



MISSOULA POLICE DEPARTMENT POLICY MANUAL

Subject:

FIELD INTERVIEWS AND PAT-DOWN SEARCHES

Effective Date:

4/25/2018

Original Date:

09/01/2007

Next Review:

4/25/2019

Chapter

6

Policy #

6.20

Distribution:

References:

Search and Seizure, Search Incident to Arrest

Strip and Body Cavity Searches, MCA 46-5-401

I. Purpose

The purpose of this policy is to help officers determine when field interviews and pat-down searches are warranted and to establish the proper way to conduct them.

II. Policy

The field interview is an important point of contact for officers in preventing and investigating 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, law enforcement officers shall conduct field interviews and perform pat-down searches in conformance with procedures set forth in this policy.

III. Definitions

Field Interview: The brief detainment of an individual, based on reasonable suspicion, for the purposes of determining the individual's identity and resolving the officer's suspicions concerning criminal activity.

Reasonable Suspicion: Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been, is being, or is about to be committed.

Pat-Down Search: A "frisk" or external feeling of the outer garments of an individual for weapons only.

IV. Procedures—Field Interviews

A. Justification for Conducting a Field Interview

Law enforcement officers may stop individuals for the purpose of conducting a field interview 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. In justifying the stop, the officer must be able to point to specific facts that, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

1. The appearance or demeanor of an individual suggests that he or she is part of a criminal enterprise or is engaged in a criminal act.
2. The actions of the suspect suggest that he or she is engaged in a criminal activity.
3. The hour of day or night is inappropriate for the suspect's presence in the area.
4. The suspect's presence in a neighborhood or location is inappropriate.
5. The suspect is carrying a suspicious object.
6. The suspect's clothing bulges in a manner that suggests he or she is carrying a weapon.
7. The suspect is located in proximate time and place to an alleged crime.
8. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.
9. The individual flees at the sight of a police officer.

B. Procedures for Initiating a Field Interview

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a suspect if he has reasonable suspicion to do so. The following guidelines shall be followed when making an authorized stop to conduct a field interview:

1. When approaching the suspect, the officer shall clearly identify himself as a law enforcement officer, if not in uniform, by announcing his identity and displaying departmental identification.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

V. Procedures—Pat-Down Searches

A. Justification for Conducting Pat-Down Searches

A law enforcement officer has the right to perform a pat-down search of the outer garments of a suspect for weapons if (1) the suspect has been legitimately stopped with reasonable suspicion and (2) only when the officer has reason to believe that the suspect possesses weapons on his or her person and poses a threat to the officer's or another person's safety. Not every field interview poses sufficient justification for conducting a pat-down search. Following are some criteria that may form the basis for establishing justification for performing a pat-down search. Officers should note that these factors are not all-inclusive; there are other factors that could or should be considered. The existence of more than one of these factors may be required in order to justify a pat-down search:

1. The type of crime suspected—particularly in crimes of violence where the use or threat of deadly weapons is involved.
2. Where more than one suspect must be handled by a single officer.
3. The hour of the day and the location or neighborhood where the stop takes place.
4. Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
5. The appearance and demeanor of the suspect.
6. Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.
7. The age and gender of the suspect. Whenever possible, pat-down searches should be performed by officers of the same sex.

B. Procedures for Performing a Pat-Down Search

When an officer has reasonable suspicion that a person is armed and dangerous an officer may complete 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 and may never be used as a pretext for shaking down individuals or groups of individuals to obtain evidence or for other purposes. Pat-down searches should be conducted in the following manner:

1. Whenever possible, pat-down searches should be conducted by at least two officers, one who performs the search while the other provides protective cover.
2. Because pat-down searches are cursory in nature, they should be performed with the suspect in a standing position. Should an officer visually observe a weapon, however, a more secure search position may be used, such as the prone position.
3. 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.

4. 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.
5. 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 retrieve that item only. 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.

C. Reporting

If after conducting a field interview the officer has no basis for making an arrest, the officer shall record appropriate comments in in the call notes in Mobile.