

Bowie State University Police Department

General Order



<i>Subject: Stop and Frisk</i>	<i>Number: 5</i>
<i>Effective Date: January 1, 1996</i>	<i>Rescinds: Art. 6.7</i>
<i>Approved: Capt. B. S. Biscoe</i>	

This article contains the following sections:

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5.1 **Policy**

5.1.1 A person may be stopped by an officer on reasonable suspicion that the person has committed, is committing, or is about to commit a crime and may be asked his/her name, his/her address, and an explanation of his/her actions.

- a. No right to frisk exists unless there is first the right to stop, but even then, a frisk is not lawful in every case in which the right to stop exists.
- b. A frisk is justified only when the officer reasonably suspects that the person lawfully stopped by him/her is armed and presently dangerous to the officer or to another person.

5.1.2 The manner of approach, and the tone of voice in which the suspect is approached by the officer in all cases, will be one of unfailing courtesy.

5.1.3 The officer must be prepared to satisfy a court of law that he/she had sufficient grounds for reasonable suspicion of criminal activity by the suspect, and that he/she had reason to believe the suspect was a threat to the safety of the officer or another person so as to sanction a search for weapons.

5.1.4 Once the determination has been made that the officer or other person or persons are in danger, all that is necessary is a frisk--an external feeling or patting of clothing--such as would reveal a weapon of immediate danger to the officer or another person.

5.2 Definitions

5.2.1 Frisk: A pat-down or external feeling of the outer garments of an individual.

5.2.2 Reasonable suspicion: Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been or is about to be committed.

5.2.3 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.

5.3 Justification for a Stop

5.3.1 When determining whether the officer has reasonable suspicion to justify a stop, the officer should consider some of the following factors, although the list is not all inclusive:

- a. The appearance or demeanor of the suspect suggests that he/she is engaged in criminal activity.
- b. The actions of the suspect suggest that he/she is engaged in a criminal activity.
- c. The hour of the day or night is inappropriate for the suspect's presence in the area.
- d. The suspect's presence in the neighborhood is not appropriate.
- e. The clothing of the suspect bulges in a manner suggesting a concealed weapon.
- f. The suspect is carrying a suspicious object.
- g. The suspect is located in time and place to an alleged crime.
- h. Prior knowledge by the officer, including:
 - (1) Suspect's prior criminal record;
 - (2) Information from an informer or third party;

(3) Any overheard conversation or knowledge gained in some way that the suspect is or has been connected with a crime; or

(4) Suspect is known by the police officer to be disposed to violence.

i. Reasonableness of the officer's fears for his safety or the safety of others. When the officer must deal with more than one suspect or where the officer does not have help close at hand, the situation may constitute a greater danger than otherwise.

5.3.2 There must be adequate observation or investigation by the officer, or information in his/her possession, before the stop of a suspect upon "reasonable suspicion."

a. A mere "hunch" or "intuition" is not sufficient for "reasonable suspicion," although it need not meet the test for probable cause sufficient to make an arrest. Nor should a person be stopped merely because he/she is found near the scene of a crime or has a prior criminal record.

b. In justifying the stop, the officer must be able to point to specific facts which, when taken together, reasonably warrant the stop.

5.4 Initiating a Stop

5.4.1 The following guidelines should be observed in making an authorized stop of a suspect.

a. When approaching the suspect, the officer shall clearly identify him/herself as a police officer. If not in uniform, the officer shall announce that he/she is a police officer and at the same time display his/her badge or other police credentials.

b. Before approaching more than one suspect, individual officers should determine whether the circumstance warrant backup, and whether the contact can and should be delayed until such assistance arrives.

c. Officers shall be courteous in word and in deed throughout the contact and questioning of the suspect; however, they shall remain cautious and watchful for any furtive movement to retrieve weapons, conceal or discard contraband, or other suspicious activity.

d. Officers shall give careful consideration of the rights of the citizen.

e. The length of time spent in conducting stops shall be reasonable.

- f. The officer shall maintain self-control and not become personally offended or emotionally involved in any controversy that might arise during the course of the stop.

5.5 Right to Question

5.5.1 A suspect who has been stopped upon reasonable suspicion may be questioned by the officer to seek to obtain the subject's:

- a. Name,
- b. Address, and
- c. Explanation of his/her actions.

5.5.2 The suspect may not be compelled to answer these or any other questions.

- a. Upon refusal of the suspect to answer the officer's questions or to identify him/herself, the person may be questioned further but may not be unduly detained, nor may the suspect be deprived of freedom of movement in any significant manner unless the officer is prepared to make a formal arrest in accordance with the legal requirements for an arrest without a warrant.
- b. The failure or refusal to answer questions, or the failure to answer questions satisfactorily, is not, in and of itself, sufficient to constitute probable cause for an arrest without a warrant.
- c. There must be other sufficient reasons, in addition to such failure or refusal to answer or answering unsatisfactorily, to legally justify an arrest.

5.5.3 The failure or refusal to answer questions does not bar a frisk, if the officer reasonably suspects danger to his/her own or another's safety.

5.6 Justification for Conducting Frisks

5.6.1 An officer has a right to perform a pat-down search of the outer garments of a suspect for weapons, if the subject has been legitimately stopped with reasonable suspicion and only when the officer has a reasonable fear for his/her own or another person's safety.

- 5.6.2** The following are some factors, though not all inclusive, that may form the basis for establishing justification for conducting a frisk.
- a. The type of crime suspected, particularly crimes of violence where the use or threat of deadly weapons is involved.
 - b. Where more than one suspect must be handled by a single officer.
 - c. The hour of the day and the location where the stop takes place.
 - d. Prior knowledge by the officer of the suspect's use of force and/or a propensity to carry deadly weapons.
 - e. The appearance and demeanor of the suspect.
 - f. Indications which suggest that the suspect may be carrying a weapon.
 - g. The age and gender of the suspect.

5.7 Procedures for Conducting Frisks

- 5.7.1** A frisk that is permissible is a patting down of the outside of the suspect's clothing for the discovery of deadly or dangerous weapons and for no other purpose.
- a. If the patting down or external feeling of the clothing fails to disclose evidence of a weapon, no further search may be made.
 - b. If, however, the frisk indicates an object that could be a weapon, the officer is authorized to search that part of the suspect's clothing containing such object, but he may not search any further.
- 5.7.2** If the object felt and found in the course of search is a deadly weapon and the possession of that weapon is a violation of law, the officer may:
- a. Arrest the suspect for a crime committed in his presence;
 - b. Conduct a further search of the suspect and his immediate surroundings; and
 - c. Seize anything in the nature of contraband, instrumentalities, fruits of crime, or other evidence.
- 5.7.3** Conversely, if the object felt turns out not to be a weapon, the object may not be used to justify an arrest of the suspect, whether or not the object is contraband.

- 5.7.4** Whenever possible, frisks should be conducted by at least two (2) officers, one of whom should perform the frisk, the other of whom should provide backup.
- 5.7.5** Whenever possible, frisks should be conducted by an officer of the same sex. If this is not possible, the officer should use a witness to the frisk, preferably a person of the subject's own sex.
- 5.7.6** Frisks should be performed with the subject in a standing position or with hands placed against a stationary object and feet spread apart.
- 5.7.7** 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.
- 5.7.8** If the suspect is carrying an object such as a handbag, suitcase, briefcase, sack, or other item that may conceal a weapon, the officer shall not open the item but, instead, place it out of reach of the suspect.
- 5.8 Reporting**
- 5.8.1** Every law enforcement officer who conducts a search or seizure pursuant to the requirements of the Maryland Annotated Code, Article 27, Section 36D, titled "Limited Search," shall within twenty-four (24) hours after such search or seizure file a written report (MCIR) describing the search or seizure and the circumstances on a form prescribed by the Secretary of Public Safety and Correctional Services.
- 5.8.2** Such report shall include the name of person searched, and a copy of all such reports shall be sent to the Superintendent of Maryland State Police.
- 5.8.3** An MSP Form 97 (Handgun Search Report) shall also be made in conjunction with the MCIR, and the disposition shall be as follows:
- 5.8.4**
- a. The MSP Form 97 must show whether the subject was arrested or released without arrest. If the suspect was arrested, the type of weapons found must be included on the form.
 - b. The completed MSP Form 97 must be submitted to Staff Review for editing, and then forwarded to the Maryland State Police by Staff Review.

