

FAQs -Consent Searches

Don't we need consent searches to find guns? Shootings are up in communities of color!

- Police can still conduct a search without obtaining consent search if they have reasonable suspicion that someone's armed, probable cause to believe someone has or is about to commit a crime, and if they have a warrant from a judge. Reasonable suspicion is a low standard – it allows officers to search if there is any objective basis to believe there is a weapon.
- If an officer has a good reason to believe someone has a gun, then there is another legal basis for the search, so this legislation wouldn't apply.
- Restrictions on consent searches only apply to searches for which there is no legal basis other than the person's consent.
- If a gun is found during a consent search, it is better to have proof the search was legal and based on informed, voluntary consent. That way the gun charge won't get thrown out in court because the search was illegal. Restrictions on consent searches will help ensure that consent searches are based on informed, voluntary consent. If a consent search form is signed, it will help make the case that the search was valid, and that any guns found can be kept in evidence.

Won't restrictions on consent searches interfere with police efforts to fight terrorism by conducting searches at subway stations or large events?

- The legislation won't change the legal landscape for consent searches at subway stations or large public events.
- Officers will still be able to conduct searches of anyone for whom they have probable cause to believe is carrying a weapon or committing a crime, and will still be able to frisk anyone during a legal stop where there is a reasonable suspicion that the person is armed and dangerous.
- Currently, if someone refuses consent to a search of their bag as they enter a subway station or public event, officers can refuse them entry. That wouldn't change with restrictions on consent searches.

Won't this legislation mean people will no longer consent to searches?

- Giving *Miranda* warnings hasn't meant that people stop confessing to crimes – it just means that we can be more confident that the confessions are more fair, informed and voluntary, and it is easier to determine whether a person knowingly waived their rights so there is a better chance of confessions holding up in court.

This is already a law – why are we making the police go out of their way to tell people the law?

- We are always making police policies that clarify the law so that officers are aware of the law.
- Here, we are also making sure members of the public are aware of the law so that we can make sure that searches are legal.
- It is important to make sure that people don't feel intimidated or tricked into consenting to searches. We want consent searches to be informed and voluntary, as required by the Constitution.

This is a change in cops' job description – aren't we adding more work to already overburdened officers?

- Yes, it is – but it will make their jobs easier, not harder.
- It will give officers the appropriate language when asking for consent.
- It will eliminate potential conflicts around whether consent searches are justified, increasing officer safety.
- It will take 30 seconds of police officers' time, but has the potential to change someone's entire life or relationship with the police.
- This will improve police community relations, in alignment with the Mayor's and the Police Commissioner's stated goals.

What's going to happen if the person doesn't understand what the officer is saying – won't that increase the likelihood that an encounter will escalate?

- Hopefully the police department will have language advising folks of their right to not consent in multiple languages – in the end, this will make cops' jobs easier, help de-escalate encounters, and prevent equal protection challenges around language access. Three sentences explaining the right to not consent to a search and asking for informed voluntary consent in multiple languages can fit on a single page.