

MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES
SECTION: Search and Seizure Without a Warrant

Search and Seizure without a Warrant

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I. Purpose

To designate circumstances under which searches and seizures may be conducted without a search warrant, and to establish uniform procedures for conducting such searches and seizures.

The information contained in this directive is consistent with the information disseminated by the Training Academy. However, when in doubt about a particular search situation, officers are encouraged to seek advice from the City Attorney. Any search, seizure, or arrest without a warrant must be justified and supported by probable cause. In the event of any conflict between this order and any statute, court opinion or other rule of law, the latter will be controlling. Further, in the event any statute, court opinion or other rule of law provides greater authority to a law enforcement officer than is stated in this order, the former will be controlling.

II. Policy

It shall be the policy of the Memphis Police Department that all searches and seizures be conducted based upon a proper warrant whenever appropriate under the circumstances. Searches and/or seizures that have not been reviewed and authorized by judicial personnel will be executed as established according to the procedures set forth in this order.

III. Authority and Procedures

Officers have the authority to conduct searches and make seizures without a warrant under certain circumstances. These circumstances include, but are not limited to the following:

A. Exigent Circumstances

“Exigent Circumstances” are emergency conditions. A search is reasonable, and a search warrant is not required, if all of the circumstances known to the officer at the time, would cause a reasonable person to believe that entry or search was necessary to prevent physical harm to the officer or other persons; the destruction or concealment of evidence; the escape of a suspect; and if there was insufficient time to get a search warrant. [1.2.4.e]

B. Searches by Consent

Officers may conduct a search of a person or property by obtaining prior consent. The consent must be voluntarily given, and that voluntary consent must be shown to be unequivocal, specific, and intelligently given, uncontaminated by duress or coercion. The consent must be proven to be voluntarily given by a preponderance of the evidence and is never lightly inferred by the courts. The prior consent must be obtained from the person or persons with authority to give a valid consent. Officers should have the proper departmental consent forms, appropriate to the search circumstances, available for their use. If consent is written, consent forms must be signed prior to the search. [1.2.4.a]

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C. Frisk or Pat-down of Individuals

An officer has the right to perform a pat-down search of the outer garments of suspects for weapons, if:

The suspect is legitimately stopped,
AND
The officer(s) has a reasonable and articulated
fear for his/her own or another person's safety

Not every stop will lead to sufficient justification for conducting a pat-down search. The following are some criteria that may form the *basis* for establishing reason to perform 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 location 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, i.e. person appears to be unusually scared, jittery, or acting in a strange manner.
6. Visual indicators that suggest that the suspect is carrying a firearm or other deadly weapon.
7. The officer has a legitimate reason to require the individual to sit in the back of a police car.
8. An officer may also perform a pat down frisk if the person voluntarily consents to it.

Officers are cautioned that these criteria alone do not necessarily establish justification for a pat-down search. The totality of the circumstances must be considered before initiating the pat-down search, and officers must be able to clearly articulate the circumstances.

Officers are reminded that a frisk is limited to a search of the external clothing for weapons. Frisks shall be conducted reasonably and in good faith. The purpose is to secure the immediate area against procurement of weapons and destruction of evidence by the suspect or those acting in concert with him.

- Ideally, two or more officers will conduct the frisk, one to search and the other to provide protective cover.
- When possible, pat-down searches should be performed by officers of the same sex.
- When frisking, officers shall search only the external clothing for objects that reasonably could be weapons and remove them. Officers shall not place hands in pockets unless they reasonably suspect that weapons are concealed in them.

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- If, during a lawful stop based on reasonable suspicion, the officer conducts a frisk and feels an object whose contour or mass makes its identity as contraband immediately apparent, it may be withdrawn and examined.
- If the suspect is carrying a bag, purse, suitcase, briefcase, sack, or other container that may conceal a weapon, officers shall not open it but may place it beyond the subject's reach for the duration of the stop.
- If the external feeling of the suspect's clothing fails to disclose evidence of a weapon, no further search may be made.

D. Vehicle Searches

1. **Moveable vehicles** - Officers may conduct an immediate search of a moveable vehicle when the officer has established probable cause to believe that contraband or evidence of a crime is present in the vehicle. The probable cause established must be as sufficient as that which would support obtaining a search warrant.

The officer is not required to obtain a search warrant when, due to the mobility of the vehicle, an immediate search is necessary. However, articulated probable cause for the search must be established before the search commences. Probable cause to search exists where the facts and circumstances within the officer's knowledge, of which he/she has reasonable trustworthy information, are sufficient in themselves to warrant a person of reasonable caution to believe that contraband or evidence can be found in a particular vehicle.

The United States Supreme Court has ruled that police officers who have legitimately stopped an automobile, and who have probable cause to believe that contraband is concealed somewhere within it, may conduct a warrant-less search of the vehicle. This search can be as thorough as a magistrate could authorize by warrant. [1.2.4.c]

2. **Vehicle Search Incident to a Lawful Custodial Arrest** – Officers may not search a vehicle simply because a recent occupant of the vehicle has been arrested and cannot access the passenger compartment of the vehicle. An officer is only permitted to conduct a vehicle search when an arrestee is within reaching distance of the vehicle or if it is reasonable to believe that the vehicle contains evidence of the offense or warrant.

Example 1: An officer observes an individual legally park and exit a vehicle. The officer then calls the individual to them and later learns that the individual has warrants. Officers may not legally search or tow the individual's vehicle because of the arrest.

Example 2: An officer observes an individual driving under the influence and subsequently stops and arrests the individual. The officer would be justified in searching for evidence of the consumption of alcohol within the driver's reach, if the officer had reasonable belief such evidence may be found. The officer must be able to articulate the reasonable belief in the arrest ticket and in court.

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- 3. Frisk for Weapons** – Officers may search a vehicle’s passenger compartment when there is reasonable suspicion that an individual, whether or not the arrestee, is dangerous and might access the vehicle to gain immediate control of weapons. Officers must be able to articulate their reasonable suspicion justifying the search.
- 4. Protective Sweep** – Officers may search where safety or evidentiary interests would justify a search, such as a limited protective sweep or those areas in which a officer reasonably suspects a dangerous person may be hiding. From a vehicle perspective this exception may be applicable when dealing with larger vehicles such as multi-passenger vans, recreation vehicles, motor homes, buses, and the like.
- 5. Vehicle Inventory Procedures** - [1.2.4.f] Officers will conduct an inventory of impounded vehicles or property. In order for an inventory to be valid, such impoundment must be justified and consistent with the department’s policy on vehicle impoundment. Special attention should be given to the reasonable alternatives to towing:
 - a.** When a vehicle is in lawful custody an officer is authorized to inventory the contents of that vehicle so as to protect:
 - 1) The owner/operator’s property; and
 - 2) The officer and the department from unfounded claims that may result in liability to owners/operators who make claim that property was taken or damaged while their vehicle was in custody; and
 - 3) The officer and others present from dangerous materials.
 - b.** A vehicle inventory is permitted without a warrant or the consent of the operator/owner of the vehicle. The extent of the inventory depends upon the circumstances which caused the vehicle to be in custody.
 - 1) If due to a parking violation, or other circumstances where access to the interior of the vehicle is limited, a cursory survey will be made of the areas exposed to “plain view”, or accessible to a thief (e.g. over sun visors, under front seat, unlocked glove box, other “unlocked” areas and containers), and items of apparent value itemized on applicable reports, and protected as each item demands and circumstances permit.
 - 2) Keys to the vehicle are present, in addition to the scope of the survey detailed above; the inventory will be extended to areas made accessible by the keys (i.e. locked glove box and trunk) and any “unlocked” container(s) located therein. In either case, the inventory should be limited to areas where personal items would reasonably be stored.
 - 3) The officer may properly open closed containers when necessary to make a realistic and meaningful inventory.
 - 4) The inventory does not extend to a locked container.

IMPORTANT: The inventory of a vehicle should not be construed as limiting any

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lawful consent or probable cause search, with or without a warrant.

- c. Alternative to Impoundment** - Just cause to arrest the owner or operator of a vehicle is not alone justification to impound the vehicle. There must also be reasonable cause to take his/her vehicle into custody. If the circumstances which brought the vehicle to the attention of the officer in the first place are such that the owner/operator, even though arrested, is able to make his/her own arrangement for custody of the vehicle, or if the vehicle can be legally parked and locked without endangering the public or obstructing traffic, such "alternative action" will be permitted rather than impounding the vehicle. The vehicle must be legally parked or left in the custody of another with that person's consent; or if it is to be driven away, the proposed driver must be willing to do so and be able to do so legally, i.e. have a valid drivers license, not be intoxicated, etc. When one of these alternatives is used, a "hold harmless" agreement shall be signed by the owner/operator.

E. Searches Incident to Arrest

A search incident to arrest is permissible after any lawful arrest. There are two valid purposes for conducting searches incident to arrest:

1. To protect the officer and other persons in the vicinity from any dangerous items in the possession of the person arrested; or
2. To prevent the destruction of evidence within the reach of the arrestee.

Officers of the Memphis Police Department shall conduct a search of any person or persons placed under a lawful custodial arrest. The scope of the search extends to the immediate areas in which the arrestee might obtain a weapon or evidentiary items, including clothing, purses and wallets of the arrestee, and may be for weapons, evidence, or means of escape. [1.2.4.g]

Officers are cautioned that searches of premises incident to arrest are not to be expanded into de-facto search warrants of the premises. Officers, however, are entitled to make a reasonable "protective sweep" of the premises on which the arrest occurs. The purpose of "protective sweeps" is, as its name implies, to determine if other persons, instruments, or conditions are on the premises which would pose a danger to the officer's safety or the preservation of evidence. Again, the "Plain View" doctrine applies, and items of contraband and instrumentalities or fruits of a crime may be seized and used as basis of criminal charges. [1.2.4.b]

F. Strip Searches

As used in this section, "strip search" means having an arrested person remove or arrange some or all of such person's clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person. Strip searches are to be restricted and shall always be reviewed with the greatest of scrutiny. Such searches by police have been limited by statute. Tennessee Code Annotated Section 40-7-119(b) restricts such

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searches by police with the following language:

“No person arrested for a traffic, regulatory, or misdemeanor offense, except in cases involving weapons or a controlled substance, shall be strip searched unless there is reasonable belief that the individual is concealing a weapon, a controlled substance, or other contraband.” [1.2.8.a]

It shall be the policy of this department that if an arrestee can be reasonably secured, without danger to the officer, that such a search, when deemed to be necessary and approved by a supervisor, be conducted by an officer of the same sex and in an area not easily viewed by the public. [1.2.8.b]

Inspectional Services will be notified via memorandum on all body cavity/strip search incidents, and will maintain a file on all such incidents.

G. Body Cavity Searches

Body cavity searches are strictly regulated by T.C.A. 40-7-121 which states in part that no person shall be subjected to a body cavity search by a law enforcement officer or by another person acting under the direction, supervision or authority of a law enforcement officer unless such search is conducted pursuant to a search warrant issued in accordance with Rule 41 of the Tennessee Rules of Criminal Procedure. The issue of whether a person subjected to a body cavity search consented to such search is irrelevant and shall not be considered in determining whether the search was a valid one under the provisions of this section, unless the consent is in writing on a preprinted form and contains the following language: [1.2.8.a]

Waiver of Warrant Requirement and Consent to Search Body Cavities

I knowingly and voluntarily consent to have my body cavities searched immediately by law enforcement personnel in the manner provided by the laws of Tennessee. By signing this consent form, I knowingly and voluntarily waive my right to require that a warrant be obtained from an appropriate judge or magistrate before my body cavities are searched.

I understand that a body cavity search may involve both visual and physical probing into my genitals and anus. I understand that I would not be prejudiced or penalized by declining to give my consent to be searched in this manner.

A law enforcement officer who conducts or causes to be conducted a body cavity search in violation of TCA 40-7-121, and the governmental entity employing such officer, shall be subject to a civil cause of action.

Body cavity searches conducted pursuant to this section must be performed by a licensed physician or a licensed nurse in an area not easily viewed by the public. [1.2.8.b]

All search warrants or consent forms will be maintained in the case file. [1.2.8.c]

H. Plain View Seizure

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Officers may seize any illegal contraband or evidence of a crime that is in “plain view”. However, each of the following elements must be satisfied before the “plain view” exception is satisfied:

1. The officer must have the legal right to be in the particular place for view;
 2. The officer must have probable cause to believe that the object(s) is/are lawfully seizable, and
 3. The officer can physically reach the object(s) from the place the officer has a right to be.
- [1.2.4.g]

I. Crime Scene Searches

There is no “crime scene” exception to the search warrant requirement. Any seizure of evidence, whether at a crime scene or not, must be justified by a search warrant or the search must fit within one of the exceptions to the search warrant requirement. [1.2.4.d]

The **MINCEY RULE** is very important when dealing with crime scenes where a defendant and the victim both have an expectation of privacy. A prime example of this occurs in a domestic violence homicide or other violent crime inside the couple’s home. Once police have rendered aid to the victim(s), swept the scene for suspects and secured the scene, a search warrant is **REQUIRED** before any evidence may be collected.

In *Mincey v. Arizona* **437 US 385 (1978)** The Supreme Court cited that the police had violated the defendant's fourth amendment rights. Mincey, who was a dope dealer, had shot and killed an undercover narcotics officer during a drug raid. Mincey was wounded and one of his companions was killed in the subsequent gun battle. The Narcotics officers, following procedure secured the premises and notified Homicide. Homicide detectives conducted an investigation during which hundreds of pieces of evidence were seized by the police over a three-day crime scene search. Mincey was convicted of the murder of the undercover officer. The conviction was overturned by the Supreme Court, which maintained that Mincey's Fourth Amendment rights were violated and that the police who should have secured a search warrant. The Supreme Court basically informed law enforcement that "There wasn't any homicide crime scene exception" to the Fourth Amendment.

In 1984 The Supreme Court once again stepped in to address the same issue in *Thompson v Louisiana* **469 US 17 (1984)**. In the Thompson case, a woman who was reportedly depressed shot and killed her husband. She then took an overdose of pills in an attempt to commit suicide. She then suddenly experienced a "change-of-heart" and decided she didn't want to die. She called her daughter, who in turn called the Sheriff's Department, which dispatched an ambulance and deputies to the woman's home. The woman was transported to the hospital where she was treated. Investigators were called to the house and gathered evidence of the murder in the crime scene. The woman was subsequently charged and convicted in the murder of her husband. The United States Supreme Court ruled against The State of Louisiana citing the Mincey Decision and the expectation of privacy provided in the Fourth Amendment. The woman's conviction was overturned. Once again the courts ruled that there was NO Homicide Exception and that the police were required to obtain a search warrant.

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I. Policy

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If officers wish to expand the scope of the searches/inventories established in Chapter III Section 1, they must obtain a search warrant to do so, absent any exigent circumstances. The definition of exigent circumstances includes those emergency situations in which a reasonable person would believe serious physical harm or the destruction of evidence is imminent and will result if the officer does not take the immediate action to prevent same.

II. Procedures

Officers who desire to secure a search warrant may contact the City Attorney for assistance in the preparation of the warrant. In the event the City Attorney cannot be contacted, the Attorney General's Office is available to assist officers in the preparation of a warrant. Officers are encouraged to get technical assistance if they feel it is needed. However, the officer may prepare the warrant on his own, after getting approval from his commanding officer. The receipt and execution of search warrants will be documented on the Legal Process Tracking Form. The form and the warrant will be included in the case file. [74.1.2, 74.1.2].

Search warrants may be signed by a judicial magistrate or a *duly elected judge*.

A. Preparation of Search Warrants:

An original and two (2) copies must be prepared. The original is served by the officer to whom the warrant is issued, one copy is left with the Court and the other is left with the defendant.

The original and copies must contain the date, time, and the name of the officer to whom issued. Copies must be identical with the original. If these requirements are not met, the warrant is void regardless of the probable cause shown in the affidavit.

Once the officer has obtained a warrant, he will be required to go to the General Sessions Court Clerk's Office and get a number on the warrant from the Clerk's log book. This may be done before the warrant is executed or after the warrant is executed, but must be done before the warrant is returned to court.

B. Execution:

A search warrant must be executed within five (5) days after its issuance. It may be served either in the daytime or the nighttime. The search warrant may only be executed by the law enforcement officer, or one of them, to whom it is directed. Other persons may aid such officer at the officer's request, but the officer must be present and participate in the execution.

1. Notice and Use of Force:

Whenever possible, a uniform officer should be present and visible when executing a search warrant, for the safety of the officer. An officer must give notice of his authority and purpose before using force to gain entry; reasonable force may be used to execute the warrant. Notice is not required where no one is present at the time of the execution of the warrant. Where no one is present at the time of the execution, the defendant's copy should be left on the premises. If the person whose house is searched is known to

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be in jail, the copy should be taken to him rather than left at the scene of the search, if the premises are not occupied.

Undue excessiveness or severity in the execution of the warrant is a misdemeanor.

2. Search of Persons on Premises:

When a person or persons are named or otherwise described in the warrant and affidavit, officers are authorized to search them pursuant to the warrant. However, if the warrant refers to "unknown parties", then you are not authorized to search every person on the premises, only those persons who are directly in control of handling, or appear to be physically in possession of, the items for which you are searching.

You would be justified in engaging in a frisk of the persons on the premises to insure that they are not armed and do not pose a threat to you while conducting a search. You may require persons on the premises to remain in one room while the search is conducted. It will be the uniform officer's responsibility on the scene to secure and watch all persons on the premises during the search. The uniform officers are not to assist in the search unless requested. If the items described in the warrant are found, and a decision is made to arrest a person, then a search of that person would be justified as a search incidental to arrest. Whether or not all persons on the premises would be arrested would depend on the facts and circumstances of each case tending to indicate their particular involvement in the items seized in the case being investigated.

Persons arriving on the premises who are not named in the warrant may not be searched pursuant to the warrant. However, you would be justified in conducting a frisk if you suspect that they were armed. You would not be justified in searching their vehicle unless it was described in the warrant.

3. Seizure of Evidence:

As a general rule, only those items described in the warrant may be seized pursuant to the warrant. Officers would be justified in looking in any area where the items are likely to be concealed. If, during the process of the search, other items are discovered which are known to be contraband or evidence of other crimes, then they may be seized pursuant to the "plain view" doctrine. To invoke the plain view doctrine, the discovery of the items must be unexpected and recognizable as evidence in other offenses. You cannot use an otherwise valid search warrant to conduct an exploratory search of the defendant's premises, to do so would make the search a general search and unlawful. It is best to photograph all evidence/ contraband found pursuant to the "plain view" doctrine in the location where it is found.

4. Receipt:

When conducting a search pursuant to a warrant, the person from whom the items are taken is entitled to a copy of the warrant as well as a receipt for the property taken.

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You may use the defendant's copy of the search warrant to write your receipt. The receipt should list all items taken from the defendant or from the premises where the search was conducted. Where no one is present at the time of execution, the receipt should be left on the premises, unless you know the defendant is in jail; and in such case the receipt should be taken to him.

C. Return of the Warrant:

All items seized pursuant to the warrant must be listed and described on the warrant. In the event the number of items seized is extensive, additional sheets of paper may be attached to the original warrant. The return must be made to the magistrate who issued the warrant. The warrant should be returned to the magistrate as soon as possible after it is served (within five (5) days).

After the warrant has been executed and a return made, sufficient photo copies of the warrant and the completed Legal Process Tracking Form should be made and kept as part of the investigative file. Copies should be made of the inventory list reflecting all items seized pursuant to the warrant.

D. Strip Searches

As used in this section, "strip search" means having an arrested person remove or arrange some or all of such person's clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person. Strip searches are to be restricted and shall always be reviewed with the greatest of scrutiny. Such searches by police have been limited by statute. Tennessee Code Annotated Section 40-7-119(b) restricts such searches by police with the following language:

“No person arrested for a traffic, regulatory, or misdemeanor offense, except in cases involving weapons or a controlled substance, shall be strip searched unless there is reasonable belief that the individual is concealing a weapon, a controlled substance, or other contraband.” [1.2.8.a]

It shall be the policy of this department that if an arrestee can be reasonably secured, without danger to the officer, that such a search is approved by a supervisor conducted pursuant to a search warrant when deemed to be necessary, and be conducted by an officer of the same sex and in an area not easily viewed by the public. [1.2.8.b]

Inspectional Services will be notified via memorandum on all body cavity/strip search incidents, and will maintain a file on all such incidents.

E. Body Cavity Searches

Body cavity searches are strictly regulated by T.C.A. 40-7-121 which states in part that no person shall be subjected to a body cavity search by a law enforcement officer or by another person acting under the direction, supervision or authority of a law enforcement officer

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unless such search is conducted pursuant to a search warrant issued in accordance with Rule 41 of the Tennessee Rules of Criminal Procedure. The issue of whether a person subjected to a body cavity search consented to such search is irrelevant and shall not be considered in determining whether the search was a valid one under the provisions of this section, unless the consent is in writing on a preprinted form and contains the following language: [1.2.8.a]

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I understand that a body cavity search may involve both visual and physical probing into my genitals and anus. I understand that I would not be prejudiced or penalized by declining to give my consent to be searched in this manner.

A law enforcement officer who conducts or causes to be conducted a body cavity search in violation of TCA 40-7-121, and the governmental entity employing such officer, shall be subject to a civil cause of action.

Body cavity searches conducted pursuant to this section must be performed by a licensed physician or a licensed nurse in an area not easily viewed by the public. [1.2.8.b]

Inspectional Services will be notified via memorandum on all body cavity/strip search incidents, and will maintain a file on all such incidents. All search warrants or consent forms will be maintained in the case file. [1.2.8.c]

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I. Purpose

To help officers determine when field interviews are necessary, to establish procedures for conducting field interviews safely; and to establish procedures for forwarding any information / intelligence gathered in field interviews. [41.2.4]

II. Policy

The Memphis Police Department expects and encourages officers to conduct field interviews. Field interviews are valuable both to deter criminal activity and to aid criminal investigations, but they must be conducted with respect for constitutional safeguards and community relations. Field interviews frequently lead to building reasonable suspicion for conducting a frisk/ pat-down search, or even probable cause for an arrest.

The recording of field information affords the communication of suspect and suspicious person information in a consistent, accurate, and timely manner; it directly supports the investigative function of the department, and is an integral part of effective patrol procedures. Memo's submitted regarding field information will provide accessible intelligence, which may link a suspect or witness to crime or perhaps place an individual or a vehicle at a particular place and time.

III. Definitions:

- A. Field interview** -A brief encounter with a person to determine the person's identity and to resolve the officer's suspicions about possible criminal activity. A field interview resolves an ambiguous situation and contrasts with a stop, which is based on reasonable suspicion of criminal behavior. Field interviews require voluntary cooperation of citizens, and officers must ensure that their words or actions would indicate to a reasonable person that the person is free to leave or ignore the police presence. The person may be requested, but not compelled to provide identification or other information.
- B. Reasonable suspicion** – Articulation of facts that lead an experienced officer to reasonably suspect that a crime has been or is about to be committed. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated.
- C. Stop** - The detention of a subject, whether on foot or in a vehicle, for a brief period of time. In order to make the stop, the officer must have reasonable suspicion to believe that criminal activity is afoot and that the person to be stopped is involved. The following situations may be considered in determining whether reasonable suspicion exists :
 - 1. The individual (or individual's vehicle) matches the physical description of a suspect (or suspect's vehicle) in a recent crime.

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2. A person has exhibited furtive conduct such as fleeing from the presence of an officer or attempting to conceal an object from the officer's view.
3. The time of day or night is inappropriate for the suspect's presence in a particular area.
4. A person exhibits unusual behavior, such as staggering or appearing to be in need of medical attention.
5. The individual is in an area where a crime pattern or series has been identified, during the time of day when that activity has been occurring.
6. The suspect is carrying an unusual object, or his clothing bulges in a manner consistent with concealing a weapon.
7. Any other circumstances known to the officer that can be articulated, in light of the officer's training and experience, which creates reasonable suspicion of criminal activity.

Hearsay information is acceptable. However, in order for the information to be credible, the officer must have some means to gauge the reliability of the informant's knowledge.

IV. Procedures

As a general rule, field interviews may be conducted anywhere the officer has a right to be present.

The following guidelines should be followed regarding the field interview:

Before approaching more than one suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can be delayed until such assistance arrives.

Officers shall clearly identify themselves as a Memphis Police Officer and, if not in uniform, display identification. Officers will 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.

During the interview, officers should confine their questions to those concerning the suspect's identity, place of residence, and other matters necessary to resolve the officer's suspicions.

Miranda warnings are not required during field interviews.

When citizens refuse or cease to cooperate during an interview, the refusal itself cannot be used as the basis for escalating the encounter into a stop and frisk.

Field contacts shall not be done to coerce a person to leave an area where he or she has a legitimate right to be and where no violation of law has occurred.

Wants/Warrants Checks--All persons contacted for field interviews should be checked for outstanding warrants.

Field interviews must be conducted as briefly as possible. The field interview may not extend beyond the place where it was first affected, or the immediate vicinity thereof, without the express and voluntary consent of the person. Should the

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suspicion be reinforced with additional information or the officer develops probable cause, the period of detention may be lengthened.

V. Field Investigation Memos

The documentation of suspicious or criminal field contacts will be accomplished by the submission of an incident database memo to the appropriate investigative bureau of the Memphis Police Department. An incident database memo should be submitted by any member of the department who observes, receives information/intelligence, or has contact with any person or persons whom they believe may have been involved in or may have knowledge of any criminal activity. Use of this process will allow the information generated to be made available to the appropriate investigative personnel in a timely manner.

If an officer performs a lawful field interview and detects a suspicious person(s) or discovers other pertinent information, the officer should forward such information to the appropriate investigative bureau, and any of the following available information must be included:

- Related incident numbers.
- Full name of person interviewed.
- Address/telephone number of person.
- A brief statement of the reason for the interview and the results of the interview.
- Date of birth.
- Physical description.
- Time and date of interview.

When completing a Field investigation memo, officers should follow these guidelines:

- Quality, not quantity of information shall be the guiding principle in preparing the field investigation memo.
- The field investigation memos are not intended and will not be used to replace an offense report.
- Officers shall consider the circumstances and significance of the contact in making their determination as to whether or not the memo should be completed. Experience, knowledge and good judgment shall be exercised.
- If any doubt exists whether or not a memo should be completed, the officer's immediate supervisor should be consulted.
- Most of the information in police reports is subject to public record, and a citizen has the right of access *unless* it:
 - (a) Concerns an active investigation.
 - (b) Would jeopardize the safety of an officer.
 - (c) Would reveal the identity of an informant.

The Crime Analyst of Investigative Services shall be responsible for evaluating and disseminating any misrouted information to concerned departmental components and outside agencies.

MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES
SECTION: Field Interviews

VI. Gang TRAC

The Memphis Police Department has developed Gang TRAC which is accessible to any commissioned Memphis Police Officer through the MPD Kiosk. Gang TRAC is available Via PDA and Desktop. Officers will be able to enter and search gang information in compliance with the Tennessee Bureau of Investigation's 10 point rule.

To utilize Gang TRAC officers must:

- log into the Memphis Police Department Kiosk;
- select the appropriate database on the left side drop down menu;
- select search or enter and fill in the form with as much information as possible.

Only persons certified as gang members as outlined in the TBI's 10 point rule will be entered into the database. Gang TRAC is an electronic version of the gang form that officers have been using in the field. An officer can use either their PDA or a desktop computer to enter a person into Gang TRAC or to search a person in the Gang TRAC database.

MPD's Gang TRAC links to the previously used AIMES gang database and to the Jail Management System's (JMS) Tracking Active Gangs (TAG) database.

All entries into Gang TRAC will be reviewed for accuracy and completeness. The information entered is vital to the success of the program. Only commissioned officers will be able to search and retrieve data through the MPD Kiosk. This will aid in the identification of suspects by nicknames, gang affiliation and tattoos.

Any questions or suggestions should be emailed to the Gang TRAC administrator,
Officer David Shedd, at David.Shedd@memphistn.gov.