

St. Joseph, Missouri Police Department



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| DIRECTIVE TYPE: GENERAL ORDER | | INDEX NUMBER: GO0011 |
| SUBJECT: Stop and Frisks, Field Interviews, Opposite Sex Searches, Strip Searches , and Body Cavity Searches | | |
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I. POLICY

It is the policy of the St. Joseph Police Department to establish guidelines for the investigative detention, voluntary contact and field interview of members of the public. The Department prohibits bias-based profiling in all field contacts and traffic stops as outlined in the Department General Order under Bias-Based/Racial Profiling. This policy also establishes a standard of conduct for searching detainees and/or prisoners, including those of the opposite sex of the police employee conducting the search.

A. Department Procedure on Detaining a Person and Stop and Frisks:

1. A member may briefly stop or detain any person without making an arrest, only when he/she has reason to suspect that the person is committing, has committed, or is about to commit a crime.
2. Reasonable suspicion can be based on the member's experience, as well as any one or more of the following:
 - a. Personal observation of incriminating matters;
 - b. Facts learned by the member in the investigation of a crime;
 - c. Person in the vicinity of a crime;
 - d. Flight of a person from the presence of police officers, when at or near the scene of a crime;
 - e. Odors (i.e. alcohol, smoke) and sounds (i.e. gunshots, screeching tires), especially when combined with other facts such as apparent fights, etc.;
 - f. A "try-to-locate" or information broadcast by the police dispatcher;
 - g. Information from a reliable source;
 - h. Person's history; and
 - i. Anonymous tips, but only if the member made efforts to corroborate the information.

3. The brief stop or detention may take place even though there is no probable cause for an arrest at that time. Members may ask the person's name, address, business at hand, where he/she is going, and other pertinent information.
NOTE: A person's refusal to provide his/her name, address, and business at hand is not a chargeable offense; however, it does add to a member's reasonable suspicion.
4. Reasonable suspicion for detainment should be documented in an incident report or on a Field Interview Contact report (FIC). Extremely brief detentions, such as in cases of misidentification, may be documented by call disposition information entered by a Communications Dispatcher or in call notes by an officer. This does not preclude an officer from interviewing/FIC'ing any person on a voluntary basis, however interviewees under these circumstances are free to leave at any time unless reasonable suspicion is attained. Voluntary FIC's where no information is obtained may be documented in call notes. All other FIC's shall be documented in a Field Interview Contact report.
5. Frisking a Person:
 - a. Definition of Frisk- A carefully limited search of the outer clothing of a person for the purpose of detecting a weapon. It must be based on reasonable suspicion that criminal activity is afoot, and that the person in question is presently armed or dangerous.
 - b. A member may frisk (pat down the outer clothing of) a person for a weapon when he/she has additional reasonable suspicion to believe that the person may be armed or dangerous. Officer safety alone will not be considered reasonable suspicion to conduct a frisk. Other factors must be present (i.e. quick movements by the person, time and place of stop, member's experience, unusual conduct of the person).
 - c. Persons to be frisked under the above lawful conditions should be handcuffed (even if only temporarily) prior to the search.
 - d. The examination may not exceed a frisk unless what is reasonably believed to be a weapon is discovered. Only then may the pockets or concealment areas of the clothing be entered with the member's hands for the purposes of extracting what he/she reasonably believes to be a weapon.
 - 1) Members of the opposite sex from that of the detainee shall request that a same sex member respond to the scene to conduct any searches or frisks, and shall wait for his/her arrival.
 - 2) Other exceptions will be allowed when limited, extenuating circumstances would prevent waiting for a same sex member to arrive, or when a member of the same sex is not in service or available. If such extenuating circumstances necessitate a member checking concealment areas on a person of the opposite sex, the member will do so by using the knife-edge of the hand, moving it along the concealment areas of the body.

- 3) If during the course of the frisk, the member comes into contact with objects immediately recognizable as contraband, he/she shall seize the contraband and may arrest the person. This exception is called the “plain touch exception”. If the member can immediately recognize the object as contraband without squeezing, sliding, or manipulating the object, this will be considered “plain touch”.
- 4) A member may seize items that are immediately apparent as contraband, or fruits or instrumentalities of a crime, which are in plain view on a person.
- 5) A member conducting a stop and questioning may not conduct a general exploratory search for evidence of criminal activity, unless consent was given or probable cause established.
- 6) When a member has additional, reasonable suspicion to believe that the occupant of a vehicle may be armed, he/she may frisk the person and conduct a limited search of the vehicle passenger compartment (including areas readily accessible from the passenger compartment) where a weapon may be placed or hidden.
- 7) A concealed weapon possession charge will not be brought against a person unless the circumstances violate current state concealed carry law (RSMo. 571.010 to 571.121).
- 8) If extenuating circumstances exist, a “frisk” search may go beyond the parameters listed in this General Order, and the incident and justification shall be fully documented and forwarded to the appropriate Watch and Division Commander, as well as the Chief of Police.

B. Custodial Searches:

1. The search will be conducted in accordance with state/federal or other applicable laws.
2. Custodial prisoners shall be handcuffed prior to searching.
3. A lawfully arrested person should be searched for the purpose of seizing any weapon (readily capable of lethal force) or contraband (which might be used to resist arrest or effect escape), or for the purpose of seizing any evidence that might be destroyed, in which case prior verbal approval or written consent to search is not necessary.
4. Members of the opposite sex from that of the arrestee, shall request that a same sex member respond to conduct the search. The arrestee shall be immobilized and under surveillance until the same sex member arrives.
5. Only in limited, extenuating circumstances (i.e. a same sex member is not available or circumstances prevent waiting for a same sex member to arrive) will opposite sex members be allowed to conduct a search. Such a search shall be conducted in accordance with the following methods:
 - a. A member will inspect pockets by inserting his/her hand in same, palm out, and removing any items, as necessary, for inspection.

C. Procedure On Strip and Body Cavity Searches

1. All strip searches must be approved in writing by a police supervisor if not executed pursuant to a duly executed search warrant.
2. All strip searches should be conducted at the Law Enforcement Center, unless exigent circumstances exist.
3. All strip searches conducted by members of the Department shall be performed by two members of the same sex as the person being searched, one being a commissioned officer. The search shall be conducted on premises where the search cannot be observed by any other person(s), except for the persons physically conducting the search. Nothing herein shall be interpreted to prohibit a readily available person from being present at the request and consent of the person being searched (i.e. a parent of a juvenile being strip searched while at the parent's house or a specific law enforcement officer requested to be present).
4. A body cavity search of a person detained or arrested may only be conducted pursuant to a duly executed search warrant, under sanitary conditions, and by a physician at a medical facility.

NOTE: *Exigent circumstances, such as the suspect placing illegal narcotics or contraband into his/her mouth, do not require obtaining a search warrant due to the probability of the subject swallowing the evidence, and requires the need for immediate action.*

5. All strip and body cavity searches shall be noted in the member's report, which shall include:
 - a. Location of the search;
 - b. Name(s) of the person(s) conducting the search;
 - c. Name(s) of all persons present;
 - d. Name of the Supervisor/Judge authorizing the search;
 - e. Supervisors written permission/search warrant information; and
 - f. Justification for the search.
6. All body cavity search reports shall have a copy of the Search Warrant attached.
7. A search warrant return will be given to the person who was searched on a body cavity search.
8. Supervisor Responsibility- Strip and Body Cavity Searches:
 - a. A first line supervisor will verify that a probable cause standard has been met before he/she authorizes any strip search, and will notify the appropriate Watch or Division Commander prior to carrying out such a search;
 - b. A first line supervisor will contact the appropriate Watch or Division Commander, as well as the Chief of Police, when a body cavity search is being considered;
 - c. Supervisors will ensure that members have applied for the proper search warrant before any body cavity search is conducted, and that the person to be searched has been transported to a proper medical facility; and

- d. Supervisors will ensure that the person to be searched either by strip search or body cavity search has been under constant surveillance by a member since the time he/she was detained or arrested.

III. FIELD SITUATION EXCEPTIONS

Members may search a person who is not under arrest. This type of search frequently occurs at an airport or during a traffic stop when officers make contact with a person who matches a “Try to Locate” on a drug courier. This type of search may only be done with the consent of the person, and verbal consent is sufficient. Members should be aware that the ability to search a person with his/her consent in no way alters/eliminates the specific procedures that must be followed when conducting strip and/or body cavity searches described in this General Order.

Chris Connally, Chief of Police

Date