
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 field interviews (FI) and consensual pat-down searches, K-9 "free air" sniff and the taking and disposition of photographs.

The Federal and State Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides guidelines for dealing with consent searches and "free air" K9 sniffs during traffic stops and other police/citizen contacts.

419.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When a public safety 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 public safety officer is voluntary.

Consent search – a search into an area protected by the Fourth Amendment with the voluntary permission of the person who has the authority to grant consent (e.g. care, custody, and control of the protected area). Consent must be voluntary and cannot be obtained through submission to authority, either expressed or implied.

Field interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the public safety officer's suspicions.

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 or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search (Stop and Frisk) - A type of search used by public safety officers in the field to check an individual for dangerous weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the public safety officer, the detainee or others.

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

Temporary detention - When a public safety 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 a public safety officer actually restrains a person's freedom of movement.

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419.2 POLICY

The Kalamazoo Department of Public Safety respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the public safety officer, the decision to temporarily detain a person and complete a Field Interview, pat-down search or field photograph shall be left to the public safety officer based on the totality of the circumstances, officer safety considerations and constitutional safeguards.

When requesting consent to search a person, place, or thing, or when requesting a "free air" K9 sniff, public safety officers shall not make the request without having articulable reasonable suspicion to make the request. Public Safety Officers shall not request a consent search or "free air sniff" based solely upon the person's race, color, sex, sexual orientation, gender expression, ethnicity, national origin, age, religion or socioeconomic status.

419.3 FIELD INTERVIEWS

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

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

419.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the public safety officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include, but are not limited to, an individual's:

- (a) 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 public safety officer.

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419.4 PAT-DOWN SEARCHES (STOP AND FRISK)

Once a valid stop has been made, a public safety officer may pat a suspect's outer clothing if the public safety officer has a reasonable, articulable suspicion that the suspect has a dangerous weapon. The purpose of this limited search is not to discover evidence of a crime, but to allow the public safety 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:

- (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 public safety officer.
- (c) The hour of the day and the location or area where the stop 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 public safety officer. A cover public safety officer should be positioned to ensure safety and should not be involved in the search.

419.5 CONSENT SEARCHES

- (a) Consent searches must be voluntary.
- (b) A consent search request made during discretionary citizen contacts such as officer initiated traffic stops, pedestrian contacts, "knock and talks," etc. may only be requested and performed when a public safety officer is able to articulate reasonable suspicion that within the totality of the circumstances, a public safety officer would reasonably suspect that criminal activity has been, is being, or is about to be committed. This standard does not preclude officers dispatched to a call for service or performing in other non-discretionary contacts from requesting a consent pat down for weapons without reasonable cause. Examples would be asking for consent to search a person on a DV call or asking for consent to search a person prior to providing a transport in a police vehicle.
- (c) If a consent search is conducted, the person who has the apparent authority to grant or revoke the consent must be in a position to communicate withdrawal of consent. If consent is obtained by telephone, that person should be provided contact information to revoke consent if they wish.
 - (a) If at any time consent is revoked, the officer will stop the search immediately. This does not preclude an officer who has developed probable cause to secure the location and apply for a search warrant.

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- (b) All consent searches and requests shall be documented in the Consent Search Contact Log along with the factors leading to the reasonable suspicion for the request (even if the request is denied).
 - (a) Utilizing the drop boxes within the Consent Search Contact Log, identification of the person searched, time/location of where the search took place and what was searched (person, vehicle or residence) shall be documented.
- (c) When feasible, consent search requests should be recorded by MVR/DVR. The video must be requested to be saved if a criminal or civil forfeiture case is generated. Documentation of such must be listed in the supplemental ILEADS report.
- (d) Officers unable to capture a consent search request on MVR/DVR shall document the reason in the Consent Search Contact Log and narrative of the appropriate ILEADS report (i.e. MVR/DVR out of range, out on foot/bike patrol at time of contact, etc.).
- (e) All officers shall notify their immediate supervisor of all consent to search requests made during discretionary contacts as described in 419.5b above prior to the conclusion of the officer's shift. Immediate supervisors shall document consent to search requests in their Daily Activity Reports and review any reports generated by such requests as needed.
- (f) Consent search requests made during non-discretionary contacts as described in 419.5b above do not require documentation in the Consent Search Contact Log.

419.6 K-9 OFFICER "FREE AIR" SEARCHES

A request to have a K-9 respond for a "free air sniff" shall not be made unless the public safety officer making the request is able to articulate reasonable suspicion that within the totality of the circumstances, a public safety officer would reasonably suspect that criminal activity has been, is being, or is about to be committed. All requests for a K-9 "free air sniff" shall be documented by the officer requesting the K-9 free air sniff in the Consent Search Contact Log.

- (a) Employees will document all K9 free air sniffs which do not lead to a criminal case (civil forfeiture cases, consent refusals, etc.) in the Consent Search Contact Log.
- (b) Employees will document all K9 free air sniffs that lead to a criminal case in the ILEADS report and in the Consent Search Contact log.
- (c) All factors leading up to the reasonable suspicion for the K9 search must be articulated in the Consent Search Contact Log along with the item that was searched (backpack, suitcase, vehicle or residence).
- (d) All officers shall notify their immediate supervisor of all free air sniff requests made prior to the conclusion of the officer's shift. Immediate supervisors shall document free air sniff requests in their Daily Activity Reports and review any reports generated by such requests as needed.

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419.7 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 public safety officer shall carefully consider, among other things, the factors listed below.

419.7.1 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 public safety officer should have the individual state on MVR and/or BWC that he or she is consenting to being photographed.

419.7.2 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 public safety 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.

If, prior to taking a photograph, the public safety 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.

419.7.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs shall be retained per the MVR/DVR and/or Body Worn Camera record retention policy of the department. 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 or if the photograph was digitally recorded on a MVR/DVR or Body Worn Camera the officer shall request that the digital recording be saved beyond the normal retention period.

[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.](#)

419.7.4 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.

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419.8 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, public safety 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 probable cause to arrest. Without detaining the individual for the sole purpose of identification, public safety 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.