permit an inspection of the genitals, buttocks, anus, breasts, or undergarments of such person including, but not limited to, inspections conducted visually, manually, or by means of any physical instrument. {Section 544.193 (RSMo)}
- \* Q. **Uniform Fresh Pursuit Law** – A law which provides that an officer from another state may enter into **Missouri** in fresh pursuit in order to arrest a person who is believed to have **committed a felony, the crime of driving while intoxicated or driving with excessive blood alcohol content**. The law gives the officer of the other state the same authority of arrest as a Missouri officer. The law further provides that if an officer of the other state is going to make an arrest in Missouri, the person being arrested must be taken before a judge without delay in order to determine the validity of the arrest. The Uniform Fresh Pursuit Law in effect in the **State of Kansas** allows a Missouri officer to pursue a person who has **violated any law** into the state of Kansas and grants arrest power to a Missouri officer. There is a similar requirement that the Missouri officer take the arrest before a judge in that state without delay. {Section 544.155 (RSMo)}

### III. PROCEDURE

This directive has been organized into annexes for easy reference.

Annex A      Stop and Frisk

- Annex B Authority to Arrest
- Annex C Search of a Person
- Annex D Search of Vehicle
- Annex E Search of Premises

Richard D. Easley  
Chief of Police

Adopted by the Board of Police Commissioners this \_\_\_\_\_ day of \_\_\_\_\_  
2004.

Karl Zobrist  
President

**DISTRIBUTION:** Law Enforcement Personnel  
Civilian Supervisory Positions  
Department Elements  
Post on all bulletin boards for two weeks.

**STOP AND FRISK**

## A. Stopping/Detaining a Person

1. An officer may stop or detain any person(s) abroad, without making an arrest, only when the officer has reasonable suspicion to believe that the person is committing, has committed, or is about to commit a crime.
2. Reasonable suspicion can be based on the officer's experience and one or more of the following facts:
  - a. Personal observation of incriminating matters.
  - b. Facts learned by the officer in the investigation of a crime.
  - c. Subject in the vicinity at the time of a crime.
  - d. Flight of a person from the presence of officers, when at or near the scene of a crime.
  - e. Odors (i.e., alcohol, smoke) and sounds (i.e., gunshots, screeching tires) especially when combined with other facts such as apparent flight, etc.
  - f. Pickup or information broadcast by the police dispatcher.
  - g. Information from a reliable source.
  - \* h. A person's reputation is known to an officer.
  - \* i. Anonymous tips, if the officer has sufficiently corroborated the information.
3. A brief stop or detention may take place even though there is no probable cause for an arrest at that time. Officers may ask the person's name, address, business abroad, and where they are going.

**NOTE:** A person's refusal to give their name, address, and business abroad is not a chargeable offense, however, it does add to reasonable suspicion.

4. **Reasonable suspicion for the detention of a subject must be included in any reports completed.** If a report is not completed, the information will be documented on the officer's Daily Activity Log, Form 112 P.D.

## B. Frisking a Person

1. An officer may frisk (pat down the outer clothing) a person for a weapon when they have additional reasonable suspicion to believe that the person may be armed and dangerous. Officer safety alone will not be considered reasonable suspicion to conduct a frisk. Other factors must be present (i.e., quick movements by a subject, time and place of stop, officer's experience, unusual conduct by a subject).
2. The examination of the outer clothing cannot exceed a frisk unless what is believed to be a weapon is discovered. Only then can the pockets or concealment areas of the clothing be entered for the purpose of extracting what is reasonably believed to be a weapon.
  - a. In the course of the frisk, if the officer comes into contact with objects **immediately recognizable as contraband**, the officer shall seize the contraband and may arrest the subject, based on the "Plain Touch Exception."
  - b. An officer may seize items which are immediately apparent as contraband or fruits or instrumentalities of crime which are in plain view.
  - c. An officer questioning a person or conducting a pedestrian check cannot, at any time, conduct a general exploratory search for evidence of criminal activity.
- \* 3. When an officer has additional reasonable suspicion to believe an occupant of a vehicle may be armed and that person has not satisfactorily proven that they have a legal reason to be in possession of a firearm, (i.e. a permit or endorsement from any issuing state to carry a concealed weapon) the officer may frisk the person and conduct a limited search of the vehicle where a weapon may be placed or hidden. This search must be limited to:
  - \* a. The passenger compartment of the vehicle.
  - b. Those areas in which a weapon may be placed or concealed.
- \* 4. A concealed weapon possession charge cannot be initiated against a person unless the weapon is concealed on the person or within easy reach or convenient control of the person, outside of their residence or business premises and that person does not have a legal basis to carry a concealed weapon, such as a state issued certificate or endorsement to carry a concealed weapon (Refer to the current directive outlining the "Concealed Carry Law".)

## AUTHORITY TO ARREST

### A. Effecting an Arrest

1. Physical force is not always necessary to affect an arrest. The verbal command of an officer to a person that they are under arrest and the obedience of the person to such command is all that is necessary to constitute an arrest, {Section 544.157, (RSMO)}. This would be the “submission of a person to the custody of the officer.”

**NOTE:** For guidelines on the force necessary to affect an arrest, refer to the Procedural Instruction entitled, “Use of Force.”

- \* 2. An arrest outside the city limits should be affected by the appropriate jurisdictional authority.

Exceptions:

- a. In the event of flight after notice of intent to arrest, an officer may continue in “fresh pursuit” anywhere in the state of Missouri under the following circumstances:

- (1) The officer reasonably believes the person has committed a felony, or
- (2) The person has committed, or attempted to commit, in the presence of the officer, any criminal offense or violation of a municipal or county ordinance, or
- (3) The officer holds an arrest warrant for the person. In these situations, officers have the authority to arrest, and hold in custody, that person anywhere in the state as long as the “fresh pursuit” was initiated from within the officer’s own jurisdiction. The pursuit must be terminated if the officer loses contact with the person for a significant passage of time.

- b. Officers may engage in “fresh pursuit” of a suspect into Kansas or “any other state” which has a reciprocal Uniform Fresh Pursuit Law in accordance with the Procedural Instruction entitled, “Pursuits and Emergency Police Vehicle Operations”. After apprehension is made in another state, the agency that has jurisdiction where the apprehension is made will be contacted regarding the subject of the pursuit and a request made that appropriate charges be filed. Under no circumstances will the party be transported back across the state line to file charges, as this would constitute an illegal extradition. Extradition can only be granted after a judicial hearing.

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- c. If a person arrested for a felony escapes, or commits a felony during escape, the officer from whose custody the escape was made may pursue and retake the person at any time and at any place in the

state, and may command assistance in making the arrest, {Section 544.210 (RSMO)}.

B. Authority to Arrest Without a Warrant

1. Probable cause must exist prior to or at the time of arrest. The arrest cannot be based solely on reasonable suspicion nor can it be justified by facts and circumstances developed after the arrest.
- \* 2. Any detention or seizure of a person that is not based on probable cause or a warrant will make any physical evidence seized, statements made by the suspect or statements taken by an officer, inadmissible in court.
3. While within the city limits, officers may arrest, on view, any person they see violating, or have probable cause to believe they violated, any federal law, state law, or city ordinance; or whom they believe is a fugitive felon from another state or jurisdiction, {Section 84.710 (RSMO)}.
- \* 4. No person shall be arrested, booked, or charged unless the officer has probable cause to believe the person has committed the specific crime with which they are being charged. Probable cause, including the facts and circumstances leading to the arrest, must be stated in all reports relating to the arrest and charge. The simple statement that, "there was probable cause," is not sufficient.
- \* 5. Evidence sufficient to convict a person need not exist at the time of the arrest, but officers must possess probable cause to believe that the person did commit a specific crime.
6. An arrest without a warrant but based on probable cause can be made in any public place.
7. An arrest without a warrant but based on probable cause can be made in a private place (i.e., a home, residence, or other place where a person expects privacy) when one of the following occurs:
  - \* a. Officers have been given verbal consent to enter, or have a Consent to Search, Form 155 P.D., signed by the person who has the apparent legal capacity to consent, i.e., possesses the common authority or exclusive ability to grant consent.
  - b. Officers have a reasonable belief that unless they enter, there is an immediate threat of injury or death.
  - c. Officers have probable cause to arrest for a serious felony that has been freshly committed, and either lives are in danger, or the officers are reasonably certain critical evidence will be destroyed unless the

arrest is made immediately. A serious felony is defined as one where violence is involved, such as rape, robbery, serious assault or murder.

- d. Officers have begun to physically affect an arrest in a public place (more than saying, "you are under arrest," but less than full control of the subject) and the suspect attempts to defeat the arrest by escaping into a private premise. Under these conditions, the officers would be justified in entering the private premise to complete the arrest.
8. Any person arrested without a warrant may be released by any supervisor, watch commander or division commander without a charge being made.

### C. Authority to Arrest with an Arrest Warrant

1. The arrest of a person on authority of an arrest warrant is the only authority expressly sanctioned by the Constitution of the United States. Whenever practical, the officer will obtain a warrant before initiating an arrest.
2. An arrest based on an arrest warrant can be made in a public place.
3. An arrest based on an arrest warrant can be made in a private place when:
  - a. An arrest warrant has been obtained for the named person and is executed at the named person's own residence (officers must knock first and announce their identity unless there are exigent circumstances). The officer must have a reasonable belief that the person is in the premise before forcing entry.
  - b. A person for whom an outstanding valid arrest warrant exists may be arrested at another private premise if a search warrant has been obtained for that private premise or the third party who possesses common authority over the premises gives consent to search.
4. Officers should be mindful of the following facts prior to the execution of an arrest warrant:
  - a. The officer(s) must be within the class indicated on the warrant.  
**NOTE:** Missouri State warrants are directed to **any peace officer**.
  - b. The warrant must be executed within the jurisdictional limits of the executing officer, i.e., Kansas City, Missouri.

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- c. The officer(s) will make known the intent to arrest the person(s) named in the warrant(s).
- d. The officer(s) will show the warrant or advise that the warrant has been issued. The basis for the warrant (robbery, rape, etc.) will be

included in the notification. Officers need not have the warrant in their possession at the time of execution.

5. Any reasonable doubt as to the correct identity of the suspect as the person named in the arrest warrant should be resolved at the scene. The party should not be taken into custody until verification is obtained.

#### D. Rights of an Arrested Person

1. All custodial arrestees have a right to a Miranda Warning prior to being interrogated. The Miranda Warning should be given in accordance with the current Procedural Instruction entitled, "Miranda Warning and Miranda Waiver." Once an arrestee has invoked their Miranda rights and requests an attorney, the interrogation must cease, unless the suspect voluntarily reinitiates contact regarding their case.
  - a. For procedure on issuing the Miranda Waiver to juveniles refer to the Procedural Instruction entitled, "Juvenile Apprehension Procedures".
  - \* b. Under normal circumstances issuing the Miranda Waiver will be the responsibility of the investigating element. If however, the suspect is issued the Miranda Waiver by someone other than the investigating element, the date, time and person issuing the Miranda Waiver will be included in any required reports.
2. All arrestees must have the opportunity to make phone calls at the earliest possible time, consistent with the reasonable investigation of the crime for which they were arrested provided that the phone call(s) will not taint, hamper or otherwise harm the investigation.
3. An arrested person has the right to a prompt arraignment after the determination of what charges will be filed. This will normally be the responsibility of the investigating element.
  - \* a. When arrested for a **city offense** or a **state misdemeanor**, an arrestee will not be held more than twenty (20) hours before being charged or arraigned except as noted in Section D, 3, b below.
  - \* b. An amendment to Section 544.170 of the Missouri Statutes allows law enforcement agencies to hold persons for twenty-four (24) hours for the **state crimes** of:

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- (1) Murder
- (2) Forcible Rape
- (3) Forcible Sodomy
- (4) Robbery
- (5) Assault
- (6) Distribution of Drugs

4. For any arrest, the arresting officer will make a determination as to whether or not the arrestee has a communication impairment, a hearing impairment, a visual impairment or other physical or mental impairment(s). If the officer determines or suspects that an arrestee has any such impairment, the officer should provide appropriate accommodations for the arrested person. This may entail access to interpreters for arrestees with hearing and/or speech disabilities or other such accommodations that will permit the arrestee to properly and adequately communicate with and understand the arresting officers and others involved with the arrest and detention of the arrestee.

**NOTE:** Officers should contact the Communications Unit supervisor to determine if an on-duty member is available to translate. If an on-duty member is not available, a field supervisor may authorize the use of an outside interpreting service (refer to the Department Memorandum entitled "Language Interpreting Services").

In case of persons with a physical disability, special accommodations in the transporting and holding of the arrestee may be required. A person whose disability affects the muscular and/or skeletal systems may not be able to be restrained using handcuffs or other standard techniques. **In all cases, officer safety must prevail. No officer should jeopardize their safety or that of others in an attempt to accommodate a person with a disability.**

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**ANNEX C**

## **SEARCH OF A PERSON**

- A. Custodial Search

1. The search shall not extend beyond the arrestee's person or their immediate presence.
2. A lawfully arrested person should be searched for the purpose of seizing any weapon readily capable of lethal force, contraband which might be used to resist arrest or effect escape, or any evidence which might be destroyed. In this instance, prior verbal approval or written consent to search is not necessary.
3. The mere presence of a companion with the arrestee is not enough to establish probable cause to believe the companion is an accomplice. Therefore, a search of the companion is not permissible unless an independent basis exists. The officer must be prepared to testify to precisely what it was that supported his or her belief that a companion was involved in a violation of the law, thereby permitting the search.
4. A custodial search will be conducted on all arrests. Members are advised to limit search activity to that which is absolutely necessary, with minimal clothing movement in the area of the groin, breasts, or undergarments of the prisoner without probable cause to inspect further. A metal detector may be used to examine the groin, buttocks, and breast areas.
5. All personal property taken from a subject subsequent to arrest may be carefully scrutinized for the purpose of inventory. This includes any and all closed containers, briefcases, purses, bags, etc., for the purpose of determining their content. All property held for safekeeping will be documented on the appropriate forms. Contraband and other illegal substances shall be recovered and processed according to the procedures described in the Procedural Instruction entitled, "Recovered Property Procedures."

B. Strip Search

A person arrested or detained for a traffic offense or an offense which does not constitute a felony will not be subject to a strip search unless there is probable cause to believe that the person is concealing a weapon, evidence of the commission of a crime, or contraband. The officer/DFO conducting the search shall be the same sex as the person being searched and will:

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1. Receive authorization from a commander or supervisor, prior to conducting the search unless the threat of imminent danger precludes this requirement.
2. Conduct the search at a location where the search cannot be observed by any other person other than the person(s) physically conducting the search.  
**NOTE:** A readily available person may be present at the request or consent of the person being searched.

3. Complete a Prisoner Search Form, Form 138 P.D.
4. Obtain an original case report number for the Prisoner Search Form, Form 138 P.D., unless a number has previously been issued for a report relating to the incident.
5. Give a photocopy of the Prisoner Search Form, Form 138 P.D., to the person who was searched.

\* C. Body Cavity Search

A body cavity search of any person detained or arrested may only be conducted pursuant to a duly executed search warrant, under sanitary conditions, and by a physician, registered nurse, or practical nurse licensed to practice in the state. When there is probable cause to believe a subject is concealing an item in a body cavity, the subject will be kept under close observation or isolation until a search warrant can be obtained. The subject will then be transported to an appropriate medical facility where the search can be conducted.

**NOTE:** Exigent circumstances, such as the suspect placing illegal narcotics or contraband into their mouth, does not require obtaining a search warrant as the probability of the subject swallowing the evidence requires the need for immediate action.

- D. Officers are allowed to search a person who is not under arrest. This kind of search frequently occurs at an airport when officers make contact with persons who match drug courier indicators. This search may only be done with the consent of the person. Verbal consent is sufficient for a search of a person under these circumstances. Officers should be aware that the ability to search a person with their consent in no way alters or eliminates the specific procedures that must be followed when conducting a strip search or body cavity search as discussed in Sections B and C of this annex.

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**ANNEX D**

**SEARCH OF A VEHICLE**

A. Vehicle Search

1. No search of a vehicle or occupant(s) will take place during the course of a traffic violation unless one of the following exists:

- a. The officer has reasonable suspicion to believe that their life and/or the lives of others are in danger or that the person is armed or dangerous.
  - b. The officer observes contraband in plain view in the vehicle (items which cannot be lawfully possessed). They may then make an arrest and seize the contraband.
2. When officers have probable cause to believe a vehicle, which is readily movable, contains articles which they are entitled to seize and for which a warrant could be obtained (i.e. contraband), the entire vehicle may be searched for such articles without obtaining a search warrant. This includes closed containers found in the vehicle.
    - a. The right to search and the validity of the seizure in this instance are not dependent upon arrest.
    - b. The extent of the search is defined by the object of the search and the places in which it could reasonably be concealed.
  3. A content inventory is required for the towing and protective custody of a vehicle. The content inventory permits accessible closed compartments and containers to be opened to determine content. **Any materials/items of contraband or of an evidentiary nature discovered may be admissible evidence in court.** (Refer to Procedural Instruction entitled, "Towing/Protective Custody of Vehicle and Contents.")
  4. When the search of a vehicle under authority of a search warrant is dictated or desired, no immediate content inventory will be conducted. The officer will contact the appropriate investigative element to determine if a warrant will be obtained. If so, the officer will have the vehicle towed to the police facility designated by that investigative element and will place a hold on the vehicle. The investigative element will obtain the search warrant, conduct the search, and complete the Property Inventory Report, Form 236 P.D. The vehicle will then be towed to the City Tow Lot.

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## B. Consent to Search

1. A valid consent to search can be given by a person having an immediate and present right to possess the vehicle.
- \* 2. When a person gives verbal consent to search a vehicle, the officer shall make every effort to obtain the consenting person's signature on a completed Consent to Search, Form 155 P.D., prior to initiating the search.
  - \* **NOTE:** Officers are reminded that the in-car camera can be utilized to document a verbal or a written consent to search.

- a. The original Consent To Search, Form 155 P.D., will be kept with the original(s) of all reports. If no reports are applicable, **a Form 100/107 P.D. entitled, "Consent To Search," shall be completed.**
  - 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 search, this would not be viewed as a revocation of the verbal consent and the officer may search the vehicle. The officer will articulate in the applicable report(s) the verbal consent and where items that are recovered were found.
4. The following must be kept in mind by officers who conduct a search by consent:
- a. Consent must be voluntary. It must be given without force, duress, or compulsion of any kind.
  - b. 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.
  - c. Once consent for a search has been given it is not required that the consenting person remain at the scene.
  - \* d. The consent may be revoked by the consenting person any time during the search. If the consent to search is revoked, the searching officers must discontinue their search immediately, unless another legal basis exists to continue or a search warrant is obtained.

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## ANNEX E

### 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, **the consent of only one person** is needed to conduct the search.

**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 kept with the original(s) or all applicable reports. If no reports are applicable, a Report Form, Form 100 P.D., or an Investigative Report Form, Form 107 P.D., will be completed.
  - 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 is present to give permission for the search.
  - b. 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.

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- c. 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.
- d. The consenting person is not required to remain at the scene, once consent has been given.
- \* e. 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. Officers may, when they are legitimately on the premises, seize items (in plain view) they have probable cause to believe and are immediately apparent as contraband, or are fruits or instrumentalities of crime.  
**NOTE:** A United States Supreme Court case expressly prohibits moving items to search for serial numbers. Only those serial numbers in plain view may be checked without a warrant or consent. Physically moving items in order to reveal serial numbers is considered a search.