



Minneapolis Police Department Policy and Procedure Manual

Number:
9-100

Volume Nine – Enforcement Policies

Adult Stops, Searches, and Seizures

9-106 Weapons Pat-Downs

(xx/xx/xx)

I. Justification

A. Reasonable Articulable Suspicion Required

1. A member must have reasonable articulable suspicion (RAS) that the person is armed and presently dangerous to conduct a weapons pat-down during an investigative detention, which involves a pat-down of the outer clothing of the person for weapons. Weapons pat-downs shall not be performed solely for officer safety. Members must clearly articulate specific, individualized factors that justify the weapons pat-down beyond using generic or boilerplate language. Members should consider the following factors when determining whether to complete a weapons pat-down:
 - Knowledge that the person is habitually armed.
 - Knowledge from dispatch or law enforcement that indicates the person may be armed and presently dangerous.
 - If the person is engaged in suspicious behavior, such as failure to comply with instructions to keep hands in sight.
 - The type of crime suspected, particularly when it is a crime of violence where the use or threat of deadly weapons is involved.
 - Time of day and location (e.g., high-crime area or low lighting) may support a pat-down but cannot alone justify the pat-down without other articulable factors.
 - Visual indications that suggest the person is carrying a firearm or other deadly weapon. This might include weighted clothing, retention checks, a bulge under the person's clothing, although members shall be mindful that most people carry mobile phones, wallets, or other personal items in their pockets and a bulge could indicate such personal items.
 - If the person is acting in a threatening manner or refusing to cooperate, comply or follow instructions.
2. Weapons pat-downs shall not be used to conduct full searches designed to produce evidence or other incriminating material. Reference P&P 9-110 Warrantless Searches for more information on the plain feel exception.
3. If a member has RAS that a person is armed and presently dangerous then the member shall inform the person of the RAS for the weapons pat-down in accordance with P&P 9-

105 section [III-B-5] and then complete the search, as soon as feasible after making contact.

B. Distinct Actions

Investigative detentions and weapons pat-downs require separate and independent RAS. When a member has a person under an investigative detention, there is no automatic basis for conducting a weapons pat-down of that person. The weapons pat-down can only be conducted when the member has developed separate RAS that the person is armed and presently dangerous.

II. Pat-Down Procedures

A. Use Protective Cover when Feasible

Whenever feasible, weapons pat-downs should be conducted with at least two members present, including one who performs the weapons pat-down and another who provides protective cover.

B. Only Pat the Outer Clothing

1. Members shall not place their hands in the person's pockets or reach into an article of clothing unless the member feels an object they reasonably believe is a weapon, such as a firearm, knife, club, or other item that could be used to harm the member or others.
2. The member shall not manipulate an object underneath clothing to determine the nature of the object.

C. Other Objects Being Carried

While conducting a weapons pat-down, members are required to minimize intrusion into the person's belongings. This means:

1. While conducting a weapons pat-down, members may not pat-down a container unless all of the below elements apply:
 - a. The container is within reach of the person.
 - b. The member has RAS that the person is armed and presently dangerous.
 - c. The member has reason to believe the bag or item contains a weapon.
2. Only patting down and manipulating the container (instead of opening it) to determine whether there is a weapon inside.
 - a. If that cannot be done, such as with a hard briefcase, the member may open the container and perform a brief check to reveal whether there is a weapon inside.

- i. Members shall use the least intrusive means for the check to determine whether there is a dangerous weapon inside. For example, a check of a bag for a gun shall be limited to areas where a gun could reasonably be concealed.

D. Suspected Weapon Identified

1. If, during a weapons pat-down, the member feels an item which is the shape and size of a weapon that could be used to harm the member or others, the member may reach into or disturb the article of clothing and remove the item.
2. If the person detained is arrested because an unlawful weapon was found, a search incident to arrest may be conducted in accordance with P&P 9-110.
3. If a weapon is identified, care should be taken when removing the weapon to make sure the person being searched, the member, and other people present are not put at risk.

E. Response to Discovery of Lawfully Possessed Weapons

1. If a member discovers a weapon but the person produces a permit showing that they lawfully possess the weapon, and there is no other RAS indicating they are committing a crime or PC that they should be arrested, the person must be released. A Police Report must be written to document the pat-down, including that the person had a permit to lawfully possess the weapon. The person must be provided with the victim assistance card (“blue card”) or a similar card to have a record of the encounter.
2. If a weapon is found, but it is determined to be lawful, there is no danger to the public, and the person is not being arrested, then the weapon should be returned to the person in a safe manner.

F. Plain Feel

If, during a weapons pat-down, or during the process of removing a suspected weapon found during a weapons pat-down, the member discovers other items which are immediately apparent to be contraband or evidence of a crime, the member may lawfully seize those items, and the items may be considered when establishing PC to make an arrest or to conduct a search of the person.

G. Release of the Person

If no weapon was found on the detained person and there is no PC for an arrest, the member shall immediately release the person in accordance with the investigative detentions policy (P&P 9-105).

H. Identification

If no weapons are found during the weapon pat-down and members have no other reasonable suspicion of criminal activity, members may ask the person for identification for documentation purposes, but the person has the right to refuse.

1. If the person refuses, they should be documented as an unknown person in the Police Report.

I. Report Required

Members shall complete a Police Report for all investigative detentions that involve weapons pat-downs, as detailed in P&P 9-105.

Glossary

Arrest: Taking a person into custody, which may be imposed by force or may result from a person submitting to a member. An arrest is a restraint of greater scope or duration than an investigative stop or detention. An arrest requires probable cause that a crime was committed or is being committed. This includes booking, citing in lieu of booking, and releasing pending charges.

Boilerplate Language: Words or phrases that are standardized, “canned” or patterned and that do not describe a specific event, situation or set of circumstances (e.g., “furtive movement,” “suspicious” or “fighting stance”). The use of boilerplate language alone is restricted or prohibited, as described in policy.

Detained Person: A person who has been stopped, temporarily held (detained), and is not free to leave.

Investigative Detention: If a reasonable person under the circumstances would believe they are not free to leave, but that person is not under formal arrest, an investigative detention has occurred (sometimes known as a pedestrian, vehicle, or traffic stop), based on reasonable articulable suspicion that the person stopped is committing, is about to commit, or has committed a crime, petty misdemeanor, or traffic offense. See P&P 9-104 for factors that may affect whether a person would believe they are free to leave. See P&P 9-105 regarding investigative detention requirements.

Reasonable Articulable Suspicion (RAS): A well-founded suspicion based on specific, objective, articulable facts taken together with the member’s training and experience that a person has committed, is committing, or is about to commit a crime. Reasonable articulable suspicion (RAS) cannot be based on mere speculation or a simple assertion of criminal activity. See P&P 9-103 for more information on RAS.

Search: Sometimes called a “full search,” a search is an inspection, examination or viewing of people, places, or items in which a person has a legitimate expectation of privacy, based on a warrant (P&P 9-301) or an exception to the warrant requirement (P&P 9-110). A search may be physical, visual, informational, or virtual.

- A **physical search** could include grasping, prying into or manipulating persons or objects (e.g., reaching into a purse or pocket, feeling inside of the trunk of a car; physical manipulation of a duffel bag, etc.).
- A **visual search** could include during a lawful traffic stop, a member observing the interior of a vehicle from the outside. If the member notices something in plain view, such as an open bottle of alcohol or a weapon, this constitutes a visual search.
- A canine sniff may constitute a search and as such be subject to the requirements in P&P 9-301 and P&P 9-110 (also see P&P 7-807 Authorized Use of Canines).
- Collecting someone’s DNA from their person is a search.
- An **informational** or **virtual search** could include searching of certain types of paper or electronic records for information.

Weapons Pat-Down: Also known as a “frisk” or “terry frisk,” a weapons pat-down is a brief, non-probing running of the hands over the outside of a person's clothing, without manipulating objects, based on reasonable articulable suspicion (RAS) that the person is armed and presently dangerous. See P&P 9-106 for more specific information.