

FIELD INTERVIEWS/THRESHOLD INQUIRIES

<p>POLICY & PROCEDURE NO.</p> <div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 80%; text-align: center;"> <p>1.2.11 CALEA Ref. # 1.2.3(a), 1.2.4(b), 11.3.1</p> </div>	<p>ISSUE DATE: <u>December 24, 2014</u></p>
<p>Approved: <u><i>Alan R. DeHaro</i></u> Chief of Police</p> <p>Date: <u>December 24, 2014</u></p>	<p>EFFECTIVE DATE: <u>June 5, 2018</u></p>
<p>REVISION DATE: <u>June 5, 2018</u></p>	<p style="text-align: right;"><input checked="" type="checkbox"/> NEW <input type="checkbox"/> AMENDS <input type="checkbox"/> RESCINDS</p>

I. GENERAL CONSIDERATIONS

M.G.L. Chapter 41, Section 98 authorizes a Police Officer to “*examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whither they are going...*” Police Officers should be mindful of the fact that no citizen is to be stopped without at least specific and articulable facts (i.e., reasonable suspicion of criminal activity) that warrant the intrusion.

The Haverhill Police Department is committed to protecting the constitutional and civil rights of all citizens. Allegations of bias based profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve, because they strike at the basic foundation of public trust. This trust is essential to effective community based policing. For additional guidance regarding the Identification and Prevention of Bias Based Profiling see Haverhill Police Policy 1.2.9 *Biased Based Profiling*.

A police officer, in appropriate circumstances, may temporarily stop and briefly detain a person 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 such a person for weapons as a matter of self-protection when the officer reasonably believes that his/her own safety, or that the safety of others nearby, is endangered. The purpose of this temporary detention for questioning is to enable the police officer to determine whether to make an arrest, investigate further, or take no police action at that time.

A search for weapons is permissible where a police officer has reason to believe that he/she 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 issue is whether a reasonably prudent person in the circumstances would be warranted in his/her belief that the officer’s safety, or that of others, was in danger.

Police officers should never hesitate to make an investigatory stop and a necessary frisk in appropriate circumstances in order to meet practical needs of effective law enforcement. However, they should avoid the indiscriminate or unjustified use of this authority. Such a police action is not only frowned upon by the Courts but it also detracts from the professional image of the police among the citizens of the community in which they serve.

II. DEFINITIONS

Investigative Detention: As used in this policy, includes what is commonly referred to as “stop & frisk” and also the very similar procedures often referred to as “threshold inquiry”.

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

Threshold Inquiry: The warrantless stopping, questioning and frisking of suspicious persons based on a Massachusetts statute, MGL Chapter 41, Section 98.

III. PROCEDURE (1.2.3)

It is a basic police duty to check on suspicious persons or circumstances, particularly in the nighttime and in crime-prone areas.

An officer may make a brief investigative stop and inquiry under any of the following circumstances:

- When he/she **knows** that a crime **has been committed**.
- When he/she **reasonably believes** that a crime **has been or is being committed**.
- When he/she **seeks to prevent** a crime which he/she **reasonably believes is about to be committed**.

An officer has the authority to stop a person for an investigative inquiry in any place where the officer has a right to be, including:

- Any public place;
- Any area open to the public; and
- Any private premises entered with a valid warrant, by consent, or under emergency circumstances.

There is no precise formula for determining the legality of an investigatory stop. However, it must be based upon a **reasonable belief or suspicion** on the part of the officer that such activity is crime-related and that the person under suspicion is connected with or involved in that criminal activity.

An investigatory stop does not require probable cause for arrest. It requires the lesser standard of reasonable belief based on articulable facts and reasonable inferences. It may be based on the officer’s own observations or information supplied by others. The information on which the officer acts should be well-founded and reasonable. **A hunch, pure guesswork or an officer’s unsupported intuition is not a sufficient basis.**

No single factor alone is normally sufficient. 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:

- Personal observations of the officer and his/her police training and experience;
- The officer's knowledge of criminal activity in the area;
- The time of day or night and the place of observation;
- The general appearance and demeanor of the person and any furtive behavior which indicates possible criminal conduct;
- The person's proximity to the scene of recently reported crime;
- Unprovoked flight of an individual upon noticing the police;
- The knowledge of the person's prior criminal record or of his/her association with known criminals;
- Visible objects in the person's possession or obvious bulges in his/her clothing;
- Resemblance of the individual to a person wanted for a known crime;
- Information received from police sources or from other reasonably reliable sources of information.

The fact that the individual has aroused the police officer's suspicion should cause the officer to make his/her approach with vigilance and to be alert for any possibility of danger.

- A routine police check of suspicious circumstances may uncover the commission of a serious crime or the presence of a dangerous criminal.
- If the stopped person has just committed a major crime he/she may be an immediate threat to the officer's safety, or may suddenly attempt to flee from the scene.

A. Length of Stop

No hard and fast 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:

- 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 using the least intrusive means possible.
- 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.
- 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. Pat Downs or Frisks

If a police officer reasonably believes that his/her own safety or that of others is in danger he/she may frisk or pat down the person stopped and may also search that area within that person's immediate control in order to discover and take control of any weapon that may be used to inflict injury.

It is not necessary that the officer be absolutely certain that such person is armed but he/she must perceive danger to him/herself or others because of events leading to the stop or which occurred after or during the stop.

If an officer has reasonable belief or suspicion, based on reliable information or personal observation, that a weapon is being carried or concealed in some specific place on the suspect's person, he/she should immediately check that area before performing a general pat down.

A frisk should not be a pretext to search for evidence of a crime; **it must be a protective measure.**

The frisk must initially be limited to an external pat down of the suspect's outer clothing. If the outer clothing is bulky such as a heavy overcoat, these garments may be opened to permit a pat down of inner clothing.

If the officer feels an object which could reasonably be a weapon, he/she may conduct a further search for that particular weapon and remove it.

If, after conducting the pat down of a suspect, the officer does not feel any object which could reasonably be a weapon, he/she should discontinue the search.

If, while frisking a stopped person, the officer discovers an illegal firearm, contraband, stolen property or other evidence of a crime and probable cause develops, an arrest should be made (See Haverhill Police Department Policy, 1.2.4 *Searches and Seizures*).

C. Use of Force

If the person fails or refuses to stop when so directed by a police officer, reasonable force and physical restraint (including handcuffs) may be necessary depending on the circumstances.

Actual force may be used to "stop" an individual, as long as the force is both necessary and proportionate to the situation. However, this does not include the discharge of firearms or application of other weapons.

If an officer is attacked, sufficient and reasonable force may be used to defend him/herself and to ensure his/her personal safety.

D. Questioning Stopped Persons

When an officer makes a decision to stop a person for investigative purposes, unless the officer is in uniform, he/she shall identify him/herself as a police officer as soon as it is safe and practical to do so and also announce the purpose of the inquiry unless such information is obvious.

- An investigatory or threshold inquiry should begin with exploratory questions regarding the person's identity and his/her purpose.
- Every officer should acquire the ability to initiate an investigate inquiry in a calm, conversational manner in order to gain as much information as possible without

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- placing the suspect on the offensive.
 - Even in a brief conversation with an individual, an alert and perceptive officer can often detect or sense that something is wrong and that further investigation is required.
 - An officer should always bear in mind, however, that he/she must be able to articulate and to commit his/her reasons to writing.

Once a stop is made, any questioning of the stopped person should be conducted at that location.

- Investigative stops are intended to be on-the-spot inquiries.
- To verify the information obtained from the person it may be necessary to move a short distance to a radio or telephone.
- 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 rear seat of a police vehicle.
- As part of a threshold inquiry, the person may be brought to the scene to make an in-person identification.
- If a stopped person is told to move to another location or tries to leave but the officer orders him/her to stay where he/she is, the person may, at that point, be considered “in custody” (although not under arrest). Once a person is in custody, additional questioning by police must be preceded by giving the Miranda Warnings and eliciting a waiver (See Haverhill Police Department Policy, 1.2.3-*Constitutional Requirements of Criminal Investigation*).

E. 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 police if there is a reasonable suspicion of criminal activity or a motor vehicle violation. All police officers must be especially alert and watchful when making an investigative stop of a motor vehicle as many officers have been seriously injured, some fatally, in taking this police action.

- During the course of the stop, probable cause to search the vehicle may develop - such as through conversation with the occupants or plain view observations.
- If, during the course of the stop, an officer has a reasonable belief that his/her safety is in danger; he/she may order the driver or occupant out of the vehicle. If a person is ordered from the vehicle, they may be armed and dangerous and the officer(s) or others may be endangered.
- Even after frisking the occupants, if the officer(s) have reason to believe there is still a possible danger, they should inspect those areas of the motor vehicle readily accessible to an occupant that may contain a dangerous weapon.
- 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.
- 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.

F. Documentation

In order to enhance the overall effectiveness of field interrogations it becomes necessary to develop feedback that can ultimately benefit all officers, both from a safety and an investigative standpoint. The decision to file a Field Interrogation & Observation Report lies with the individual officer who has made contact with a subject. Officers will want to consider some, or all, of the following criteria when deciding if the report is appropriate:

- The suspicious or furtive conduct of the suspect;
- The location of the suspect and the time of inquiry;
- If suspect is near the scene of a reported crime or in a high crime area (past or present);
- Description of suspect (or vehicle) is consistent with wanted offender;
- Past record or reputation of suspect;
- Illogical or evasive responses to questioning;
- Poor, or no, explanation for actions at time.

In addition, common sense, experience, and instinct will assist in determining the need for a Field Interrogation & Observation Report.

In the event a Field Interrogation & Observation Report is completed, the information will be entered into the Departments in-house computer system (QED) by the officer completing the report and kept on file for future utilization in the course of investigations. **(1.2.3.)**