

## 306 Search and Seizure

### 306.5 CONSENT

- (a) Entry into a location or vehicle for the purpose of conducting a search for any item reasonably believed relevant to any investigation is permitted once valid consent has been obtained. Officers should be aware that overuse of the consent search can negatively impact the Department's relationship with our community and only request a consent search when they have an articulable reason why they believe the search is necessary and likely to produce evidence related to an investigation. A search by consent is only allowed if the following criteria are met:
- ~~1. The officer has explained the reason for the consent search request to their supervisor (or their Corporal/Detective if their supervisor is unavailable) and received their approval prior to requesting consent. If the officer is:
    - ~~(a) Assigned to a specialized unit that has received specific training on consent searches;~~
    - ~~or~~
    - ~~(b) The officer has completed the department's Interdiction for the Protection of Children (IPC) training and is actively conducting an IPC investigation; then the officer would not need supervisor approval prior to requesting consent.~~~~
  - ~~2.1.~~ Consent is voluntary (e.g., clear, specific and unequivocal).
  - ~~3.2.~~ Consent is obtained from a person who has the authority to give the consent (e.g., care, custody and control of the location or vehicle).
  - ~~4.3.~~ The search does not exceed the scope of the consent given.
- (b) Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, either expressed or implied.
- (c) Although officers are not required to conduct searches within the plain view of suspects, those who have the authority to grant or revoke consent should be in a position to communicate a withdrawal of consent should they so desire. If consent was obtained by telephone from a person who has authority to grant the consent, the person should be provided with contact information to revoke the consent.
- (d) Absent other legal justification, any related search should be discontinued at any point that consent is withdrawn, even if the withdrawal is made by a different party who is at the scene and who also has authority over the area being searched.

#### 306.5.1 RECORDING CONSENT

- (a) Consent requests and authorization for all vehicles, locations where there is a reasonable expectation of privacy, and subject stops shall be recorded by the Body Worn Camera (BWC). When the BWC system is unavailable, the DMAV system shall be used.
1. Prior to the search, the officer shall read the Consent to Search Card to the subject.
  2. After the subject consents to the search, the officer can proceed with the search. If at any time after the search has begun the person revokes their consent, the officer will immediately stop and search no further unless sufficient probable cause has already been developed to warrant continuing with the search or a warrant has been obtained.
- (b) Employees will document in their report, supplement, or street-check anytime a consent search is used and that the consent was successfully recorded. If the recording is not successful the reason will be documented in the report, supplement, or street-check as well as in CAD history.
- (c) Employees will notify their immediate supervisor of the consent search as soon as practicable, but prior to the end of the tour of duty.