



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

085 – CITIZEN CONTACTS, FIELD INTERVIEWS, SEARCH AND SEIZURE

GENERAL ORDER: 2021-XX
ISSUED: August 4, 2021

EFFECTIVE: August 4, 2021

REVIEWED/APPROVED BY:
Inspector Willie Murphy
DATE: May 26, 2021

ACTION: Amends General Order 2019-07 (January 25, 2019)

WILEAG STANDARD(S): 1.7.3, 1.7.4, 1.7.7, 6.1.8, 6.2.3, 6.2.5, 10.1.1

ROLL CALL VERSION

Contains only changes to current policy.
For complete version of SOP, see SharePoint.

085.00 PURPOSE / POLICY

The purpose of this policy is to provide general guidance for enforcement actions, particularly citizen contacts (for traffic stops, field interviews, and no-action encounters), arrests, searches and seizures of persons or property, which shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U.S. Constitution, statutory authority and applicable case law, **or MPD policies and procedures**.

In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support **objective**, individualized, **objective**, and **articulable** reasonable suspicion for stops and frisks of individuals, and/or objective individualized probable cause for arrests, searches, and seizures of individuals.

Consistent with state and federal law, as well as **MPD policies and procedures including** the guiding principles of the Code of Conduct of the Milwaukee Police Department, police members shall not stop, frisk, detain, arrest, search, or attempt to search anyone based solely upon the person's race, color, sex, sexual orientation, gender expression, national origin, disability, ethnicity, age, religion or social economic status.

085.05 DEFINITIONS

A. ARTICULABLE

Members shall be able to thoroughly explain and document the details of a field interview (terry stop), no action encounter, or traffic stop to establish reasonable suspicion that is in compliance with the Constitution, state law, department policy and ethical standards.

BA. CONSENT

CB. CONTRABAND

DG. EXIGENT CIRCUMSTANCES

Exceptional situations in which law enforcement agents would be unable or unlikely to effect an arrest, search, or seizure unless they take immediate action without prior judicial authorization. The courts have defined exigent circumstances as:

1. The immediate threat of escape.
2. The immediate threat of destruction of evidence.
3. The immediate threat of death or great bodily harm to the officer or the general public.

ED. FIELD INTERVIEW (TERRY STOPS)

The brief detainment of an individual, whether on foot or in a vehicle, based on ~~objective~~, individualized, objective, and articulable reasonable suspicion of criminal activity, for the purposes of determining the individual's identity and resolving the member's suspicions concerning such criminal activity.

F. INDIVIDUALIZED

Each contact with a subject is unique and shall be treated as such. Any use of generalizations and broad statements are insufficient. Each field interview (terry stop), no action encounter, or traffic stop, each frisk and/or search needs to be articulated separately from one another.

GL. NO-ACTION ENCOUNTER

H. OBJECTIVE

The observations of a subject's behavior that which is observable (measurable) to anyone under the same circumstances. It shall not be influenced by personal feelings or opinions (and biases) in considering and representing facts.

IE. PAT-DOWN SEARCH or FRISK

1. For a frisk to be warranted after a person has been stopped, the police member must be able to articulate specific facts, circumstances and conclusions that support ~~objective~~—and individualized, objective, and articulable reasonable suspicion that the person is armed and dangerous.
2. The police member must then also reasonably suspect that he/she or another is in danger of physical injury from that person.
3. Upon establishing the criteria required in subsection 1 and 2, the police member is then entitled to conduct a limited search for weapons or objects which might be used as weapons. This means a pat-down of the person's outer clothing and nothing more, unless an object is felt which the member reasonably believes might

be a weapon.

JK. "PLAIN FEEL" DOCTRINE

KF. PROBABLE CAUSE

LG. REASONABLE SUSPICION

Objective, individualized, objective, and articulable facts that, within the totality of the circumstances, lead a police member to reasonably believe that criminal activity has been, is being, or is about to be committed by a specific person or people. This standard is also known as articulable suspicion.

MH. SEARCH

NI. SEIZURE

OJ. STRIP SEARCH

085.10 CONTACT PROTOCOL (WILEAG 6.2.3)

- A. Police members can expect to make numerous contacts with the public on a daily basis. These contacts form the basis for the relationship between the department and the community. While these contacts vary in nature, and each situation must be treated individually, the goal of the department is that each contact be conducted in a courteous, professional and lawful manner.

Contacts with the police and any police actions that may result from a contact are often subject to great scrutiny. Most contacts are governed by landmark court cases which define the boundaries for proper police conduct in this arena and police members must be familiar with those court cases and remain within the boundaries set forth therein.

Engaging in lawful contacts, traffic stops, field interviews (terry stops), and arrests generate useful, proactive tools that police members can use to combat criminal activity within their areas of responsibility.

- B. Members shall use proper approach considerations when contacting a person and shall not jump out as a means of surprise, immediately approach a vehicle, or engage persons at close proximity unless the member can articulate specific facts and circumstances, which support an individualized, objective, and articulable reason to do so.
- C. Members shall avoid intentionally trying to provoke the flight of a person through immediate approach, surprise, or other means unless the member can articulate specific facts and circumstances, which support an individualized, objective, and articulable reason to do so.

DA. INTRODUCTION

1. To the extent that safety considerations allow, police members will introduce themselves to all individuals they make contact with. A proper introduction will establish the identity of the police member, the rank of the police member, and the context surrounding the initiation of the contact. This provides the platform for the lawful actions or requests made by the police member during the contact. Introductions should be formulated so that they provide:
 - a. The police member's full last name.

EB. CLOSING A CONTACT

In an effort to prevent perceptions of biased law enforcement, police members will make every attempt to end the contact in a professional manner. This is an opportunity to ensure that the individual leaves the contact with the best possible view of the police member, the department and the profession. In closing a contact, police members will:

4. Written documentation in the form of a *Community Contact Card* (form PF-6), which provides the officer's full last name, title, work location, the time and address of the stop, the number of the police district in which the encounter took place, the police district station phone number, and the procedure for filing a civilian complaint.

Note: If the individual refuses to take the *Community Contact Card*, the member shall not force the citizen to take the *Community Contact Card* in any way. The member shall make a verbal notation on their body worn camera recording (if equipped) that the individual refused to accept the *Community Contact Card*.

085.20 FIELD INTERVIEWS (FI's) (TERRY STOPS) (WILEAG 10.1.1)

Field interviews, or terry stops, are based on a police member's ~~objective~~, individualized, ~~objective~~, and articulable reasonable suspicion that the subject(s) has committed a crime, is in the process of the commission of a crime or may commit a crime. Reasonable suspicion, as defined in section 085.05, is more than a hunch. A "hunch", for the purpose of this section, is an intuitive feeling or premonition "gut feeling" and therefore, on its own, is not legal justification to conduct a "~~field interview.~~" terry stop.

A. JUSTIFICATION FOR CONDUCTING A FIELD INTERVIEW (TERRY STOP)

1. The following points may be considered, on their own or in combination with one another or other factors in establishing ~~objective~~, individualized, ~~objective~~, and articulable reasonable suspicion (these are not all inclusive, and one or more or even other circumstances may be present when formulating justification).
 - a. The actions of the subject suggest that he or she is engaged in a criminal activity.

- b. The subject is carrying a suspicious object.
 - ~~c. The subject's clothing bulges in a manner that suggests he or she is carrying a weapon.~~
 - ~~cd. The subject is located in proximate time and place to an alleged crime.~~
 - ~~e. The police member has knowledge of the subject's prior criminal record or involvement in criminal activity.~~
 - ~~df. The individual flees at the sight of law enforcement.~~
2. The following points may be considered in combination with other factors in establishing ~~objective~~, individualized, ~~objective~~, and articulable reasonable suspicion:
- ~~d. The police member has knowledge of the subject's prior criminal record or involvement in criminal activity.~~
 - ~~e. The subject's clothing bulges in a manner that suggests he or she is carrying a weapon.~~

B. PROCEDURES FOR INITIATING A FIELD INTERVIEW (TERRY STOP)

Police members may initiate the stop of a suspect if he/she has ~~objective~~, individualized, ~~objective~~, and articulable reasonable suspicion to believe that criminal activity has been, is being, or is about to be committed by a specific person or people. The following guidelines shall be followed when making an authorized stop to conduct a field interview.

- 6. Police members are not required to give suspects Miranda warnings ~~in order to conduct field interviews~~ to question a person during a terry stop unless the person is in custody and about to be interrogated.
- 7. During the course of the field interview (terry stop), the police member may demand the person's name and address and an explanation for his/her conduct. However, if the person states, they do not wish to speak with the police member and there is no further information or facts which could lead the police member to "probable cause", the police member must allow the person to go on his/her way. Responding loudly to an officer or refusing to answer a police member's questions in and of itself is not "obstructing an officer."

C. REPORTING OF FIELD INTERVIEWS (FI'S) (TERRY STOPS)

- 1. After conducting a field interview terry stop, the police member will record the facts of the field interview terry stop in the TriTech Inform RMS system Records Management System (RMS). Field Interviews Terry stops recorded in the TriTech RMS system may be first recorded on the yellow FI-card Terry Stop Form (form PF-4). All records of field interviews terry stops shall indicate whether a warning,

citation, or arrest resulted from the encounter, and if so, the identified offense. All field interviews ~~terry stops~~ shall be recorded and the outcome noted (e.g., warning, citation, arrest, and or no outcome).

Note: ~~No action encounters differ from field interviews in that the MPD member questions an individual about the individual's own actions or behavior, but does not request or obtain that individual's name. No action encounters shall be reported to and recorded in the Computer Aided Dispatch (CAD) system. That documentation shall include the subject's perceived age gender, race, ethnicity, and the encounter location, date, and start time, and a narrative explaining the legal basis for the encounter. Documentation of no action encounters is critical. Failure to properly document no action encounters may result in counseling, training, and/or discipline.~~

2. All ~~FI forms~~ Terry Stop Forms (or Field Interview reports in RMS) shall be completed by a police member ~~will be submitted at prior to~~ the end of their tour of duty.
3. ~~FI forms~~ Terry Stop Forms (or Field Interview report in RMS) are to be reviewed by a supervisor for completeness and accuracy. ~~FI forms~~ Terry Stop Forms (or Field Interview report in RMS) found to be incomplete or inaccurate are to be returned to the submitting police member who will make the necessary corrections and re-submit the ~~card~~ Terry Stop Form (or Field Interview report in RMS) within 24 hours.
4. If a police member completes a Terry Stop Form in lieu of a Field Interview report in RMS, the work location from which the ~~FI form~~ Terry Stop Form originated will be responsible for entering the data from the ~~FI form~~ Terry Stop Form into the ~~TriTech Inform~~ RMS FI module. Data entry must be completed within 72 hours of receipt.
5. Once the data entry from the ~~FI card~~ Terry Stop Form has been completed, the ~~FI form~~ Terry Stop Form will be retained by the work location for ninety days and then destroyed in accordance with SOP 680.10(E)(5), as it relates to data protection and security.
(WILEAG 10.1.1.3)

Note: In lieu of filing an ~~FI form~~ Terry Stop Form, police members may enter their own FI's terry stops into the ~~TriTech Inform~~ RMS FI module.

6. All Field Interview reports in the RMS FI module shall be reviewed by a supervisor for completeness and accuracy and approved within seven (7) days of the initial field interview.

D. REPORTING OF NO-ACTION ENCOUNTERS

1. No-action encounters differ from field interviews (terry stops) in that the MPD member questions an individual about the individual's own actions or behavior, but

does not request or obtain that individual's name.

2. After conducting a no-action encounter the police member shall:
 - a. Record the facts of the no-action encounter in the RMS. That documentation shall include the subject's perceived age, gender, race, ethnicity, and the encounter location, date, and start time, and a narrative explaining the legal basis for the encounter.
 - b. Ensure the call for service is given a C-21 disposition code.
3. All no-action encounter reports shall be completed by a police member prior to the end of their tour of duty.
4. No-action encounter reports are to be reviewed by a supervisor for completeness and accuracy. No-action encounter reports found to be incomplete or inaccurate are to be rejected and returned to the submitting police member who will make the necessary corrections and re-submit the report within 24 hours.
5. All no-action encounter reports in the RMS FI module shall be reviewed by a supervisor for completeness and accuracy and approved within fourteen (14) days of the initial no-action encounter.
6. Documentation of no-action encounters is critical. Failure to properly document no-action encounters may result in counseling, training, and/or discipline.

085.25 FRISKS (WILEAG 1.7.3)

A. JUSTIFICATION FOR CONDUCTING FRISKS

1. Law enforcement officers have the right to perform a frisk (e.g., a protective pat-down search) of the outer garments of a suspect for weapons if the suspect has been legitimately stopped with reasonable suspicion and only when the police member can articulate specific facts, circumstances, which support ~~objective~~, individualized, objective, and articulable reasonable suspicion that the person is armed and poses a threat to the police member's or another person's safety. To be clear, not every field interview (terry stop) poses sufficient justification for conducting a frisk. ~~Following are some criteria that may form the basis for establishing justification for performing a frisk.~~
2. The following are some criteria that may form the basis for establishing justification for performing a frisk. Police members should note that these factors are not all-inclusive; there are other factors that may be considered.

Members may not use only one of the below factors on their own to justify a frisk as more than one of these or other factors must be present:

- c. Police member vs. subject factors (age, and gender, and size considerations)

g. Visual indications that suggest that the subject is carrying a firearm or other deadly weapon.

~~3. The following factor may, in and of itself, constitute reasonable suspicion for a frisk:~~

~~Visual indications that suggest that the subject is carrying a firearm or other deadly weapon.~~

~~(WILEAG 1.7.3.2)~~

B. PROCEDURES FOR PERFORMING A FRISK

When individualized, objective, and articulable reasonable suspicion justifies a frisk, the frisk should be performed with due caution, restraint, and sensitivity. These frisks may only be performed to protect the safety of police members and others. Frisks should be conducted in the following manner.

5. If the external feeling of the suspect's clothing fails to disclose evidence of a weapon, no further search may be conducted. If evidence of a weapon is present, an officer may retrieve that item only. If the item is an illegal weapon, and the possession of which is a crime, the police member may make an arrest of the suspect and complete a full-custody custodial search of the suspect.

D. DISPOSITION OF ITEMS SEIZED IN A FRISK

1. If it is contraband, the police member shall take the appropriate police action based upon the type of contraband seized. Per [Wis. Stat. § 968.18](#) any member seizing property without a search warrant shall issue a properly completed *Property Receipt* (form PP-33) as soon as practicable to the person from whom the property was taken in accordance with SOP 560 Property.

085.30 VEHICLE CONTACTS (WILEAG 6.2.5)

A. Traffic enforcement is the responsibility of all uniformed members. Enforcement shall be in accordance with traffic laws and regulations and take into account the degree and severity of the violation. Due to ongoing threat assessments, officers may choose to call for and wait for back up to arrive before making initial contact or at any time during the stop.

BA. REASONS FOR VEHICLE CONTACT

CB. TYPE OF CONTACT

1. Types of Contact

c. High-risk contacts. High-risk contacts are those in which the apparent level of danger requires extreme caution. The considerations for a high-risk contact include the nature of the offense, occupants with warrants for violent offenses, pursuits, and occupant(s) with violent history. These stops typically involve

multiple officers, ordering subjects out of a vehicle one at a time, etc.

DG. LEVEL/STAGE/DEGREE OF STABILIZATION

2. High-Risk Contacts

Officers shall follow a methodical process when conducting a high-risk contact.

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REDACTED

REDACTED

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REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

ED. REPORTING OF TRAFFIC STOP

1. After conducting a traffic stop, the police member shall record the facts of the traffic stop in TraCS by completing a traffic stop data collection Contact Summary

form.

2. All ~~traffic stop data collection~~ Contact Summary forms shall be completed by the member prior to the end of their tour of duty.
3. ~~Traffic stop data collection~~ Contact Summary forms shall be reviewed by a supervisor for completeness and accuracy and approved within seven (7) days of being submitted of the initial traffic stop. ~~Traffic stop data collection~~ Contact Summary forms found to be incomplete or inaccurate are to be returned to the submitting police member who will make the necessary corrections and re-submit the form within ~~twenty-four (24)~~ hours.
(WILEAG 1.7.3.8)

085.40 SEARCH UNDER THE MOVABLE VEHICLE EXCEPTION (CARROLL DOCTRINE) **(WILEAG 1.7.3)**

B. BURNT MARIJUANA VEHICLE SEARCHES

In addition to the smell of "burnt" marijuana, prior to being authorized to search a vehicle, members shall also have at least one of these factors present:

1. Plainview observance of evidence of marijuana shake, residue, or drug paraphernalia;
2. Statements and/or admissions that marijuana, contraband, or paraphernalia is on their person or in the vehicle;
3. A wanted check reveals that the driver and/or passenger(s) are on active probation or parole supervision or the driver and/or passenger(s) have an open criminal case;
4. Prior knowledge that individual(s) in the vehicle is/are suspected to be involved in illegal drug trafficking or other serious crime(s);
5. Consent is obtained to search the vehicle, which would then require the member to complete a *Consent to Search Authorization* (form PF-3) in accordance with SOP 085.55;
6. The driver displays signs of being under the influence of an intoxicant or narcotic and the member proceeds with conducting an OWI investigation (Standard Field Sobriety Tests, Drug Recognition Expert). If probable cause for arrest is established, conduct a search of the vehicle search incident to arrest.
(WILEAG 1.7.3.3)

085.55 SEARCH BY CONSENT (WILEAG 1.7.3, 10.1.1)

The purpose of our consent searches is to prevent violent crime by lawfully recovering contraband, weapons and evidence of crimes. The purpose is not to create random drug arrests. Consent searches are an important tool in policing, the discretionary use of which

must be carefully controlled. The Chief of Police has restricted your ability to request consent for a search to those circumstances in which you have ~~objective~~, individualized, ~~objective~~, and articulable ~~reasonable~~ suspicion that you will recover contraband, weapons and evidence of crimes. ~~As with our traffic stop policy, it is important to maintain the community's support as we work with the community to reduce crime.~~

A. Police members may conduct consensual searches of persons and/or property if:

1. The police member has ~~objective~~, individualized, ~~objective~~, and articulable ~~reasonable~~ suspicion that criminal activity has, is or will be occurring or when a police member has reasonable and articulable belief that a fugitive and/or a missing person may be within a particular location.

C. GUIDELINES FOR OBTAINING CONSENT

D. REPORTING OF CONSENT SEARCHES

3. In the event contraband is located during a consensual search, the original completed consent form will become evidence and will be inventoried as such. Prior to inventorying the consent form, two copies of the completed form will be made and submitted to the police member's shift commander for data entry into the search field of the ~~Inform-Tri-Tech~~ ~~RMS~~ FI module. Once entered, one copy will then be forwarded for imaging at ~~Open-Records~~ the ~~Records Management Division~~, and the second copy will be retained by the work location for one year and then destroyed in accordance with SOP 680.10(E)(5), as it relates to data protection and security.
4. If contraband is not located during a consensual search, the original consent form will be forwarded to the police member's shift commander for data entry into the search field of the ~~Inform-Tri-Tech~~ ~~RMS~~ FI module. Once entered into ~~Inform-Tri-Tech~~ ~~RMS~~, all copies of the form will be retained by the work location for one year and then destroyed in accordance with SOP 680.10(E)(5), as it relates to data protection and security.
(WILEAG 10.1.1.3)

085.65 STRIP SEARCHES (WILEAG 1.7.7)

C. Pursuant to Wis. Stat. § 968.255(2): No person may be the subject of a strip search unless he or she is a detained person and if:

4. A person conducting the search has obtained the prior written permission of the ~~chief or his/her designee of the jurisdiction (e.g., captain of police or higher rank or in the absence of an on-duty member with the rank of captain or higher, an on-duty lieutenant)~~ where the person is detained, unless the person conducting the search has probable cause to believe that the detained person is concealing a weapon; and

F. BODY CAVITY SEARCHES

1. A search warrant is required for every body cavity search.

24. Police members are prohibited from conducting a body cavity search whether manual or visual. If a body cavity search is deemed necessary, such search can only be done by a physician, physician's assistant or registered nurse licensed to practice in the state of Wisconsin (Wis. Stat. § 968.255 (3)).
32. A body cavity search includes the following:
 - a. The manual inspection involving a digital (finger) or instrument intrusion into a person's anus or vagina.
 - b. The visual inspection of the anus or vagina even when no manual examination is performed.
- ~~3. A search warrant is required for every body cavity search.~~

G. PHYSICALLY DISABLED PERSONS

A physically disabled person, for the purpose of Wis. Stat. § 968.256, is defined as "a person who requires an assistive device for mobility, including, but not limited to, a wheelchair, brace, crutch or artificial limb". A search of a physically disabled person is to be conducted in a careful manner. If a search of a physically disabled person requires the removal of an assistive device or involves a person lacking sensation in some portion of his or her body, the search shall be conducted with extreme care by a person who has had training by the Central Booking Division in handling physically disabled persons.

085.75 OTHER SITUATIONS AUTHORIZED BY STATE AND FEDERAL CONSTITUTIONAL PROVISIONS (WILEAG 1.7.3, 1.7.4)

C. FELONY ARREST (WITH AN ARREST WARRANT)

1. Police members must have a search warrant or consent to enter a residence legally; unless the member has knowledge the suspect resides full-time at the residence and the suspect has been seen inside the residence at the time of the arrest warrant service.

D. MISDEMEANOR ARREST WITH AN ARREST WARRANT

1. Police members must have a search warrant or consent to enter a residence legally; unless the member has knowledge the suspect resides full-time at the residence and has been seen inside the residence at the time of the arrest warrant service. Police members must use good articulable discretion when making the decision to forcibly enter a residence for the purposes of making a misdemeanor (jailable offense) warrant arrest. When in doubt, seek direction from a supervisor.

E. SEARCH OF A PERSON ON PROBATION, PAROLE OR EXTENDED SUPERVISION (Wis. Stat. § 302, 304, and 973)

3. Police members conducting a search pursuant to this section shall as soon as

practicable notify the Division of Community Corrections after the search by email. A copy of the email shall be sent to the member's commanding officer.

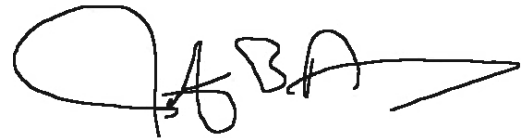
- d. Members shall include the time/date that the notification to the Division of Community Corrections was made in any applicable ~~TriTech-Inform~~ RMS reports.

085.85 SOURCE AND INFORMATIONAL RESOURCES

This SOP was developed to provide police members with general guidance in search and seizure. The concepts in this SOP are governed by landmark state and federal court cases that establish the boundaries for proper police conduct in this arena.

The following sources were referenced in the development of this SOP:

- Wisconsin Law Enforcement Criminal Law Handbook (Blue Book), published by the Wisconsin Department of Justice, ~~2009~~ 2017 edition
- State of Wisconsin Department of Law Enforcement Standards Board Vehicle Contacts (A Training Guide for Law Enforcement Officers), ~~2010~~ 2014 edition



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