



Investigative Detentions

.01 Policy

Officers must understand the legal basis and authority for conducting field interviews. Legally conducted and properly documented field interviews can contribute greatly to crime analysis and solution. They also serve as sources of information, a means of developing suspects and witnesses, and a crime deterrent.

.02 Terms

Articulate Suspicion: A collection of facts which, when considered together, would lead a reasonable police officer to believe that a temporary detention and/or frisk is legally justified. A suspicion is articulable if the facts supporting it can be spoken or written. Articulate suspicion is more than a hunch, but less than evidence amounting to probable cause.

Probable Cause: A collection of facts which, when considered together, would lead a reasonable person to conclude that a specific crime has occurred and the suspect was responsible.

Temporary Detention: A brief stop of an individual; the length and extent of the stop is dictated by the facts known to the officer at the time of the stop.

.03 Governing Legislation and Reference

Governing Legislation:

Terry v. Ohio

When officers observe unusual conduct and they reasonably conclude, in light of their experience, that criminal activity may be afoot and a individual may be armed and presently dangerous, the officers shall identify themselves and make inquiries of such individual.

If nothing in the inquiry dispels the reasonable fear for the safety of themselves and others, the officers may conduct a carefully limited search of the individual's outer clothing in an attempt to discover weapons. Such searches are reasonable and any evidence obtained is admissible.

Cross v. State, No. 720, September Term, 2004, Court of Special Appeals of Maryland, October 27, 2005.

Antonio Belote v. State, Court of Appeals of Maryland, Decided October 13, 2009.

In Re: Lorenzo C., Court of Special Appeals of Maryland, Decided August 27, 2009.

Maryland Criminal law Article, §4-206.

Forms:

Case Report (Records Management System).

Warning/Field Observation Report (Form J-2).

.04 Procedure

There are three levels at which an officer may intrude upon an individual if there lacks probable cause to make an arrest or conduct a search: Conversation; Temporary detention (Terry Stop); and Stop and frisk (Terry Frisk).

1. Conversation

An officer can approach, talk to, and ask questions of an individual at any time. At this stage, an officer has no authority to detain the individual or otherwise make the individual respond to any inquiry. When the individual indicates, by speech or action, a desire not to talk to the officer or desires to leave, the officer must honor the individual's wish. Information derived from this contact can be used to create articulable suspicion or probable cause;

2. Temporary Detention

When an officer has articulable suspicion that leads them to believe that an individual may have just committed, is committing, or is about to commit a crime, the officer can stop and temporarily detain the individual to inquire about that individual's conduct or get additional information. This allows the officer to make a brief inquiry of the individual, seek other information, or locate at the time of the stop (evidence to determine if their initial suspicions are accurate.

Information derived from this temporary detention can be used to establish articulable suspicion that the individual may be armed and dangerous or to establish probable cause of a crime. An officer must articulate sufficient facts to show that it was reasonable to believe that a crime was or is being committed. Hunches,

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training and experience, or officer safety issues do not suffice for specific facts that justify articulable suspicion.

Officers may consider the following circumstances in determining whether articulable suspicion exists to justify a stop (the list is not all-inclusive):

- The actions, appearance, or demeanor of the individual;
- The time of day or night;
- Clothing of the individual, including suspicious bulges appearing through the clothing or objects carried;
- Inappropriateness of the presence of the individual in a given location;
- The individual's proximity to a known crime scene; and,
- The officer's prior knowledge of the circumstances (for example, the individual's prior record, or information from an informant or third party).

3. Stop and Frisk

A stop and frisk (Terry frisk) is lawful only when the officer has met the requirements of a temporary detention ("Terry stop") and has articulable suspicion that the individual may be armed and dangerous. Once both conditions are met, the officer may combine the temporary detention with a pat down of the suspect's outer garments to determine if that individual is carrying a weapon that may harm the officer. The officer may remove an item detected in this pat down if one of the following conditions exists:

- The officer reasonably believes that the item located is a weapon; and,
- It is apparent, based upon feeling through the outer garments alone, that the item is contraband or evidence of a crime.

If there is articulable suspicion that the individual is carrying a handgun, Section 4-206 of the Maryland Criminal Law requires officers to ask preliminary questions (the individual's name, address, and, if the individual is in a vehicle, license, and registration) to determine whether that individual is in lawful possession of the weapon. The requirement for this questioning is not so great as to make officers place themselves at additional risk. Circumstances known to the officers may require immediate action prior to such

questioning.

Stop and Frisk Report

When an officer conducts a pat down or frisk for a weapon, regardless of whether an arrest is made, the officer shall submit a Warning/Field Observation Report/J-2, or a Case Report titled Stop and Frisk, prior to the end of the shift. This report shall include the officer's observations that led that officer to believe that the individual was armed and dangerous. A copy of the report shall be sent to the Secretary of the State Police.

Handcuffing Without Full-Custody Arrest

The use of handcuffs is generally restricted to instances where a crime has occurred, or the officer has probable cause to believe a crime has occurred, and a full-custody arrest takes place.

When an officer has articulable suspicion that an individual is involved in criminal activity, the officer may use handcuffs to briefly detain the individual for questioning without making a full-custody arrest.

Handcuffing alone does not constitute a use of force or an arrest. Instead, the following factors determine arrest status:

- Length of the detention;
- Investigative activities during the detention; and,
- Whether the suspect is removed to a detention or interrogation area.

When investigative measures fail to establish probable cause for an arrest, the officer shall immediately remove the restraints. The officer shall provide persons who are handcuffed, but not arrested, an explanation for the handcuffing.

Handcuff and Release

Handcuff and release incidents shall be documented on an Case Report that details the circumstances of the incident.

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HISTORY: Adopted November 16, 2009

This General Order supersedes all other orders and memoranda in conflict therewith.

Authority:

A handwritten signature in black ink, appearing to read "Charles L. Owens". The signature is written in a cursive style with large, looping letters.

Charles L. Owens
Chief of Police