


**The Pennsylvania State University
Police and Public Safety Department**

POLICY AND PROCEDURAL ORDER

SUBJECT 6.3 Investigatory Stops		
CALEA REF. 1.2.3, 1.2.4	EFFECTIVE DATE 10/21/19	REVISED DATE 9/28/23
APPROVED BY Chief of Police and Public Safety, Wesley Sheets 		ASSIGNED TO GROUP(S): 5 and 6

This Policy is for departmental use only and does not apply in any criminal or civil proceeding. This Policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for conducting investigatory and pat-down searches which are authorized by state and federal law.

II. POLICY

The Pennsylvania State University Police and Public Safety Department (UPPS) officers will observe the rights of citizens under the Fourth Amendment of the United States Constitution, which guarantees the right of people to be free from unreasonable searches and seizures of their homes, persons, and property. Officers must have a clear understanding that an investigative stop, weapons pat-down, and a search are distinct and separate actions, and must clearly document what the reasonable suspicion for the stop is. An investigatory stop is an important point of contact for officers to prevent and investigate criminal activity. Even when conducted with respect for involved citizens, and in strict compliance with the law, the investigatory stop can be perceived by some as police harassment or intimidation conducted in a discriminatory manner against groups or individuals. In order to maintain the effectiveness and legitimacy of this practice, and to protect the safety of officers who must approach suspicious individuals, officers will conduct investigatory stops and perform pat-down searches in conformance with procedures set forth in this policy.

III. DEFINITIONS

- A. **Investigatory Stop**: Is a brief detention of a person because of suspected criminal activity.
- B. **Mere-Encounter**: Sometimes referred to as a casual encounter, is an exchange of information. No level of suspicion (of criminal activity) by an officer is required and the person being encountered is free to leave at any point.
- C. **Pat-Down**: Is a limited search for weapons for officer safety.
- D. **Probable Cause**: Probable cause is more than a mere reasonable suspicion, but less than proof beyond a reasonable doubt. Probable cause exists if based on the facts and circumstances, an experienced Officer would reasonably believe that criminal activity has occurred, is occurring, or is about to occur.
- E. **Reasonable Suspicion**: Also known as articulable suspicion. Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observations of a police officer combined with his or her training and experience, and/or reliable information received from credible outside sources.

IV. PROCEDURE

- A. Mere Encounter
A mere encounter(s) must escalate to the point of an investigative stop for an officer to request a consent search.

B. Terry Stop and Pat-Down

Although the words “stop” and “pat-down” have become synonymous with each other, they involve two distinct acts and require separate justification by officers. Not every investigatory stop justifies a pat-down. *Terry v. Ohio*, 392 U.S. 1 (1968), gives officers the authority to stop, question, and pat-down suspicious persons provided that:

1. The officer reasonably suspects that the person is committing, has committed, or is about to commit a crime; and
2. The officer reasonably suspects that the person is armed and poses a threat to the officer’s or another person’s safety.

C. Investigatory Stop (1.2.3a)

1. Any officer may stop an individual for the purpose of conducting an investigatory stop only where reasonable suspicion is present. Reasonable suspicion must be more than a hunch or feeling but need not meet the test for probable cause sufficient to make an arrest.
2. In justifying the stop, the officer must be able to point to specific facts that, when taken together with the totality of the facts and circumstances, reasonably warrants the stop. Such facts include, but are not limited to, the following:
 - a. The appearance or demeanor of a suspect suggests that he or she is part of a criminal enterprise or is engaged in a criminal act.
 - b. The actions of the suspect suggest that he or she is engaged in criminal activity.
 - c. The hour of day or night is inappropriate for the suspect’s presence in the area.
 - d. The suspect is carrying a suspicious object.
 - e. The suspect’s clothing bulges in a manner that suggests he or she is carrying a weapon.
 - f. The suspect is located in the proximate time and place of an alleged crime.
 - g. The officer has knowledge of the suspect’s prior criminal record or involvement in criminal activity.
 - h. The individual flees at the sight of a police officer.

D. Procedures for Initiating an Investigatory Stop

1. Based on observance of suspicious circumstances, or upon information from an investigation, an officer may initiate the stop of a suspect if he has reasonable suspicion to do so. Officers will, if feasible and if it does not pose a danger to the officer or others, adhere to the following:
 - a. When approaching the suspect, the officer will clearly identify him/herself as a law enforcement officer, if not in uniform, by announcing his/her identity and displaying departmental identification.
 - b. Officers will be courteous at all times during the contact but maintain caution and vigilance for furtive movements to retrieve weapons, conceal or discard contraband, or other suspicious actions.
 - c. Before approaching more than one suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
 - d. Officers will confine their questions to those concerning the suspect’s identity, place of residence, and other inquiries necessary to resolve the officer’s suspicions. However, in no instance will an officer detain a suspect longer than is reasonably necessary to make these limited inquiries and resolve suspicions.
 - e. Officers are not required to give suspects *Miranda* warnings in order to conduct field interviews unless the person is in custody and about to be interrogated.
 - f. Suspects are not required, nor can they be compelled, to answer any questions posed during field interviews. Failure to respond to an officer’s inquiries is not, in

and of itself, sufficient grounds to make an arrest, although it may provide sufficient justification for additional observation and investigation.

- g. The Student Code of Conduct does require that students identify themselves to a University official who makes such a request pursuant to his/her official duties. This requirement, however, is only enforceable as a matter of discipline and a refusal by a student to identify himself/herself cannot be a basis for criminal enforcement action.
- E. Justification for Conducting a Pat-Down Search (1.2.4)
1. A pat-down is authorized only when the officer has reasonable suspicion to fear for his or her safety, and the scope of the pat-down is narrowly tailored to those specific reasons.
 2. Clearly, not every investigatory stop poses sufficient justification for conducting a pat-down search. An officer must have reasonable suspicion indicating that the person may be armed and presently dangerous (e.g., the type of crime suspected, prior knowledge of the suspect's propensity for violence, any indication that the suspect is armed, etc.).
 3. If, during the course of a pat-down for weapons, an officer detects an object that he or she has probable cause to believe is contraband, the officer may seize it under the "plain feel" doctrine. Under the plain feel doctrine, it must be immediately apparent to the officer that the object is contraband. Officers should be aware that the plain feel doctrine applies only if the officer has the right to conduct the pat-down in the first place (just as the plain view doctrine applies only where the police have the right to be in the position from which they got the view). In addition, the officer may not conduct the pat-down in a manner that exceeds what is necessary to determine whether the person has a weapon.
 4. During a traffic stop, officers will take reasonable steps to protect themselves. Officers may direct the occupants to step out of the vehicle. If the officer has a reasonable suspicion that the person is armed and dangerous, the officer may conduct a pat-down search. It is of critical importance that officers be able to state specifically what it was about the situation that made them suspicious. It is not enough to say; "I was suspicious." Officers will include all details in their Case Incident Report, when they are necessary, as to those circumstances that attracted their attention to the suspect, or the suspect's vehicle, and made them suspicious.
 5. The protection of police and others can justify protective searches when police have a reasonable belief that the suspect poses a danger, that roadside encounters between police and suspects are especially hazardous, and that danger may arise from the possible presence of weapons in the area surrounding a suspect. The search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the officer possesses a reasonable belief based on "specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant" the officers in believing that the suspect is dangerous and the suspect may gain immediate control of weapons. *Michigan v. Long*, 463 U.S. 1032 (1983).
- F. Procedures for Performing a Pat-Down Search
1. When reasonable suspicion justifies a pat-down search, the search should be performed with due caution, restraint, and sensitivity. These searches may only be performed to protect the safety of officers and others. If reasonable suspicion exists to perform a pat-down search, it will be conducted as follows:
 - a. Whenever possible, pat-down searches should be conducted by at least two officers, one who performs the search while the other provides protective cover.

- b. Because pat-down searches are cursory in nature, they will be conducted pursuant to current training. Should an officer visually observe a weapon, however, a more secure search position may be used, such as the prone position.
 - c. In a pat-down search, officers are permitted only to feel the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club, or other item.
 - d. If the suspect is carrying an object such as a handbag, suitcase, briefcase, sack, or other item that may conceal a weapon, the officer should not open the item but instead place it out of the suspect's reach. Such items may be inspected with the voluntary consent of the person.
 - e. If the external feeling of the suspect's clothing fails to disclose evidence of a weapon, no further search may be made. If evidence of a weapon is present, an officer may only retrieve the specific item. If the item is a weapon, the possession of which is a crime, the officer may make an arrest of the suspect and complete a full-custody search of the suspect.
- G. Reporting of the Investigatory Stop or Stop and Pat-down
- 1. Officers will document on an Incident Report all investigatory stops and stops and pat downs by the end of the shift in which the action occurred.
 - 2. The officers will detail in the Incident Report the precise description of the facts and circumstances of the initial stop or stop and pat-down.
 - 3. The officers will document the content and circumstances of all interviews, interrogations, and transportation of witnesses, which occurred during their shift.
 - 4. Supervisors will review Incident Report(s) and approve any Incident Reports that were completed for stops and pat-downs conducted by officers under their command. This includes interviews, interrogations, and transportation of witnesses.
- H. Procedures Regarding Witness Identification and Questioning
- 1. Officers will ensure that witness identification and questioning practices comply with the arrest and investigatory stop policies.
 - 2. Officers will be prohibited from seizing any individual without reasonable suspicion, probable cause, or consent of the individual.
 - 3. Any seizure made by an officer requires that the scope and duration of the seizure be narrowly tailored to the reasons supporting the stop.
 - 4. Officers are prohibited from transporting any individual to another location without reasonable suspicion, probable cause, safety of the suspect or others, or consent from the individual.

Updates:

- 9/28/23
 - Title changes made