

	<p style="text-align: center;">ITHACA POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution	General Order Number
		ALL PERSONNEL	1.06
		Original Issue Date	Reissue/Effective Date
		05/14/2020	05/14/2020
Order Title: INVESTIGATORY STOPS	Accreditation Standard: NY 2.7; 8.1; 20.1; 29.3; 43.1		Section
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		Section Title DEPARTMENT ROLE AND AUTHORITY	
Rescinds:	 Dennis Naylor, Chief of Police		

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for conducting investigatory and pat-down searches which are authorized by state and federal law.

II. POLICY

Ithaca Police Department (“Department”) officers shall observe the rights of citizens under the Fourth Amendment of the United States Constitution, which guarantees the right of people to be free from unreasonable searches and seizures of their homes, persons, and property. A field interview is an important point of contact for officers to prevent and investigate criminal activity. Even when conducted with respect for involved citizens, and in strict compliance with the law, the field interview can be perceived by some as police harassment or intimidation conducted in a discriminatory manner against groups or individuals. In order to maintain the effectiveness and legitimacy of this practice, and to protect the safety of officers who must approach suspicious individuals, officers shall conduct field interviews and perform pat-down searches in conformance with procedures set forth in this policy.

III. PROCEDURE

A. Stop and Frisk

Although the words “stop” and “frisk” have become synonymous with each other, they involve **two distinct acts** and require separate justification by officers. The **investigatory stop** is a brief detention of a person because of suspected criminal activity, and the **“pat-down” (frisk)** is a limited search for weapons for officer safety. **Not every investigatory stop justifies a “pat-down” (frisk).**

B. Investigatory Stop

1. Any officer may stop an individual for the purpose of conducting an investigatory stop only where reasonable suspicion is present. Reasonable suspicion must be more than a hunch or feeling, but need not meet the test for probable cause sufficient to make an arrest.
2. In justifying the stop, the officer must be able to point to specific facts that, **when taken together with the totality of the facts and circumstances**, reasonably warrants the stop. Such facts include, but are not limited to, the following:
 - a. The appearance or demeanor of a suspect suggests that he or she is part of a criminal enterprise or is engaged in a criminal act.
 - b. The actions of the suspect suggest that he or she is engaged in criminal activity.
 - c. The hour of day or night is inappropriate for the suspect's presence in the area.
 - d. The suspect's presence in a neighborhood or location is inappropriate.
 - e. The suspect is carrying a suspicious object.
 - f. The suspect's clothing bulges in a manner that suggests he or she is carrying a weapon.
 - g. The suspect is located in proximate time and place of an alleged crime.
 - h. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.
 - i. The individual flees at the sight of a police officer.

C. Procedures for Initiating an Investigatory Stop

1. Based on observance of suspicious circumstances, or upon information from an investigation, an officer may initiate the stop of a suspect if he has reasonable suspicion to do so. Officers shall, if feasible and if it does not pose a danger to the officer or others, adhere to the following:
 - a. When approaching the suspect, the officer shall clearly identify him/herself as a law enforcement officer, if not in uniform, by announcing his/her identity and displaying departmental identification.
 - b. Officers shall be courteous at all times during the contact but maintain caution and vigilance for furtive movements to retrieve weapons, conceal or discard contraband, or other suspicious actions.
 - c. Before approaching more than one suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
 - d. Officers shall confine their questions to those concerning the suspect's identity, place of residence, and other inquiries necessary to resolve the officer's suspicions. However, in no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries and resolve suspicions.
 - e. Officers are not required to give suspects *Miranda* warnings in order to conduct field interviews unless the person is in custody and about to be interrogated.
 - f. Suspects are not required, nor can they be compelled, to answer any questions posed during field interviews. Failure to respond to an officer's inquiries is not, in and of itself, sufficient grounds to make an arrest, although it may provide sufficient justification for additional observation and investigation.

D. Justification for Conducting a "Pat-Down" Search (Frisk)

1. A frisk is authorized only when the officer has reasonable suspicion to fear for his or her safety, and the scope of the frisk is narrowly tailored to those specific reasons.
2. Clearly, not every investigatory stop poses sufficient justification for conducting a "pat-down" search. An officer must have reasonable suspicion indicating that the person may be armed and presently dangerous (e.g., the

type of crime suspected, prior knowledge of the suspect's propensity for violence, any indication that the suspect is armed, etc.).

3. If, during the course of a "pat-down" for weapons, an officer detects an object that he or she reasonably believes is contraband, the officer may seize it under the "plain feel" doctrine. Under the "plain feel" doctrine, it must be immediately apparent to the officer that the object is contraband. Officers should be aware that the "plain feel" doctrine applies only if the officer has the right to conduct the "pat-down" in the first place (just as the "plain view" doctrine applies only where the police have the right to be in the position from which they got the view). In addition, the officer may not conduct the "pat-down" in a manner that exceeds what is necessary to determine whether the person has a weapon.
4. During a traffic stop, officers shall take reasonable steps to protect themselves. Officers may direct the occupants to step out of the vehicle. If the officer has a reasonable suspicion that the person is armed and dangerous, the officer may conduct a "pat-down" search. It is of critical importance that officers be able to state specifically what it was about the situation that made them suspicious. It is not enough to say; "I was suspicious." Officers shall include all details in their Case Incident Report, when they are necessary, as to those circumstances that attracted their attention to the suspect, or the suspect's vehicle and made them suspicious.

E. Procedures for Performing a "Pat-Down" Search

1. When reasonable suspicion justifies a "pat-down" search, the search should be performed with due caution, restraint, and sensitivity. These searches may only be performed to protect the safety of officers and others. If reasonable suspicion exists to perform a "pat-down" search, it shall be conducted as follows:
 - a. Whenever possible, "pat-down" searches should be conducted by at least two officers, one who performs the search while the other provides protective cover.
 - b. Because "pat-down" searches are cursory in nature, they shall be conducted pursuant to current training. Should an officer visually observe a weapon, however, a more secure search position may be used, such as the prone position.
 - c. In a "pat-down" search, officers are permitted only to feel the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club, or other item.

- d. If the suspect is carrying an object such as a handbag, suitcase, briefcase, sack, or other item that may conceal a weapon, the officer should not open the item but instead place it out of the suspect's reach.
- e. If the external feeling of the suspect's clothing fails to disclose evidence of a weapon, no further search may be made. If evidence of a weapon is present, an officer may only retrieve the specific item. If the item is a weapon, the possession of which is a crime, the officer may make an arrest of the suspect and complete a full-custody search of the suspect.

F. Reporting of the Investigatory Stop or Stop and Frisk.

1. Officers shall document in their Case Incident Report all investigatory stops and stops and frisks by the end of the shift in which the action occurred.
2. The officers shall detail in the Case Incident Report the precise description of the facts and circumstances of the initial stop or stop and frisk.
3. The officers shall document the content and circumstances of all interviews, interrogations, and transportation of witnesses, which occurred during their shift.
4. Supervisors shall review and approve any Activity Logs and Incident Reports for all investigatory stops or stops and frisks conducted by officers under their command. This includes interviews, interrogations, and transportation of witnesses.

G. Procedures Regarding Witness Identification and Questioning

1. Officers shall ensure that witness identification and questioning practices comply with the arrest and investigatory stop policies.
2. Officers shall be prohibited from seizing any individual without reasonable suspicion, probable cause, or consent of the individual.
3. Any seizure made by an officer requires that the scope and duration of the seizure be narrowly tailored to the reasons supporting the stop.
4. Officers are prohibited from transporting any individual to another location without reasonable suspicion, probable cause, or consent from the individual.