

## Contacts and Temporary Detentions

### 419.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting investigative stops and pat-down searches, and the taking and disposition of photographs.

#### 419.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual Encounter (Field Interview)** - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary, he/she does not have to respond to questions, and he/she is free to leave.

**Investigative Stop** - A physical or verbal action that involves the delay, hindrance, or holding of a person. The brief detainment of an individual, whether on foot or in a vehicle, must be based on reasonable articulable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions. Investigative stops can only be done if an officer has reasonable articulable suspicion that the individual has committed, is committing, or is about to commit a crime. This suspicion can be based on facts observed by the officer, observations reported by trustworthy informants, and other factors that take into account the totality of the circumstances of the investigative stop.

**Field Photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio/Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down Search** - A type of search (hand pat-down) used by officers to check an individual for dangerous weapons. It involves a patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others. A hand pat-down of a person's out-garments for weapons shall be done only if the officer has reasonable articulable suspicion that the individual has a concealed weapon and poses a threat to the public or the officer. This type of search is confined in scope to an intrusion reasonably designed only to discover weapons.

**Reasonable Suspicion** - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary Detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

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### **419.2 POLICY**

The University of Maryland, Baltimore Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview, investigative stop, pat-down search or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations and constitutional safeguards.

### **419.3 INVESTIGATIVE STOP**

Based on observance of suspicious circumstances or upon information from an investigation, an officer may engage a person to, conduct an investigative stop, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the University of Maryland, Baltimore Police Department to strengthen community involvement, community awareness, and problem identification.

#### **419.3.1 INITIATING AN INVESTIGATIVE STOP**

When engaging a person for investigative purposes, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the interaction. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the officer.

### **419.4 PAT-DOWN SEARCHES**

Once a valid engagement (stop) with the person has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

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- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of 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 or area where the interaction takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

### **419.4.1 LIMITED SEARCH FOR WEAPONS**

An officer may make an inquiry and conduct a limited search of a person if, in light of the officer's observations, information and experience, the officer reasonably believes that (Md. Code CR § 4-206):

- (a) A person may be wearing, carrying or transporting a handgun in violation of the law.
- (b) Because the person possesses a handgun, the person is or presently may be dangerous to the officer or to others.
- (c) Under the circumstances, it is impracticable to obtain a search warrant.
- (d) To protect the officers or others, swift measures are necessary to discover whether the person is wearing, carrying or transporting a handgun.

### **419.5 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

#### **419.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign a Form 95 to acknowledge the photograph.

#### **419.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

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If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

### **419.5.3 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the Shift Supervisor with either an incident report or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Shift Supervisor should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated incident report or documentation is relevant to criminal organization/enterprise enforcement, the Shift Supervisor will forward the photograph and documents to the designated Investigation Division Supervisor. The Investigation Division Supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy 420.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Division.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

### **419.5.4 SUPERVISOR RESPONSIBILITIES**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

### **419.6 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or

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probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department members.
  - 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

### **419.7 TEMPORARY DETENTIONS**

At the commencement of any temporary detention, absent exigent circumstances, an officer should (Md. Code CP § 2-109):

- (a) Display identification to the temporarily detained individual.
- (b) Provide the individual with the officer's name and identification number, the name of the Department, and the reason for the contact.