

MAUI COUNTY POLICE DEPARTMENT

GENERAL ORDERS
CHAPTER 101
ROLE AND AUTHORITY

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New Materials underlined

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INVESTIGATIVE DETENTION AND PAT-DOWN SEARCHES
G.O. 101.4

I. PURPOSE

The purpose of this policy is to provide guidelines and procedures to officers in determining when investigative detention and pat-down searches are warranted and the manner in which they are conducted.

II. POLICY

Investigative detention or field interview is an important point of contact for officers in the prevention and investigation of criminal activity. These encounters may be perceived by some as a means of police harassment or intimidation against groups or individuals even when conducted with respect for the citizens involved and in strict conformance with the law. In order to maintain the effectiveness and legitimacy of this practice and to protect the safety of the officers involved, the suspects, and the public in general it is the policy of this Department that officers shall conduct investigative detention and pat-down searches in accordance with the procedures set forth in this directive.

III. DEFINITIONS

INVESTIGATIVE DETENTION: 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 officers suspicion.

PAT-DOWN SEARCHES: A "frisk" or external feeling of the outer garments of an individual.

REASONABLE SUSPICION: Articulate facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been or is about to be committed.

IV. PROCEDURES

A. Justification for conducting investigative detention.

Officers may stop individuals for the purpose of conducting an investigative detention only where reasonable suspicion is present. Reasonable suspicion must be more than a hunch or feeling, but need not be enough to establish probable cause sufficient to

make an arrest. In justifying the stop, the officer must be able to describe specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include but are not limited to;

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 criminal activity.
3. The time 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 the alleged crime.
8. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

B. Initiating investigative detention.

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a suspect if he or she has articulable, reasonable suspicion to do so. Guidelines when making an authorized investigative detention include;

1. When approaching the suspect, the officer shall clearly identify himself or herself as a police officer, if not in uniform, by announcing his or her 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, an officer should determine whether the circumstances warrant a request for backup and whether the contact can 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 suspicion. However, in no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries.

5. Officers are not required to give suspects Miranda warnings in order to conduct investigative detention or field interviews unless and until additional information is available and sufficient to establish probable cause for arrest.
6. Suspects are not required, nor can they be compelled, to answer any questions posed during these investigative detentions. 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.

C. Justification for conducting pat-down searches.

An officer has the right to perform a pat-down search of the outer garments of a suspect for weapons if he has been legitimately stopped with reasonable suspicion and only when the officer has a reasonable fear for his own or another person's safety. Not every investigative detention poses sufficient justification for conducting a pat-down search. Described below are some of the criteria that may form the basis for justifying a pat-down search. It should be noted that these factors are not all-inclusive, there may be other factors that could and should be considered. The existence of more than one of these factors may be required in order to support reasonable suspicion for the search.

1. The type of crime suspected. Particularly in crimes of violence where the use or threat of a weapon 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 a weapon.
5. The appearance and demeanor of the suspect.
6. Visual indications which suggest that the suspect is carrying a firearm or other weapon.
7. The age and gender of the suspect. Whenever possible, pat-down searches should be performed by officers of the same sex.

D. Performing a pat-down search.

When reasonable suspicion exists to conduct a pat-down search, it should be performed with due caution, restraint and sensitivity. These searches are only justifiable and may only be performed to protect the safety of officers and others and may never be used to "shakedown" individuals or as a pretext for obtaining evidence.