Contacts and Temporary Detentions

419.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field and conducting a field interview (FI), as well as conducting a frisk for weapons pursuant to a lawful temporary detention.

419.1.1 DEFINITIONS

Consensual encounter - Occurs when an officer 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 officer is voluntary.

Field Interview (FI) - The questioning of an individual during a temporary detention.

Frisk - This type of search, also referred to as a pat-down search, is used by officers in the field subsequent to a temporary detention to check an individual(s) for dangerous weapons. The officer must be able to articulate a reasonable fear that the individual(s) may be armed or is a danger to the officer prior to conducting a frisk. A frisk involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Probable Cause - When the facts and circumstances are sufficient to lead a reasonable person to believe a person committed or is committing a specific crime and thereby forms the basis to make an arrest.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that a particular person has, is or is about to commit a crime (NDCC 29-29-21) and forms the basis to conduct a temporary detention.

Temporary detention - The brief detainment of an individual(s) in a public place, whether on foot or in a vehicle, based on reasonable suspicion. The purpose of the temporary detention is to determine the individual's identity and explanation of their actions in order to resolve the officer's suspicions. Although persons subject to temporary detention may be handcuffed in accordance with specific legal parameters and department training, it is not an arrest. However, If probable cause is developed during the temporary detention, it may evolve into an arrest.,

419.2 POLICY

The Fargo Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview, conduct a frisk for weapons or apply handcuffs shall be left to the officer based on the totality of the circumstances, officer safety considerations, department training, and constitutional safeguards.

419.3 TEMPORARY DETENTIONS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct a field interview, when there is articulable,

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reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicions. An officer may move a person a short distance during a temporary detention if reasonable based on the totality of the circumstances.

Officer's may demand the individuals name, however, absent other law violations, a person shall not be arrested solely for failing to identify themselves.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Fargo Police Department to strengthen community involvement, community awareness, and problem identification. Consensual contacts may evolve into a temporary detention or arrest based on the events or circumstances that occur during the consensual encounter.

419.3.1 INITIATING A TEMPORARY DETENTION

Prior to initiating the stop, the officer should be able to point to specific facts that, 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 the individual is part of a criminal enterprise or is engaged in a criminal act.

(b) Actions, physical, verbal, etc., suggesting that the individual is engaged in a criminal activity.

(c) Presence in an area or specific location at an inappropriate hour of the day or night.

(d) Presence in a particular area is suspicious.

(e) Carrying suspicious objects or items.

(f) Clothing that is inconsistent with the climate or weather, or clothes bulging in a manner that suggests the individual is carrying a dangerous weapon.

(g) Location in proximate time and place to an alleged crime.

(h) Physical description of a suspect and/or clothing worn that reasonably matches the description and/or clothing worn by a suspect in a recent crime.

(i) Prior criminal record or involvement in criminal activity as known by the officer.

419.3.2 RESTRAINTS DURING A TEMPORARY DETENTION

Individuals who are being temporarily detained may be placed in handcuff restraints only under specific and articulable circumstances, including but not limited to:

(a) Individual is verbally or physically uncooperative, fails to follow officer directions or is otherwise disorderly obstructing the officers lawful function.

(b) Individual continues to place hands in pockets, or move about as if attempting to identify an escape path.

(c) Multiple individuals are involved in disorderly behavior and investigation is needed in order to establish a victim(s) and/or suspect(s).

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The use of restraints during a temporary detention should be closely monitored by supervisors to ensure conformity with legal parameters and department policy. If the temporary detention evolves into an arrest, the officer shall formerly advise the subject they are under arrest (NDCC 29-06-17).

419.4 FRISKS

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat down a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may be armed or pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Items located may be seized as evidence and may lead to probable cause for an arrest.

Circumstances that may establish justification for performing a frisk include but are not limited to:

(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 officer.

(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 that suggest the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a frisk should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

419.5 REVISION DATE 01/23/2024

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