



CITY OF AKRON, OHIO
POLICE DIVISION
KENNETH R. BALL II, CHIEF OF POLICE

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SUBJECT Voluntary Contacts, Investigatory Detentions, Pat-Downs and Arrests		ISSUING AUTHORITY Chief Kenneth R. Ball II

I. POLICY

It is the policy of the Akron Police Department that all community-police contacts made by officers shall be conducted professionally and in accordance with established legal principles.

II. DEFINITIONS

- A. Arrest: Taking a person into custody
- B. Arrest warrant: A written order issued by a judge, magistrate, or other proper authority that commands a law enforcement officer to place a person under arrest.
- C. Custody: A person is in custody when placed under formal arrest or when a reasonable person in the individual's position would have understood the situation to constitute a restraint of freedom of movement of the degree that the law associates with formal arrest.
- D. Exigent Circumstances: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.
- E. Investigatory Detention: Temporary detention of a person for investigative purposes based upon reasonable suspicion that the person has committed, is committing, or is about to commit a crime, under circumstances that do not amount to probable cause for arrest.
- F. Pat-Down: A frisk or external feeling, by utilizing the hands without manipulation, of the outer garments of an individual for weapons.
- G. Probable Cause: When articulable facts and circumstances within an officer's knowledge and of which they had reasonably trustworthy information are sufficient to warrant a prudent person or one of reasonable caution to believe that the suspect has committed, is committing, or is about to commit an offense.
- H. Reasonable Suspicion: A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity. Reasonable suspicion must be

more than a hunch or feeling but need not meet the test for probable cause sufficient to make an arrest.

- I. Voluntary Contact: An encounter between a law enforcement officer and an individual that may be initiated by the officer for any reason and during which the individual is free to leave at any time.

III. PROCEDURE

A. Voluntary Contacts

1. Voluntary contacts may be initiated without probable cause, reasonable suspicion, or other indication of criminal activity by the individual when officers adhere to provisions of this policy.
2. Initiation of Voluntary Contacts
 - a. Officers may initiate a voluntary contact in any location where they have a legal right to be.
 - b. Persons “contacted” may not be detained in any manner against their will or frisked unless they provide consent or reasonable suspicion is established during the course of the contact to believe the person presents a danger to the officer and the officer has reasonable suspicion that they have committed, are committing, or are about to commit a crime.¹
 - c. If individuals ask whether they must respond to questions or remain in the officer’s presence, they shall be informed that they do not have to answer any questions and are free to leave at any time.
 - d. Where individuals refuse or cease to cooperate during a contact, they shall be permitted to leave.
 - e. Refusal of the individual to cooperate cannot be used as the sole basis for turning the “contact” into a “detention.”

B. Investigatory Detentions

1. Justification for Conducting an Investigatory Detention
 - a. Officers may stop individuals for the purpose of conducting an investigatory detention only where reasonable suspicion is present.
 - b. In justifying the stop, the officer must be able to point to specific articulable facts that, when taken together with rational inferences, reasonably warrant the stop.

¹ See *Terry v. Ohio*, 392 U.S. 1 (1968).

Such facts include, but are not limited to, the following:

- (1) The actions of the suspect suggest that they are engaged in a criminal activity.
- (2) The suspect is carrying a suspicious object.
- (3) The suspect's clothing bulges in a manner that suggests they are carrying a weapon.
- (4) The suspect is located in proximate time and place to an alleged crime.

2. Procedures for Initiating and Conducting an Investigatory Detention

- a. When approaching the suspect, officers shall clearly identify themselves as law enforcement officers. If not in uniform, officers should announce their identity and display department identification.
 - (1) Running at the sight of an officer is a factor that may be considered, but does not in itself, justify a stop.
 - (2) Anonymous tips and informant tips, absent any independent indication of reliability, established credibility, or officer observed confirmation, are not enough to establish reasonable suspicion.
- b. Officers should confine their questions to those concerning the suspect's identity and other inquiries necessary to resolve the officer's suspicions. In no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries and resolve suspicions. Officers shall be aware that prolonging an investigatory detention unnecessarily may cause a court to view the detention as an unlawful seizure if probable cause does not exist for an arrest.
- c. Officers are not required to give suspects Miranda warnings related to custodial interrogation in order to conduct investigatory detentions.²
- d. If the officer has no basis for making an arrest after conducting an investigatory detention, they should record the facts of the detention on a Field Interview Report and/or call notes.

C. Pat-Downs

1. Justification for Conducting Pat-Downs

- a. A law enforcement officer has the right to perform a pat-down of the outer garments of a suspect for weapons when:
 - (1) The suspect has been legitimately stopped with reasonable suspicion, and

² Custodial interrogations occur when one or more law enforcement officers question an individual while they are in custody. In the United States, when an individual is not free to leave, officers are required to inform them of certain rights (e.g., *Miranda* warning).

- (2) The officer has specific articulable facts that the suspect may possess a weapon on their person and poses a threat to the officer's or another person's safety.
 - c. Not every investigatory detention poses sufficient justification for conducting a pat-down. The following are some criteria that may form the basis for establishing articulable justification for performing a pat-down. Officers should note that these factors are not all-inclusive and the totality of the circumstances should be considered. The existence of more than one of these factors may be required in order to justify a pat-down.
 - (1) The type of crime suspected—particularly in crimes of violence where the use or threat of deadly weapons is involved.
 - (2) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
 - (3) Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.
 - d. Pat-downs shall be performed only to protect the safety of officers and others and shall never be used as a pretext to obtain evidence or for other purposes.
2. Procedures for Performing a Pat-Down
 - a. Whenever practical, pat-downs should be performed by officers of the same sex.
 - b. During the pat-down, officers shall feel only the outer clothing of the suspect using their hands, but without manipulation of fingers. Officers shall not place their hands in pockets unless they feel an object that could reasonably be a weapon or contraband.
 - c. If the suspect is carrying an object such as a handbag, backpack, or other item that may conceal a weapon, the officer should not open the item, but may pat-down the item. It is still a pat-down though and not meant for the officer to reach in the container unless something is discovered during the pat-down.
 - d. If during a pat-down, an officer recovers an illegal weapon or contraband, the officer may initiate an arrest based on probable cause.
- D. Arrests - Officers shall conduct arrests only when based upon probable cause or an arrest warrant.

1. Probable Cause

- a. Probable cause for arrest may be established by one of the following:
 - (1) Observations of the officer
 - (2) Information or evidence obtained during an investigatory detention or voluntary contact

- (3) An identified individual's specific complaint
- (4) Information provided by a law enforcement informant of proven reliability
- (5) Information provided by other law enforcement agencies
- (6) Information or evidence gathered during the course of an investigation

b. Officers shall not make arrests based solely on the following

- (1) Information received from an anonymous source
- (2) Mere suspicion not amounting to probable cause

2. Arrest Warrants

a. Except when a warrantless arrest is justified by the existence of probable cause, arrests shall be made under an arrest warrant.

b. Arrest warrants shall be obtained from the legal authority empowered to issue such warrants in this jurisdiction

c. Warrants shall be in the form prescribed by the law of this jurisdiction and shall adequately identify the person to be arrested. The warrant shall also provide such other information as is required by law.

d. Any officer to whom an arrest warrant is delivered shall examine it to ensure that it is in proper form, that all information required by law is provided, and that the warrant appears to be valid. The officer shall also take note of any restrictions placed upon the arrest by the language of the warrant.

e. Officers encountering persons with arrest warrants shall confirm those warrants through the LEADS operator.

3. Making the Arrest

a. No arrest shall be made at a time or in a manner contrary to any express limitations included in a warrant.

b. Arrests should be made at a time and place and in a manner that will maximize the probability of a successful arrest and minimize the danger to officers, innocent bystanders, and suspects.

c. The arresting officers shall identify themselves, inform the suspect of their arrest, and specify the charges for which the arrest is being made.

d. Officers not in uniform shall display their badges and credentials when making the arrest to ensure proper identification.

e. Officers have limited authority to enter a suspect's dwelling to arrest on a warrant, absent consent. Officers must:

- (1) Have a reasonable belief that the location is the suspect's residence (address is

- listed on the warrant); and
 - (2) Have a reasonable belief that the suspect is currently within the dwelling
 - (3) Prior to making forced entry, give notice of their intention to make the arrest; and
 - (4) Give a reasonable amount of time to allow compliance and be refused admittance.
- f. No officer shall enter premises owned or occupied by a third person to make an arrest unless the officer has a separate legal basis for entering the premises. Such a basis may be provided by:
- (1) Possession by the officer of a search warrant for those premises,
 - (2) Consent of a person with apparent authority by law to give such consent, or
 - (3) Exigent circumstances.
- g. Arrestees shall be advised of their rights pertaining to custodial interrogation before any questioning designed to elicit incriminating statements.
- h. Individuals arrested pursuant to an original misdemeanor warrant will be taken directly to court when court is in session. This does not apply to warrants for Domestic Violence, Domestic Violence Menacing, and Violation of a Protection Order. Those individuals should be transported to jail.
- i. Officers serving misdemeanor warrants will ensure that the warrant return is signed in the Akron Municipal Court Clerk's Office as soon as practical.
4. Arrestee Requests
- a. Following the arrest, officers should not permit arrestees to leave the immediate area of the arrest for personal reasons (e.g. to get a coat)
 - b. In exceptional cases where it is deemed necessary to grant the arrestee's request to leave the immediate area, they shall first be searched for weapons, contraband, evidence, or implements of escape and then be accompanied and closely monitored by the arresting or other officer.
5. Safety Precautions
- a. All subjects shall be handcuffed with their hands behind their back, unless there is justification to do otherwise. Handcuffs shall be gapped and double-locked as soon as reasonably possible. Restraints shall be utilized in accordance with the Transportation and Prisoner Control Procedure.
 - b. Search Incident to Arrest
 - (1) Officers shall conduct a thorough search of the person arrested.
 - (2) Any criminal evidence discovered during the search of the arrestee's person shall be seized and preserved in accordance with departmental procedures.

- (3) The search incident to arrest shall include not only the arrestee, but also areas within their reach and control.
- (4) Strip/body cavity searches shall only be conducted in accordance with department procedure and Ohio Law.
- (5) Protective sweeps of the premises or area where the arrest occurs may be performed if there is a reasonable belief that there are third parties that pose a danger to those on the arrest scene.

c. Post-Arrest Protection

- (1) Officers are responsible for the safety and security of the arrestee.
- (2) Arrestees will be transported and handled in accordance with the Transportation and Prisoner Control Procedure.

6. Release after Arrest

- a. If it becomes apparent that there is no probable cause to support an arrest (i.e. victim suddenly declines prosecution, outside agency later decides to not pick up), the individual shall be released.
- b. The officer shall document their actions as to the reason(s) for releasing the individual in a Field Interview Report and/or call notes.
- c. If the person is released, officers shall ensure that they are released at a safe location and not otherwise placed at risk as a result of the incident. If necessary, officers should provide transportation for the released person to a safe location.

E. Summons in Lieu of Arrest

1. Minor Misdemeanor Offense - Ohio law provides that an officer **must** issue a summons and **not** arrest the offender for a minor misdemeanor offense. An officer may arrest the offender for a minor misdemeanor offense if one or more of the following apply:³
 - a. Subject requires medical care or is unable to provide for his own safety.
 - b. Subject cannot or will not offer satisfactory evidence of his identity.
 - c. Subject refuses to sign the Arrest/Summons form.
 - d. Subject has a contempt warrant for failure to pay fines and court costs over the minimum amount determined by the courts.
2. Misdemeanor Offense - Criteria for discretionary issuance of a summons in lieu of arrest
 - a. Subject's continuation of the offense or criminal conduct.

³ Ohio Revised Code Section 2935.26

- b. The subject, if summoned and released, is likely to cause harm to themselves or any other person;
 - c. Subject's ties to the community;
 - d. Subject's understanding of the obligation to appear in court;
 - e. Subject cannot produce proper identification or the officer cannot verify identity;
 - f. If the charge is for domestic violence, an arrest is the preferred course of action. A summons in lieu of arrest must be approved by a supervisor.
3. Fingerprinting
- a. Officers issuing a summons for an offense other than a minor misdemeanor should require the subject to provide a left index fingerprint on the rear of the court's copy of the Arrest/Summons form in the space provided. If the left index finger cannot be used, an alternate fingerprint shall be taken and the information indicated on the form. Subjects refusing to submit to the fingerprint shall be arrested in lieu of the summons.
 - b. Officers may request a fingerprint for a minor misdemeanor, but the subject's refusal to provide a fingerprint shall not be cause to arrest for failure to comply.
4. Photographing and Full Fingerprinting
- a. When required by division order, special order, or if the officer is of the opinion that the subject should be photographed or a full set of fingerprints be taken, but the subject otherwise qualifies for a summons, the subject shall be brought to the Crime Scene Unit for processing.
 - b. This provision does not apply to minor misdemeanors.
5. Scheduling Court Appearances
- a. Court dates will be scheduled within seven (7) calendar days from the date of issuance as determined by the Clerk of Courts' schedule. However, a misdemeanor domestic violence summons will be set for the next available court date.
 - b. Subjects who wish an appearance date other than that set by the officer shall be advised to contact the Clerk of Courts' Office. Officers do not have the authority to schedule dates beyond the seven calendar day limit.
6. Signing Criminal Complaints
- a. It will be the arresting officer's responsibility to ensure that the Arrest/Summons form is turned into the Clerk of Courts' Office no later than the end of an officer's tour of duty, secondary police employment or extra duty assignment. Required criminal complaints will also be signed at that time.

- b. Prosecuting witnesses, other than officers, shall be advised to sign the complaint immediately. If the prosecuting witness is an agent or employee of a business, he shall be advised to sign the complaint by the end of that business day.

F. Interrogations and Miranda Rights

1. Interviews and interrogations will be conducted in accordance with department procedure, training, and the constitutional requirements of *Miranda v. Arizona*, 384 U.S. 436 (1966).

G. Required Paperwork

1. Upon Issuance of Felony Warrants

- a. Report of incident documented in appropriate format – Incident report, Auto Theft Report, Juvenile Rule 6 report, etc.
- b. Supplemental Arrest Report
- c. Report of Investigation, if appropriate
- d. Warrant jacket containing:
 - (1) Copy of the original warrant
 - (2) Copy of the incident or other appropriate report
 - (3) Copy of the Report of Investigation
 - (4) Copy of the Supplemental Arrest Report
 - (5) Copies of any other reports generated; i.e. PD-184
- e. Deliver the warrant jacket to the LEADS office.
- f. Upload all paperwork into Matrixcrime.com
- g. Place a copy of the Supplemental Arrest Report in the DB supplemental arrest file cabinet.

2. Upon Issuance of Misdemeanor Warrants

- a. Incident or other appropriate report
- b. Warrant jacket containing:
 - (1) Copy of the original warrant
 - (2) Copies of all reports generated
- c. Deliver the warrant jacket to the LEADS office.

3. Following original arrests

- a. Misdemeanor Original Arrest:
 - (1) Complete a Field Arrest/Summons form
 - (2) Determine if the jail will accept the subject. If they will not accept, issue a summons
 - (3) Sign the complaint(s) or ensure the prosecuting witness/victim signs the complaint(s)
 - (4) Complete an Incident Report or other appropriate report
 - (5) Complete a Field Interview Card
 - b. Felony Original Arrests:
 - (1) Complete a Field Arrest/Summons form
 - (2) Have the suspect transported to the Summit County Jail.
 - (3) Sign the complaint(s)
 - (4) Complete an Incident Report or other appropriate report, a Supplemental Arrest Report, and a Report of Investigation if appropriate
 - (5) Upload all paperwork into Matrixcrime.com
 - (6) Distribute the Supplemental Arrest Report
 - (7) Complete a Field Interview Card
4. Following Warrant Arrests
- a. Misdemeanor Warrant Arrests:
 - (1) Confirm and cancel the warrant through LEADS.
 - (2) If court is in session have the subject transported to court with the exception of warrants for Domestic Violence, Domestic Violence Menacing and Violation of a Protection Order.
 - (3) If court is not in session, determine if the jail will accept the subject. If they will not accept, issue a summons
 - (4) Sign the warrant return(s)
 - (5) Complete a Field Interview Card
 - b. Felony Warrant Arrests:
 - (1) Confirm and cancel the warrant through LEADS
 - (2) Except for drug abuse offenses, contact the Detective Bureau to determine if a detective will interview the subject. If not, Uniform Subdivision personnel may conduct an interview. Document any interviews on an Action Taken Report.
 - (3) Have the suspect transported to the Summit County Jail.
 - (4) Retrieve the Supplemental Arrest Report from the filing cabinet in DB, fill in the arrest information, and distribute.
 - (5) Sign the warrant return(s)
 - (6) Complete a Field Interview Card
5. Required Reports for Juvenile Arrests:
- a. Complete a Juvenile report stating why the juvenile is being taken into custody and why the juvenile was not released to a parent, guardian, or custodian
 - b. Complete the juvenile complaint – all officers are authorized to “clerk” juvenile

complaint affidavits. Another officer must serve as a witness.

- c. Complete an Incident Report
- d. If a felony arrest, complete a Report of Investigation if appropriate
- e. Complete a Field Interview Card

6. Juvenile Warrants:

- a. A signed juvenile complaint is not a warrant.
 - b. Warrants can be requested for felony offenses involving a gun or physical injury to a victim. All other felony cases will be determined on a case by case basis. As a general rule no warrants will be issued for any misdemeanor offenses.
 - c. All requests for warrants must be personally taken before the Summit County Juvenile Court Judge or designee.
 - d. Officers requesting to have a warrant issued by a juvenile court judge must:
 - (1) Make efforts to locate the juvenile and document those efforts in detail in the narrative of the Juvenile Report.
 - (2) Indicate the request for the warrant and the reason it is deemed necessary in the narrative of the Juvenile Report.
 - (3) Contact the Summit County Juvenile Court to have the case reviewed and arrange to have it personally taken before the Judge. A Juvenile Unit supervisor can assist or handle this process if needed.
 - (4) Once a juvenile warrant has been confirmed, officers can arrest and transport to the Summit County Juvenile Detention Facility.
- H. Arrests on Warrants issued by agencies outside the City of Akron, but in Summit or adjoining counties.
- 1. Detain the subject while the warrant is confirmed through LEADS
 - 2. If confirmed, LEADS will ascertain if the issuing agency can respond in a reasonable amount of time – usually one hour.
 - 3. If the issuing agency is responding:
 - a. Summit County Jail may provide a courtesy hold if requested by the issuing agency.
 - b. If Summit County Jail refuses to hold, the subject will be transported to the Detective Bureau (DB) until the issuing agency responds. The arresting officer is responsible for the prisoner unless relieved by DB personnel.
 - c. If the issuing agency agrees to meet an APD unit at or near the city limits to take

custody of the subject, the transporting officer must notify and receive approval from a supervisor.

d. When releasing a prisoner to an outside agency, officers shall document the release including the name of the receiving officer or agency in a Field Interview Report.

4. If the issuing agency cannot respond within one hour:

a. Transport the subject to the Summit County jail, if the jail will hold the subject. Safety Communications will notify the issuing agency to pick up the prisoner at the jail and forward a copy of the holder to the jail.

b. If the jail will not hold, notify a supervisor. Safety Communications will notify the issuing agency that the subject will be released.

I. Warrants issued from non-adjointing counties, out of state, and parole/probation violations.

1. Confirm the warrant through Safety Communications and have them forward a copy of the holder to the Summit County Jail.

2. Transport the prisoner to the Summit County Jail.

By Order Of,

Kenneth R. Ball II
Chief of Police

Date _____