



City of Manassas Police Department General Duty Manual



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| Effective Date: 07-27-2001 | GENERAL ORDER | Number: 06-18 |
| Subject: Field Interviews | | |
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| Accreditation Standards: 1.2.3/ 1.2.4 | By Authority Of:  Douglas W. Keen, Chief of Police | Total Pages: 5 |

PURPOSE:

To establish policy and procedures governing field contacts or stop and frisk, and to define the necessary elements for a search that extends beyond the person to the passenger compartment of a motor vehicle or other immediately accessible area. Guidelines are also specified for termination of an arrest when circumstances dictate that a continuation of the arrest would be improper, if not illegal.

POLICY:

It is the policy of the Department to conduct field interviews lawfully and in a manner that is appropriate to the individual situation in response to the totality of the circumstances. Documentation of these field contacts should be initiated through the Field Interview / Observation Card. Completion of Field Interview / Observation Cards is a basic activity of the patrol officer.

DISCUSSION:

For the purpose of this directive the following definitions apply:

REASONABLE SUSPICION: A standard less than probable cause to arrest and is a circumstance or collection of circumstances that lead a trained and experienced law enforcement officer to believe that criminal activity is taking place.

STOP AND FRISK: Temporary detention of a subject when the officer has reasonable suspicion that the person has a concealed weapon or that a felony has occurred, is occurring, or is about to occur. Frisk entails the "pat down" type search for weapons of a subject when the officer reasonably believes that the subject intends to do him bodily harm.

DE-ARREST: The release of an individual from full custody arrest when the arresting officer determines that the person under arrest did not commit a crime or that upon further investigation the event is found not to constitute a crime. See General Order 6-7 for the Department's policy on De-Arrest Procedures.

FIELD CONTACT: Synonymous with field interview or field interrogation, the field contact is questioning conducted by an officer in the field that results in face-to-face communication with an individual under circumstances in which the person is under no obligation to answer questions or remain with the officer.

PROBABLE CAUSE: Facts and circumstances that cause a person of reasonable caution to believe that an offense is being or has been committed and that the person to be arrested has committed the offense.

I. PROCEDURE:

A. Initiating field contacts / interviews.

1. Field contacts may be initiated when an officer reasonably believes that some investigative inquiry into a situation is warranted. Since information obtained during a contact is dependent entirely upon the voluntary cooperation of a citizen who is free not to respond and to leave at any time, the standard of "probable cause," "reasonable suspicion" or any other indication of criminal activity is not necessarily required. However, field contacts should be based upon legitimate police-related purposes, such as:
 - a. Identification of victims, witnesses or suspects.
 - b. Crime prevention / community relations.
 - c. Criminal intelligence gathering.

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- d. Other circumstances that would reasonably arouse the curiosity, concern or suspicion of an officer and the potential for gathering relevant information for crime analysis exists.
2. Field contacts may be initiated any place in which an officer has a legitimate right to be, and generally include:
 - a. City owned or controlled property normally open to members of the public.
 - b. Areas intended for public use or normally exposed to public view.
 - c. Places to which an officer has been admitted with the consent of the person empowered to give such consent.
 - d. Places where circumstances require an immediate law enforcement presence to protect life, well being or property.
 - e. Areas where an officer may be admitted pursuant to a lawful arrest or search warrant.
 - f. Any other area in which an officer may effect a warrantless arrest.
3. Field contacts must not be initiated as a means of attempting to coerce an individual to leave an area or place where such person has a legitimate right to be and no violation of law has occurred.

B. Conduct of field interviews.

1. Officers conducting field interviews must recognize that the key elements justifying greater restraints of freedom allowed under stop and frisk requirements pursuant to Section II of this General Order, may not be present. Therefore, persons contacted must not be detained in any manner against their will, nor be required to answer questions or respond in any manner if they choose not to do so. The fine line drawn between a field contact and a stop and frisk must be strictly observed to avoid accusations of harassment. Since the distinction between a “contact” and a “stop” depends to a great extent on whether, under the circumstances, the citizen perceives that he is free to leave, officers should comply with the following guidelines;
 - a. All verbal requests during the contact should be phrased with neutral or optional words, such as “may,” “would you mind,” etc.
 - b. Abrupt, short responses that could be misunderstood and requests that could be misinterpreted as commands must be avoided.
 - c. The duration of a contact should be as brief as possible.
2. The success or failure of obtaining information beneficial to crime analysis and criminal investigation depends on an officer’s ability to put citizens at ease and establish rapport. However, if during a field contact the individual asks whether he must respond or indicates that he feels compelled to respond the officer should immediately inform the individual of the right to refuse as well as the right to leave. Where citizens refuse or cease to cooperate during a contact, the refusal itself can not be used as the basis for escalating the encounter into a stop and frisk situation.

II. Stop and Frisk

- A. In the Commonwealth of Virginia a law enforcement officer may temporarily detain a person in a public place if reasonable suspicion exists that a felony has been committed, is being committed or is about to be committed; or the officer reasonably suspects that a person is illegally carrying a concealed weapon in violation of the Code of Virginia Section 18.2-308.
- B. A temporary detention as recognized by the United States Supreme Court in Terry v. Ohio (392 U.S., 1) is a seizure as controlled by the Fourth Amendment. The court recognized that officers must be able to take action when probable cause to arrest does not exist. The Virginia Supreme Court supported the necessity of stop and frisk in a 1977 case, Simmons v. Commonwealth (231 S.E., 2D, 218) when it stated:
 1. “The Fourth Amendment does not require a policeman who lacks the precise level of information necessary for probable cause to arrest to simply shrug his shoulders and allow a crime to occur or a criminal to escape. On the contrary, Terry recognizes that it may be the essence of good police work to adopt an intermediate response. A brief stop of a suspicious individual in order to determine his identity or to maintain the status quo momentarily while obtaining more information may be reasonable in light of the facts.”
- C. Within stop and frisk, two distinct acts exist:
 1. The stop.
 2. The frisk of person(s) stopped.

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- D. The stop is the detention of a subject for a brief period of time. In order to make the stop, the officer must have reasonable suspicion to believe that a person is committing, has committed or is about to commit a felony or possesses a concealed weapon in violation of the Code of Virginia Section 18.2-308. The courts are likely to rule that the following factors may be considered in building a foundation:
1. The officer has valid knowledge that the individual has a prior felony record.
 2. The individual fits the description of a wanted notice.
 3. The individual exhibits furtive conduct, such as fleeing from the presence of an officer or attempts to conceal an object from the officer's view.
 4. Clothing worn by the individual is similar to the clothing described in a lookout for a known offense.
 5. The vehicle observed is similar to a broadcast description for a known offense.
 6. The individual exhibits unusual behavior, such as staggering or appearing to be in need of medical attention.
 7. The location and time of day are consistent with past patterns of recurring criminal activity.
- E. Hearsay information is acceptable in basing the foundation for stop and frisk. In order for the information to be credible, the officer must have some means to gauge the reliability of the informant's knowledge.
- F. The frisk:
1. Should the officer reasonably believe that the person stopped intends to do him bodily harm or is carrying a concealed weapon, the officer may conduct a limited search of the person's outer clothing.
- G. Search beyond the person:
1. The United States Supreme Court held in Michigan v. Long (1983), that although Terry involved the stop and subsequent pat down search for weapons of a person suspected of criminal activity, it did not restrict the protective search of the person of the detained suspect, but allowed search of the area within the suspect's immediate control as well.
 2. The Court recognized that protection of police and others could justify protective searches of the area under the immediate control of the suspect when there exists a reasonable belief that the suspect poses a danger. Thus, the search of a passenger compartment of an automobile when constituting the area immediately under the person's control, limited to those areas in which a weapon may be placed or hidden, is permissible.
 3. A lawful protective search for weapons which extends to an area beyond the person in the absence of probable cause to arrest, must have all of the following elements present:
 - a. A lawful investigative stop or a lawful vehicle stop.
 - b. A reasonable belief that the suspect poses a danger. As defined by the Court in Michigan v. Long, reasonable belief is based on:
 - (1) "...specific and articulable facts, which taken together with the rational inferences from those facts, reasonable warrant the officer to believe that the suspect is dangerous and the suspect may gain immediate control of weapons.
 - c. The search must be limited to those areas in which a weapon may be placed or hidden.
 - d. The search must be limited to an area that would ensure that there are no weapons within the subject's immediate grasp, i.e., an area within the subject's immediate control.
 - e. The Court added in Michigan v. Long that, although the subject was under the control of two officers during the investigative stop, it did not render unreasonable a belief that he could injure them.
- H. Period of detention.
1. Courts have generally held that the period of detention is a brief intrusion upon a person's movement.
 2. Once the detaining officer determines that the basis for reasonable suspicion no longer exists, the person detained should be immediately released.
 3. Should the suspicion be reinforced with additional information or the officer develops probable cause, the period of detention could be lengthened.

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4. Legal decisions have construed a period of 20 minutes to be too long to reasonably detain a subject. The length of time it takes to confirm identification or wanted status would affect this decision.
5. The officer is required to quickly evaluate the circumstances present and determine whether probable cause exists to arrest. If not the subject should be released from detention. The detention of a subject should be as brief as possible and terminated immediately upon deciding that probable cause does not exist.

III. Recording the Field Contact / Maintenance of Records

- A. Information obtained as a result of conducting a field contact or stop and frisk can be fully utilized only if the information is accurately recorded and available for centralized analysis through the Department's crime analysis function (see General Order 7-7). The availability of this information allows greater efficiency in crime analysis and criminal investigation, helps to ensure the proper exercise of law enforcement authority, and enhances an officer's ability to reconstruct, at a later time, events surrounding the field contact or stop and frisk.
- B. The Field Interview and Observation Card, hereafter referred to as the "FI Card" (see Section III-14 of the Department Paperwork Manual, published separately), is the primary instrument for documenting field contacts and stop and frisk incidents. Block #39 on the FI Card should be used to record any cause for caution observations. The FI Card, when used should be completed as follows:
 1. The FI Card should be used to record any notable field contacts that are not documented by an IBR.
 2. The FI Card should be completed if possible.
 3. The FI Card should be completed for a field contact with a person the officer considers a cause for caution, regardless of whether an IBR is completed or not.
 - a. Causes for caution include persons known or perceived to present a threat to officers or others.
 - b. Officers in doubt as to whether a previous cause for caution has been noted by other officers should check with the Emergency Operations Center (EOC).
 4. When possible, one photograph should be taken of the individual to accompany the FI Card.
- C. Some citizens may interpret use of the FI Card during a field interview as coercive. Consequently, if a determination is made to record information during a field contact, and the procedure is questioned, the citizen should promptly be informed that the FI Card is for Departmental use and is not available to the public, nor does it necessarily signify or imply an arrest circumstance or involvement in criminal activity.
- D. Review and use of FI Cards.
 1. Completed FI Cards are submitted for supervisory review at the end of each tour of duty. The number and sufficiency of cards is a measurable factor in performance evaluations of officers.
 2. Completed FI Cards are forwarded to the Investigative Services Division (ISD) for a review.
 3. A copy of the completed FI Card may be forwarded to the Department's Crime Analysis officer for use as appropriate. See General Order 7-7.
- E. Maintenance and removal of FI Cards.
 1. FI Cards are maintained for a period determined by the Commander of Investigative Services depending on determined or perceived need. When the need for the FI Card has expired, the Commander of Investigative Services ensures destruction of expired FI Cards, any copies, and the purging of any corresponding automated data.

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Attachments: N/A.

Index as: Field Interviews.
Field Contacts.
Field Interrogations.
Stop and Frisk.
De-Arrest.

References: The Code of Virginia Sections 18.2-308, available at: <http://leg1.state.va.us/000/src.htm>.

The Virginia Supreme Court decision: Virginia v. Simmons, 231 S.E., 2D, 218, available at: www.courts.state.va.us/opin.htm.

United States Supreme Court decisions: Terry v. Ohio, 392 U.S., 1, and Michigan v. Long, (1983), available at: www.megalaw.com.