

INTRADEPARTMENTAL CORRESPONDENCE

October 27, 2020
1.14

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: FIELD OFFICER'S NOTEBOOK, FORM 15.03.00 – REVISED; AND,
CONSENT TO SEARCH VERBAL ADVISEMENT, FORM 15.05.00 –
ACTIVATED

RECOMMENDED ACTION

That the Board of Police Commissioners REVIEW and APPROVE the revised Field Officer's Notebook, Form 15.03.00; and activation of the Consent to Search Verbal AdviseMENT, Form 15.05.00.

DISCUSSION

The attached Administrative Order prescribes the circumstances and protocols for obtaining valid consent. The Order also revises the Field Officer's Notebook, Form 15.03.00, and activates the Consent to Search Verbal AdviseMENT, Form 15.05.00. The latter form shall be used by Department personnel to communicate to individuals they contact and wish to search the individual's premise, person, personal property or vehicle.

Note: This Order pertains only to consensual searches and should not be confused with other legal searches, such as pat-downs when an officer has articulable facts which cause him or her to reasonably believe the person is dangerous or may be carrying a weapon.

Initially, officers will be individually provided a pocket-sized version (i.e., laminated card) of the Consent to Search Verbal AdviseMENT to ensure that they uniformly follow the established procedures for obtaining consent. Thereafter, the Consent to Search Verbal AdviseMENT will be incorporated into the Department's Field Officer's Notebook, Form 15.03.00.

If you have any questions, please contact the Office of Constitutional Policing and Policy, at (213) 486-8730.

Respectfully,



MICHEL R. MOORE
Chief of Police

Attachments

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO.

SUBJECT: **FIELD OFFICER'S NOTEBOOK, FORM 15.03.00 – REVISED; AND, CONSENT TO SEARCH VERBAL ADVISEMENT, FORM 15.05.00 – ACTIVATED**

PURPOSE: This Order establishes the requirements for officers obtaining consent to search a premise, person, personal property or vehicle. The below procedures for obtaining consent will help us communicate better with the community, as well as strengthen trust and minimize any adverse impact on individuals, officers and the Department.

Note: This Order pertains only to consensual searches and should not be confused with other legal searches, such as pat-downs when an officer has *articulable facts* which cause him or her to reasonably believe the person is dangerous or may be carrying a weapon.

As part of its commitment to Procedural Justice, the Department endeavors to have personnel better communicate their investigative reasoning and actions. In doing so, officers further the Department's initiatives to build trust and facilitate understanding with the community, as well as improve voluntary compliance in its enforcement efforts. Above all, greater transparency allows personnel to promote a better understanding amongst the public about actions taken by police officers and the reasons for them. (For further information, officers may reference, [Contacts with the Public – Part II Procedural Justice](#) Training Bulletin, dated April 2020.)

PROCEDURE:

- I. FIELD OFFICER'S NOTEBOOK, FORM 15.03.00 – REVISED.** The Field Officer's Notebook, Form 15.03.00, has been revised to include the Consent to Search Verbal Advise ment, Form 15.05.00.
- II. CONSENT TO SEARCH VERBAL ADVISEMENT, FORM 15.05.00 – ACTIVATED.** The Consent to Search Verbal Advise ment has been activated for use by officers to provide a verbal advise ment to individuals from whom they wish to obtain consent to search their premise, person, personal property or vehicle.

Form Use and Completion:

- A. Use of Form.** This form shall be laminated by the Department of General Services and inserted inside the Field Officer's Notebook or officer's shirt pocket for reference relative to this advise ment.
- B. Completion.** The completion of the Consent to Search Verbal Advise ment is self-explanatory. Written consent shall be documented on an In House Form 11 or 12.
- C. Distribution.**
 - 1 – Original, issued to all sworn personnel.
 - 1 – Total

Note: When an officer seeks consent to search from an individual, he or she shall document whether written or verbal consent was obtained (or declined) on their Computer Aided Dispatch Summary Report, Daily Filed Activities Report (DFAR), Form 15.52.00, or the Traffic Daily Field Activities Report (TDFAR), Form 15.52.01.

III. CONSENSUAL SEARCH REQUIREMENTS. Absent a search warrant, officers may conduct a search in a limited set of circumstances. One such circumstance is when the subject of the search gives his or her consent for the search. There are five (5) basic lawful requirements inherent in consent searches:

1. Consent was given (i.e., the person must expressly or impliedly consent);
 - **Express Consent** is when a person responds in the affirmative to an officer's request for permission to search – that is, any word(s) that reasonably indicate the person is agreeing to the specified request.
 - **Implied Consent** is when a person's actions, gestures or response sufficiently communicates permission to the specified request, such as an individual handing an officer his or her car keys after the officer requests to search the car. However, a failure to object to a search or a request to search **does not** constitute implied consent.
2. Consent was voluntary (i.e., consent must be given voluntarily);
 - Authorization is given of one's own free will, absent any duress.
 - No threats, promises or demands for consent were used.
3. Scope of consent (officers shall only search those places and/or things that the person gave express or implied authorization to search);
4. Intensity of search (the search shall not be unduly intrusive); and,
 - Consent to search something does not provide authorization to destroy or damage the thing or place in the process.
5. Duration of search (the search shall not be unreasonable in length of time).
 - For example, it would be unreasonable for an officer to perform or extend a consensual search for an excessive period of time, particularly if awaiting specific resources (e.g., carpentry tools, a preliminary alcohol screening device or K-9) to complete a search.

Note: The consenting person may modify the scope of consent or withdraw it altogether *at any time*.

IV. PROCESS FOR OBTAINING CONSENT: Consent may be obtained either in writing or verbally:

1. **Written Consent.** The Department uses a Consent to Search Form – In House

Form 11, for English speaking individuals and an In House Form 12, which is the Spanish language version. These forms allow for the documentation of consent to search a premise, person, personal property (e.g., mobile devices and computers) or vehicle, and include necessary provisions or safeguards for obtaining lawful consent to search.

Note: The Spanish language version of the Consent to Search Form shall only be given by an officer who is fluent in Spanish (i.e., can read and write Spanish in accordance with the Department's language proficiency standards) and capable of testifying in Spanish.

2. **Verbal Consent.** When obtaining verbal consent, the entire interaction involving the request for and obtaining of verbal consent shall be captured on Body Worn Video (BWV) or a Digital In-Car Video System (DICVS). For verbal consent, each of the following points **shall** be declared/asked and **recorded** on BWV or DICVS:

- A clear request for consent to search the premise, person, personal property (including mobile devices) or vehicle. For instance, an officer may request to search:
 - A house;
 - A vehicle;
 - A person;
 - A cellphone; or,
 - A purse or backpack.
- Advisement that the person can refuse or withdraw consent to the search at any time, even after he or she has consented, and the search has begun; and,
- Confirmation of the person's understanding of the consent he or she has provided.

Note: If granted Implied Consent, Department personnel shall confirm the consent verbally and ensure that the confirmation is captured by BWV or DICVS. In the absence of BWV or DICVS at-scene, Department personnel shall obtain written consent for a search, absent probable cause.

Best Practices:

After consent has been requested, granted and recorded on BWV, DICVS (for verbal consent) or In House Forms (for written consent), the individual consenting should often be placed a safe distance from the location or items to be searched. Best practices suggest that an officer should use the BWV and DICVS as an audio recording device to narrate his or her actions to the best of his or her ability and indicate, if practicable, information including but not limited to the following:

1. Why he or she is searching the premise, vehicle, item or person;
2. What he or she is searching for;

3. Where he or she is searching;
4. What he or she discovers and/or recovers, if anything; and,
5. Where the item(s) was located.

For example, when an officer requests consent to search and consent is granted, as the officer commences the search, he or she should articulate on BWV or DICVS the above particulars of the item observed. If something is recovered, the officer should make every effort to capture the recovery on BWV. If nothing is discovered during the consent search, when practicable, officers should make an attempt to explain to the individual(s) the reason they asked for consent and how they performed the search.

It is understood that each incident is shaped by various factors which may preclude officers from following best practices in every situation. However, when practicable and safe to do so, officers should make every attempt to employ the procedures listed above.

FORM AVAILABILITY: The initial dissemination of 10,000 Consent to Search Advisements, Form 15.05.00, shall be distributed as a laminated card to all sworn personnel by the Office of Operations. Once the current stock of Field Officer's Notebooks which do not contain the integrated advisement has been depleted at the Department of General Services, this advisement shall then be integrated into the inside cover of the Field Officer's Notebook, thereafter. Training Division shall be responsible to order the standalone laminated advisement forms for their recruit officers until the advisement has been integrated into the Field Officer's Notebook.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

If you have any questions regarding this Order, please contact the Office of Constitutional Policing and Policy, at (213) 486-8730.



MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION "D"

**CONSENT TO SEARCH
VERBAL ADVISEMENT**

Field Officer's Notebook

Verbal consent shall be captured (both audio and video) on Body Worn Video (BWV) or on a Digital In-Car Video System (DICVS).

Verbal Consent requires three points to be made with words such as:

1. May I have your permission to search your _____ (e.g., premise, person, personal property (including mobile devices) or vehicle)?

¿Me da permiso para revisar su _____ (e.g., local, persona, propiedad personal (incluyendo aparatos inalámbricos) o su vehículo)?

2. You may refuse or withdraw consent at any time.

Puede rechazar o revocar su consentimiento a cualquier momento.

3. Do you understand?

Comprende usted?

Form 15.05.00 (9/20)

There are five (5) basic lawful requirements inherent in consent searches:

1. Consent was given (the person must expressly or impliedly consent):
 - o Express Consent is when a person responds in the affirmative to an officer's request for permission to search.
 - o Implied Consent is when a person's actions, gestures or response sufficiently communicates permission to the specified request, such as an individual handing an officer his or her car keys after the officer requests to search the car. However, a failure to object to a search or a request to search **does not** constitute implied consent.
2. Consent was voluntary (consent must be given voluntarily);
 - o Authorization is given of one's own free will, absent any duress.
 - o No threats, promises, or demands for consent were used.
3. Scope of consent (officers shall only search those places and/or things that the person gave express or implied authorization to search);
4. Intensity of search (the search shall not be unduly intrusive); and,
 - o Consent to search something does not provide authorization to destroy or damage the thing or place in the process.
5. Duration of search (the search shall not be unreasonable in length of time).
 - o For example, it would be unreasonable for an officer to perform or extend a consensual search for an excessive period of time, particularly if awaiting specific resources (e.g., carpentry tools, a preliminary alcohol screening device, [CDLG1] or K-9) to complete a search.

Note: The consenting person may modify the scope of consent or withdraw it altogether at **any time**.

Form 15.05.00 (9/20)

LOS ANGELES POLICE DEPARTMENT

MICHEL R. MOORE
Chief of Police



ERIC GARCETTI
Mayor

Post Office Box 30158
Los Angeles, California 90030
Telephone:
TDD: (877) 275-6273
Reference No.

CONSENT TO SEARCH FORM

DIRECTIONS: Officers shall complete the form, indicating the type of search(es) to be performed. The person giving his/her consent shall print and sign his/her name as indicated.

PREMISES

Address _____

PERSON

Name, date of birth and description _____

PERSONAL PROPERTY

Description of personal property _____

VEHICLE

License, VIN number and description of vehicle _____

1. I have been asked by the below listed Los Angeles Police Officers to permit a complete search of the above described person(s), place(s) and/or thing(s).
2. I have been advised of my right to refuse consent to the search described above and to refuse to sign this form if I so choose. I further declare that the officers have made no promises, threats, force or physical or mental coercion of any kind against me to obtain my consent to the search described above or for me to sign this form.
3. I am giving permission for the search freely, voluntarily and without any threat or promise having been made against me, my family or other person.
4. I authorize these officers to take any items which they determine may be related to their investigation.

Print Name (person giving consent)

Date

Signature (person giving consent)

Print Name (Officer)

Serial No.

Date

Print Name (Officer)

Serial No.

Date

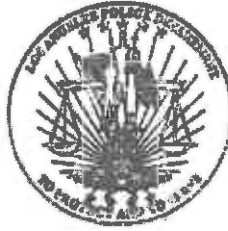
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LOS ANGELES POLICE DEPARTMENT

MICHEL R. MOORE
Chief of Police



ERIC GARCETTI
Mayor

P.O. Box 30158
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Telephone:
TDD: (877) 275-8273
Ref #:

CONSENT TO SEARCH FORM (SPANISH VERSION)

LOCAL/
RESIDENCIA

DIRECCION/DOMICILIO

PERSONA

NOMBRE, FECHA DE NACIMIENTO, DESCRIPCION

EFFECTOS
PERSONALES

DESCRIPCION DE EFFECTOS PERSONALES

AUTOMOVIL

DESCRIPCION, NUMERO DE LICENSIA

1. Los oficiales del Departamento de Policia de Los Angeles (escrito abajo) me han pedido permiso para registrar el local(es), automovil(es), persona(s) y, o efectos personales descritos arriba.
2. He sido aconsejado sobre mi derecho de negar este permiso. Declaro aun mas que los oficiales no me han hecho promesas, ni amenazas, o han usado fuerza fisica ni mentalmente para obtener mi consentimiento para la busqueda o firma descrito en este documento.
3. Yo doy consentimiento voluntariamente y sin cualquier amenaza o promesa sido hecho contra mi, mi familia u otra persona.
4. Yo autorizo a los oficiales para que se lleven cualquier cosa que pueda estar relacionada con su investigacion.

Letras de molde

Fecha

Firma

Print Name (Officer)

Serial No.

Date

Print Name (Officer)

Serial No.

Date

NOTE: This consent to search form should only be given by an officer who is fluent and capable of testifying in Spanish.

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TRAINING BULLETIN

Los Angeles Police Department

Michel R. Moore, Chief of Police

Volume XLIX, Issue 3

April 2020

CONTACTS WITH THE PUBLIC – PART II PROCEDURAL JUSTICE

“Respect for People” and “Service to Our Communities” are fundamental core values of the Los Angeles Police Department; both require our Department to adapt to the changing needs and expectations of the multiple and diverse communities of Los Angeles. The effectiveness of law enforcement in a vibrant urban environment is most often dependent on the willingness of the public to comply with the law, to participate in their communities, and to partner with law enforcement in the larger public safety mission. This is known as police legitimacy.

The purpose of this Bulletin is to educate the Department on the principles of procedural justice to increase police legitimacy and to create greater public trust and confidence. Through these coordinated efforts and in partnership with our multiple and diverse communities, it is expected that the Department’s mission to reduce the incidence and fear of crime can be accomplished.

PROCEDURAL JUSTICE DEFINED

Procedural justice refers to the perception of fairness, respect, and dignity for every individual within the justice system. Most community members are first introduced to the justice system through their contact with law enforcement as a stakeholder, witness, victim, suspect, or arrestee. The high visibility of officers and the significance of those first encounters can shape community perceptions and level of trust over generations.

Procedural justice can be defined as a consistent method of operation in which community members are treated fairly, with dignity and respect, in every law enforcement encounter. It is a principle that, when embraced, promotes positive organizational attitudes, bolsters good relations with the community, enhances officer safety, and allows the organization to embrace continuous improvement.

Procedural justice places an emphasis on how law enforcement services are rendered. Officers are not limited in carrying out the scope of their responsibilities as peace officers. Instead, they should look for opportunities to invest and enhance public trust in non-traditional ways. The proper application of procedural justice will likely result in

people believing that they have been treated fairly. What people think of the justice system is tied more to the perceived fairness of the process and how they were treated rather than the actual outcome.

INTERNAL AND EXTERNAL PROCEDURAL JUSTICE

There are two co-existing types of procedural justice: Internal and External. Both are needed to fully implement procedural justice. As officers practice it in their contacts with the public (external procedural justice), it should be fully applied within the daily operations of the Department (internal procedural justice). In effect, how we treat each other within the Department will ultimately impact how we treat the community.

Consider a bridge as a metaphor for procedural justice. The overarching goal of utilizing procedural justice principles in all interactions, internally and externally, is to build and sustain trust: Every police encounter has the opportunity to expand trust-building equity within the community through respect, neutrality and voice—the arches that support the bridge. The Department Core Values and the Law Enforcement Code of Ethics have been incorporated as they are consistent with the embodiment of each of the procedural justice tenets.



PROCEDURAL JUSTICE TENETS

There are four tenets that create the fundamental framework for operating in a procedurally just manner: Trustworthiness, Respect, Neutrality, and Voice. While procedural justice should be viewed as a guiding principle, it can be helpful to think of the tenets as tools that, when combined, build mutual respect and trust between officers and the community.

Trustworthiness

The ultimate goal of every encounter between Department members, sworn and civilian, and community members should be to increase Trust. This can be accomplished even in small ways by simply ensuring that a community member understands the reason behind the Department's actions. Every Department member should understand that educating the public on law enforcement procedures is an effective means for demonstrating a willingness to be transparent and building community trust.

Respect

Displaying respect for another person shows awareness of the value of every individual. Treating a person with dignity validates that individual as a human being. Respect is one of the most critical components cited by community members in determining whether they have been treated in a fair and impartial manner. When Department members show respect and dignity for others, it demonstrates that we are embracing our own core values. The LAPD Core Value, Respect for People states:

“We believe in treating all people with respect and dignity. We show concern and empathy for the victims of crime and treat violators of the law with fairness and dignity. By demonstrating respect for others, we will earn respect for the Los Angeles Police Department.”

Neutrality

Officers must recognize how the use of body language and tone of voice comes into play when trying to convey neutrality. Officers must remember that their decisions can only be neutral when guided by the evidence and the law. While the challenges of police work can often times be taxing, every Department member should practice a fresh approach to each situation, displaying a neutral tone and objectivity toward others. When decisions are explained and the use of facts and legal principles are consistently applied to all, it demonstrates that law enforcement actions are based on the law and not personal bias.

Voice

Being heard and understood is a fundamental human need, especially in a crisis, and sometimes listening can diffuse an emotional situation. By utilizing the tools related to active listening, Department employees should be able to engage and listen to others as they voice their concerns, offer explanations, or provide information. Additionally, having a voice in the process increases the personal investment of the person involved and allows the officer to ensure that mutual goals are being accomplished. Being heard is one of the ways in which people feel respected in the process, even when the outcome is not favorable for them.

PROCEDURAL JUSTICE EXAMPLE

Traffic Stop

These tenets related to procedural justice are already present in many areas of Department practice and can be applied in almost every interaction. A frequent example can be seen in how the Department trains on traffic stop procedures where an officer provides:

1. A positive introduction (**Respect**);
 - Salutation, identify yourself
2. An explanation of why the person was stopped (**Neutrality**);
 - Reason for the stop
3. An opportunity for the person to explain their situation (**Voice**);
 - Ask a question such as, "Did you know your brake lights are not working?"
 - Allow the person to tell you why they agree or disagree with your reason for the stop, if they wish to do so.
4. Any questions regarding additional information needed (**Neutrality**); and
 - "Is this your vehicle?" . . . "Do you have a license?"
5. A concluding description of the process and next steps (**Trustworthiness**).
 - Explain action(s) taken

The logical progression of the interaction allows the officer to ask for additional information while maintaining neutrality and respect.

Note: Officers must remember that trust and a sense of fairness or non-bias can be quickly lost when they unnecessarily ask a person if they are on probation or parole. Therefore, such questions should only be asked when appropriate, depending on the information that is collected (Step 4).

With the ongoing demonstration of procedural justice principles, individuals frequently respond with greater confidence and trust toward law enforcement. The importance of this trust interaction is significant, not only for the peaceful resolution of the immediate situation, but also for other officers who may be responding to the needs of this community member in the future.

While not every situation may follow a textbook format, there are some responses that have been shown to escalate the perception of bias and thereby, undermine community trust building. Most often this occurs when officers feel as though they are being challenged. This is demonstrated when officers:

- become defensive
- engage in arguments or
- react to questioning by directing people out of the vehicle

Conversely, officers who are confident in their knowledge of the law (see Contacts with the Public, Part I: Legal Considerations) and how it has informed their response to an incident, are less defensive, more empowered to educate instead of argue, and more willing to acknowledge that giving others a voice does not diminish their authority.

COMMITMENT TO LEADERSHIP

The LAPD Core Value, “Commitment to Leadership” will be fundamental to ensuring that procedural justice principles are infused into LAPD practice both internally and externally. It should not go unnoticed that cultivating trust is a key component of all leadership and every Department employee should look at their own contribution to building trust. Over the years, there are certain key behaviors that have been observed in those who are considered to be High-Trust Leaders:

The 13 Behaviors of High-Trust Leaders:

- 1) Talk Straight
- 2) Demonstrate Respect
- 3) Create Transparency
- 4) Right Wrongs
- 5) Show Loyalty
- 6) Deliver Results
- 7) Get Better
- 8) Confront Reality
- 9) Clarify Expectations
- 10) Practice Accountability
- 11) Listen First
- 12) Keep Commitments
- 13) Extend Trust

“Nothing is as fast as the speed of Trust.”

Stephen M.R. Covey, *The Speed of Trust*

CONCLUSION

By allowing the concept of procedural justice to guide every interaction that we encounter, we can develop a stronger bond within the Department and with the public, based upon fairness and mutual understanding. In turn, trust should increase resulting in greater public support. Ultimately, such support bolsters our legitimacy, increases our effectiveness, improves officer safety and allows us to partner to cultivate safer, stronger and healthier communities.

Field Training Services Unit
Police Training and Education

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