

A. PURPOSE. To adopt a uniform Field Interrogation Procedure

B. GOALS

1. Provide officers with procedures that conform to statutes, ordinances, and court decisions.
2. Prevent criminal activity by the identification of suspicious persons.
3. Identify and correct the apparent causes of criminal activity.
4. Deprive actual or potential criminals of the ability to select the time, place, and circumstances for the commission of criminal acts.
5. Encourage efficient police work while maintaining a good relationship with the community.

C. DEFINITIONS

1. *Contact*. A face-to-face communication between an officer and an individual under circumstances where the person is free to leave.
2. *Stop*. A temporary detention of a person for investigation.
3. *Frisk*. A limited protective search for concealed weapons or dangerous instruments.

D. CONTACTS

1. Officers are encouraged to initiate contacts with individuals in the community in order to gain knowledge of their patrol districts and the community.
2. Contacts are different from detentions or arrests in that they do not involve the “seizure” of persons within the meaning of the Fourth Amendment. The officer does not need “reasonable suspicion,” “probable cause,” or any other specific display of criminal activity in order to initiate a contact.
3. *Initiating a contact*. Officers may feel the need to investigate the activities of a person when they do not possess sufficient information to make a “stop” or an arrest. In such a case, the officer may initiate a contact with the person in any place that the officer has a right to be.

4. *Preference for contacts.* Unless an officer concludes that an arrest should be made or that a stop is justifiable and appropriate, communication with a private person should begin with a contact. The officer may, like any other citizen, approach the individual and start a conversation.
5. *Conduct during contacts.* Although no legal cause need be present for the officer to initiate a “contact,” the persons contacted may not be halted, detained, or frisked against their will. They are not required to answer questions or to cooperate in any way if they do not wish to do so. If they refuse to cooperate, they must be permitted to go on their way unless the officer has developed probable cause to arrest or reasonable suspicion for a stop. If it seems appropriate under the circumstances, however, the person may be kept under surveillance. Since a contact is not a stop or an arrest, and those persons contacted may be innocent of wrongdoing of any kind, officers should take special care to act in a restrained and courteous manner. Officers should also be aware that a contact may turn into a stop.

E. STOPS

1. A stop occurs when officers use their authority to compel a person to halt, remain in a certain place, or perform some act. If a person reasonably believes that he is not free to leave the presence of the officer, a “stop” has occurred.
2. *Basis for a stop.* If an officer reasonably suspects that a person has committed, is committing, or is about to commit any crime, the authority to stop that person exists. The officer’s reason for a stop must be based on specific and articulable facts. The officer may exercise this authority in any place that the officer has the right to be. Both pedestrians and persons in vehicles may be stopped. A stop is warranted if there is reasonable suspicion by the officer that some activity out of the ordinary has occurred, is occurring, or will occur, or if there is some indication to connect the person under suspicion with the unusual activity, and if there is some suggestion that the activity is related to crime.
3. *Reasonable suspicion.* The term “reasonable suspicion” cannot be precisely defined. It is more than a hunch or mere speculation on the part of an officer, but less than the probable cause necessary for arrest. It may arise out of a contact, or it may exist prior to or independent of a contact. Courts apply a **“totality of circumstances” test to review whether a stop was proper.**

4. The following lists contain some factors which should be considered in determining whether “reasonable suspicion” exists for a stop. The lists are not inclusive.
 - a. Person’s appearance and actions:
 - (1) Generally, fits the description of a person wanted for a known offense
 - (2) Recently injured
 - (3) Under the influence of alcohol, drugs, or other intoxicants
 - (4) Danger to themselves or others
 - (5) With a vehicle matching the description of a vehicle wanted for a known offense
 - (6) Inappropriate seasonal clothing
 - (7) Fleeing from an actual or possible crime scene
 - (8) Fleeing from a secreted area
 - (9) Attempting to secrete themselves
 - (10) Behaving in a manner indicating possible criminal conduct
 - (11) With companions who themselves are “reasonably suspicious”
 - (12) Reaction signs
 - (13) Quick and unusual movements
 - (14) “Lookouts” warning others
 - (15) Incriminating statements or conversations overheard
 - (16) Evasive, suspicious, or incriminating responses to questions during the contact

b. Area:

- (1) Person is near the location of a known offense soon after its commission
- (2) Premise history
- (3) Area is known for an unusually high incidence of a particular criminal activity
- (4) Kind of activity the person is thought to have committed, is committing, or is about to commit, is in this area known for unusually high incidents of this particular criminal activity

If reference is to be made to the area of the stop, officers should be able to **articulate specific facts** concerning that area, i.e., four commercial burglaries in the past week within a few blocks of the location of the stop, etc.

c. Officer's knowledge:

- (1) Arrest or conviction record
- (2) Known to have committed a serious offense
- (3) Conviction or known to have committed an offense similar to the one that has just occurred, is occurring, or which it is suspected is about to occur
- (4) Bond conditions
- (5) Personal Protection Orders/injunctive orders
- (6) Probation/parole status
- (7) Person's conduct resembles pattern or *modus operandi* followed in particular criminal offenses
- (8) Investigating officer has experience in dealing with the particular kind of criminal activity being investigated

d. Circumstances:

- (1) Unusual for people to be in the area at this particular time
- (2) Time of day or night during which criminal activity of the kind suspected usually occurs
- (3) Investigating a specific crime or a specific type of criminal activity
- (4) Service assignment for this particular criminal activity
- (5) Surveillance for this particular criminal activity
- (6) Surveys conducted in the area indicated a concern for this type of criminal activity
- (7) Seriousness of the suspected criminal activity
- (8) Innocent people may be endangered if the investigative action is not taken at once
- (9) Source of information on which the basis of the officer's "reasonable suspicion" is, in whole or in part, information supplied by another person. A source:
 - (a) Is a criminal informant.
 - (b) Is a witness.
 - (c) Is a victim.
 - (d) Has supplied information in the past that proved to be reliable.
 - (e) Is known to the officer.
 - (f) Relayed the information directly to the officer.
 - (g) Articulated how they obtained the information.
 - (h) Provided information that was wholly or partially corroborated prior to making the stop.

5. *Articulating justification for a stop.* Every officer who conducts a stop, as opposed to a contact, must be prepared to **articulate those specific factors** which led the officer to believe that the stop was justified. The **totality of the circumstances** will be considered when determining if the stop was valid.
6. *General conduct at a stop.* Proper justification of a stop does not permit unreasonable conduct during the stop. All police activity during a stop must be done in a reasonable manner, as every phase of a stop will be considered by the courts in determining whether the stop was reasonable and, therefore, lawful.
 - a. *Duration of stop.* A person stopped pursuant to this procedure may be detained at or near the scene of the stop for a reasonable time. Officers should detain a person only for the length of time necessary to obtain or verify the person's presence or conduct, to obtain an account of the offense, or otherwise determine if the person should be arrested or released.
 - b. *Explanation to detained person.* Officers shall act with as much restraint and courtesy toward the person stopped as is possible under the circumstances. Plainclothes officers making a stop shall identify themselves as law enforcement officers as soon as practicable after making the stop. At some point during the stop, the officer shall, in every case, give the person stopped an explanation of the purpose for the stop.
 - c. *Questioning of detained persons.* The officer may direct questions to detained persons for the purpose of obtaining their name, address, and an explanation of their presence and conduct.
 - (1) The detained person may not be compelled to answer these questions, even that of identity. The exception to this would be a driver of a vehicle that has been legally stopped or a passenger of a vehicle that is also in violation of a city ordinance or state law, i.e., seatbelt violation.
 - (2) During the questioning, the person need not be advised of their constitutional rights under *Miranda* until they are in "custody." "Custody" is defined as when the defendant has actually been taken into custody "or otherwise deprived of his freedom of action in any significant way." If a reasonable person would believe himself deprived of freedom, this can be custody even though no formal arrest has occurred.

- d. *Effect of refusal to cooperate.* Refusal to answer questions does not by itself establish probable cause to arrest, but such refusal may be considered along with other facts as an element to be considered in determining whether the investigation should be continued.
- e. *Use of force to detain.* Officers shall use only a reasonable amount of force under the circumstances to effect the stop of a person. Reasonable force may be a verbal request, an order, or the use of physical force. Under no circumstances may force be used which could cause death or serious bodily harm to the person sought to be stopped. If the officer is attacked, or circumstances exist that create probable cause to arrest, the officer may use a reasonable amount of force for defense or to effect a full custody arrest.
- f. Reporting requirements:
 - (1) Officers shall complete an incident report with a new incident number in all cases where their reasonable suspicion for initiating the stop has not been alleviated and on stops which result in frisk or search situations. (Note: This includes consent searches on persons, vehicles, and residences.)
 - (2) All completed field interrogation reports shall include a complete description of the suspect including all available identifiers, such as name, race, sex, date of birth, height, weight, hair and eye color, facial hair, glasses, unusual characteristics and clothing, complete description of the vehicle, and reason or justification for the stop.
 - (3) Based on reasonableness and considering other articulable factors such as the inability to determine the identity of the subject, officers, with consent, may take a digital photo and a fingerprint of the subject. If a digital photo and fingerprint of the subject is taken, the photo shall be attached to the F.I. report, and the print shall be submitted on the appropriate card to the Forensic Services Unit.
 - (4) A complete set of fingerprints may be taken with consent if there is reasonable, articulable suspicion that the subject has committed a criminal act and a belief that fingerprinting will establish or negate the subject's connection to that crime. Fingerprinting should be carried out as soon as possible by an available Crime Scene Technician.

If a Crime Scene Technician is not available, fingerprints shall be taken on a fingerprint card by a supervisor.

- (5) If the subject that has been stopped is a juvenile and meets the criteria of section E.6.f.(3), officers may request to take a picture and fingerprint, provided that it is voluntarily given with the consent of the child and parent or guardian.
- (6) If the subject that has been stopped is a juvenile and meets the criteria of section E.6.f.(4), officers may request a complete set of fingerprints be taken, provided that they are voluntarily given with the consent of the child and parent or guardian. Fingerprinting should be carried out as described in section E.6. f. (4). Only 1 set of prints shall be taken, and, upon completion of the investigation, the fingerprint card shall be returned to the parent or guardian of the child.
- (7) If a juvenile has been frisked or searched, officers shall notify the juvenile's parent or guardian. The notification may be either in person or by telephone and shall be documented in the field interrogation or incident report, along with the identity of the parent or guardian who was notified. If the officer is unable to notify a parent or guardian, every attempt shall be documented in the field interrogation or incident report.
- (8) If a suspect has been stopped relative to a specific incident, then that incident shall be referred to in the narrative of the field interrogation report.

F. FRISKS

1. *When to frisk.* An officer may frisk any person who has been stopped when the officer **reasonably suspects** that the person is **carrying a concealed weapon or dangerous instrument** and a frisk is necessary to protect the officer or others. The frisk should be conducted immediately upon making the stop or at any time during the stop whenever "reasonable suspicion to frisk" appears.
2. *Reasonable suspicion for frisk.* "Reasonable suspicion" for a valid frisk is more than a vague hunch and less than probable cause. If a reasonably prudent officer, under the circumstances, would believe the officer's safety or that of other persons in the vicinity is in danger because a particular person might be carrying a weapon or dangerous instrument, a frisk is justified.

3. The following lists contain some factors which should be considered in determining whether “reasonable suspicion” exists for a frisk. The lists are not inclusive.

a. Person’s appearance and actions:

- (1) Repeated touches
- (2) “Security taps” (Nervous confirmation of weapon location)
- (3) Pulling up pants
- (4) Concealed hands/refusal to show hands
- (5) Clothing bulging in a manner suggesting the presence of an object capable of inflicting injury
- (6) Nervousness
- (7) Turning body
- (8) Active aggression
- (9) Threats of violence
- (10) Reaction signs
- (11) Walking stiff legged
- (12) Presence of a sheath, holster, case, or ammunition
- (13) No reactionary gap
- (14) Inappropriate seasonal clothing
- (15) Quick and unusual movements

b. Area:

- (1) Environmental conditions
- (2) Premise history
- (3) Hostile crowd

(4) Cover and concealment considerations

(5) Isolated location

d. Officers' knowledge:

(1) Probation/parole known offender

(2) Officer safety caution in LEIN

(3) Gang affiliation

(4) Reputation for carrying weapons/violent behavior

e. Circumstances:

(1) Number of subjects stopped

(2) Frisk of companion revealed weapon

(3) Type of vehicle

(4) Time of day

(5) Gravity/nature of the offense

(6) Available assistance.

4. *Articulating justification for a frisk.* Every officer who conducts a frisk must be prepared to **articulate those specific factors** which led the officer to conclude that "reasonable suspicion" existed before the frisk began.

5. *Frisk procedures.* A frisk is a limited search for the purpose of protection only. Officers must not use the frisk power to conduct full searches of persons without their consent; even those conducted with "reasonable suspicion" are invalid because probable cause must exist before a full-scale search is proper.

6. *General conduct at a frisk.*

a. *Securing separable possessions.* If a person is carrying an object immediately separable from their person, i.e., a purse, gym bag, or briefcase, it should be taken from them. The object may be inspected

visually and by “pat down” of the outside of the object. If there is further cause to believe the item contains a weapon or dangerous instrument, i.e., feeling a hard object inside a soft purse, the officer may look inside.

b. Beginning the frisk – “pat down”. Before beginning the frisk, an officer should let the person know that he/she is going to conduct a frisk. Frisks are limited to a “pat down” of the person’s outer clothing unless:

(1) The outer clothing is too bulky to allow the officer to determine if a weapon or dangerous instrument is concealed underneath. In this event, outer clothing, such as overcoats and jackets, may be opened to allow a frisk directly on the inner clothing, such as shirts and trousers.

(2) The officer has reasonable belief, based on reliable information or knowledge and observation, that a weapon or dangerous instrument is concealed at a particular location on the person, such as a pocket, waistband, or sleeve. In this event, the officer may reach directly into the suspect area. This is an unusual procedure, and any officer so proceeding must be prepared to articulate the precise factors which led the officer to forego the normal pat down procedure.

c. Securing areas within reach. The officer may also “frisk” or secure any areas within the detained person’s immediate reach if the officer reasonably suspects that such areas might contain a weapon or dangerous instrument. This would include the passenger compartment, glove box, or areas where the detained person has immediate reach.

7. *Procedures when a frisk discloses an object that might be a weapon or dangerous instrument.*

a. If, when conducting a frisk, the officer feels an object which the officer reasonably believes is a weapon or dangerous instrument or an object which may contain such an item, the officer may reach into the area of the person’s clothing where the object is located, such as a pocket, waistband, or sleeve, and remove the object. The object removed may be:

(1) A weapon or dangerous instrument.

- (2) A seizable item (contraband, criminal evidence, etc.) if probable cause exists to believe the object is a seizable item.
 - (3) An object capable of containing a weapon or dangerous instrument.
 - (4) An object that is none of the above.
- b. Depending on which of the above categories the removed object falls into, the officer should proceed in one of the following ways:
- (1) The object is a weapon or dangerous instrument. The officer should determine if the person's possession of the weapon or dangerous instrument is licensed or otherwise legal, or if it is unlawful. If lawful, the officer should place the object in a secure location out of the person's reach for the duration of the detention. If the possession is unlawful, the officer may seize the weapon and conduct a full custody search.
 - (2) The object is a seizable item. If the object is a seizable item, the officer may seize it and consider it in determining if probable cause exists to arrest the person. If the officer arrests the person, a full custody search is proper.
 - (3) The object is a container that could reasonably contain a weapon or dangerous instrument. If the officer has reasonable suspicion that it does contain such an item, the officer may look inside the object and briefly examine its contents. If the object does contain a weapon, dangerous instrument or seizable items, the officer should proceed as in (a) or (b) above. If the officer, upon examining the contents of the object, finds no weapon, dangerous instrument, or seizable item, then the officer should return it to the person and continue with the frisk or detention.

If the object is a container that could not reasonably contain a weapon or dangerous instrument, or if the officer does not have a reasonable belief that it contains such an item, then the officer should not look inside it. The officer may either return the object to the person and continue with the frisk or detention, or it may be treated as a separable item.

- (4) The object is not a weapon, dangerous instrument, a seizable item or capable of holding a weapon or dangerous instrument. If the object does not fall into any of the aforementioned

categories, the officer should not look inside the object, but should return it to the person and continue with the frisk or detention.

- (5) *Inadvertent discovery of another object.* If removal of the suspected object simultaneously discloses a second object that itself is a seizable item, the officer may lawfully seize the second object. The second object should be considered in determining whether probable cause exists to arrest the person. If probable cause does exist, the officer should tell the person that they are under arrest and conduct a full custodial search incidental to the arrest.

8. *Procedure when a frisk discloses an object that might be a seizable item.* If while conducting a “frisk” an officer feels an object which the officer does not reasonably believe to be a weapon or dangerous instrument, but does believe to be a seizable item, the officer may not, on the basis of the authority to “frisk,” take further steps to examine the object. However, if the nature of the object felt during the frisk, alone or in combination with other factors, creates **probable cause** to believe that a crime is being committed in the officer’s presence, (i.e., probable cause for a VCSA arrest) the officer should tell the person that they are under arrest for that crime. The officer may then conduct a full custody search incidental to arrest but must not take any step to examine the object before making the arrest. If a seizable item is not found, the person should be released.