



Approved:
Chief Marcia Harnden

Subject:

608. Detentions and Photographing Detainees

Effective:
November 1, 2018

CALEA Standards: 1.2.3

Page:
1

608.1: PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI), pat-down searches and photographing of persons detained in the field but not arrested.

608.1.1: DEFINITIONS

Detention - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe they are being required to restrict their movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

Consensual Encounter - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field Interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Field Photographs - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

Frisk or Pat-Down Search - This is the normal type of search used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee or others ([ORS 131.625](#)).

Reasonable Suspicion - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Stop - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion that the person has committed, or is about to commit a crime ([ORS 131.615](#)).

608.2: POLICY

It is the policy of the Albany Police Department to act within state and federal law when contacting members of the public either consensually or by way of lawful detention, and when photographing individuals for investigative purposes.

608.3: FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

- a. The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act;
- b. The actions of the suspect suggest that he/she is engaged in a criminal activity;
- c. The hour of day or night is inappropriate for the suspect's presence in the area;
- d. The suspect's presence in the particular area is suspicious;
- e. The suspect is carrying a suspicious object;
- f. The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon;
- g. The suspect is located in proximate time and place to an alleged crime;
- h. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

608.3.1: INITIATING A FIELD INTERVIEW

- a. Frequent and random casual contacts with consenting individuals are encouraged by the Albany Police Department to strengthen our community involvement, community awareness and problem identification.
 - 1) Nothing in this policy is intended to discourage consensual contacts.
- b. An officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so.
 - 1) A person should not be detained longer than is reasonably necessary to resolve the officer's suspicions.

608.3.2: WITNESS IDENTIFICATION AND INTERVIEWS

- a. Officers should make efforts to identify and, when practical, obtain a recorded statement from potential witnesses to an incident and persons who were present at the time and place of an incident but who claim to not be witnesses.
 - 1) Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest.
 - 2) Without detaining a person for the sole purpose of identification, officers should attempt to identify the witness prior to their departure.
- b. Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement and, if the witness is willing, may be transported by department personnel to such a location.
 - 1) A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle.
 - 2) When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

608.4: FRISK OR PAT-DOWN SEARCHES

- a. A frisk or pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess a dangerous or deadly weapon and presents a danger to the officer or other persons present (ORS 131.625).
- b. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:
 - 1) The type of crime suspected, particularly in crimes of violence where the use or threatened use of a weapon is involved;
 - 2) Prior knowledge of the suspect's use of force and/or propensity to use violence or carry deadly weapons;
 - 3) The appearance and demeanor of the suspect;
 - 4) Visual indications which suggest that the suspect is carrying a firearm or other weapon;
 - 5) Statements made by the suspect, witnesses, or other persons.

608.5: FIELD PHOTOGRAPHS

- a. Field photographs may be taken for legitimate law enforcement purposes, including but not limited to:
 - 1) Consent
 - 2) Photo Line-ups
 - 3) Suspect identification
 - 4) Suspicious activity
- b. Officers should document in their related reports the reason or justification for taking field photographs.
- c. Officers shall not detain subjects, or extend a detention, solely to take a photograph without:
 - 1) Consent
 - 2) Reasonable suspicion of criminal activity and the photograph is related to the detention.
- d. All field photographs and related reports shall be submitted and retained in compliance with this policy.

608.6: SUPERVISOR RESPONSIBILITY

- a. Supervisors should monitor the practice of taking field photographs with consideration given to the above guidelines.
- b. Supervisor approval is not required prior to taking a field photograph.
- c. Access to field photographs is limited to legitimate law enforcement business.

608.7: DISPOSITION OF PHOTOGRAPHS

- a. Photographs taken of individuals associated with an FI shall be submitted to the designated Department server. From there, the Records Section will associate the photograph with the related master name module.
 - 1) If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.
- b. If a photograph is later used as part of a photographic line-up, the photograph should be retained as part of the associated case file.

608.8: PHOTO REVIEW POLICY

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact requesting a review of the status of the photograph/FI.

- a. The request shall be directed to the office of the Chief of Police who will ensure that the status of the photograph or FI is properly reviewed according to this policy.
- b. Upon a verbal request, the Department will send a request form to the requesting party along with a copy of this policy.

608.8.1: REVIEW PROCESS

- a. Upon receipt of such a written request, the Chief of Police or their designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.
- b. Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request.
 - 1) An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay.
 - 2) If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.
- c. A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or their designee to discuss the matter.
- d. After carefully considering the information available, the Chief of Police or their designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Albany Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.
- e. If the Chief of Police or their designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.
- f. If the Chief of Police or their designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or policy, the original photograph will be destroyed or returned to the person photographed, if requested.
 - 1) All other associated reports or documents will be retained according to department policy and applicable law.
- g. If the Chief of Police or their designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original FI was not obtained in accordance with established law or department policy, the original FI may only be destroyed upon the execution of a

full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

- h. If the Chief of Police or their designee determines that any involved Albany Police Department personnel violated existing law or department policy, the Chief of Police or designee shall initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.
- i. Within 30 days of the Chief of Police's determination the person photographed/FI'd will be notified in writing whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.