

DEKALB POLICE DEPARTMENT

Subject: **Citizen Contacts & Field Interviews (Terry Stops)**

Policy #: **401.1**

Effective Since: 8-21-03

Revision Effective: 1-1-19

FTO

Training Task: # 17

Reference Material: IACP Research Papers; ILCS

ILEAP Standards Covered: ADM.02.02(f)

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PURPOSE: The purpose of this policy is to define the limitations of authority and acceptable conduct and practices of officers when making contacts with citizens. This policy also assists officers in determining when field interviews and pat-down searches are warranted and the manner in which they should be conducted.

POLICY: Police interactions with citizens form the cornerstone of effective police work. With that in mind, all officers shall follow the provisions of this policy to maximize the usefulness of investigatory citizen contacts while observing and respecting the privacy rights of citizens. This policy differentiates between (1) ordinary and consensual citizen contacts and (2) stops based on reasonable suspicion of criminal activity and pat-down frisks of suspects related to such stops. Procedures for field interviews, commonly referred to as Terry stops, must comply with this policy and applicable state and federal law. Officers should be aware that case law can and occasionally does change acceptable procedures concerning search and seizure. Officers must adhere to the standards developed in the most recent case law.

[ILEAP ADM.02.02(f)]

DEFINITIONS:

Citizen Contact: For purposes of this policy, a citizen contact is defined as actions by an officer that place him or her in face-to-face communication with a citizen for purposes of asking questions or gathering information of an official nature, where there is no reasonable suspicion to believe that the citizen has committed, is committing, or is about to commit a crime.

Field Interview (Terry Stop): The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions about a potential crime that was or is about to be committed.

Pat-Down Search: A "frisk" or external feeling of the outer garments of an individual for weapons only.

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.

Search Without Warrant, 725 ILCS 5/108-1 (1): "When a lawful arrest is effected a peace officer may reasonably search the person arrested and the area within such person's immediate presence for the purpose of: (a) preventing the officer from attack; or (b) preventing the person from escaping; or (c) discovering the fruits of the crime; or (d) discovering any instruments, articles, or things which may have been used in the commission of, or which may constitute evidence of, an offense.

Temporary Questioning Without Arrest, 725 ILCS 5/107-14: "A peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed an offense, and may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity where the person was stopped."

Search During Temporary Questioning, 725 ILCS 5/108-1.01: "When a peace officer has stopped a person for temporary questioning pursuant to Section 107-14 of this Code and reasonably suspects that he or another is in danger of attack, he may search the person for weapons. If the officer discovers a weapon, he may take it until the completion of the questioning, at which time he shall either return the

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weapon, if lawfully possessed, or arrest the person so questioned.”

PROCEDURES:

I. **CITIZEN CONTACTS :**

A. **Grounds for Citizen Contacts :**

1. Citizen contacts may be initiated by an officer when the officer believes that it may serve the interests of a police investigation, inquiry, or other bona fide police business.
2. Citizen contacts may be initiated without probable cause, reasonable suspicion, or other indication of criminal activity by the citizen when officers adhere to provisions of this policy.
3. This policy does not prohibit officers from making contact with a citizen to exchange pleasantries, engage in casual conversation of non-police business, or to assist a citizen in a public service or community relations measure.

B. **Initiation of Citizen Contacts :**

1. Officers may initiate a citizen contact in any place that the officer has a legal right to be. Examples of such places vary widely but include for example:
 - a. areas intended for public use or normally exposed to public view;
 - b. places to which the officer has been admitted with the consent of the person empowered to give such consent;
 - c. places to which the officer may be admitted pursuant to a court order (such as an arrest or search warrant);
 - d. places where the circumstances require an immediate law enforcement presence to protect life, well-being, or property; and
 - e. places in which the officer may effect a lawful warrantless arrest.
2. Officers shall not use contacts on a pretextual basis to intimidate, harass, or coerce citizens.

C. **Citizen Contact Protocol :** Officers must keep in mind that citizen contacts are based on the presumption that the citizen is not under any reasonable suspicion of criminal activity. As such, the contact must be consensual, and officers must understand the citizen is under no obligation to remain in the presence of the officer, answer any questions, or even respond at all. Officers should adhere to the following protocols:

1. Persons contacted shall not be detained in any manner against their will or frisked unless reasonable suspicion is established during the course of the contact to believe they present a danger to the officer or that they have committed, are committing or are about to commit a crime.
2. An officer may not use force or coercion to require a citizen to stop or respond to questions or directions absent any other legal reason.
3. Officers shall ensure that their actions and requests could not be reasonably perceived by the citizen as a restraint on his or her freedom to leave the officer's presence. As such officers should observe the following:
 - a. Identify themselves as police officers and explain the reason for

making the contact.

- b. Act in a courteous and restrained manner at all times.

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- c. Establish rapport.
 - d. Avoid gruffness, officious attitudes, or requests that sound like commands.
 - e. Phrase requests using optional words such as “may,” “would you mind,” or similar terms and phrases.
 - f. Keep the duration of the contact as brief as possible.
 - g. Do not create a physical or other barrier to the citizen’s ability to leave, such as keeping their driver’s license or by creating a physically imposing and intimidating presence.
4. If citizens ask whether they must respond to questions or must remain in the officer’s presence, they shall be informed that they need not answer any question and are free to leave at any time.
 5. Where citizens refuse or cease to cooperate during a contact, they must be permitted to leave.
 6. Refusal of the citizen to cooperate with the officer, for example, through silence (e.g., not answering questions), by a refusal to provide personal identification, or by refusal to account for his or her presence in a public place cannot be used as the basis for turning the contact into a stop.

II. FIELD INTERVIEWS , or “Terry stops”:

- A. **Justification for Conducting a Field Interview** : Law enforcement officers may stop individuals for the purpose of conducting a field interview, commonly referred to as a “Terry stop,” only where reasonable suspicion is present. Reasonable suspicion must be more than a hunch or feeling but need not meet the test for probable cause sufficient to make an arrest. In justifying the stop, the officer must be able to point to specific facts that, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:
 1. The appearance or demeanor of an individual suggests that he is part of a criminal enterprise or is engaged in a criminal act.
 2. The actions of the suspect suggest that he is engaged in a criminal activity.
 3. The hour of day or night is inappropriate for the subject’s presence in the area.
 4. The subject’s presence in a neighborhood or location is inappropriate.
 5. The subject is carrying a suspicious object.
 6. The subject’s clothing bulges in a manner that suggests he is carrying a weapon.
 7. The subject is located in proximate time and place to the alleged crime.
 8. The subject generally matches (with more than just race alone) the description of someone wanted in the investigation of a crime.
 9. The officer has knowledge of the suspect’s prior criminal record or involvement in criminal activity.
- B. **Information from anonymous sources** : In light of court decisions regarding the use of information from anonymous sources to conduct a Terry stop, officers should follow these guidelines:
 1. If a police officer is relying on a tip to conduct a Terry stop, the tip must be considered reliable to provide the officer with reasonable suspicion to make the stop.
 2. Typically, a lone anonymous tip is not considered a reliable source of information because it does not provide a demonstrated reliability.

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3. Anonymous tips may be supported by the accurate prediction of a suspect's movements or prior knowledge of concealed criminal activity, or the officer's personal knowledge of the situation based on observations, experience, or prior information about the situation.
4. These guidelines pertain to the use of anonymous information in conducting an investigative stop of an individual; officers need not disregard anonymous complaints and information to preliminarily investigate alleged criminal acts or suspicious circumstances.

C. Procedures for Initiating a Field Interview : Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a suspect if he has articulable, reasonable suspicion to do so. The following guidelines shall be followed when making an authorized stop to conduct a field interview.

1. When approaching the suspect, the officer shall clearly identify himself as a law enforcement officer, if not in uniform, by announcing his identity and displaying departmental identification.
2. Officers shall be courteous at all times during the contact but maintain caution and vigilance for furtive movements to retrieve weapons, conceal or discard contraband, or other suspicious actions.
3. Before approaching more than one suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
4. Officers shall confine their questions to those concerning the suspect's identity, place of residence, and other inquiries necessary to resolve the officer's suspicions. In no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries, though a stop may be extended if the result of questions lends itself to additional investigation.
5. Officers are not required to give suspects Miranda warnings in order to conduct field interviews unless the person is in custody and about to be interrogated. "Custody" exists when an officer tells a suspect that he is under arrest, or physically arrests a person. A functionally equivalent situation exists when a reasonable person in the suspect's position would feel that his freedom of action has been restricted as the same degree as a formal arrest. See Policy 402.1, Interviews and Interrogation.
6. Suspects, though required to identify themselves unless it has been conclusively determined they are no longer suspected of criminal activity, are not required to answer additional questions pertaining to the matter being investigated. Failure to respond to additional inquiries is not, in and of itself, sufficient grounds to make an arrest although it may provide sufficient justification for additional observation and investigation. An arrest may be made only when probable cause to do so exists.
7. Statements and/or confessions must be given freely and voluntarily in order to be admissible as evidence.

III. PAT-DOWN SEARCHES:

A. Justification for Conducting Pat-Down Searches : A law enforcement officer has justification to perform a pat-down search of the outer garments of a suspect for weapons if he has been legitimately stopped with reasonable suspicion and only when the officer has a reasonable fear for his own or another person's safety. Clearly, not every field interview poses sufficient

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justification for conducting a pat-down search. Listed below are some criteria that may form the basis for establishing justification for performing a pat-down search. Officers should note that these factors are not all-inclusive—there are other factors that could or should be considered. The existence of more than one of these factors may be required in order to support reasonable suspicion for the search.

1. The type of crime suspected—particularly in crimes of violence where the use or threat of deadly weapons is involved.
2. Where more than one suspect must be handled by a single officer.
3. The hour of the day and the location or neighborhood where the stop takes place.
4. Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
5. The attitude and demeanor of the suspect.
6. The suspect indicates or implies verbally or physically that he has a weapon.
7. Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.
8. The age and gender of the person in relation to the suspect's description.

B. Procedures for Performing a Pat-Down Search : When reasonable suspicion exists to perform a pat-down search, it should be performed with due caution, restraint, and sensitivity. These searches are only justifiable and may only be performed to protect the safety of officers and others and may never be used to shakedown individuals or groups of individuals or as a pretext for obtaining evidence. Under these circumstances, pat-down searches should be conducted in the following manner:

1. Whenever possible, pat-down searches should be conducted by at least two officers, one of whom performs the search while the other provides observation and protective cover. Whenever possible, pat-down searches should be performed by officers of the same sex.
2. To provide a degree of safety for the officer(s), pat-down searches should be performed with the suspect in a standing position or with hands placed behind his head or against a stationary object and feet spread apart. Should a deadly weapon be involved, a more secure search position may be used, such as the prone position.
3. Officers may temporarily handcuff the subject for safety if there are articulable reasons that the person may pose a particular threat to the officer, as listed in A. above.
4. In a pat-down search, officers are permitted only to externally feel the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club or other item.
5. If the suspect is carrying an object such as a handbag, suitcase, briefcase, sack or other item that may conceal a weapon, the officer should not open the item but instead place it out of the suspect's reach. If there is reasonable suspicion that a container could be concealing a weapon, a protective sweep may be justified.
6. If the external feeling of the suspect's clothing fails to disclose evidence of a weapon, no further search may be made. If evidence of a weapon is present, an officer may retrieve that item only. If the item is a weapon of which possession of such is a crime, the officer may make an arrest of the suspect and complete a full-custody search of the suspect. Be aware that some persons may be lawfully carrying a concealed weapon with a valid permit.

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C. Search and Seizure of a Person Without a Warrant : Other than pat-down searches as described above in Terry stop situations, the following are circumstances where an officer may search and/or seize a person without a warrant:

1. Consent searches: The extent of a consent search depends upon the terms of the consent itself. If the consent is limited to specific clothing (e.g., "can I check your coat pockets?"), officers may search only portions of the clothing covered by the consent. Consent must be clear, voluntary, and can be withdrawn at any time.
2. Plain view: An officer may seize contraband and suspicious items in plain view, such as when an officer observes someone carrying a weapon, drug paraphernalia, etc. This extends to the "plain feel" doctrine.
3. The "Plain Feel Doctrine" is explained in Minnesota vs. Dickerson. The court held that an officer may seize evidence other than a weapon if, while conducting a frisk search, the nature of the contraband is "immediately apparent" to the officer based on his/her feel of the object through the subject's clothing during the pat down.
4. Searches incident to arrest: when lawfully arresting someone with or without a warrant, the person is subject to a full custodial search.

For additional department policy on search & seizure, see Policy 402.14.

D. Reporting :

1. If after conducting a field interview there is no basis for making an arrest, the officer should record the name and identifiers, if known, of the person and any pertinent information on the appropriate case report or field contact entry.
2. Information gathered on field contacts may be documented to provide other officers, investigators, and crime analysts with information concerning suspicious persons or situations.
3. Gang members may have their information documented in a designated gang file.

Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police .

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.