


NORTHAMPTON POLICE DEPARTMENT Administration & Operations Manual		
Policy: Investigative Stops and Protective Searches		AOM: O-202
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I. Introductory Discussion

A police officer may, in appropriate circumstances, temporarily detain a person for the purpose of inquiring into possible criminal behavior if they have reason to suspect that the person is of unlawful design. In addition, an officer may frisk such a person for weapons as a matter of self-protection when they reasonably believe that their own safety, or that 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, whether to investigate further, or whether to take no police action at that time.

The term “investigative detention” as used in this policy and procedure statement, includes what is commonly referred to as “Stop & Frisk” and “Threshold Inquiry”. The term “Stop & Frisk” is derived from the case of *Terry v. Ohio*, in which the U.S. Supreme Court recognized the authority of police to engage in warrantless stopping, questioning, and frisking of suspicious persons. The court based that authority on the

Fourth Amendment to the U.S. Constitution. By contrast, the term “threshold inquiry” refers to the same type of police action, but it is based on a Massachusetts statute-Chapter 41, section 98.

A search for weapons is permissible where a police officer has reason to believe that they are dealing with an armed and dangerous individual, regardless of whether the officer has probable cause to arrest for a crime, and the officer need not be absolutely certain that the individual is armed, but the issue is whether a reasonably prudent person in the circumstances would be warranted in their belief that their safety, or that of others was in danger.

Investigatory “stops” by the police are essentially 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.

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 such force was not justified under the circumstances could result in a finding by the court that an arrest had occurred without the necessary element of probable cause, and any evidence obtained as a result might be excluded. It should also be noted that a premature or unnecessary “stop” can sometimes destroy a good investigation, which could have resulted in a subsequent valid arrest and successful conviction.

Although police officers should never hesitate to make an investigatory stop and a necessary frisk under appropriate circumstances in order to meet the practical needs of effective law enforcement, they should avoid the indiscriminate or unjustified use of this authority. Such 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. Grounds for Making Investigative Stops

- A. It is a basic police duty to check on suspicious persons or circumstances, particularly in the nighttime and in reported crime-prone areas.
 - 1. A brief investigative stop and inquiry is warranted under the following circumstances:
 - a. When a police officer knows that a crime has been committed
 - b. When a police officer reasonably believes that a crime has been or is being committed; or
 - c. When a police officer seeks to prevent a crime which they reasonably believe is about to be committed

2. 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:
 - a. Any public place
 - b. Any place or area open to the public
 - c. Any private premises entered with a valid warrant, by consent, or under emergency circumstances

- B. 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 that some activity out of the ordinary is taking place, that such activity is crime-related and that the person under suspicion is connected with or involved in that criminal activity.

- C. An investigatory stop does not require probable cause for arrest. It may be based upon the officer's own observations or information supplied by others. The information on which the officer acts should be well founded and reasonable. Lastly, a hunch or pure guesswork, or an officer's unsupported intuition is not a sufficient basis.

- D. No single factor alone is normally sufficient. However, 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:
 1. The personal observations of the officer and their police training and experience.
 2. Their knowledge of criminal activity in the area.
 3. The time of day/night and the place of observation.
 4. The general appearance and demeanor of the suspect and any furtive behavior which indicates possible criminal conduct.
 5. The suspect's proximity to the scene of a recently reported crime.
 6. The knowledge of the suspect's prior criminal record or of their association with known criminals.
 7. Visible objects in the suspect's possession or obvious bulges in their clothing.
 8. Resemblance of the suspect to a person wanted for a known crime.
 9. Information received from police sources or from other reasonably reliable sources of information.

- E. The fact that the individual has aroused the police officer's suspicion should cause the officer to make their approach with vigilance and to be alert for any possibility of danger.
 1. A routine police check of suspicious circumstances may uncover the commission of a serious crime or the presence of a dangerous criminal.
 2. If the stopped suspect has just committed a major crime, they may be an immediate threat to the officer's safety, or they may suddenly attempt to flee from the scene.

F. Length of Time

1. 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.
2. Generally, it should be no longer than the period of time necessary to check the suspect's identity and the reliability of their story, unless information is obtained which establishes probable cause to make an arrest.
 - a. If the answers given by the suspect are unsatisfactory because they are false or contradictory they may serve as elements or factors to establish probable cause.
3. The period of investigative detention should be sufficiently brief so that the "stop" cannot be construed as an "arrest," which would require probable cause.

III. Pat Down Frisks

A valid stop in and of itself does not justify a search. However, if a police officer reasonably believes that their own safety or that of others is in danger they may frisk or pat-down the person stopped and they may also search the area within that person's immediate control in order to discover and take control of any weapon that may be used to inflict injury.

1. It is not necessary that the officer be absolutely certain that such person is armed but they must perceive danger to themselves or others because of events leading to the stop or which occurred after or during the stop.
2. If the officer has reasonable belief or suspicion, based upon reliable information or personal observation, that a weapon is being carried or concealed in some specific place on the person of the suspect, they should immediately check that area before performing a general pat down.
3. A frisk should not be made as a pretext to search for evidence of crime; it must be a protective measure.
4. The frisk must initially be limited to an external pat down of the suspect's outer clothing but if such outer clothing is bulky, such as a heavy overcoat, these garments may be opened to permit a pat down of inner clothing.
5. If the officer feels an object which could reasonably be a weapon, they may conduct a further search for that particular object and remove it.
6. If after completing their pat down of the suspect, the officer does not feel any object which could reasonably be a weapon, they should discontinue their search.
7. If while frisking a stopped person the officer discovers an illegal firearm, contraband, stolen property or evidence of a crime and probable cause to arrest develops, an arrest should be made and a full-scale search incident to that arrest should be made.

IV. Threshold Inquiry/Questioning Suspects

- A. When a police officer makes a decision to stop a person for investigative purposes, they should identify themselves as a police officer and announce the purpose of their inquiry as soon as it is safe and practical to do so, unless such information is obvious.
 1. An investigatory or threshold inquiry should begin with exploratory questions regarding the suspect's identity and their purpose.
 2. Every officer should acquire the ability to initiate an investigatory inquiry in a calm, conversational manner in order to gain as much information as possible without placing the suspect on the defensive.
 3. Even in a brief conversation with a suspect, an alert and perceptive officer can often detect or sense that something is wrong and that further police investigation is required.
 4. An officer should always bear in mind, however, that they must have a firm foundation for their initial suspicions in order to justify an investigative detention and inquiry. They must be able to articulate and to commit their reasons to writing.

- B. Once a stop is made, any questioning of the suspect should be conducted at that location.
 1. Investigative stops are intended to be on-the-spot inquiries.
 2. To verify the information obtained from the suspect it may be necessary to move a short distance to a radio or telephone.
 3. Under special circumstances, such as the gathering of a hostile crowd, heavy traffic or the necessity to use the police radio, the suspect may be placed in the rear seat of a police vehicle.
 4. As part of a threshold inquiry, police may detain a suspect for a short time so that an eyewitness may be brought to the scene to make an in-person identification.
 5. If a stopped person is told to move to another location or if they try to leave but the officer orders them to stay where they are, 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 [*AOM O400 Criminal Investigations, Interviewing and Interrogations*](#).

- C. Certain conditions, which become apparent during the threshold inquiry, may add up to probable cause for arrest. Examples include:
 1. Refusal to answer a question to which an innocent person would normally respond.
 2. An attempt to escape; or
 3. Fake, misleading or unbelievable answers.

V. Use of Force

- A. If the suspected person fails or refuses to stop when so directed by a police officer, reasonable force and physical restraint may be necessary depending upon the circumstances.
- B. When combined with the observation and information which led the officer to reasonably suspect criminal activity may be afoot, if the suspect runs or tries to evade the officer that additional factor may give rise to probable cause to arrest.
- C. Reasonable force in such cases is the minimal amount of physical force required to overcome the resistance offered but it does not include the use of firearms or other weapons.
- D. If an officer is attacked however, they may use sufficient and reasonable force to defend themselves and to ensure their safety.

VI. Motor Vehicle Stops [61.1.7]

- A. 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 reasonable suspicion of criminal activity based upon specific and articulate facts which justify the need for immediate police action.
 - 1. 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.
 - 2. Police officers, in making such stops, should take reasonable protective precautions for their own safety, such as directing the occupants to vacate the vehicle and frisking them for weapons when justification for such frisk exists.
 - 3. Even after frisking the occupants, if the officers have reason to believe that 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.
 - 4. The occupants of a stopped vehicle may be frisked if there is reasonable belief that they may be armed and dangerous and that the police officers or others nearby may be endangered.
 - a. 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.
 - b. 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.
 - 5. It should be noted that “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 are excludable in court.

VII. Report Writing

In every case of investigative detention (stop and frisk) the police officer involved shall make a written report of the circumstances in accordance with departmental procedures, 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.

Officers shall also be responsible for completing the Field Interrogation section of the Department's Crime Management System. Completion of this section provides other officers, investigators and crime analysts with information concerning suspicious persons and situations.