



GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



EFFECTIVE DATE: AUGUST 16, 2002	REVISED DATE:	NO. PAGES: 1 of 6	NUMBER: 2.3.09
SUBJECT: FRISK SEARCHES			
ASSOCIATED MANUAL:		RELATED ORDERS:	
CHIEF OF POLICE: <i>Edward F. Lohn, Chief</i>			

PURPOSE: To establish Cleveland Division of Police guidelines for carrying out frisk searches.

POLICY: It is the policy of the Division of Police that frisk searches will be conducted in a manner that not only promote the safety of police officers and the public, but also afford the individual(s) stopped and frisked of their basic constitutional rights established by the constitutions of the United States and the State of Ohio.

PROCEDURES:

I. Weapons Frisks

A. Basis for a Terry Frisk

1. Officers may frisk a person for weapons, after identifying themselves, if not readily identifiable as law enforcement officers, if they have a reasonable, articulable belief that:
 - a. The person may be **armed; and,**
 - b. Poses a threat to the officer or others.
2. Pedestrians, personal effects and lunge areas in vehicles can be frisked.

B. Reasonable Suspicion That a Suspect is Armed

1. "Reasonable suspicion" for a valid frisk is more than a vague hunch and less than probable cause. If a reasonably prudent police officer under the circumstances would be warranted in believing anyone in the vicinity was in danger, a frisk is justified.

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SEE 202.02 & 202.04

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2. Every officer conducting a frisk must be prepared to cite the existence of specific facts in support of that officer's determination that a "reasonable suspicion" was present to stop the person in the first place.
3. That being the case, an additional articulable justification must exist to frisk the person. A frisk is **NOT** an automatic byproduct of a Terry stop.

C. Articulating Reasonable Suspicion for a Frisk

1. The existence of reasonable suspicion is determined by the totality of the circumstances. The totality is based on all of the facts known to the officer and the circumstances that existed at the time the stop took place.
2. Reasonable suspicion is obtained through activity perceived by an officer through his/her own senses, through information obtained from other persons, or through a combination of both factors, including the following:
 - a. *The Person's Appearance:* Is the person wearing clothing or carrying items that are capable of concealing a weapon? Do the clothes bulge in a manner suggestive of a concealed weapon?
 - b. *The Person's Actions:* Was a furtive movement made consistent with hiding a weapon as your presence was noticed or as you approached? Is the suspect displaying signs of extreme nervousness? Are the suspect's words or actions threatening?
 - c. *Prior Knowledge of the Person:* Does the suspect have a reputation for carrying weapons? Have you received information that the suspect is armed? Has this suspect previously assaulted officers or is the suspect known for violent behavior? What is the suspect's past criminal history?
 - d. *Area of the Stop:* Is the suspect near or at the location of a recently committed crime where the suspect was armed? Is this area known for high levels of violent crime or drug trafficking?

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- e. *Time of Day*: Is this a nighttime or low light encounter? Do conditions improve the ability of the suspect to assault you or conceal weapons?
- f. *Law Enforcement Training and Experience*: What training or experience do you have for dealing with street stops? Do you commonly find weapons during frisk situations? Where do you conceal weapons? What past behavior have you associated with armed suspects?
- g. *Law Enforcement Purpose*: Do your suspicions about this person relate to a violent or other serious offense? What type of crime are you investigating?
- (1) Violent crimes such as homicide, felonious assault, kidnapping, rape, burglary and drug trafficking make the frisk automatic.
 - (2) In the Terry decision, Justice Harlan wrote, “the right to frisk must be automatic if the reason for the stop is an articulable suspicion of a crime of violence.”
- h. *Companions*: Have you stopped a number of persons at once? Has the frisk of one person led to the discovery of a weapon?
- i. *Source of information*: From whom did you receive your information? How credible is the person you are receiving information from? How did this person obtain their information? Can you corroborate the information?
- (1) Information received from other police officers can be acted on without further analysis.
 - (2) Information received from upstanding citizens will be deemed credible and can be acted on once their basis of knowledge is established.
 - (3) Information received from confidential or criminal sources can be acted on but corroboration will protect their anonymity.

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- (4) Information received from anonymous sources must be corroborated and must be predictive of future behavior before any action can be taken.

II. Frisk Defined: A frisk is a limited protective search for concealed weapons or dangerous instruments.

A. Scope of the Search

1. The scope of a frisk is limited to a “patting down” of the outer garments and the officer should not reach inside the clothing unless an object is felt which the officer reasonably believes to be a weapon or dangerous instrument.
2. If the outer clothing is too bulky to allow the officer to determine if a weapon or dangerous instrument is concealed underneath, then the outer clothing may be opened to allow a patdown directly on the inner clothing.
3. A frisk does not allow a full-scale search of pockets, personal effects or other areas, nor a search for anything other than a weapon.
4. If the officer has a reasonable belief, based on reliable information or personal knowledge and observations, that a weapon or dangerous instrument is concealed at a particular location on the person, such as a pocket, waistband, or sleeve, then the officer may reach directly into the suspected area.
5. An officer may also frisk those areas that the person could reach to obtain an object (a vehicle interior) that could be used to harm the officer, if the officer reasonably suspects that the person is armed.
6. If during the course of a frisk, the officer discovers an object that is a container capable of holding a weapon or dangerous instrument and if the officer reasonably believes that it does contain such an item, the officer may look inside the object and briefly examine the contents.
7. If during a lawful frisk of a container or vehicle interior the officer discovers evidence or contraband those items may be seized under the plain view doctrine.

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III. Discovery of Weapon, Instrument, or other Property

- A. If a frisk or search discloses a weapon or instrument which may constitute a threat to personal safety, the officer may take it and keep it until the completion of the questioning, at which time it shall either be returned, if lawfully possessed, or the person so questioned shall be arrested if unlawfully possessed.
- B. Because weapons are not always of an easily discernable shape, any hard object discovered during a frisk, including keys, lighters, etc. can be removed to assure that they are not weapons.
- C. If, while conducting a frisk, an officer feels an object, which is reasonably believed not to be a weapon or dangerous instrument—the officer may not—on the basis of the officer's authority to frisk—take further steps to examine the object.
 1. However, if the nature of the object felt—in combination with other factors provides probable cause to arrest, the officer may then conduct a full-custody search incident to arrest; or
 2. If the object felt provides the officer with probable cause to believe it is contraband by its contour or mass, without any further examination, the item may be seized under the plain feel exception.

IV. Other Authorized Frisks for Officer Safety

- A. In certain limited circumstances officers can frisk drivers or occupants of cars without articulating suspicion that the person may be armed.
- B. If an officer effects a lawful traffic stop (based on probable cause for a violation observed or reasonable suspicion of criminal activity) the officer may frisk a driver or occupant before placing them into a police vehicle if:
 1. The person is placed in the police vehicle for a legitimate reason, which include:
 - a. The person is placed in the vehicle because they do not have a driver license, it is discovered that they are driving without

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privilege or the officer has received information that the driver may have a warrant and the information is being verified.

- b. The person is placed in the vehicle to prevent them from being subjected to a dangerous condition, such as a violent situation or hazardous condition on a roadway.
2. If the driver or occupant is placed in the police vehicle for officer convenience only, officers cannot frisk unless they receive consent to do so or at some point during the stop the officer develops articulable suspicion that the person may be armed.
- C. If probable cause to arrest the person is present, officers can conduct a more extensive search incident to the arrest, since frisk searches are so limited in scope.

**RESCINDED; EFFECTIVE 01/01/20
SEE 2.02.02 & 2.02.04**