



NATIONAL POLICE DEFENSE FOUNDATION

"Protecting and Supporting Law Enforcement"



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EDITORIAL NYPD NEW PATROL GUIDELINES ON "CONSENT TO SEARCH"

By Joseph Occhipinti, Founder & Executive Director
National Police Defense Foundation
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On October 25, 2016, the New York Post published an article entitled **"Union wants cops to ignore NYPD's "Consent to Search Rule"**

The news report profiled the NYPD's new patrol guideline enacted on October 15, 2016 that asks uniformed members to offer New Yorkers a "consent to Search Form" prior to conducting a warrantless searches.

Our constitution permits law enforcement officials to conduct warrantless searches, such as "consent searches" and the subsequent discovery of contraband is considered to have been lawfully obtained.

It is a well-known fact, however, that defense attorneys often contest those searches as being unlawfully obtained resulting in a suppression hearing. If the court believes that the search and seizure was lawful that seized evidence can be introduced into the grand jury proceeding or at trial. If the judge believes however that the search and seizure was unlawful, the court simply excludes the evidence.

During the late eighties, as a supervisory federal agent, I was trained and encouraged by my superiors to secure "consent to search" forms when it was suspected that either a business or person was reportedly engaged in criminal activity.

In 1988, I spearheaded a multi-agency task force called "Project Bodega" to investigate certain grocery stores and related businesses in Washington Heights, New York that were reportedly facilitating criminal activities and employing illegal aliens. The intelligence had alleged that many of those businesses had reputed ties to a Dominican drug cartel implicated in the murder of NYPD Police Officer Michael Buczek.

Project Bodega proved to be a highly successful operation resulting in numerous arrests, defendant convictions, illegal alien apprehensions and contraband seizures. In April 1990, several of those merchants who were associated with the "Dominican Federation", a reputed political front to the Dominican drug cartel according to the NYPD, lobbied former Mayor David

NATIONAL HEADQUARTERS

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Dinkins that Project Bodega was violating the civil rights of those merchants and requested a federal civil rights investigation.

As a result, I became the sole defendant in a civil rights conspiracy prosecution that resulted in my indictment, conviction and imprisonment for federal civil rights which arose out of those consent searches.

My prosecution became landmark since there were no acts of police brutality, racial bias or corruption! It marked one of the times in United States history that a law enforcement officer conducting a “consent to search” was criminally prosecuted. As a result of this landmark prosecution, the Port Authority Police of New York and New Jersey, Drug Enforcement Administration in New York City, among other agencies terminated its use of consent searches in drug interdiction operations. These agencies realized that didn’t want to put their officers in harm’s way due to their potential exposure of criminal prosecution and imprisonment.

On October 9, 1991, the Pulitzer prize writer, Mike McAlary did a three-day front page series in the New York Post entitled “**The Framing of a Cop**”. This expose along with other credible sources disclosed that I may have been a target of a well-orchestrated drug cartel conspiracy in an effort to terminate a viable investigation, prevent exposing official corruption and insulating drug lords from prosecution.

I was fortunate that I received the unprecedented support of such heroes like Staten Island Guy V. Molinari, law enforcement departments and unions nationwide, congressional leaders, civil rights groups, the media and the American public who believed foreign drug lords and criminals had effectively manipulated important civil right laws for the reasons noted above. On January 15, 1993, President George H. Bush granted me Executive Clemency after serving seven months in the general prison population.

In 1995, I established the National Police Defense Foundation in an effort to protect and support dedicated law enforcement officials who are often the target of fabricated allegations. We have grown to over 208,000 members and supporters nationwide and continue to educate law enforcement personnel of potential dangers they face including criminals and certain interest groups who see fit to make fabricated civil rights allegations.

Today, when I read the New York Post’s story that the NYPD is asking or encouraging its police officers to use “consent to search form” in their operations, I became fearful.

Please know that I have the utmost respect for the New York City Police Department and encourage all members of that department to follow their rules and regulations on consent searches with caution, especially in light of my landmark prosecution.

It is my fervent hope that the hardships my family and I had to endure will educate other officers to use due diligence and discretion when conducting consent searches. In today’s anti-police atmosphere, it gives me concern that it might not be a good time to conduct warrantless searches since it may subject that officer to fabricated allegations of civil rights violations.



NYFD

Union wants cops to ignore NYPD's 'Consent to Search' rule

By Shawn Cohen and Chris Perez

October 25, 2016 | 6:05pm



Photo: Shutterstock

A major NYPD union is asking cops to blatantly ignore a new operation order that requires officers to try and obtain written signatures from people who consent to searches of their homes, cars and other property

The new patrol guideline, rolled out on Oct. 15, asks uniformed members to offer New Yorkers a "Consent to Search" form and attempt to get their seal of approval.

Lieutenants Benevolent Association president Lou Turco argues that it does nothing to protect officers from "substantiated complaints" to the Civilian Complaint Review Board.

"It is our belief that in a scenario where a person signs a Consent to Search form, the staff of the Civilian Complaint Review Board will most likely accept the complainant's claim that they were forced/coerced to sign the Consent to Search form," Turco wrote in an email to the union's 1,720 members.

"We recommend that our members not routinely, proactively, and knowingly put themselves into situations where a Consent to Search form must be utilized," he said. "The Civilian Complaint Review Board must create a training program to advise the members of the Department

how they can best employ proactive policing without being subjected to arbitrary discipline from CCRB.”

Turco later told The Post that he hopes the board will be able to assure cops that the signatures won't be used against them.

“They need to acknowledge that the consent to search forms will protect my officers,” he said.

The CCRB has not yet revealed how they feel about the NYPD's new order, which requires cops to first ask someone to search their property before eventually trying to get them sign the “Consent to Search” form.

After the person agrees, officers must present them with a “contact card” listing their name, rank and shield number, as well as a copy of the consent form.

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