



CITY OF MADISON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



Stops & Frisks

Eff. Date 01/14/2022

Purpose

It is the policy of the Madison Police Department (MPD) that field investigatory stops will be conducted in a manner that not only promotes public safety and safeguards law enforcement officers from harm, but also holds invasions of personal rights and privacy to a minimum.

Procedure

STOPS

A “stop” is the temporary detention of a person for investigation. A “stop” occurs whenever an officer uses their authority to make a person halt, or to keep a person in a certain place, or to compel a person to perform some act. If a person is under a reasonable impression that they are not free to leave or ignore the officer’s presence, a “stop” has occurred.

Basis for a Stop

An officer may stop a person in a public place, after having identified her/himself as a law enforcement officer, if they reasonably suspect that a person has committed, is committing, or is about to commit a criminal offense or ordinance violation. Both pedestrians and persons in vehicles may be stopped.

Reasonable Suspicion

The term “Reasonable Suspicion” is not capable of precise definition; however, it is more than a hunch or mere speculation on the part of an officer, but less than the probable cause necessary for an arrest. Every officer conducting a stop must be prepared to cite the existence of specific facts in support of that officer’s determination that “reasonable suspicion” was present.

Police Conduct during a Stop

Proper justification for a stop does not permit unreasonable conduct during the stop. Every phase of the detention must be reasonable, for the United States Supreme Court has stated in *Terry v. Ohio*, 392 U.S. 1, 28 (1968), that the manner in which stops and frisks are conducted is “as vital a part of the inquiry as whether they were warranted at all.”

1. Identification

Officers conducting a stop, if not in uniform, shall clearly identify themselves as police officers by announcing identity and displaying MPD badge/ID.

2. Duration of Stop

A person stopped pursuant to these rules may be detained at or near the scene of the stop for a reasonable period of time. Officers should detain a person only for the length of time necessary to obtain or verify the person’s identification, an account of the person’s presence or conduct, an account of the offense, or otherwise determine if the person should be arrested or released.

3. Explanation to Detained Person

Officers shall act with courtesy towards the person stopped. At some point during the stop the officer shall, in every case, give the person stopped an explanation of the purpose of the stop.

4. Rights of Detained Person

The officer may direct questions to the detained person for the purpose of obtaining the detained person's name, address, and an explanation of the person's conduct. The detained person may not be compelled to answer questions or to produce identification documents for examination by the officer; however, the officer may request the person to produce identification and may demand the production of an operator's license if the person has been operating a vehicle.

5. Effect of Refusal to Cooperate

Refusal to answer questions or to produce identification does not by itself yield probable cause to arrest, but such refusal may be considered along with other facts as an element adding to probable cause.

6. Use of Force

An officer may use only the amount of non-deadly force that is reasonably necessary to stop and detain a person pursuant to these guidelines. MPD's Non-Deadly Force Guidelines shall be followed. If an officer is attacked or circumstances exist that create probable cause to arrest, the officer may use that amount of force necessary for defense or to effect a full-custody arrest.

Stopping Witnesses near the Scene of a Crime

A police officer who has probable cause to believe that any violent crime has just been committed, and who has probable cause to believe that a person found near the scene of such offense has knowledge of significant value to the investigation of the offense, may order that person to stop. The sole purpose of the stop authorized by this section is the obtaining of the witness' identification so that the witness may later be contacted. Officers shall not use force to obtain this information and will effect the detention with minimal intrusiveness.

Stopping Vehicle at Roadblocks

If authorized to do so by a commanding officer, a police officer may order the drivers of vehicles moving in a particular direction to stop. Authority to make such stops may be given only in those situations where such action is necessary to apprehend the perpetrator of a crime who, if not apprehended, poses a significant and imminent public safety threat, or to discover the victim of a crime whose physical safety is presently or potentially in danger. Roadblocks established for this purpose will only be implemented in limited geographic areas (where there is a reason to believe the suspect/victim will be discovered) and for a reasonable period of time. Once a vehicle is stopped pursuant to this section, it may be searched only to the extent necessary to determine if the perpetrator or victim is present in the vehicle and such search shall be made as soon as possible after the stop.

FRISKS

A frisk is a limited protective search for concealed weapons or dangerous instruments.

When to Frisk

A police officer may frisk any person whom that officer has stopped when the officer reasonably suspects that the person is carrying a concealed weapon or dangerous instrument. The frisk may be conducted at any time during the stop if reasonable suspicion develops.

Reasonable Suspicion for Frisk

“Reasonable suspicion” for a valid frisk is more than a vague hunch and less than probable cause. If a reasonably prudent police officer under the circumstances would be warranted in believing anyone in the vicinity was in danger, a frisk is justified. Every officer conducting a frisk must be prepared to cite the existence of such factors in support of the determination that “reasonable suspicion” for a frisk was present.

General Procedure

1. The officer should begin the frisk at the area of the person’s clothing most likely to contain a concealed weapon or dangerous instrument. Usually, an officer should begin the frisk with a pat-down of the outside of the person’s outer clothing, and the officer should not reach inside the clothing unless an object is felt which the officer reasonably believes to be a weapon or dangerous instrument. If the outer clothing is too bulky to allow the officer to determine if a weapon or dangerous instrument is concealed underneath, then the outer clothing may be opened to allow a pat-down directly on the inner clothing. If the officer has a reasonable belief, based on reliable information or personal knowledge and observations, that a weapon or dangerous instrument is concealed at a particular location on the person, such as a pocket, waistband, or sleeve, then the officer may reach directly into the suspected area. This is an unusual procedure and any officer so proceeding must be prepared to cite the precise factors that led the officer to forego the normal pat-down procedure.
2. An officer may also frisk those areas that the person could reach to obtain an object that could be used to harm the officer, if the officer reasonably suspects personal harm should the object not be obtained. This includes vehicles. If an officer possesses reasonable suspicion that a vehicle driver or passenger is armed, the “frisk” may be extended to the vehicle. This “frisk” is a protective search and is limited to places in the vehicle’s passenger compartment that could contain a weapon.
3. If during the course of a frisk, the officer discovers an object that is a container capable of holding a weapon or dangerous instrument and if the officer reasonably believes that it does contain such an item, the officer may look inside the object and briefly examine the contents.
4. An officer may use only the amount of non-deadly force that is reasonably necessary to effect a frisk pursuant to these guidelines. MPD’s Non-Deadly Force Guidelines shall be followed. If an officer is attacked or circumstances exist that create probable cause to arrest, the officer may use that amount of force necessary for defense or to effect a full-custody arrest.

Discovery of Weapon, Instrument, or other Property

If a frisk or search discloses a weapon, instrument, or any other property--possession of which the officer reasonably believes may constitute the commission of a crime or which may constitute a threat to personal safety--the officer may take it and keep it until the completion of the questioning, at which time it shall either be returned, if lawfully possessed, or seized by the officer.

Discovery of Incriminating Evidence

If, while conducting a frisk, an officer feels an object which is reasonably believed not to be a weapon or dangerous instrument, but the officer does believe it to be a seizable item, the officer may not—on the basis of the officer’s authority to frisk—take further steps to examine the object. However, if the nature of the object felt—alone or in combination with other factors—provides probable cause to arrest, the officer should tell the person they are under arrest. The officer may then conduct a full-custody search incidental to arrest, but must not take any step to examine the object before making the arrest. If a seizable item is not found, the person should be released.

Procedure Following Unproductive Frisk

If the frisk discloses nothing justifying removal or seizure and nothing providing probable cause for arrest, an officer may continue to detain while concluding the investigation.

RECORDKEEPING

Adequate records of stop and frisk activity will serve to ensure the proper exercise of police authority. They will also greatly enhance an officer's ability to reconstruct what occasioned a stop or frisk and what took place during this contact. Such records are vital, not only when the stop and frisk results in immediate arrest; they also may be valuable as "leads" in other investigations. Further, such records serve MPD's vision of transparent and unbiased policing.

1. Reporting

Officers must file a report any time there is a stop and subsequent frisk to protect themselves, the MPD, and the community.

2. Stop Based on Informant's Tip

If the stop or frisk was based in whole or partly upon an informant's tip, the officer making the stop or frisk shall make every reasonable effort under the particular circumstances to obtain and record the identity of the informant. Further, the officer shall record the facts concerning such tip, e.g., how it was received, the basis of the informant's reliability, and the origin of the informant's information.

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