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	<b>Issuing Authority:</b> <b>Charles Femino</b> <b>Chief of Police</b>		<b>Signature:</b> 	<b>Effective Date:</b> December 6, 2021
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## Purpose

The purpose of this directive is to establish the parameters under which a police officer may stop and detain an individual for investigative purposes. The courts continually strive to reach the appropriate balance between the legitimate needs of police to perform essential investigative and public safety functions, against the rights of individuals to be free from undue interference. Officers should be mindful that this area of the law is highly fact-specific, and should make every effort to stay informed of new developments in case law.

## Policy

All members of the department shall operate within the parameters of established case law when conducting investigative detentions, pat-down (frisk) searches and threshold inquires, to strike the correct balance between the legitimate needs of law enforcement and the constitutionally guaranteed individual protections, rights, and freedoms. Toward that end, officers may conduct investigative detentions under the following circumstances:

- A. An officer with reasonable suspicion of criminal activity may temporarily stop and detain a person or vehicle.
- B. Once stopped, an individual suspect may be frisked for weapons only if the officer reasonably believes the person to be armed.
  - 1. The officer must be able to articulate what specific facts or observations, together with reasonable inferences, aroused his suspicions.
  - 2. Anytime an individual is frisked or searched for any reason, the officer should document the circumstances that led up to this action, and the manner in which it was performed, in a report or a CAD entry.

**Policy Guidelines:**

- A. A police officer, under appropriate circumstances, may temporarily stop and briefly detain a person and interview them for the purpose of inquiring into possible criminal behavior even though the officer does not have probable cause to make a lawful arrest at that time. In addition, an officer may frisk a person for weapons as a matter of self-protection when the officer reasonably believes that his safety, or that of others nearby, is endangered. The purpose of this temporary detention for questioning is to enable the officer to determine whether to make an arrest, investigate further, or to take no further action at that time. [1.2.3(a)]
- B. This policy recognizes that police officers are also charged with community caretaking functions that do not require judicial justification. The proper exercise of community caretaking responsibilities, however, is limited to circumstances where an officer acts in response to an immediate danger or concern for an individual's well-being. Community caretaking does not include the detection, investigation, or the acquisition of evidence related to crime.
- C. A search for weapons is permissible whenever a police officer reasonably believes that he is dealing with an armed and dangerous individual, regardless of whether the officer has probable cause to arrest for a crime. The officer need not be absolutely certain that the individual is armed. The legal standard is whether a reasonably prudent person in the circumstances would be warranted in his belief that the officer's safety, or that of others, was in danger.
- D. Investigatory "stops" by the police are considered to be "forcible" in contrast to "voluntary," and are therefore held to be "seizures" under the Fourth Amendment. The degree of force appropriate to enforce a "stop" in a particular case is dependent upon the surrounding facts and circumstances.
- E. If an officer fails to adequately enforce a "stop," it could result in the escape of a dangerous criminal or pose a serious threat to the lives and safety of other persons. Conversely, the use, display, or threatened use of actual force to carry out an investigatory "stop," when force is not justified under the circumstances, could result in a finding by the court that an arrest occurred without probable cause, and any evidence obtained as a result would be excluded. In addition, a premature or unnecessary "stop" could destroy a good investigation that might have resulted in a subsequent valid arrest and a successful conviction.
- F. Police officers should never hesitate to make an investigatory stop and perform a necessary frisk under appropriate circumstances in order to meet the practical needs of effective law enforcement. Officers should refrain from the indiscriminate or unjustified use of this authority. Courts disapprove of it, and it also detracts from the professional image of the police among the citizens of the community in which they serve.

**Definitions:**

Investigative Detention: As used in this policy, an investigative detention includes what is commonly referred to as “Stop-and-Frisk” and also the very similar procedures often referred to as “Threshold Inquiry.”

Stop-and-Frisk: The warrantless stopping, questioning, and frisking of suspicious persons derived from the U.S. Supreme Court case of Terry v. Ohio. [1.2.3]

Threshold Inquiry: The warrantless stopping, questioning, and frisking of suspicious persons based on a Massachusetts statute – M.G.L. Chap. 41, Sec. 98.5

**Procedures****A. Grounds for Making a Stop:**

1. **Suspicious Activity:** It is a basic police duty to be alert for, and check on, suspicious persons or circumstances, particularly in the nighttime and in crime-prone areas.
  - a. An officer is warranted in making a brief investigative stop and inquiry under the following circumstances:
    - (1). When a police officer knows that a crime has been committed.
    - (2). When a police officer reasonably believes that a crime has been or is being committed.
    - (3). When a police officer seeks to prevent a crime that he reasonably believes is about to be committed.
  - b. A police officer has the authority to stop a person for an investigative inquiry in any place where the officer has a right to be, including:
    - (1). Any public place.
    - (2). Any place or areas open to the public.
    - (3). Any private premises entered with a valid warrant, by consent, or under exigent circumstances. [1.2.4(a)]
2. **Reasonable Belief of Suspicion:** There is no precise formula for determining the legality of an investigatory stop, but it must be based upon a reasonable belief or suspicion on the part of the officer, at the time of the stop, that some activity out of the ordinary is taking

place, that this activity is crime-related, and that the person under suspicion is connected with, or involved in, the criminal activity.

3. **Investigatory Stops:** An investigatory stop does not require probable cause; rather it requires the lesser standard of reasonable belief based on specific, articulable facts and reasonable inferences. It may be based upon the officer's own observations or information supplied by other reasonably reliable sources. The information on which the officer acts should be well-founded and reasonable. An officer's hunch or pure speculation, or an officer's unsupported intuition, is **NOT** a sufficient basis for a stop.
4. **Reasonableness Standard:** No single factor alone is normally sufficient. The officer must assess the situation based on a consideration of all the relevant circumstances. The following are some of the factors which may be considered in determining the reasonableness of an investigative stop by a police officer in the field:
  - a. The personal observations of the officer and his police training and experience.
  - b. An officer's knowledge of criminal activity in the area.
  - c. The time of day or night, and the place of observation.
  - d. The general appearance and demeanor of the person and any furtive gestures or behavior that indicates possible criminal conduct.
  - e. The person's proximity to the scene of a recently reported crime.
  - f. Unprovoked flight of a person upon noticing the police.
  - g. The knowledge of the person's prior criminal record or his association with known criminals.
  - h. Visible objects in the person's possession or obvious bulges in his clothing, suggestive of weapons.
  - i. Resemblance of the person to somebody wanted for a crime.
  - j. Information received from police sources or from other reasonably reliable sources of information.
  - k. The type of crime being investigated.
  - l. Whether the officer is alone or outnumbered.
  - m. Whether the person stopped is in an automobile.

5. **Exercising Due Caution:** The fact that a person has aroused the police officer's suspicion should cause the officer to make his approach with caution, while being alert to the potential of danger.
  - a. A routine police check of suspicious circumstances may uncover the commission of a serious crime or the presence of a dangerous criminal.
  - b. If the stopped suspect has just committed a major crime, he may be an immediate threat to the officer's safety, or he may suddenly attempt to flee.
6. **Duration of Investigative Detentions:** No specific rule can be formulated to determine the period of time required for an investigative detention, but it should be reasonably brief under the particular circumstances. The degree of suspicion the officer reasonably harbors must be proportional to the level of intrusiveness of the detention.
  - a. A stop may only last long enough for the officer to make the threshold inquiry into whether the suspicions were or were not well-founded.
  - b. An officer must use the least intrusive means possible to effectuate a stop.
  - c. If the answers given by the suspect are unsatisfactory because they are false, contradictory, or incredible, they may serve as elements or factors to establish probable cause.
  - d. The period of investigative detention should be sufficiently brief so that the "stop" cannot be construed as an "arrest," which would require probable cause.

## **B. Procedures for Investigative Stops and Frisks:**

1. **Factors to Consider During Questioning:** When an officer makes a decision to stop a person for investigative purposes, unless the officer is in uniform, he shall identify himself as an officer as soon as it is safe and practicable, and also announce the purpose of the inquiry, unless it is obvious.
  - a. An investigatory, or threshold inquiry, should begin with exploratory questions regarding the person's identity and purpose.
  - b. Every officer should initiate an investigatory inquiry in a calm, conversational tone in order to gain as much information as possible without placing the person on the defensive.
  - c. Even in a brief conversation with a person, an alert officer can often detect that something is wrong and determine if further police investigation is required.

d. An officer should always bear in mind that he must have a firm foundation for the initial suspicions that led up to the investigatory stop in order to justify an investigative detention and inquiry. The officer must be able to articulate and document these reasons.

2. **Criteria for Frisk (Pat-Down Searches):** Not every circumstance that justifies a stop also justifies a frisk. A frisk is only justified to protect the officer and others from danger. If there is no danger, a frisk is not justified, even if a stop is warranted. If an officer reasonably believes that his safety, or that of others, is in danger, the officer may frisk, or pat-down, the person stopped, and may also search the area within that person's immediate control for weapons or other items that could cause injury. [1.2.4(b)]

- a. It is not necessary that the officer be absolutely certain that the person is armed. However, the officer must perceive danger to himself, or others, because of events leading to the stop or which occurred during, or after the stop.
- b. If the officer has a reasonable belief or suspicion, based upon reliable information or personal observation, that the person is carrying or concealing a weapon, the officer should immediately check that area before performing a pat-down.
- c. A frisk should not be made a pretext to search for evidence of crime; it must be a protective measure.
- d. The frisk must initially be limited to an external pat-down of the suspect's outer clothing. However, if the outer clothing is bulky, like a heavy overcoat, the overcoat may be opened to permit a pat-down of the inner clothing.
- e. The officer may also search the area within the person's immediate control in order to discover, and take control of, any weapon that may be used to cause injury.
- f. Whenever possible, an officer of the same gender of the person being patted-down should be used.
- g. When a pat-down is conducted on a member of the opposite sex, officers shall use the preferred method for frisking a person of the opposite sex (e.g., use the back of the hand).
- h. If the officer feels an object that could reasonably be a weapon, the officer may conduct a further search for that particular object and remove it.
- i. If, after completing a pat-down of the person, the officer does not feel any object that could be a weapon, the search shall be discontinued.

- j. If, while frisking a stopped person, the officer discovers a weapon, contraband, stolen property, or evidence of a crime, and probable cause to arrest develops, an arrest should be made and a search incident to that arrest should be made
3. **Initial Approach at the Time of the Stop:** When a plain-clothed police officer makes a decision to stop a person for investigative purposes, the officer should identify himself as a police officer, as soon as it is safe and practicable. Both uniformed and plain-clothed officers should also announce the purpose of their inquiry unless the information is obvious.
- a. An investigatory, or threshold inquiry, should begin with exploratory questions regarding the person's identity and purpose.
- b. Every officer should initiate an investigatory inquiry in a calm, conversational tone in order to gain as much information as possible without placing the person on the defensive.
- c. Even in a brief conversation, an alert officer can often detect that something is wrong and realize that further police investigation is required. An officer should always bear in mind that he must have a firm foundation for initial suspicions in order to justify an investigative detention and inquiry. The officer must be able to articulate and document the reasons, or basis for, the "stop".
4. **Once the Stop is Made:** Once the officer makes a stop, any questioning of the individual stopped should be conducted at that location.
- a. Investigative stops are intended to be on-the-spot inquiries in which police quickly confirm or dispel suspicions.
- b. To verify the information obtained from the person, it may be necessary to move a short distance away to a police radio or a cell phone.
- c. Under special circumstances, such as the gathering of a hostile crowd, heavy traffic, or the necessity to use the police radio, the person may be placed in the back of a police vehicle.
- d. As part of a threshold inquiry, the person may be detained for a short time so that an eyewitness may be brought to the scene to make an in-person identification.
- e. If an officer orders a person to stop, or orders a stopped person to move to another location, or prevents a person from leaving, the person may, at that point, be considered "in custody" (although not under arrest). At the point when an officer places a person under investigative detention or custody, the officer must provide the individual with the Miranda Warnings prior to asking any additional questions and elicit a waiver. [1.2.3(b)]

5. **Suspect Refusing to Stop:** If the person fails or refuses to stop when directed to by an officer, reasonable force and physical restraint (including handcuffs) may be justified, depending upon the circumstances.
6. **Use of Force to Stop:** Actual force may be used to “stop” an individual, as long as the force is both necessary and proportionate to the situation. This does not include the discharge of firearms or use of other weapons.
7. **Self Defense:** If an officer is attacked, sufficient and reasonable force may be used to defend him/herself and to ensure personal safety.
8. **Probable Cause for Arrest:** When combined with the observations and information which led the officer to reasonably suspect criminal activity or, if the person tries to evade the officer, these additional factors may give rise to sufficient probable cause to make an arrest.

### C. Motor Vehicle Stops:

1. **Investigative Motor Vehicle Stops:** When an investigative stop involves a motor vehicle, the vehicle may be stopped and its occupants may be briefly detained and questioned by the officer if there is a reasonable suspicion of criminal activity or of a motor vehicle violation.
  - a. Police cannot randomly stop motorists to check a driver’s license or a vehicle registration.
  - b. All officers must be especially alert when making an investigative stop of a motor vehicle; many officers have been injured, or killed, while performing motor vehicle stops.
  - c. During the course of a stop, probable cause to search the vehicle may develop – such as through conversation with the occupants or observations of contraband or weapons in plain view.
  - d. During a routine traffic stop, police officers may not order the driver or occupant out of the vehicle without a reasonable apprehension of danger to the officer or others.
    - (1). If the occupant(s) of a vehicle are ordered out of the vehicle, they may be frisked if the officer reasonably believes that they may be armed and dangerous or that officers, or others nearby, may be endangered.
    - (2). Even after frisking the occupants, if officers have reason to believe there is still a potential danger, they should inspect those areas of the motor vehicle readily accessible to occupants that may contain a dangerous weapon.



- e. A protective search of the interior of a motor vehicle must be limited to what is minimally necessary to determine whether the suspect is armed and to remove any weapon discovered.
  - f. A protective search for weapons in a motor vehicle must be confined to the area from which the occupant might gain possession of a weapon.
2. **Detaining Passengers During a Motor Vehicle Stop:** While an officer may detain a passenger during a traffic stop, even without particularized reasonable suspicion that the passenger has committed a crime, police officers may not continue the detention of the passenger beyond the completion of the issued citation, without further reasonable suspicion to investigate matters not related to the traffic offense.
  3. **Random Motor Vehicle Stops:** With the exception of properly conducted sobriety checkpoints, random stops of motor vehicles in the absence of reasonable suspicion of motor vehicle violations, or criminal activity, constitutes an unreasonable seizure in violation of the Fourth Amendment and any evidence obtained as a result of such impermissible stops may be excludable in court.

#### **D. Reporting Requirements:**

1. **When Reports Are Required:** In case(s) of investigative detention (Stop-and-Frisk), the officer(s) involved will, as practicable, make a written report of the circumstances in accordance with departmental procedures (i.e. FIO card, CAD item), to include the identity of the person stopped, and all important facts relative to the incident, even in cases where no weapon, contraband, or other evidence of crime was discovered, or where the person was released after being questioned.