

## Contacts and Temporary Detentions

### 420.1 PURPOSE AND SCOPE

This policy provides guidelines for conducting field interviews (FIs) and pat-down searches and/or photographing individuals who are temporarily detained in the field but not arrested.

#### 420.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When a deputy 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 deputy is voluntary.

**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 deputy'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, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by deputies 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 deputy, the detainee, or others.

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

**Temporary detention** - When a deputy 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 deputy restrains a person's freedom of movement.

### 420.2 POLICY

The St. Mary's County Sheriff's Office respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the deputy, the decision to temporarily detain a person and complete an FI, pat-down search or field photograph shall be left to the deputy based on the totality of the circumstances, officer safety considerations and constitutional safeguards.

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Contacts and Temporary Detentions*

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#### **420.3 TEMPORARY DETENTIONS**

At the commencement of any temporary detention, absent exigent circumstances, a deputy should (Md. Code CP § 2-109):

- (a) Display identification to the temporarily detained individual.
- (b) Provide the individual with the deputy's name and identification number, the name of the Office, and the reason for the contact.

#### **420.4 FIELD INTERVIEWS**

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

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the St. Mary's County Sheriff's Office to strengthen community involvement, community awareness, and problem identification.

##### **420.4.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the deputy 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) Appearance or 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 suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggests 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 deputy.

#### **420.5 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the deputy's training and experience, a deputy may pat a suspect's outer clothing for weapons if the deputy has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the deputy 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:

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Contacts and Temporary Detentions*

---

- (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 deputy.
- (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 deputy. A cover deputy should be positioned to ensure safety and should not be involved in the search.

In Michigan v. Long, the Supreme Court extended the limited pat down for weapons to include the passenger compartment of a vehicle and any container in the passenger compartment. The requirement remains that the deputy sheriff must have a reasonable belief, based on specific and articulable facts, that a weapon may be found.

- (a) Protective search is allowed only after the threat of danger becomes a distinct possibility.
- (b) The search is limited to an area which was within the immediate control of a subject, i.e. passenger compartment of a vehicle and containers in the compartment, to include purses or bags.
- (c) The area searched could conceivably contain a weapon.

#### 420.5.1 LIMITED SEARCH FOR WEAPONS

A deputy may make an inquiry and conduct a limited search of a person if, in light of the deputy's observations, information and experience, the deputy reasonably believes that (Md. Code CR § 4-206):

- (a) A person may be wearing, carrying or transporting a handgun in violation of the law.
- (b) Because the person possesses a handgun, the person is or presently may be dangerous to the deputy or to others.
- (c) Under the circumstances, it is impracticable to obtain a search warrant.
- (d) To protect the deputies or others, swift measures are necessary to discover whether the person is wearing, carrying or transporting a handgun.

#### 420.5.2 DOCUMENTATION OF PAT-DOWN SEARCHES

Criminal Law Title 4, subsection 206 of the Annotated Code of Maryland requires the completion of the Firearms Report (MSP Form #97) when conducting a limited search for a firearm ("stop and frisk").

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Contacts and Temporary Detentions*

---

- (a) The MSP-97 form will be utilized when a "stop and frisk" is performed, regardless of the outcome of the search. The "stop and frisk" may extend beyond a suspect's clothing to a bag or container within the reach of the suspect.
- (b) When the MSP-97 form is used in the "stop and frisk" instance, it will be completed by the deputy sheriff, signed by a supervisor, and submitted for processing with the shift paperwork. The deputy sheriff will state in the Offense/Incident Report that a stop and frisk was conducted, and an MSP-97 form was completed and submitted to MSP. The same procedure is required when submitting the MSP-97 form for firearms located incidental to an arrest or a trace report. Deputy Sheriffs will make a reasonable effort to obtain driver's license and social security numbers before forwarding the form for processing.
- (c) When a handgun is recovered, the Maryland State Police Handgun Permit Section will file the MSP-97 form and trace the weapon recovered to its last known owner. The section will also verify any/all applicable handgun permits. Once the search is completed, they will report their findings to the originating deputy sheriff.

#### **420.6 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 deputy shall carefully consider, among other things, the factors listed below.

##### **420.6.1 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 deputy should have the individual read and sign the appropriate consent form or the consent shall be captured by their body worn camera, if equipped.

##### **420.6.2 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 deputy 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 deputy'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.

##### **420.6.3 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the photo evidence file, attached to the associated Field Interview Report (FIR) in Delta Plus or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular

## *Contacts and Temporary Detentions*

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crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Shift Supervisor should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FIR or documentation is relevant to criminal organization/enterprise enforcement, the CID Supervisor will forward the photograph and documents to the designated criminal intelligence investigator. The investigator's supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Section.

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.

### 420.6.4 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.

### 420.7 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, deputies 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, deputies 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 office 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.

# St. Mary's County Sheriff's Office

LE Policy Manual

## *Contacts and Temporary Detentions*

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