

<b>Anchorage Police Department</b> Regulations and Procedures Manual	<b>Operational Procedures</b> <b>3.02.040</b>	
<b>Policy and Procedure Title</b> Custody-Field Interviews/Investigatory Stop	<b>Effective Date</b> August 16, 2021	Page 1 of 6
<b>Replaces Prior Policy:</b> August 10, 2009	<b>Approved by:</b> Chief Ken McCoy	

**This policy is the internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.**

### **3.02.040 Custody--Field Interviews/Investigatory Stop**

#### **PURPOSE**

To provide all sworn personnel with guidelines on how to conduct field interviews/investigatory stops. How to recognize suspicious situations, confront the object(s) of those suspicions within the limitations of reasonable suspicion, and record the information obtained in the field interview/investigatory stop.

#### **POLICY**

It is the policy of the Anchorage Police Department to effectively investigate and collect information on suspicious activities while maintaining officer safety and reducing undue embarrassment or delays to the innocent citizen.

#### **DISCUSSION**

Officers are routinely alerted to a variety of suspicious circumstances. Although they may not be witnessing a recognizable crime, they still have the authority and obligation, to investigate those circumstances. Field interview/investigatory stop is an effective method to prevent, interrupt, and detect individuals engaged in criminal activity. If an officer's suspicions are not diminished, the officer should document the identification of the participants and the circumstances.

#### **DEFINITIONS**

**Investigatory Stop:** is defined as 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 of criminal conduct. This is often referred to as a "Terry Stop," an investigative detention, a seizure, or a threshold inquiry.

**Reasonableness:** Facts or circumstances that may cause a reasonable, similarly trained police officer to act or think in a similar manner, under similar circumstances. The fact of being based on or using good judgment and therefore being fair and practical.

## PROCEDURE

### I. OBJECTIVES

#### A. Purpose of the Field Interview/Investigatory Stop:

1. Link persons with crime.
2. Establish background information on certain people.
3. Gain information on locates.
4. Link criminals with their associates and vehicles.
5. Recover evidence and stolen property.
6. Deter crime by police presence.
7. Provide data on recidivists and dangerous people.
8. Provide a data base for modus operandi.

### II. WHAT CONSTITUTES “SUSPICIOUS CIRCUMSTANCES”?

A. **Elements of Suspicion.** If one analyzes what is suspicious or suspicious activity, four elements are observed:

1. Time.
2. Location.
3. Appearance.
4. Activity.

B. **Reasonableness of Suspicion.** If just one of these elements is “out of place,” a person can have a sense of curiosity or a feeling of suspicion. Of the four elements, legal standards are especially interested in the persons’ activities. Truly suspicious activities not only give the officer the authority to investigate further but impose the duty to do so. Courts consistently uphold the validity of stops wherein officers can explain how **any** reasonable and similarly trained officer would have been suspicious given the same set of circumstances (Terry v. Ohio 392 U.S. 1). What courts do not uphold are stops based on other grounds, such as:

1. Revenge.
2. Idle curiosity.
3. Racial/ethnic disdain.
4. Securing information for personal use.

### III. APPROACHING THE SUBJECT

A. **Be Courteous.** Two valuable goals are achieved when subjects are politely informed of why they are being questioned:

1. Good public relations are promoted, if the inquiry reveals no cause for alarm.

2. The investigatory stop has disrupted any improper behavior. Experience has repeatedly shown that, if officers can minimize the sense of alarm, persons will often try to explain their activities/appearance instead of becoming argumentative or defensive. Officers, therefore, stand to promote the investigation by using this approach.

#### **IV. AUTHORITY TO “STOP” VERSUS “ARREST”**

A. **Introduction.** In the procedure “Custody—General 3.02.045,” the concept of custody is explained as any restraint of liberty. Commonly, we regard custody as an arrest, and become familiar with the statutes granting both private citizens and peace officers the power of arrest. But arrest is only one form of custody, and when police officers take people into other forms of custody, the confidence in their authority tends to wane. This procedure deals with authority and limitations for custodial activities other than an arrest and is designed to give officers a formal grasp of this aspect of their responsibilities.

#### **V. RANGES OF CUSTODY**

A. **Amount of Restraint.** “Restraint of Liberty” can range from a full arrest, including the application of deadly force, down to the temporary “detention” needed for the issuance of a traffic ticket. This degree of restraint generates profound legal issues, because it calls for the balancing of two demands made by our citizens: First, for the government to protect citizens from criminality, and second, to protect the citizens from unnecessary intrusion into their private lives. The Constitution was explicit in providing the second safeguard, but it was up to later case law and statute to decide how that protection was to be delivered in a “Constitutionally acceptable” fashion.

#### **VI. AUTHORITY TO DETAIN IS BASED ON REASONABLENESS OF RESTRAINT**

A. **Purpose of the Detention.** If officers are alerted to circumstances that would arouse suspicion with any reasonably trained officer, they are duty-bound to investigate, and vested with the authority to require the involved subject(s) to submit to a reasonable investigation to either:

1. Diminish the suspicions; or
2. Establish criminality; or
3. Secure enough information to recontact the parties should a later investigation require it.

B. **Elements of “Reasonableness.”** An investigation requires a restraint of liberty, which is a form of custody. Officers gain authority to take this custody based on “reasonableness”. The ‘reasonableness,’ in turn, is gauged by two considerations:

1. The reasonableness of the suspicion. Would any similarly trained officer have become suspicious given the circumstances confronting the officer?

2. The reasonableness of the “depth of the probe.” To investigate the suspicious circumstances, officers must be reasonable in:

- a). The length of time spent in the probe.
- b). The degree and topics of questioning used in the inquiry.
- c). The depth and appropriateness of any searches.
- d). Other considerations.

**C. Force and Pat-Down Allowed.** (See Section “IX.” later in this procedure). If officers operate in good faith and have made a reasonable stop, they are allowed to use **legal** amounts of force to gain and retain custody of the subject(s).

- 1. As with any police action, the “proper” amount of force is a reasonable amount of force required to discharge a legal duty. “Response to Resistance 3.05.025”.
- 2. Even though the custody for a field interview is not an arrest, the law allows a “stop and frisk” pat down for weapons if circumstances would lead a “reasonable person” to believe weapons might be involved.

**Note:** This is not a true search for criminal evidence, but a weapons pat-down for officer safety only. Should a weapon-like object be seized which later proves to be evidence of a crime, however, that evidence may be valid if discovered accidentally (Caution: Courts view this type of evidence seizure with suspicion. Officers must convincingly articulate that the discovery of the evidence was, indeed, purely accidental based on the belief that the object was a weapon.)

**D. Subjects Not Required to Cooperate.** Authority, duty to stop and question does not imply a person has a legal duty to cooperate. In fact, it is not a crime to refuse to furnish any identification. This one area exposes officers to the greatest civil and disciplinary risk and calls for the highest degree of professionalism to resolve. To aid officers, the following comments are provided:

- 1. Failing to identify, trying to leave, refusing to disclose one’s residence address, and similar acts can operate to enhance officer’s suspicions, allowing a deeper probe. Being uncooperative does not always elevate officer’s suspicions, but it may do so. The totality of the situation must be considered, and officers are warned that any field interview initiated or continued out of revenge or idle curiosity is illegal.
- 2. A good investigation can often reveal the information sought without the subject’s participation. An interview with associates or a surveillance of reasonable limits is two possible alternatives.
- 3. Photographs may be taken of the subject.
- 4. A supervisor may be called to the scene to assist. In addition to providing supervision, such assistance can include a new personality that

might inspire more cooperation, the possibility of recognizing the subject(s) involved, and/or a witness to the officer's activities to deter allegations of misconduct,

**E. Summary of this Section.** Officers who can articulate the reasonableness of the suspicion(s) and the appropriateness of the depth of their probe are generally within their authority. Resistance to reasonable inquiry can operate to reinforce officers' suspicions, and crime(s) committed, and force used as a result of that escalating resistance stand on their own merit. As an example, if a person assaults an officer to avoid a reasonable detention, that subject can be arrested for that assault even if a plausible, noncriminal explanation for the original suspicion is later established.

## **VII. POLICE RESPONSIBILITY**

**A. Criteria for Stop and Interview.** To exercise the authority to take the custody described, certain standards must be met, and the burden of proof remains with the government. These standards include:

1. Any stop must stand the test of reasonableness. This test is to ensure that such unacceptable motivations as harassment, revenge, and sexual impropriety do not enter police/governmental activities. Note that other protections afforded the citizens can include criminal and civil relief.
2. The citizen must clearly recognize the person stopping him/her as being a police officer. This holds true for conducting field interviews as well.
3. Officers must clearly express the demand for temporary detention.

## **VIII. USE OF FORCE DURING FIELD INTERVIEWS**

**A. Issues on Use of Force.** An important aspect of police authority in such a stop is the amount of force officers can use to enforce this "temporary detention." Each situation is judged on its merits of reasonableness, but some clues exist to aid officers in answering this question.

1. If the stop is unreasonable, no amount of force can be applied to enforce the detention.
2. If officers are not obviously a police officer, the subject is not obligated to stop.
3. On a reasonable inquiry by a fully identified officer, flight or resistance adds to the degree of suspicion, but might not elevate the issue to a crime (mere flight or failing to identify oneself is not a crime). If a law is violated during this resistance (traffic infractions, assault, trespass), then officers are fully empowered to base all subsequent acts on offense(s) committed in their presence.

**B. Procedure Not All-inclusive.** No procedure can cover all scenarios, so questionable areas remain, and the courts exist to adjudicate those issues. Most people experienced in these matters agree—if officers operate in good faith, the "reasonable person" test will usually be met.

## **IX. Field Interview/Investigatory Stop Reporting**

Officers should complete a police report, including the Use of Force Tab if applicable, when they conduct a field interview/investigatory stop. The report should list the reason for the stop, the person(s) involved and any action taken.

\*\*\*END OF DOCUMENT\*\*\*