



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 1.2.3

TITLE: STOPS AND PAT-DOWNS (FRISKS)

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PURPOSE

All stops, searches, and arrests are to be conducted in accordance with the rights secured or protected by the U.S. Constitution and laws of the United States and the State of Louisiana. This Chapter sets forth the requirements that apply to all stops, including pedestrian, vehicle stops, and other stops. Additional particularized requirements apply for vehicle stops and are set forth in **Chapter 1.2.4.3 - Vehicle Stops**.

POLICY STATEMENT

1. Members of the Department shall not use race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity as a factor for conducting a stop unless there is an articulable reason for it to be, such as a description of a specific suspect or suspects.
2. NOPD officers shall be fair, impartial, and courteous during stops and shall take the necessary action in a professional manner.
3. Officers shall exercise good judgment and sound discretion when determining the best action to take, including de-escalation, and shall not unnecessarily embarrass, demean, cause harm to individuals, or create an unnecessary public safety risk.
4. On all investigatory stops and detentions, when the officer deems it safe and appropriate to do so, officers will explain to the subject in a professional, courteous manner why they were stopped or detained.

DEFINITIONS

Arrest—The taking of one person into custody by another. To constitute arrest there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the one arresting him. (La. C.Cr. P. Art. 201)

Consensual Contact—Casual conversation between an officer and an individual during which the individual clearly is free to walk away or ignore the officer. A consensual contact is not considered a “stop” within the meaning of the law or this Chapter. If a reasonable person would not feel free to terminate the encounter and walk away, the encounter is not consensual and

may be considered an investigatory stop. During a consensual contact, the officer shall not position his/her body or vehicle in a manner that would make a reasonable person believe that he or she is not free to walk away. Officers shall not engage in any physical gestures, such as placing the officer's hand on his/her firearm, that would make a reasonable person believe that he or she is not free to walk away.

Exigent circumstances— Circumstances that would cause a reasonable person to believe that prompt action was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

Facially Sufficient - For purposes of this chapter, an immigration detainer is deemed facially sufficient if the officer verifies through NCIC or the issuing federal immigration agency the immigration detainer is valid.

Stop, Search, and Arrest Card (FIC/SSA) – An information card that documents the required reporting for a Field Interview Card (FIC). The FIC/SSA card may be completed as a portion of an offense/incident report, incident arrest report, or as a stand-alone report when a Field Interview Card is required under NOPD Policy. In the event an offense/incident report is required for any incident that would also require an FIC, the SSA card portion of the report documents the FIC information and a separate FIC is not required.

Investigatory Stop or Stop—The temporary involuntary detention and/or questioning of a person and/or vehicle and occupants to investigate potential criminal conduct, during which a reasonable person in the subject's position would not feel free to leave, as defined in *Terry v. Ohio*, 392 U.S. 1 (1968). Investigatory stops require an officer to have reasonable articulable suspicion that the individual or vehicle occupant has engaged, is engaging, or is about to engage in criminal conduct.

Pat-down/frisk—An external examination of the outer garments of an individual for the purpose of ensuring the individual does not possess any objects that could be used as a dangerous weapon. Pat downs must be based on an officer's reasonable articulable suspicion that the person is both armed and dangerous and should be limited to what is necessary to detect weapons.

Probable Cause— Exists when the facts and circumstances within an officer's knowledge would lead a reasonable person to believe that a crime has been committed for an arrest or that evidence of a crime is present in a specific location for a search.

Reasonable Suspicion— Exists when the facts and circumstances within an officer's knowledge would lead a reasonable person to believe that a crime has been committed, is being committed, or is about to be committed. The standard for reasonable suspicion is based on the totality of circumstances and is less than probable cause but more than a mere hunch or gut feeling.

Search—An inspection, examination, or viewing of persons, places, or items in which an individual has a legitimate expectation of privacy. This applies to legal persons as well as natural persons.

Vehicle Stop—The involuntary detention of a motor vehicle and its occupants. Vehicle stops may be conducted (1) where there is probable cause to believe that the driver has committed a traffic violation or (2) where there is reasonable suspicion that a vehicle occupant has engaged, is engaging, or is about to engage in criminal conduct.

GENERAL INFORMATION

5. NOPD officers, either on-duty or off-duty, must have a functioning police radio when conducting a stop.
6. NOPD officers are not authorized to make stops outside of Orleans Parish, unless the violation would be considered a felony under state law. If a stop for a felony violation is made outside of Orleans Parish, the officer shall inform the law enforcement agency with jurisdiction as soon as possible.
7. Non-uniformed officers conducting stops shall display their badge, credentials, or other property that clearly indicates they are police officers and identify themselves as such.

LEVELS OF POLICE-CITIZEN CONTACT

8. In general, there are three levels of interaction between the police and the public:
 - a. consensual contacts;
 - b. stops; and
 - c. arrests.

STOPS

9. Stops must be based on what the officer knew before prior to the stop. Information learned during a stop can lead to additional reasonable suspicion or probable cause but cannot retroactively be used to justify original stop.
10. A stop (detention) may only last as long as reasonably necessary to confirm or dispel the officer's suspicions.
11. Unless justified by the articulable reasons for the original stop, officers must have additional articulable justification for each individual for further limiting a person's freedom during a stop, such as:
 - (a) Taking a person's identification or driver's license away from the immediate vicinity;
 - (b) Transporting a person any distance away from the scene of the initial stop, including for the purpose of witness identification.

Taking any of these actions does not necessarily convert a stop into an arrest.

12. When releasing a person at the end of a stop, officers should offer an explanation of the circumstances and reasons for the stop, if not already addressed.
13. Individuals who have been arrested or detained based on reasonable suspicion must provide the detaining officer with their name and identify themselves. Individuals who are not subject to a lawful arrest or detention are not required to provide their identification when requested by an officer, such as passengers on a traffic stop, unless specific reasonable suspicion exists to detain that particular individual.
14. An individual who is arrested or lawfully detained by an officer must provide their name, address and an explanation of their actions. Law prohibits individuals from providing false information. (RS 14:108 (B) (1) (c) and CCRP 215.1). Officers must articulate reasonable suspicion for each individual detained (with limited exceptions regarding traffic stops and the execution of search warrants).
15. If, during a detention, an individual is discovered to be wanted for criminal activity, officers should take the appropriate steps to effect the arrest of the wanted individual.

16. Officers shall not make inquiries into an individual's immigration status unless specifically required as part of an ongoing investigation, or to assist with the status of a cooperating victim or witness. If a cooperating victim or witness is subject to an immigration detainer and is not being arrested, officers shall consult Chapter 55.1 – Victim and Witness Assistance for further guidance.
17. In the event a detained individual is discovered to be subject to a Facialy Sufficient detainer, officers should treat the incident as a signal 17F – fugitive attachment and take appropriate steps to transfer the custody of that individual to the Orleans Parish Sheriff's Office. If the individual is refused by OPSO, a supervisor shall contact command desk for further instructions. (Transferring Custody of an NOPD Prisoner to an Outside Agency is governed by Chapter 71.1 Prisoner Transportation and Guarding.)
18. Officers must notify their supervisor of the presence of outside agencies at any scene where federal enforcement actions may be taken. NOPD Federal Task Force Officers are not considered outside agents for the purpose of this paragraph.
19. Supervisors shall respond to the scene to oversee and guide NOPD officers when notified of an outside agency on any scene where federal enforcement actions are being taken. In addition to responding to the scene, the supervisor shall notify the commander of the district where the enforcement action is being taken and remain with the officer until custody is transferred.

FRISKS (PAT-DOWNS)

20. Officers may conduct a frisk or pat-down of stopped subject(s) if they reasonably suspect that the subject(s) may be armed and presently dangerous.
21. The purpose of the frisk or pat-down is to discover weapons or other items that pose a danger to the officer or those nearby and should be limited to an external examination of the outer garments of an individual.
22. The decision to conduct a frisk or pat-down must be based upon the totality of the circumstances and the reasonable conclusions drawn from the officer's training and experience.
23. A frisk or pat-down may not be used as a pretext to search for incriminating evidence.
24. An individual's presence in a "high-crime area" is not, by itself, sufficient to justify a frisk.
25. In **addition** to the basis for the stop itself, in order to conduct a frisk the officer must have reasonable suspicion that the subject may be armed and pose a threat to the officer and/or others. This may include, but is not limited to:
 - (a) Prior knowledge that the subject carries a weapon;
 - (b) Suspicious behavior, such as failure to comply with instructions to keep hands in sight; and
 - (c) Observations, such as suspicious bulges, consistent with carrying a concealed weapon.
26. Pursuant to the "plain-feel doctrine," police may seize contraband discovered in the course of a frisk but only if the object whose contour or mass makes its identity immediately apparent. The discovery must be made without manipulating clothing or objects to determine if they are contraband.

27. Conducting a frisk during a consensual civilian contact converts the encounter to a detention.

ANONYMOUS TIPS

28. Information or descriptions provided through anonymous tips without additional fact are insufficient to establish reasonable suspicion or probable cause to stop and search individuals.
29. When acting on an anonymous tip, officers must corroborate the anonymous information to develop reasonable suspicion or probable cause. This may be accomplished through officers' observations while on the scene, securing more complete information from an anonymous caller, or other circumstances that support the information received.

REPORTING

30. Officers should document stops and frisks in a manner consistent with department policy when required or the officer or supervisor determines documentation should be conducted for informational or reporting purposes.