	<u>SUBJECT</u> FIELD CONTACTS		<u>NUMBER</u> 402/21
	EFFECTIVE DATE: 09-25-09	AMENDS: 07-11-08	RESCINDS:
DISTRIBUTION: Administration, CID, Patrol, Communications, Clerical		REFERENCES: CALEA / IACLEA / TPCFA	

RELEVANT STATUTES:


[Texas Penal Code § 38.04 Evading Arrest or Detention](#)
[Texas Code of Criminal Procedure § 14.03 Authority of Peace Officers](#)

.10 INTRODUCTION:


- A. This procedure is designed to assist officers in determining how and when it is appropriate to stop persons for interviews and interrogations, and when it is appropriate to conduct a frisk.
- B. Officers are reminded that they must exercise discretion in the use of their authority to contact, stop, interview, interrogate, and frisk a person.

.20 DEFINITIONS

- A. "Stop and Frisk" means the police practice that involves the temporary detention, field questioning, and limited search for weapons of a person who officers have reasonable suspicion that the person has committed, is about to commit, or is committing an offense and who is also suspected of being armed (see [Terry v. Ohio, 392 U.S. 1 \(1968\)](#))
- B. "Access Area" means a readily accessible place where a weapon could be concealed and used in assaulting an officer or other person. Such place includes, but is not limited to:
 - 1. The passenger compartment of a vehicle;
 - 2. Various parts of the human body, and;
 - 3. Unlocked hand-carried cases, packages, purses, and bags.
- C. "Armed" means carrying a weapon or other instrument capable of inflicting death or serious bodily injury.

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- D. "Contact" means a personal encounter initiated by an officer for the purpose of conducting an interview.
- E. "Contraband" means anything prohibited or excluded by law.
- F. "Frisk" means a limited search of a person and his access areas for the purpose of discovering weapons.
- G. "Full Search" means a complete and unrestricted search of a person who has been arrested, made to discover weapons, contraband, and/or fruits, instruments, or evidence of a crime.
- H. "Interrogation" means the questioning of a person who has been stopped or arrested and is suspected of criminal activity.
- I. "Interview" means the questioning of a person who is not suspected of criminal activity at the time of the encounter.
- J. "Outer Clothing" is a term used to describe garments including coats, waistband and pocket exteriors when inside heavy coats, hats, pants, cuffs, boot tops, and such other places where the touching of a person would reveal that he is armed.
- K. "Reasonable Suspicion" means facts or circumstances which would lead a reasonable person to suspect that a crime has been committed or that a particular person is armed. Reasonable suspicion is less than probable cause, but more than a mere hunch.
- L. "Search" means either a full search predicated on probable cause or incidental to a lawful arrest, or a limited search known as a frisk.
- M. "Stop" means an intentionally initiated encounter and temporary detention of a person by an officer who has reasonable suspicion to believe that the person is involved in criminal activity, for the purpose of interrogating the person.
- N. "Suspect" means an individual who an officer has reasonable suspicion to believe that the person has committed, is about to commit, or is committing an offense.


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.30 CONTACTS AND INTERVIEWS


- A. An officer, in a place he has a lawful right to be, may contact any person and interview him under circumstances where an officer feels the interview is necessary. However, the officer may not arbitrarily stop any person he sees on the streets.
- B. An officer identifies himself as an officer when initiating a contact, unless his identity is obvious.
- C. Persons who are contacted for the purpose of an interview and who are not suspects may not be detained against their will for the purpose of an interrogation. They may be requested to identify themselves, but may not be compelled to do so.
- D. Persons contacted for the purpose of an interview are permitted to go their way if they choose to do so.
- E. If, during an interview, an officer develops reasonable suspicion to believe the person is involved in criminal activity, the person may be considered a suspect and detained.

.40 STOPS FOR INTERROGATION

- A. An officer may stop a suspect for the purpose of conducting an interrogation.
- B. A suspect may be temporarily detained for the purpose of conducting an investigation and is not free to leave. The person may be restrained from leaving if necessary. An officer may use the amount of force necessary, except deadly force, unless deadly force is offered, to detain and overcome resistance of a suspect who is detained against his will.
- C. In identifying a person as a suspect, the officer must be able to point to specific suspicious conduct or circumstances that justify the detention. Examples of these elements which would assist an officer in justifying a stop and detention are:
 - 1. The person is making evasive or furtive movements;
 - 2. The person fits a wanted notice; (BOLO)
 - 3. The person is near the scene of a recently committed/reported crime;

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4. The person's demeanor or presence is unusual for the time or the place; and/or
 5. The officer has received information that the person is involved in criminal activity.
 6. In evaluating the person's conduct or appearance, an officer can rely on his training and experience to determine whether or not the person is a suspect.
- D. An officer can base his suspicion that a person is a suspect on information received from a citizen informant, including an anonymous informant.
- E. An officer must be able to explain the reason why a person was detained and interrogated. He does not need to point to any one thing that alone would justify his action but should refer to several things, each of which when taken alone may seem harmless, but when considered together by an officer who is trained or experienced in detecting criminal activity, raises a reasonable suspicion of a person's involvement in criminal activity.
- F. A suspect lawfully stopped for an interrogation may be detained for the length of time necessary to:
1. Verify his identification;
 2. Account for his conduct;
 3. Account for his presence; and
 4. Ascertain whether a crime has been committed.
- G. A suspect who is detained against his will is informed by the officer that: He is not under arrest, but is being temporarily detained to determine if he is involved in any criminal activity;
- H. If the suspect refuses to answer the officer's questions satisfactorily, refuses to report or gives a false report of his name or residence address, such refusal is considered along with other facts to determine whether an arrest should be made, and that failure to identify himself adds to the probable cause to arrest.
- I. A suspect who is not under arrest and who is detained against his will is released:
1. As soon as he provides a satisfactory explanation of his presence and his actions; or

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2. After “thirty” (30) minutes, if the officer has been unable to develop probable cause for an arrest.

.50 FRISKS

- A. An officer may frisk a detainee if he has reason to fear for his safety. The frisk must be justified independent of the contact or stop.
- B. An officer may frisk a person whom he has stopped or contacted at any time during the encounter so long as he has reason to fear for his safety prior to the frisk.
- C. Officers consider the following factors in developing reasonable suspicion for a frisk:
 1. The person makes furtive or evasive moves;
 2. A companion is found to be armed;
 3. The person is a suspect in an offense which involved the use of a weapon;
 4. There are bulges in the person’s clothing or efforts by the person to conceal the object;
 5. Knowledge by the officer that the person has been reported to customarily or occasionally carry weapons;
 6. The person’s clothing is peculiar (i.e. wearing a coat during the summer); or
 7. Upon receiving information from an informant that the person is armed.
- D. A police officer must be able to explain why a person was frisked. The officer need not point to any one thing that would justify the frisk, but should refer to several things, each of which, when taken alone may seem harmless, but when considered together by an officer who is trained or experienced in dealing with criminal suspects, raises a reasonable suspicion that the person poses a threat to the officer’s safety.

.60 SCOPE OF FRISKS

- A. A frisk is limited to the search of a person’s access areas.

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- B. In situations where the person is a female, a female officer should conduct the frisk of the person. In cases where a male officer has reasonable suspicion to believe that a weapon is secreted in a particular place on a female and a female officer is not present, the male officer may reach directly into that area to seize the weapon.
- C. An officer may frisk a person's vehicle if the person is in the vehicle or near enough to the vehicle to reach in it at the time of the stop or contact and the officer has reasonable suspicion to believe the vehicle contains a weapon.

.70 RESULTS OF FRISKS

- A. When an officer, during the course of a frisk, feels an object or item that he reasonably suspects is a weapon, the officer removes the object or item for closer examination.
- B. If the object or item removed is a weapon, and the person is not exempt from the Texas Penal Code provisions prohibiting the carrying or possession of the weapon, the officer arrests the person. The weapon is listed as evidence and a full search of the person is conducted incidental to the arrest.
- C. If the object or item removed reasonably appears to be or contains contraband or evidence, the officer arrests the person. The item or object is listed as evidence and the officer conducts a full search of the person incidental to arrest.

.80 REPORTS

- A. An officer shall document all field contacts on a Crimestar Incident Report in the following situations:
 - 1. When an officer stops and interrogates a suspect who was not arrested and the details of the stop and interrogation are not included in an offense or incident report; or
 - 2. When the officer conducts a frisk of a person who was not arrested and the details of the frisk are not included in an offense or incident report.