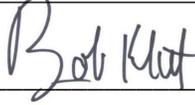


	SAN MARCOS POLICE DEPARTMENT	
	Policy 7.2 Field Interviews and Detentions	
	Effective Date: September 6, 2019	Replaces: GO 206
	Approved: _____ <div style="text-align: center; margin-left: 100px;">  Chief of Police </div>	
	Reference: TBP: 7.07	

I. POLICY

Per the United States Supreme Court, there are only three types of encounters between police and civilians: (1) a consensual encounter in which the civilians voluntarily elect to stay and interact with the officer, (2) a detention based upon reasonable suspicion, which may include a frisk for weapons if the officer can state the facts and circumstances that justify the officer's fear for their safety, and (3) an arrest based upon probable cause. The department expects and encourages officers to conduct field interviews. Field interviews are important contacts with individuals that aid in preventing and investigating crime. The department 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

The purpose of this policy is to clearly establish the difference between a field interview and an investigative detention or stop, to assist officers in determining when field interviews and frisks for weapons are lawful, necessary, and useful, and to establish procedures for conducting both safely. (TBP: 7.07)

III. DEFINITIONS

- A. Field Interview (consensual encounter): A brief conversation with a person to determine the person's identity, gather information, resolve the officer's suspicions about possible criminal activity, or to determine if the person has information about a criminal offense.
 - 1. Field interviews require voluntary cooperation of the subject.
 - 2. The subject is under no compulsion to respond to the officer's questions or even remain at the scene.
- 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 believe that criminal activity has been, is being, or is about to be committed. The reasonableness of an officer's actions will be determined by reviewing the totality of circumstances known to the officer at the time he or she takes the action.
- D. Stop: An investigative detention.
- E. Detention: Requiring an individual to remain with the officer for a brief period of time for the purpose of investigating the actions of the individual. In order to make a stop or extend

a field interview that was previously consensual, the officer must have reasonable suspicion to believe that criminal activity is afoot and that the person to be detained or stopped is involved.

IV. FIELD INTERVIEW PROCEDURES

A. Making the Field Interview or Stop

1. Officers 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. If the officer has no probable cause to arrest or a reasonable suspicion that justifies 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/herself. The individual does not have to answer any questions or provide any information.
2. Officers shall clearly identify themselves and, if not in uniform, display official police identification.
3. During the consensual encounter, the officer may take any or all of the following actions, subject to the person's voluntary cooperation:
 - a. Observe his demeanor for signs of intoxication, drug use, nervousness, or other suspicious behavior.
 - b. Request the person's identification. Although a demand for ID would convert the encounter into a detention, a request for ID does not. Without retaining the person's ID, the officer can quickly copy information, promptly return the ID, and run records checks.
 - c. Ask questions about the person's activities.
 - d. Request consent to search.
 - e. Ask other questions or actions as necessary.
4. During the consensual encounter, the officer may seize evidence discovered in plain view, or discovered under a consent search.
5. The duration of an interview should be as brief as possible unless it is voluntarily prolonged by the subject.
6. Limitations on Activity - without reasonable suspicion, certain actions by the officer risk turning a consensual encounter into an unlawful detention including:
 - a. Giving any orders or commands.
 - b. Displaying or pointing a weapon.
 - c. Surrounding the person with multiple officers or K-9.
 - d. Frisking or touching the person without consent.
 - e. Holding onto license or ID after a quick consensual examination.
 - f. Caging, cuffing, restricting, or moving the person without consent.

B. Place of the Interview

As a general rule, field interviews may be conducted anywhere the officer has a right to be, including the following:

1. City-owned or controlled property, normally open to members of the public.
 2. Areas intended for public use or normally exposed to public view.
 3. Places to which an officer has been admitted with the consent of the person empowered to give such consent.
 4. Places where circumstances require an immediate law enforcement presence to protect life, well-being, or property.
 5. Areas where an officer may be admitted pursuant to a lawful arrest or search warrant.
 6. Any other area in which an officer may effect a warrantless arrest.
- C. Conduct of Interviews
1. 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 rapport. However, during a field interview, if the person should ask whether he/she must respond, or indicate that he/she feels compelled to respond, the officer shall immediately inform him/her of the right to refuse and the right to leave.
 2. 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.

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.
 1. The first is the actual detention or stop and it is based on reasonable suspicion to believe that criminal activity is afoot and that the person to be detained or stopped is involved.

The following characteristics may, under certain 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 to establish reasonable suspicion.

- a. Officer has knowledge that the person has a criminal record.
- b. A person fits the description of a wanted person.
- c. 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.
- d. The appearance, behavior, or actions of the suspect suggest that he/she is committing a crime.
- e. The time of day or night is inappropriate for the suspect's presence in a particular area.
- f. The officer observes a vehicle that is similar to that of a broadcast description for a known offense.

- g. A person exhibits unusual behavior, such as staggering or appearing to be in need of medical attention.
 - h. The suspect is in a place proximate in time and location to an alleged crime.
 - i. The suspect is carrying an unusual object, or his/her clothing bulges in a manner consistent with concealing a weapon.
 - j. Flight from the officer may be considered as a fact or circumstance, but mere flight will be insufficient basis for reasonable suspicion.
2. 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/her 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 should result in a frisk. Examples of safety factors justifying a frisk may include but are not limited to the following:
- a. The type of crime suspected, particularly those involving weapons.
 - b. When the officer must confront multiple suspects.
 - c. The time of day and location of the stop.
 - d. Prior knowledge of the suspect's propensity for violence.
 - e. Any indication that the suspect is armed.
 - f. Age, sex or physical size of the suspect creates a disparity of physical ability compared to the officer.
- 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 frisk shall be conducted in a minimally intrusive manner consistent with the officer's training.
 - 3. When frisking, officers shall search only the external clothing for objects that reasonably could be weapons and remove them. 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 may frisk the outside, but shall not open the container. Officers may place the container beyond the subject's reach for the duration of the stop.
- D. Protective Search
- Under some conditions, the protective search or the search for weapons may be extended beyond the person detained. This protective frisk may extend to the passenger

compartment of a vehicle or an area that the subject occupies. 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:

1. A lawful detention as defined herein or a lawful vehicle stop.
 2. A reasonable belief that the suspect poses a danger.
 3. A frisk of the subject will usually occur first.
 4. The search must be limited to those areas in which a weapon may be placed or hidden.
 5. The search must be limited to an area that would ensure that there are no weapons within the subject's immediate grasp.
 6. 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 the vehicle if other exceptions to a search warrant exist. See Policy 7.4 "Search Incident to Arrest" for further.
- E. Period of Detention
- 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.

VI. DOCUMENTING THE INTERVIEW OR STOP

- A. For purposes of successful prosecution and of defending departmental actions to the public, all field interviews and investigative detentions will follow the established video recording policy.
- 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 incident report.