

	ROSENBERG POLICE DEPARTMENT	
	General Order 7.02 Field Interviews and Detentions	
	Effective Date: 05-13-2013	Replaces: N/A
	Approved:  Chief of Police	
	Reference: TBP 7.07	

I. POLICY

The agency expects and encourages officers to conduct field interviews. Field interviews are important contacts with individuals that aid in preventing and investigating crime. The agency expects officers to gather information with proper observance of constitutional safeguards. Strict constitutional guidelines exist that protect both the civil rights of all persons and the need of officers to obtain information crucial to the reduction and prevention of crime.

II. PURPOSE

To clearly establish the difference between a Field Interview and an Investigative Detention or Stop. To assist officers to determine when field interviews and frisks for weapons are necessary and useful, and to establish procedures for conducting both safely. (TBP: 7.07)

III. DEFINITIONS

A. Field interview (consensual encounter)

A brief interview of a person to determine the person's identity and gather information or to resolve the officer's suspicions about possible criminal activity or determine if they have information about a criminal offense. Field interviews require voluntary cooperation of the subject. A field interview contrasts with a detention or stop which is based on reasonable suspicion of criminal behavior.

B. Frisk

A "pat-down" search of outer garments for weapons.

C. Reasonable suspicion

Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been, is being, or is about to

be committed. The reasonableness of an officers actions will be determined by reviewing the totality of circumstances known to the officer at the time he or she takes the action.

D. Detention (Stop)

An involuntary detention of a subject for a brief period of time for the purpose of investigating the actions of the individual. In order to make the stop, the officer must have reasonable suspicion to believe that criminal activity is afoot and that the person to be detained or stopped is involved. A stop is an investigative detention. The following characteristics may, under the circumstances, give rise to reasonable suspicion for a stop. This list is not all-inclusive nor is the presence of any one of these circumstances alone always sufficient for reasonable suspicion.

1. Officer has knowledge that the person has a criminal record.
2. A person fits the description of a wanted notice.
3. A person has exhibited furtive conduct such as fleeing from the presence of an officer or attempting to conceal an object from the officer's view.
4. The appearance, behavior, or actions of the suspect suggest that he is committing a crime.
5. The time of day or night is inappropriate for the suspect's presence in a particular area.
6. The officer observes a vehicle that is similar to that of a broadcast description for a known offense.
7. A person exhibits unusual behavior, such as staggering or appearing to be in need of medical attention.
8. The suspect is in a place proximate in time and location to an alleged crime.
9. The suspect is carrying an unusual object, or his clothing bulges in a manner consistent with concealing a weapon.

IV. FIELD INTERVIEW PROCEDURES

A. Making the field interview or stop: overview

1. An officer may conduct a field interview at any time if an individual is willing to speak with the officer. A field interview requires voluntary cooperation from the subject. In the absence of probable cause to arrest or reasonable suspicion to justify an actual investigative detention or stop, the individual may discontinue the interview at any time and leave. The person

may also refuse to produce identification or otherwise identify himself. The individual does not have to answer any questions or provide any information.

2. An officer must be able to articulate the circumstances that warranted the interview of the subject. In court, should a field interview result in an arrest, an officer must justify his intrusion by describing "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." Articulable facts and circumstances derive from:
 - a. Firsthand observations.
 - b. Information from informants or members of the community.
 - c. "Collective knowledge" or information shared by several officers.
 - d. Reasonable inferences made by the officer from information known to the officer.

B. Place of the interview

1. As a general rule, field interviews may be conducted anywhere the officer has a right to be, including:
 - 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.
2. Field contacts shall not be done to coerce a person to leave an area or place where he or she has a legitimate right to be and where no violation of law has occurred.

C. Conduct of Interviews

1. Officers shall clearly identify themselves and, if not in uniform, display identification.

2. As noted above, a person interviewed by the officer may discontinue the interview at any time. To repeat, during a routine field interview, persons shall not be detained in any manner against their will nor shall they be required to answer questions or respond in any manner if they choose not to do so. The fine line drawn between a field interview and a detention or stop must be strictly observed. Since the distinction between an interview and a detention depends to a great extent on whether, under the circumstances, the subject perceives that he is free to leave, officers shall comply with the following guidelines:
 - a. All requests during the interview should be phrased with neutral or optional words, such as "may," "would you mind," etc.
 - b. The duration of an interview should be as brief as possible unless prolonged by the subject.
 - c. During the interview, officers should confine their questions to those concerning the suspect's identity, place of residence, and other matters necessary to resolve the officer's suspicions.
 - d. Miranda warnings are not required during field interviews. The warnings are not required until custodial questioning takes place.
3. The success or failure in obtaining information beneficial to crime analysis and criminal investigation will depend upon an officer's ability to put individuals at ease and establish a rapport. However, during a field interview, if the person should ask whether he must respond, or indicate that he feels compelled to respond, the officer shall immediately inform him (or her) of the right to refuse, as well as the right to leave.
 - a. When a person refuses or ceases to cooperate during an interview, the refusal itself cannot be used as the basis for escalating the encounter into a detention.
 - b. Individuals cannot be compelled to answer any questions during field interviews.

V. INVESTIGATIVE DETENTION OR STOP (and Frisk when warranted)

- A. The legal authority to conduct an investigative detention or stop (and frisk when warranted) is based in Federal and State constitutions as interpreted by court decisions.
- B. Investigative detentions may involve two distinct acts. The first is the actual detention or stop which is based on reasonable suspicion. A second component may be a frisk of the detainee for weapons. The frisk must be justified by the officer's reasonable fear for his safety during the detention. The safety concern must arise from the conduct of the detained person, not from safety concerns in general. For

example, a frisk could not be justified solely on the claim that “all drug dealers are dangerous.” Not every detention will result in a frisk. Examples of safety factors justifying a frisk may include but are not limited to:

1. The type of crime suspected, particularly those involving weapons.
2. When the officer must confront multiple suspects.
3. The time of day and location of the stop.
4. Prior knowledge of the suspect's propensity for violence.
5. Any indication that the suspect is armed.
6. Age and sex of the suspect (officers shall exercise caution with very young or very old people or persons of the opposite sex).

C. Manner of conducting a frisk

1. Ideally, two or more officers will conduct the frisk, one to search and the other to provide protective cover.
2. The minimally intrusive nature of a frisk permits the suspect to be searched while standing, or with hands placed against a stationary object, feet spread apart, which is the preferred method.
3. When frisking, officers shall search only the external clothing for objects that reasonably could be weapons and remove them.
 - a. Retrieval of the weapon may give probable cause to arrest. If so, officers may then conduct a complete custodial search of the suspect incident to arrest.
4. If, during a lawful detention based on reasonable suspicion, the officer conducts a frisk and feels an object whose contour or mass makes its identity as contraband immediately apparent, pursuant to the plain touch doctrine, it may be withdrawn and examined.
5. If the suspect is carrying a bag, purse, suitcase, briefcase, sack, or other container that may conceal a weapon, officers shall not open it but may place it beyond the subject's reach for the duration of the stop.

D. Protective search

1. Under some conditions, the protective search or the search for weapons may be extended beyond the person detained. This search occurs most often involving vehicles. 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 detention as defined herein or a lawful vehicle stop.
- b. A reasonable belief that the suspect(s) poses a danger.
- c. A frisk of the subject must occur first.
- d. The search must be limited to those areas in which a weapon may be placed or hidden.
- e. The search must be limited to an area which would ensure that there are no weapons within the subject's immediate grasp.
- f. If the suspect has been arrested and restrained or removed from immediate access to the vehicle, a search of the vehicle cannot be made for protective reasons. A search may be made of vehicle if other exceptions to a search warrant exist.

E. Period of detention

- 1. Investigative detention--as with field interviews--must be conducted as quickly as possible. Once the detaining officer determines that the basis for reasonable suspicion no longer exists, the person detained shall be immediately released. Should the suspicion be reinforced with additional information or the officer develops probable cause, the period of detention could be lengthened. The courts generally permit up to 20 minutes to constitute a reasonable period of time for the interview.

VI. DOCUMENTING THE INTERVIEW OR STOP

For purposes of successful prosecution and defending departmental actions to the public, all field interviews and investigative detentions must be recorded. The following methods will be utilized:

- A. Patrol officers shall record all field interviews in their entirety on the in-car audio video systems and body worn cameras. Officers will attempt to position the vehicle or camera in a position to record the interview. If not possible, the use of the audio portion is required.
- B. If an interview or investigative detention results in an arrest, the arresting officer will clearly detail the reasonable suspicion that led to the interview or detention in the narrative of the arrest report as well as maintaining the audio/video recording as evidence.
- C. Officers not equipped with in-car or portable audio/video recording systems will obtain a case number and create an incident report entitled "Field Interview" and record the reasonable suspicion and details of the interview of detention. The report will be forwarded through the officer's supervisor to the records unit.

